***THE EVOLUTION OF BLACK ECONOMIC EMPOWERMENT IN SOUTH AFRICA:* A Case Study of New Africa Investments Limited**

A Dissertation submitted in partial fulfilment of the requirements for the Degree Of Master of Arts.

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DECLARATION

I declare that this thesis is my own, unaided work, except for the acknowledged supervision and referenced citations.

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ABSTRACT

This thesis investigates the process of Black Economic Empowerment (BEE) in South Africa with specific focus on New Africa Investment Limited (Nail), a company that had a firm foothold in the media industry, between 1993 and 2003. Black Economic Empowerment has become the cornerstone of South Africa's transformation process. The initiative is a form of regulation through which the economic imbalances of apartheid can be corrected by economically empowering previously disadvantaged communities[1].

Over the years the concept of Black Economic Empowerment has become a heavily contested and debatable one, both in the economic and political realms. This study explores how and why these contestations arise. In doing it analyses the various positions advocated by government, black empowerment groups, social movements and other empowerment groups in South Africa. In addition, it examines the impact these conflicts have had on the economic equality the Black Economic Empowerment aims to achieve. New Africa Investment Limited has also been at the centre of controversy with the company's empowerment status being called into question by both the Independent Communications Authority of South Africa (ICASA) and other empowerment groups. The nature and structure of NAIL is examined with a particular focus on the history from which the company emerged in order to assess whether NAIL fits into the model of a black empowerment company. The failure of BEE to reach its desired goals during the first years of its implementation has lead to some people calling for the withdrawal of the initiative completely. It is argued within this dissertation that one cannot dismiss the good intentions, with which the initiative was implemented, i.e. the empowerment of the historically disadvantaged people in South Africa. At the same time it is acknowledged that in practice the initiative did not achieve this goal. The BEE strategy needs to be integrated into the wider developmental strategy of South Africa. It needs to be broad-based, able to reach and change the lives of the poor black man on the street. Improving education, health care, and job creation should be placed first and foremost on the BEE agenda. The study is located within Vincent Mosco's (1996) political economy approach, which looks at the market as influenced, by the larger society and government. In addition it adopts a media economics approach, which deals with the economic relationships between media, producers, advertisers and society. This approach is useful because it explores issues pertaining to the markets and competition within which BEE is expected to occur.

[1] African, Coloured and Indian people are regarded as historically disadvantaged because they were segregated, oppressed and economically disempowered under the apartheid regime.

Acronyms

AMB	African Merchant Bank
ANC	African National Congress
BEE	Black Economic Empowerment
BEECom	Black Economic Empowerment Commission
BMF	Black Management Forum
COSATU	Congress of South African Trade Unions
CEO	Chief Executive Officer
FDI	Foreign Domestic Investment
GDP	Gross Domestic Product
GEAR	Growth Development and Redistribution
IBA	Independent Broadcasting Authority
ICASA	Independent Communication Authority of South Africa
IEC	Independent Electoral Commission
JCI	Johannesburg Stock Exchange
Johnnic	Johnnic Consolidated Investment
KTI	Kagiso Trust Investments
METLIFE	Metropolitan Life
MIC	Mineworkers Investment Corporations
MIH	Multi-Choice International Holdings
M-NET	Electronic Media Network
NAC	New Africa Capital
NAFCOC	National Federation of African Chamber of Commerce
NAIL	New Africa Investment Limited

NAM	New Africa Media
NALEDI	National Labour and Economic Development Institute
Naspers	Nationale Pers
NEC	National Empowerment Consortium
NEP	New Economic Plan (Malaysia)
NP	National Party
NAV	Net Asset Value
NUM	National Union of Mineworkers
NUMSA	National Union of Mineworkers South Africa
RDP	Reconstruction and Development Programme
SABC	South Africa Broadcasting Authority
SACP	South African Communist Party
SANGOCO	South African Non-Governmental Coalition
SANLAM	Suid-Afrikaanse Lewensassuransiemaatskappy
SMME	Small, Medium and Micro Enterprises
SOE	State owned Enterprise
SPV	Special Purpose Vehicle
TML	Times Media Limited
UAH	Union Alliance Holdings
UDF	United Democratic Fund

South Africa-Facts and Figures[1]

People

Country: The Republic of South Africa

Population: 42.718,530

Ethnic Groups: Black 75.2%, White 13.6%, Coloured 8.6%, Indian 2.6%

Age Structure: 0-14 years: 29.5%, 15-64 years: 65.3% 65 years and over: 5.2%]

Religion: 68%Christian, 2% Muslim, 1.5% Hindu, 28.5% indigenous and animist beliefs

Official Languages: 11 Languages: English, Afrikaans, Zulu, Xhosa, Ndebele, Venda, Sotho, Tswana, Pedi, Swazi, Tsonga.

Literacy Rate: 86.4% (people over the age of 15 years that can read and write)

Geography

Location: Southern Africa, at the southern tip of the African continent.

Area: 1,291,912 sq km

Time Zone: GMT+2h

Provinces: Eastern Cape, Western Cape, Northern Cape, Cape Town, Gauteng, Free State, Mpumalanga, North-West, KwaZulu-Natal.

Government

Government Type: Republic

Chief of State/President: Thabo Mbeki (since 16 June 1999)

Deputy President: Jacob Zuma (since 17 June 1999)

Legislation: Bicameral Parliament made up of the National Assembly (400 seats) and the National Council of Provinces (90 seats).

Economy

Currency: Rand (ZAR)

Population below poverty line: 50% (2000 est.)

Unemployment Rate: 31 % (2004 est.)

HIV/AIDS (Adult Prevalence rate): 21.5% (2003 est.)

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[1] Source: http://www.cia.gov/cia/publications/factbook/geos/sf.html

INTRODUCTION

> *Today the majority of South Africans, black and white, recognise that apartheid has no future. It has to be ended by our own decisive mass action in order to build peace and security. The mass campaign of defiance and other actions of our organisation and people can only culminate in the establishment of democracy. The destruction caused by apartheid in our sub-continent is incalculable. The fabric of family life of millions of my people has been shattered. Millions are homeless and unemployed. Our economy lies in ruins and our people are embroiled in political strife* (Nelson Mandela, 1994).

The above quotation by former South African president, Nelson Mandela, provides a vivid account of the destruction and dislocation wrought by colonialism and apartheid. It was against this backdrop of colonialism, apartheid and segregation that the African National Congress-led Government of National Unity was voted into power on 27 April 1994. Nelson Mandela (1994) noted that the task of rebuilding South Africa into a democracy was not going to be easy. At the same time he was confident that the government would be able to transform South Africa from autocracy, dictatorship, extreme poverty and inequality to a democracy where all South Africans could live and work with dignity and equality. He ardently committed his government to:

> Bring fundamental change to the lives of all South Africans especially the poor; to recognise the actual contradictions in our society and to state them boldly, the better to search for their resolution; to avoid steps that further widen social conflict, and to build our new nation by continually and consciously exorcising the demons of tribalism, racism and religious intolerance.[1]

According to the government, transformation would only occur once wealth and land were returned to the majority of South Africans:

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1 Address at Closing session of the 50th National Conference of the ANC, Mafikeng, 20th December 1997,2-3.

> It is therefore a fundamental strategy that victory must embrace more than formal democracy. To allow the existing economic forces to retain their interests intact is to feed the root of racial supremacy and does not represent even a shadow of liberation[2].

In order to advance its fledgling democracy and consolidate its power the government embarked on a programme of restructuring the country's socio-economic landscape. Apartheid alienated and excluded black people from participating in the country's economy in a meaningful way. Thus the government was determined to find a way to allow these previously disadvantaged people into the mainstream economy. Black Economic Empowerment (BEE) was the vehicle through which economic equality and transformation could be achieved.

The primary aim of BEE is to redress the economic imbalances created by apartheid by allowing 'black'[3]people who were historically disadvantaged, an opportunity to participate in the South African economy. The transference of economic power is crucial to overcome the economic gap between white people and historically disadvantaged groups, which was widened by apartheid. Robert McChesney (1997:5) asserts "democracy works best when at least three criteria are met. First, it helps when there are not significant disparities in economic wealth and property ownership across society. Such disparities undermine the ability of citizens to act as equals". Thus Black Economic Empowerment became a central pillar in the government's transformation agenda.

Black Economic Empowerment was intended to occur on an institutional and community level. At the institutional level, BEE was to occur through joint partnerships, the unbundling and sale of assets and shares to previously disadvantaged people. On a community level BEE had to socially uplift the poor and economically marginalized through community projects sponsored by the business sector, the support of Small, Medium and Micro Enterprises (SMMEs), and job creation (Boloka, 2003).

The end of the economic embargo by the international community against South Africa and the country's transition into democracy resulted in significant changes to South

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[2] ANC (1969). *Strategy and Tactics of the African National Congress* adopted by the Third Consultative Conference of the ANC at Morogoro, Tanzania Sechaba, 3 July 1969.

[3] Whilst the racial categorisation 'black' is not preferred because of its link to apartheid, the term will be used in the generic sense to refer to all people of colour i.e. African, Indian and Coloured.

Africa's media industry. Under the National Party, the South African media espoused the ethos of apartheid and white people largely controlled the country's media. When the ANC-led government came into power, it sought to redress the inequality that existed within the industry. The government sold many of its state-owned enterprises (SOEs) to empowerment and global companies and issued new radio licenses to different interest groups. NAIL, was one of the first black economic empowerment companies to enter the media industry through its acquisition of the newspaper the *Sowetan*.

The interaction between international and empowerment companies intensified and global companies entered the local media market to exploit the numerous opportunities available. The changes to the country's media landscape brought with it intense competition from non-empowerment media firms. Transactions involving black economic empowerment companies on the Johannesburg Stock Exchange began to drop considerably and empowerment companies struggled to survive.

Many companies surrendered their operations to creditors whilst others tried to merge with conglomerates in order to stay afloat. These attempted mergers were however subject to the approval of the Independent Broadcasting Authority (IBA)[4]. The IBA was a regulatory body established to promote and safeguard empowerment. The regulator turned down many merger requests because they did not meet the IBA criteria of empowerment and as a result tensions began to erupt between the regulator and companies in the media sector. Outside the media industry, tension ensued between white-owned companies, the government and social movements because each movement had their own notion of how BEE should be carried out.

Thus, over the years Black Economic Empowerment has became a controversial, debatable and a heavily contested issue without a universally accepted or adequate definition. O'mano Edigheji (1999:2) noted that:

> Since the introduction of the concept of Black Economic Empowerment (BEE) into the South African socio-economic and political lexicon in the late 1980s, the concept has become amorphous, slippery and a catch phrase for politicians, journalists and academics of various ideological persuasions.

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[4] The Independent Broadcasting Authority is now known as the Independent Communication Authority of South Africa (ICASA).

SECTION ONE: Introduction

President Thabo Mbeki has repeatedly called for the creation and consolidation of a black bourgeois class in order to de-racialise the economy. Trade unions like COSATU, however object to the creation of a black capitalist class arguing that BEE has become a charade because it serves only the needs of a minority black-elite whilst firmly engendering white superiority and economic domination. Perhaps the most vociferous critic of Black Economic Empowerment is President Thabo Mbeki's brother, Moeletsi Mbeki. Moeletsi (2004) asserts that there is no place for Black Economic Empowerment in South Africa and views the BEE initiative as a wealth redistribution model that hampers entrepreneurship and creates a black elite buffer to protect white business.

The road to black economic empowerment has been a bumpy one. Early BEE initiatives were implemented in an unsystematic manner. The government, in a desperate attempt to shed the miscellany of apartheid, embarked on a rigorous BEE plan, the outcome of which led to great disillusionment and disappointment for the majority of South Africans. In recent years President Thabo Mbeki has himself conceded that "we have not made much progress and may well be marching backwards with regards to the de-racialisation of the productive property. Clearly something is not right"[5]

To fully understand the complexities and barriers that face a smooth implementation of black economic empowerment, the process has to be placed within South Africa's historical context. Thus, this study seeks to trace the evolution of BEE; beginning from the mid-1980s to the beginning of 2004. In doing so it evaluates the nature of the conflict between the government and various movements such as labour, business and other interest groups in the pursuit of BEE. Although the ideas about Black Economic Empowerment used in this study is not industry specific, the focus will be placed on New Africa Investment Limited (NAIL), a company that was once a significant role player in the media industry and at one time hailed as the blueprint for empowerment.

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[5] Taken from the speech given by South African president Thabo Mbeki at the Annual National Conference of the Black Management Forum. November 20,1999. http://www.anc.org.za/ancdocs/history/mbeki/1999/tm1120.html

SECTION ONE: Introduction

Methodology and Direction of Investigation

The research provides a survey of New Africa Investment Limited (NAIL), a company with a strong foothold in the media industry and the first black owned company to be listed on the Johannesburg Stock Exchange (JSE). This research project was conducted as a desk study. The methodology employed was a straightforward collection of primary and secondary data related to the research topic. Where possible, e-mail correspondence was used to verify facts. The information was collated and subjected to an in-depth analysis using relevant theories and debates (c.f. Section Two) as catalysts for examination. The literature survey covered debates around issues of the transformation, equity and historical redress, black economic empowerment, media economics and political economy.

The annual reports of NAIL were used to provide information about the company's ownership structure, assets owned and the markets in which NAIL operated. In addition, articles from magazines and newspapers, especially the business supplements of the *Sunday Times* and the *Financial Mail* were used to provide updated information about Black Economic Empowerment and New Africa Investment Limited. The debate surrounding NAIL's empowerment status has been wide ranging and sectarian. Thus the annual reports and newspaper articles were used to trace the narrative, assess and critique these different positions.

The study draws a great deal on the information provided in state, parastal and private documents. In particular, the speeches of State leaders like Nelson Mandela, President Thabo Mbeki and the Minister of Finance, Trevor Manuel were utilised as reference points. It was initially envisioned that the study would incorporate a personal interview with former NAIL Chief Executive Officer, Saki Macozoma. However this was not possible due to both time constraints and other logistical problems. In order to overcome this problem I garnered information from secondary sources. In this regard an interview conducted by Denis Beckett from the magazine *The Media* with Mr.Macozoma proved to be both constructive and essential towards the research methodology. Finally, e-mail correspondence with Colin Reddy, director of the BusinessMap[6] foundation provided useful information on the history of NAIL.

Gibson Boloka's (2003) PhD thesis entitled *Globalisation and the Restructuring of Post Apartheid Media, 1994-1999: Exploring Black Economic Empowerment* provided an insightful account of how empowerment occurs within the media industry. Boloka (2003) uses a few key companies such as Johnnic, Kagiso and NAIL as case studies to inform his theoretical framework. This study expands on Boloka's work by exploring how Black Economic Empowerment has developed and evolved over the years and examines the initiative within the framework of recent legislation that the government has passed, particularly in the form of the Black Economic Empowerment Bill.

Initially, this project was conceived to be a comparative study of Black Economic Empowerment firms in South Africa. However logistical problems, combined with the realisation that this project was growing far too broad, resulted in the decision to focus solely on one empowerment group, New Africa Investment Limited. The decision to focus on NAIL (as mentioned previously) was based on the fact the company was the first black empowerment company to be listed on the JSE and as such was hailed as the blueprint of Black Economic Empowerment. A larger and more current comparative study of all the BEE companies in South Africa would perhaps confirm the conclusions asserted by this research.

The thesis continues as follows:

SECTION TWO provides a theoretical framework through which black economic empowerment can be understood. In particular it adopts a political economy approach advanced by Vincent Mosco (1996). To complement this approach media economics is used to deal with issues relating to the market and competition. The section further explores dominant research paradigms on empowerment and globalisation.

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[6] The BusinessMap Foundation (formerly BusinessMap SA) is a South African, based non-profit organisation that focuses on the economic transformation of South Africa. Their central concern is the change in the racial profile of the economy, from a previously white-prioritised market to one, which encompasses the needs of all South Africans. BusinessMap produces information, backed up by extensive research, on political and investment issues in South and Southern Africa (http://www.businessmap.org.za).

SECTION ONE: Introduction

SECTION THREE traces the development and origin of BEE discourse, and the factors that underlie its emergence. It begins by providing an historical overview of South Africa during the apartheid regime. This overview explains why redressing the economic climate of South Africa was vital to achieving democracy. It then looks at how the Black Economic Empowerment initiative was implemented and analyses some of the problems that have plagued it. This section demonstrates that despite the strides made by BEE in terms of changing economic relationships, its performance has not met the expectations of the majority of South Africans because commercial interests have replaced the need to empower the man on the street.

SECTION FOUR deals with New Africa Investment Limited (NAIL). NAIL is used as a case study of Black Economic Empowerment because it was once viewed as a pioneering BEE company and as such an exemplar of empowerment. This section traces the history of the company, analysing its structure and the decisions it has made that have had implications on its empowerment status. Based on this analysis, it answers the question of whether NAIL is indeed the archetype of BEE.

SECTION FIVE looks at the future of Black Economic Empowerment in South Africa. It outlines some of the steps that the government has taken over the last two years to improve the initiative. Finally, the conclusion summarises the research findings and offers concluding remarks.

THEORETICAL APPROACH

This section provides a theoretical foundation on which the various theories of empowerment can be analysed and interpreted. This study is theoretically located within the fields of media economics and political economy. An understanding of media economics is central to this study because BEE firms like other media institutions, produce and disseminate content that is targeted towards consumers. Media economics analyses the relationships between producers, advertisers and society. This approach will be used to examine the level of media concentration in NAIL as well as the company's response to competition within the media industry. Whilst media economics is important to this study, the theory does have some limitations and as such cannot exclusively deal with the subject of BEE. A political economy approach will therefore be used to complement this approach.

According to Vincent Mosco (1997) the market model that is advanced by economics views people as motivated solely by financial considerations. Thus there is a need to move beyond the economic dimensions of BEE and also examine the history and factors that underlie its implementation. The issue of ownership and control is central to BEE discourse and it is therefore important to analyse these concepts within a political economy framework. The political economy approach looks at the market as influenced by the larger society and government. Such an approach allows for the examination of NAIL's empowerment status, its ownership patterns and control in its wider historical, political and economic context. This study will draw primarily on the work of Vincent Mosco, a key proponent of the political economy approach as well as on the more recent work of media economist Gillian Doyle (2002).

The Political Economy Approach

Political Economy is the "study of social relations, particularly, the power relations, that mutually constitute the production, distribution and the consumption of resources" (Mosco and Reddick, 1997). Political economy thus examines the social whole or the totality of social relations that make up the political, economic, social and cultural fields.

SECTION TWO: THEORETICAL FRAMEWORK

Vincent Mosco (1996: 27) defines political economy in terms of four principals or what he refers to as "the four cornerstones of political economy" i.e. social change and history, social totality, moral philosophy and praxis. The political economy approach prioritises the understanding of social and historical transformation:

> It is now universally acknowledged that societies are subject to a process of development, which is itself not arbitrary, but regular, and that no social fact can be understood apart from its history (John Ingram cited in Moscow, 1996:27)

Societies are not static; they are always in a state of change and transformation. South Africa is a classic example of a society that is engaged in social and political change and transformation. Black Economic Empowerment initiatives cannot be understood without understanding the history from which the concept emerged. The second cornerstone of the political economy approach is social totality, which stresses the importance of looking at the media market as "rooted in an analysis of social totality". According to this principal, society is considered to be a complete whole that consists of various interrelated factors. Therefore it is essential to use a variety of disciplines to solve and understand the problems that confront it. According to Mosco (1996:29) this means that:

> Political economy spans the range of problems that today tend to be situated in the compartments of several academic disciplines, where those with an interest in social class go to sociology, those interested in government to political science, in the market to economics and so on.

The third principle of political economy is moral philosophy, which studies social consciousness and weighs purely theoretical assumptions against the realities and impact of their application. In other words, the economic actions that big businesses undertake have to be carried out within the structures of justice, equity, and public good, rather than through self-interest alone. Mosco (1996:34) states, "The goal of moral philosophy is to clarify and make explicit the moral position of economic and political economy perspectives, particularly because moral viewpoints are masked in these perspectives". Moral philosophy provides a platform to question the empowerment deals and the intentions of BEE companies in their pursuit of empowerment.

The final cornerstone of Mosco's political economy approach is praxis. Praxis refers to human activity, more specifically to the activities that people engage in to produce and change the world and themselves. Praxis refers to the rules that govern the world and it looks at aspects such as ideology, ownership, management practices and the technical constraints on individuals within a firm.

In terms of the media industry power and money play a defining role. Within a political economy framework power and money may be simplified to the political and the economic. The people with the power are the ones who control the medium. They are responsible for the meaning behind the product and have operational control over the means of production. Operational control refers to the exercise of authority over human and material resources on a day-to-day basis. It is the owners of the medium who through money are able to make allocative decisions regarding their product or service. Allocative control refers to the "power to define the overall goals and scope of the corporation and to determine the general way it deploys its productive resources" (Murdock, 1982:122).

The distinction between operational and allocative control is important in the context of Black Economic Empowerment because both the media and the business sector have repeatedly questioned: Is Black Economic Empowerment about equity ownership or is it about black owners having management and operational control of the companies in which they are invested? This question will be dealt with in greater detail in Section Three of this paper.

Media Economics

Media Economics is in essence the practice of institutional financial management within firms and their operations within markets. With regard to this study, media economics is crucial in exploring issues related to markets and competition within which BEE companies like NAIL are expected to thrive. The media economic approach to analysing NAIL will incorporate the methodology of Petros Isofides (1997), which analyses the level of media concentration and centralisation in a company. Isofides (1997) utilises the following criteria of measuring media concentration: market share, licences, financial criterion, market definition and consumption and assets. This study will focus primarily on the NAIL's market share, market definition and its assets.

SECTION TWO: THEORETICAL FRAMEWORK

Black Economic Empowerment and Globalisation

The process of black economic empowerment in South Africa cannot be analysed without acknowledging the relevance of globalisation. In fact South Africa has to contend with the process of globalisation and digitisation at a time of political and social restructuring and transformation. According to Mosco (1997:205):

> Globalisation refers to the spatial agglomeration of capital, led by transnational business and the state that transforms the spaces through which flow resource and commodities, including communication and information.

Globalisation is not a new phenomenon; the process grew rapidly between the nineteenth and early twentieth centuries. Globalisation has become the hallmark of the world's economic and political landscape. It has forced business and government to rethink conventional models that used to guide their actions, to reinvent and reposition themselves to maximise the benefits and to minimise the risk and losses associated with globalisation. With South Africa's re-admission into the global economy many large companies began to move their primary listings overseas in order to reap the benefits of globalisation (Dlamini, 2004).

In the 21st century a country's success largely hinges on its ability to keep abreast with the forces of globalisation. South Africa cannot ignore or avoid globalisation because the country depends on its relationship with the world economy for about 50% of its Gross Domestic Product. In order for a country to be able to participate in the global economy it has to open up barriers to foreign investment, reduce corporate regulations and taxes (Dlamini, 2004). According to the ANC:

> We need to recognise that globalisation and liberalisation have created an imperative to, on the one hand, struggle to find new ways to protect the integrity of domestic policy formulation and sovereignty, while on the other hand, to actively engage in the international arena both to maximise opportunities within existing norms and structures, and at the same time striving to become an

> active force seeking to bring about changes in the global environment that will benefit our own country.[7]

The South African government has realised that it is impossible to develop national economic policies without taking into account what the likely response of the market would be. It has recognised that South Africa has no alternative but to conform to global prescriptions.Manuel Castells asserts that the government has to take a firm stance on globalisation and needs to "establish the basic infrastructure for the country to prevent it from marginalisation from the global economy" (Castells, 2001:194).

In order for a country to survive in a "networked society" it has to enable national technological development and innovation (Castells, 1996). The government has to create an enabling environment for entrepreneurship and innovation. It also has to facilitate the development of core infrastructural grids, which will enable people to participate in a networked society (Teer -Tomaselli, 2002). This is proving to be increasing difficult because the government control over macro-economic and technological forces is diminishing.

South Africa is struggling to transform itself into an informational society. Due to apartheid policy the country was isolated from the international community. Its informational and communication technology was limited and the country had an "isolationist world view, which regarded the rest of the world with suspicion" (Teer-Tomaselli, 2002). With the advent of democracy, the South African state had tried to join the ranks of model global players and this is evident in the country's shift from the Reconstruction and Development Programme (RDP) to the Growth, Employment and Redistribution plan (GEAR) which will be analysed in Section two of this dissertation.

South Africa however is faced with the added challenge of implementing effective and successful BEE strategies whilst dealing with the pressures of globalisation. There are some people who believe that BEE will be detrimental to South Africa because the initiative scares off investors. Investors would rather invest in a country without stringent BEE requirements. According to this view, BEE negatively affects the free operation of

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[7] Globalisation: The Challenge facing South Africa
http://www.anc.org.za/ancdocs/pubs/umrabulo/articles/globilisation.html

market forces and is a regulatory burden. It is argued that it is irrational for South Africa to impose BEE criteria on companies when the global trend is less regulation. These free market fundamentalists argue that BEE deters foreigners from investing in South Africa and without significant inflows of foreign domestic investment, South Africa's globalisation is slowed down. The free movement of capital is a key feature of globalisation. BEE prevents free market activity and as such goes against the grain of globalisation (Dlamini, 1994).

There are however proponents of BEE who argue that while globalisation is important, the local economy needs to be transformed before it can become globally competitive. BEE needs to be put first and foremost on South Africa's agenda. Being purely local in a world driven by globalisation is inconceivable, "we can no longer be able to live our lives entirely locally: our cultural experiences are pervaded by distant influence" (Garcia Canclini, 1995:229). There is a third approach that views BEE and globalisation as compatible and mutually beneficial to each other. This approach argues that both BEE and globalisation can bring about equal opportunities, justice, respect and dignity for all South Africans:

> The third way view of BEE and globalisation emphasises the business case for both, and holds that they ought to be approached in a way that reconciles some of the implied tensions and conflicts between the two. Neither is or should be a zero-sum game. Both can and must be used to enhance national and social solidarity and prosperity for all. (Dlamini, 1994)

The benefits of globalisation cannot be ignored. The rapid growth of world trade is creating opportunities for countries to boost their economic growth. It also creates the opportunity for a country to diversify its exports, which in turn could lead to a reduction of its dependence on primary products. According to the third approach, BEE and globalisation can be convergent if managed in a strategic and focused way that advances both their respective strategic objectives. There has to be clear and visible leadership on the part of business and government. Government and the business sector have to work together in a strategic and mutually beneficial partnership to be able to effectively maximise and benefit from the forces of globalisation (Dlamini, 1994). The power of globalisation cannot be ignored. Black Economic Empowerment needs to strengthen itself within the context of globalisation so that it is compatible with the changes occurring both in South Africa and around the world.

Conceptualising Empowerment

Charles Kieffer's (1984) conception of empowerment provides an operational framework from which BEE discourse can be discussed. According to Kieffer (1984) empowerment should be rooted in social action, involve advancement, incorporate the previously disadvantaged people into the economy and should be based on commitment. He maintains that people can only be empowered if they themselves are involved in the empowerment process. He asserts that empowerment can be achieved through making a concerted effort to accommodate previously disadvantaged people in society and the economy. However these previously disadvantaged individuals have to be willing to participate in the empowerment process so that positive change can occur.

Companies need to constantly reflect on their existing business practice to ensure that the level of black participation is enough to bring about economic empowerment. These companies need to guide and provide capital for new entrants. This can be achieved through mentoring and supporting SMMEs. There are two approaches to empowerment: a traditional approach and a modern approach. These approaches have also been referred to as a minimalist and maximalist approach to BEE.

Traditional /Minimalist Approach

The traditional or minimalist approach to BEE focuses primarily on the recruitment and advancement on previously disadvantaged people. It aims to include these people in the management structures and decision-making bodies of institutions. This approach occurs in four cyclical stages (Madi, 1997). The first stage begins by political or economic pressure being exerted on companies to engage in the empowerment process and to become 'socially responsible'. In a bid to quell this outside pressure firms than begin to fervently recruit black people into their companies without actually changing their existing practices. This is known as the second stage of the traditional approach. The third stage deals with the behaviour of black people once they have been recruited into historically white owned firms. Institutional and structural barriers lead to despondency and despair (Madi, 1997).

This approach does not alter the conditions of exploitation and marginalisation of the black majority. Instead it further engenders the privileges of the white minority. The approach does not take into account whether the black equity stake is in the minority or not. Thus there have been cases where companies have been labelled BEE companies even though black people have less than one percent of shares. According to Madi (1997) white people are 'king makers' in these BEE companies because they are the ones that initiate these transactions in order to gain access to government contracts. They retain their management positions whilst relegating black people to non-executive positions.

The minimalist approach advocates the deracialisation of equity ownership whereby the black business class acquires shares in previously white owned businesses or engages in joint ventures with white firms. The minimalist approach leads to the creation of a 'new class of wealthy and powerful African movers and shakers ' (Freund and Padayachee, 1998). The development of a black business class means that the majority of black people are disempowered, denied access to the economic and social infrastructures of South Africa. This is evident in the widening gap between the rich and the poor within the black population.

According to the advocates of this approach the success of a black minority will boost the morale and be a source of inspiration to the black community. It is argued that success of black-owned business motivates black people to engage in productive socio-economic activities. O'mano Edigheji (1999) states that psychological motivation has been one of the reasons behind the success of empowerment initiatives internationally. Edigheji (1999) asserts that psychological empowerment should come from access to employment, skills development, training, finances information etc. that increase black peoples capacity to achieve social and political power. He asserts that the limitation of the minimalist approach is that it confines the black population to spectators who merely celebrate the success of others within their community. Empowerment should be a process whereby previously disadvantaged people actively participate in society and are equipped with the skills to empower themselves.

Hence, the minimalist approach has severe limitations. It does not empower the majority of the black population instead it has resulted in the creation of a black bourgeoisie. It alters the racial composition of the economy without actually achieving real empowerment. Empowerment cannot be achieved without the collective solidarity and advancement of the black community (Mbigi, 1996).

The Modern/ Maximalist Approach

The modern approach is based on three levels of empowerment: ownership, corporate advancement and the support of Small Medium and Micro Enterprises (SMMEs) (Boloka, 2003). According to this approach black people have to become involved in the decision-making and managerial structures of businesses. SMMEs are viewed as the cornerstone of Black Economic Empowerment because they ensure that the wider community is empowered. The money that is generated from stock exchanges should be channelled into procurement and tender processes that support SMMEs. This approach can be broadly referred to as the maximalist approach. It states that institutions and society should be restructured in order to change the power relations in the political and economic sphere. Resources should be redistributed to the vast majority of people in the form of skills development, education and land distribution. At the core of this approach is the simultaneous empowerment of black people as a community and as individuals (Edigheji, 1999).

Maximalists assert that institutions and organisations need to empower the black community at large and not just a few individuals from previously disadvantaged communities. The modern or maximalist approach to empowerment is integral to the advancement of what Phinda Madi (1997) refers to as a dual-logic economy. A dual-logic economy is one where large-scale businesses provide small and medium enterprises with job contracts in order to help these businesses grow. Madi's conceptualisation of a dual logic economy links to Mosco's (1997) notion of moral philosophy which advocates social values and appropriate social practices. Therefore the actions undertaken by these large-scale businesses have to be done within the framework of "justice, equity and public good, rather than self interest" (Mosco, 1997:34). The notion of moral philosophy is extremely relevant to BEE discourse because it allows for the examination of BEE deals and the nature of BEE companies in their pursuit of empowerment.

The maximalist approach thus views Black Economic Empowerment as a process that encompasses job creation, SMME support, training and development of previously disadvantaged people. A dire threat to BEE is the country's escalating unemployment rate. Jane Duncan (2001) asserts that the ideal of BEE will not be achieved unless unemployment is addressed and as such advocates a developmentalist approach to empowerment. The high unemployment rate prevents people from being able to make use of the opportunities created by stock exchanges and empowerment companies. The media industry has suffered the consequences of unemployment because as people loose their jobs, personal expenditure decreases and advertising expenditure decreases thereby negatively impacting on the overall purchase of media products. The price and maintenance of media products increase because the media draws their revenue from advertising. Companies like NAIL, which had large stakes in the media industry, became financially crippled due to escalating unemployment.

The Evolution of Black Economic Empowerment

In the following section, I refer to the history of the apartheid regime, which subjugated and discriminated against the black people of South Africa. The political label 'black' is used to refer to the three groups of people who were discriminated against during the apartheid regime i.e. African, Indian and Coloured people. The section continues by examining the way in which black economic empowerment has evolved since its implementation. In particular it looks at how BEE was implemented in South Africa as well as the barriers the initiative has faced since its conception. It concludes with a brief examination of the problems that have are associated with BEE.

Historical Context of Apartheid

An examination of the history from which the BEE initiative emerged is crucial to understanding why the process has become a key priority on the government's agenda. President Thabo Mbeki acknowledges that an understanding of the past is a prerequisite to understanding present conditions. He notes that "All societies bear the imprint, the birthmark of their own past...A penetrating understanding of our country today requires that we look at its past".[8] What follows below is a brief account of the critical moments in South African history prior to democracy.

The beginnings of apartheid and discrimination can be traced back to as early as 1910. In 1910, a new constitution resulted in the combination of the Transvaal, Free State, Natal and the Cape into a union and effectively established the boundaries of a single country. The first government that followed the Union of South African, the South African Party (SAP), was a coalition of all the Afrikaner parties from the separate colonies and was led by a man named Louis Botha (Denoon and Nyeko, 1984).

The union promoted the interests of the white population even though only approximately 20 percent of the population could be classified as white or European. In

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[8] The Historical Injustice: A speech delivered by Thabo Mbeki at a seminar in Ottawa, Canada 1978. http://www.anc.org.za/ancdocs

1911, *The Mine and Workers Act* was passed which reinforced racial divisions. The act allowed only those who held a certificate of competency to perform certain acts on the mine, which meant that white people held the skilled positions whilst black people were given positions that required little skill (Denoon and Nyeko, 1984).

In 1913, in reaction to the discriminatory and segregationist policies implemented by the government, a group of black people gathered in Bloemfontein to challenge this legislation. The group formed the South African Native National Congress (SANNC), which was later renamed the African National Congress (ANC) in 1923 (Deegan, 2001). Following Louis Botha's death in 1919, General Jan Smuts assumed office and ruled the country until 1924. In 1924 General Jan Smuts government was defeated and J.B.M. Hertzog became Prime Minister. Hertzog's main objective was to gain complete emancipation from British control and to protect the rights of the Afrikaner. In fact his government ardently took up the cause of the poor white man, this is evident in the tranche of legislation that promoted white supremacy and black subordination (Denoon and Nyeko, 1984).

In 1933, Hertzog and General Smuts formed a coalition government and subsequently merged to form the United South African National Party. A small group of Afrikaaners however broke away from this coalition to form the Purified National Party under the leadership of Dr D.F.Malan. The government implemented pass laws, which in effect meant that black people's access was restricted and the government could monitor and control the passage of black people to demarcated white areas. Thus black people were disempowered as they could not leave their homes without carrying a pass (Denoon and Nyeko, 1984).

During the Second World War tension began to emerge between Hertzog and Smuts over their views on the war. Hertzog wanted South Africa to adopt a neutral position whilst Smuts felt that the country should openly support Britain. These opposing views resulted in Smuts narrowly winning the vote in parliament. The coalition government subsequently split with Hertzog leaving parliament and taking some of his old supporters with him (Deegan, 2001). In the 1943 election General Smut's government won the majority of seats in the election. However D.F. Malan's National Party won all of the opposition seats. During the Second World War, African people crowded into urban areas and for a short period, from 1943 to 1946, segregationist legislation was relaxed. Due to the War white labour was scarce and because industry needed workers, black people were used. Training facilities for black workers were created in order to expand the supply of skilled workers. It was during this time the ANC most actively protested against Afrikaner nationalism and in 1944 the ANC youth league was created. Amongst its young leaders were Nelson Mandela, Oliver Tambo and Walter Sisulu who later became stalwarts in the struggle for freedom and liberation. Together with the Natal Indian Congress they embarked on resistance against segregationist laws (Denoon and Nyeko, 1984).

The rapid flow of African people into the white towns and renewed political activity made white people very insecure about their future. They felt that the government had become too lenient towards black people. In the 1948 election, the National Party (NP) led by D.F. Malan won the election largely because of their strong views on black subordination. The NP government viewed their victory as one granted by God himself and set about entrenching segregation by rooting it in the ideology of apartheid. On accession to power the NP government introduced a comprehensive policy framework referred to as the apartheid policy. The policy had its roots in a report by the Sauer Commission. This commission was appointed by the NP in 1947 to formulate a race policy that would be used in the 1948 election. What follows is a brief outline of some of the most important blocks of the apartheid structure.

The Nationalist policy envisaged economic, social and political segregation between black and white people. It aimed to systematically exclude black people from all societal and business structures and the best way to do this was through geographical segregation. Geographical separation removed black people from the field of white competition and kept them in their own areas away from white people. The *Group Areas Act*, one of the Nationalist government's first pieces of legislation, designated specific living areas for the respective racial groups: White, Coloured, Asiatic (Indian) and Native. Land owned by black people was expropriated from them and they were forcibly relocated to the peripheries of the cities (Deegan, 2001).

Dr H.F. Verwoerd, the new Minister of Native Affairs, designed an educational system for non-whites that prepared them for an inferior social economic and political status. Black people were taught basic literacy skills, which prepared them for a life of manual labour. Science and mathematics were practically excluded from this education system and the vast majority of black people were denied the opportunity of a tertiary education. The *Bantu Education Act* was passed in 1953. In terms of this Act, independent missionary schools for African people were phased out and replaced with schools under the control of the Department of Native Affairs. Verwoerd, widely regarded as the architect of apartheid, commissioned a report that would serve as the blueprint of apartheid policy. The report, published in 1954,consolidated the development of black homelands or ' Bantu areas' as well as the government's segregatory practices (Deegan, 2001).

Black opposition to the above legislation and policies began soon after the National Party (NP) came into power. It was during NP reign that the 'Freedom Charter' was born. The Charter was written after a year long campaign in which anti-apartheid activists collected people opinions about what they wanted from their country and government. The document contained the vision of a free, democratic and non-racial country where people would have equal access to health and education. A small group of ANC members called the Africanists disagreed with the charter and the growing cooperation with whites and Indians. The group broke away to form the Pan Africanist Congress (Robertson, 1991).

On 21 March 1960, one year before South Africa became a Republic, the Pan Africanist Congress (PAC) asked people to leave their passes at home and deliberately contravene the pass law. In Sharpville large numbers of unarmed people gathered in passive opposition. The police opened fire killing sixty-nine people and wounding a hundred and eighty six more people. This action resulted in widespread unrest, strikes and international protest. A state of emergency was declared, supporters of the ANC and PAC were detained and eventually both organisations were banned. The Sharpville massacre strengthened the governments resolve to quell black opposition. A sure-fire way of ensuring black people would never rise above their current status of poverty and subordination was to ensure that they were prevented from participating and benefiting from the economy (Engdahl & Hauki, 2001).

The 'one-man business' policy introduced in 1969, prevented black people from being able to run more than one business or from initiating larger business ventures. The legislation barred the establishment of black wholesale business, manufacturing industries and financial institutions in white areas. In addition a 'job reservation' policy was implemented which restricted blacks from jobs in certain skilled trades and from holding certain job positions (Engdahl & Hauki, 2001).

On June 16 1976, 15,000 students took to the streets of Soweto in protest against the compulsory use of Afrikaans in schools. The police opened fire, killing seven students. The Soweto uprising placed the South African government under international spotlight and the NP government began to realise that they would have to change. In 1983, a new constitution was adopted, giving Whites, Coloureds and Indians parliamentary representation in a tricameral Parliament. In 1989 P.W Botha, then president of the NP resigned and was replaced by F.W de Klerk (Deegan, 2001).

Upon taking up office de Klerk assured black people that he would find a non-violent solution to the political problems besetting South Africa. On 2 February 1990, he announced the unbanning of the ANC, PAC, South African Communist Party and a range of subsidiary organisations. On the 11 February 1990, Nelson Mandela was released from prison after having spent 27 years in incarceration and became the new President of the ANC. The ANC and NP embarked on a process of negotiation, the culmination of which lead to the first democratic election in the history of South Africa. On 27 April 1994, the ANC-led government of national unity came into power with Nelson Mandela inaugurated as President of South Africa.

The Road to Freedom and Empowerment

With the elections over, the ANC government embarked on the process of transforming South Africa into a non-racial and democratic country. The apartheid heritage left the government with enormous challenges. South Africa was socially and economically divided and the majority of South Africans lived in abject poverty with limited access to health care, education and employment. The disastrous effects of apartheid policies on black business, social development and economic activity is evident when one looks at South Africa's social and economic climate in 1996, two years after the country's first democratic elections:

- The white population, which constituted 13 percent of the population, held 80 percent of the professional positions and 93 percent of management positions in private business.
- Very few black people had a higher education in business, finance, engineering and the sciences.
- Adult literacy in South Africa was about 73 percent but 80 percent of black people were unable to read beyond the fifth grade level.[9]

A key priority on the government's agenda was the transformation of the country's economy, which after years of white domination was left structurally weak. The government's goal was to create a government for its people that would "epitomise austerity and sacrifice and rid the country of exploitation, greed and corruption"(Adam, Slabbert and Moodley, 1997). The government realised that these goals would be ephemeral and limited unless it occurred within the framework of a transference of economic power to the historically disadvantaged people of South Africa. Black Economic Empowerment (BEE) was identified as the vehicle through which the economic imbalances created by apartheid could be redressed by conferring economic power to those who were previously denied it.

The ANC and its alliance partners were initially extremely ambivalent about Black Economic Empowerment because in the 1980s the apartheid government used BEE as a mechanism to co-opt a black middle class without actually transforming the political system. By the early 1990s it became clear to the ANC and its alliance partners that Black Economic Empowerment could be used to positively transform the social, economic and political landscape of South Africa.

The seeds of BEE were first sown in the ANC's Reconstruction and Development Programme. In 1999 the RDP was replaced by the Growth, Employment and

[9] Ford, CA. (1996) Challenges and Dilemmas of Racial and Ethnic Identity in American and Post-Apartheid South African Affirmative Action, *UCLA Law Review*, 43 (6), pp 1973.

Redistribution plan. These two programmes constitute the base for the BEE initiative. It is therefore imperative to be familiar with the basic characteristics of these programmes.

The Reconstruction and Development Programme (RDP)

In early 1994, the government adopted the Reconstruction and Development Programme (RDP). The actual blueprint of the programme was created in the early 1990s when the African National Congress, the South African Communist Party (SACP), the Congress of South African Trade unions (COSATU), the South African National Civic Organisation and the National Education Coordinating Committee began to develop a plan for social transformation. The RDP captured the hopes and aspirations of South Africa's masses and was informed by a vision of transformation led by:

> A people-centred society of liberty that binds us to the pursuit of freedom from hunger, freedom from deprivation, freedom from ignorance, freedom from suppression and freedom from fear. They will therefore constitute part of the centre piece of what this government will seek to achieve, the focal point on which our attention will be continuously focused (Mandela, 1994).

The Reconstruction and Development Programme attempted to address the social and economic problems facing South Africa. Amongst these problems were high unemployment rates, poor social infrastructure, inequitable income distribution, primary product export dependency and excessive protectionism. The overriding economic goals of the RDP thus were:

> Sustainable growth, viable employment creation and the movement to full employment, greater participation in the economy leading to reduced income disparities, a labour market characterised by effective collective bargaining, an equitable system of rights, active policies to address employment patterns and stability (RDP White Paper, 1994).

The RDP strived to get all the South African people to actively participate in the social, economic and the political realms. Under the RDP, ownership patterns had to become less concentrated whilst participation in the economy had to become more racially inclusive. According to the policy Small, Medium and Micro Enterprises (SMMEs) had to account for a significant part of the country's economy. The programme required the government and the private sector to develop policies that would provide support for these SMMEs.

The SMMEs programme was funded by the RDP fund. This fund comprised of savings accrued by the government departments, international and domestic aids, interest earned from the investments of money standing to the credit of the fund and other sources of revenue. The RDP required the state to play a strong role in reconstructing and developing South Africa, transforming the public service sector and in job creation. Central to the programme was job creation, which it asserted was fundamental in meeting the basic needs of the people and in building the country's economy (Engdahl & Hauki, 2001).

The RDP document set out a list of goals it wanted to meet, amongst them were:

- Creating two and a half million jobs in ten years.
- Building one-million low cost houses by the year 2000;
- Providing electricity to two and a half million homes by the year 2000 by linking houses to the electricity grid.
- Providing ten years of compulsory, free education, as well as revising the curriculum, reducing class sizes and instituting adult basis education and training programmes.

According to Gavin Lewis (*The Star,* 1997), the RDP made the accomplished the following:

> Real achievements have been made in electrification with 1.3 million connections since 1994; water supply, reaching 6.4 million people since 1994 and the transport sector, which has pioneered joint public and private ventures...Not as successful but getting better is housing with 192.000 homes being built, 550.000 subsidies granted...education, altogether 1.500 schools have been renovated and R1.1 billion approved for new buildings, and health, where despite some very public blunders, a white paper is now out and 12.300 schools fall under the primary school nutrition programme,500 clinics have been built and 2.358 are being upgraded and free health care for pregnant women and children under six is in place.

SECTION THREE: The Evolution of Black Economic Empowerment

Despite some significant inroads made by the Reconstruction and Development Programme, the programme was replaced in 1996 with the Growth, Employment and Redistribution (GEAR) policy. South Africa's social and political divisions proved too great for the RDP to overcome. Government economic policies needed to be more market driven. It was argued that because South Africa has inherited the structural weaknesses of the apartheid economy, the country had no choice but to bend to market sentiments.

Growth, Employment and Redistribution (GEAR)

The Growth Employment and Redistribution Plan was adopted in June 1996 and became the centrepiece of the country's growth and development plan. GEAR was implemented at a time when the South African currency was weak and there was a lack of confidence in the country by both local and foreign investors. Thus one of the main aims of the policy was to reassure investors that the South African government was still in charge of its economy and had the confidence to implement a growth-centred and business driven economic policy (Orr, Heintz and Tregenna, 1998).

According to Teer-Tomaselli (2002) the perception was that under globalisation, a weakened economy had no choice but to bow to markets sentiments in order to avoid chronic instability. Underpinning the policy was the need to address the structural weaknesses as raised in the RDP. The government had to achieve an effective balance between social development and a macro-economic strategy. The GEAR plan was touted as an:

> Integrated economic strategy that would allow South Africa to successfully confront the related challenges of meeting basic needs, developing human resources and increasing participation in the democratic institutions of civil society (GEAR: A Macroeconomic Strategy, 1996:1).

Thus, attempts were made to align the policy with the socially progressive objectives of the RDP, however the central pillars of GEAR were fashioned along the lines of standard neo-liberal principles. Neo-liberalism advocates free-market [10] activity and de-emphasises and rejects government intervention in the economy. It asserts that social justice can be achieved through free-market methods. Thus, whilst the main thrust of RDP was redistribution, the focus of GEAR was on the accumulation of capital (Evans, Mall and Moodley, 2003). The government argued that the world economy was an inherently capitalist one where market forces reigned supreme and if South Africa did not implement strong fiscal, monetary and labour-market policies it would suffer. The central pillars of GEAR were:

- Privatisation: GEAR advocates the privatisation of state assets asserting that privately owned enterprises can be more efficiently run. It also states that privatisation can raise state revenue.
- Monetary policy: GEAR advocates a monetary policy, which is aimed at fighting inflation rather than reducing the unemployment rate.
- The creation of a stable environment for private investment: GEAR aims to create an economy that will attract investment thereby generating growth and jobs. In order to do this, the state has to reduce its intervention in the economy and has to place private investment at the centre of its growth strategy.
- Restructuring of the public service: GEAR aims to streamline and downsize the public service sector.
- No exchange controls: GEAR's intention is to remove exchange controls in order to allow for the free movement of finance.
- Export-oriented growth: This basically means that South Africa should focus on exporting goods to other countries instead on focusing on importing goods or on trying to meet the basic needs of the country.
- Human Resource Development: GEAR recognises the significant role that education and training plays in economic development. It aims at improving and implementing effective education and training infrastructure.
- Labour Market Flexibility.

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[10] A free market economy is one where the buyers and sellers only carry out transactions mutually agreed upon without any type of intervention such as taxes, subsidies, regulations or government provision of goods or services.

- Fiscal discipline and deficit reduction: GEAR attempts to increase government expenditure on infrastructure and to reduce the budget deficit and government dissaving. GEAR argues for the introduction of 'regulated flexibility' and moderated wage increase that do not increase faster than does productivity. In fact the plan aimed to bring the budget deficit down to 3 percent of the country's Gross Domestic Product (GDP) by the year 2000.

(Orr, Heintz &Tregenna, 1998).

The above prescriptions "lit the faces of businesses, which could not fail to recognise its neo-liberal character" (Marais, 2001:163). The aim of GEAR was to increase annual growth by 4.2%, improve the country's social infrastructure, boost exports by 8.4% and create 1.35 million jobs by the year 2000. According to Marais (2001:165) GEAR failed to achieve the three things it had promised: increased socio –economic equality, job creation and economic growth. He opined that there was no international example that reflected neo-liberal adjustments like those championed by GEAR, which produced socially progressive outcomes.

Jane Duncan (2001) reinforces Marais's argument by stating that since the adoption of GEAR there has been significantly less growth in the country's economy, instead the unemployment rate reached its highest level in sixteen years. The rising unemployment rate has serious implications for South Africa's transformation and development path. Since 1994 more than half a million jobs have been lost. In 1998, the official unemployment rate stood at 22.9% and by the year 2004 this figure had risen to 31%.

The government attempted to keep the inflation rate as low as possible in order to encourage investment and keep the country's exports competitive. The lowering of the inflation rate could only be achieved through raising interest rates against the repo rate (the rate at which the reserve bank lends money to financial institutions). Ironically, this move proved to be contrary to the aim of Black Economic Empowerment, to support Small, Medium and Micro enterprises because the increase in interest rate crippled businesses that relied on commercial lending to sustain themselves.

According to Ruth Teer -Tomaselli (2002) the shift from RDP to GEAR allowed for the accumulation of assets for large business through Foreign Domestic Investment and share businesses at the expense of small businesses, which collapsed under the weight of high interest rates. Larger corporations that financed themselves through equity as opposed to borrowed capital bought out the smaller businesses resulting in conglomeration and the concentration of ownership in the hands of a minority. As these smaller businesses were consumed, job availability was reduced resulting in negative growth in the job market (Duncan, 2001).

The government's abandonment of RDP and its subsequent adoption of GEAR raised eyebrows and caused tension even amongst its allies. Local institutions like trade unions and social movements alleged that the government had shifted from its ideological paradigm through its adoption of GEAR. Whilst the RDP called for the growth of the economy through redistribution of wealth to the underprivileged, the aim of GEAR was to create a favourable environment for market-led economic growth.

Furthermore unlike the RDP which was created through a broad consultation process and input from the ANC alliance, GEAR was declared a non-negotiable plan and the alliance partners were never consulted about the plan. GEAR was written in a highly technical manner and the plan was never made public. GEAR's stringent monetary and fiscal targets conflicted with the RDP's goals of poverty reduction, equitable wealth distribution, job creation and meeting the basic needs of the people. Those in opposition to GEAR vehemently argued that it was a coterminous with capitalism and as such was a 'renegade' to empowerment (Boloka, 2003)

The Conflict Surrounding GEAR

The Congress of South African Trade Unions[11] (COSATU), and other labour unions in South Africa are opposed to economic empowerment through privatisation, which is one of the core elements of GEAR. It argued that the government had shifted from the developmental paradigm of the RDP where privatisation of key assets was believed to be an anathema to transformation because it would prevent the government's ability to supply basic needs to citizens (Teer-Tomaselli, 2002). In his address to the South

[11] COSATU is a federation of 19 unions with a combined membership of over 18 million workers. COSATU was launched in December 1985 and has been in the forefront of the struggle against apartheid and workers rights. It is a partner in the tripartite alliance together with the African National Congress (ANC) and the South African Communist Party (SACP)

African National Non-Governmental Coalition (SANGOCO) on September 2000, COSATU's President Willie Madisha clearly indicated his organisation's rejection of privatisation:

> COSATU rejects privatisation not only because it will lead to job losses, but also because privatisation will lead to more expensive and inaccessible services for the majority of our people who are not employed and have a legitimate right to depend on the democratic state for sustenance and human resource development (COSATU 2000).

Trade unions are opposed to privatisation-aided empowerment because they believe it leads to the creation of a black capitalist class. Capitalism, whether black or white creates harsh economic inequalities among people, enforces class divisions and differentiates between those with money and those without it (Gurley, 1983). In a socialist economy, private ownership of the means of production is discouraged because it leads to conglomeration and social stratification, which are inimical to empowerment because they prevent access and economic equality. Social stratification results in class competition and mass production, which involves high labour exploitation (COSATU, 2000).

Despite making their opposition to privatisation vehemently clear, COSATU's actions have over the years indicated an ambiguous almost contradictory stance to the Gear. Whilst the labour movement waged a war against capitalism, the creation of a black elite class and privatisation, it said nothing about the conglomerates it owned such as Union Alliance Media (UAM). When media markets were liberalised and internationalised, they purchased available assets and invested their member's pension money under the guise that they were empowering their members. By making massive investments and taking part in joint ventures, "the trade unions have forgotten the basic principle of class analysis: surplus value only accrue from labour exploitation"(Tomaselli, 1997:66).

The problem that trade unions face is that they need private ownership of the means of production to run their companies but this is not allowed in socialist economies. COSATU-aligned investment companies were aware that it is impossible to operate companies without making a profit and were opposed to COSATU's proposal to run companies on non-profit socialist models. COSATU's position illustrates the conflict between ideology and pragmatism. Ideology collapses when faced with market conditions. As Giddens (1981) contends, socialism is extremely easy to theorise but difficult to implement. The trade unions actions are shaped and driven by the realities of the market.

Government: In Defence of GEAR

The government fiercely defended its GEAR policy by arguing that the policy was a stepping-stone to achieving the goals of RDP and was a 'foundation to underpin accelerated RDP delivery' It asserted that the goals of the RDP could only be achieved through a thriving competitive sector, sustained economic growth and a stable macro economic environment which is what GEAR proposes (Manuel, 1996).

Initially government conceded GEAR's failure to respond to the need for job creation and growth but argued that its goals would take time to be realised. However by 1998, no significant strides were made in terms of employment and growth. The government then chose to focus on GEAR's contribution to economic stability. Trevor Manuel (1998), the Minister of Finance, stated that the sound economic policies of GEAR had protected the South African economy against the upheavals and instabilities that have rocked other emerging markets like Thailand, Malaysia, South Korea and Brazil. Whilst the economic adjustments of GEAR are imperative to building a competitive economy, the human development aspect has been pushed to the background. Education, land reform and redistribution should underpin the GEAR strategy in order to ensure that the basic needs of the poor are met.

The First Years of Black Economic Empowerment

Following the 1994 elections the government was eager to transform South Africa and to deliver on its promise of bringing wealth to the historically disadvantaged majority. It introduced the concept of BEE and implored the corporate sector to participate in the process. BEE deals were made in a frenzy with artificial finance structures like Special Purpose Vehicles (SPVs) allowing black consortia to enter the once white dominated market.

An SPV is a company established by a BEE company to facilitate the purchase of equity stakes in a 'target company'. A target company can either be a company listed on the JSE (Johannesburg Stock Exchange) Securities Exchange SA or a private company, interested in selling an equity stake to a black partner. The SPV model is able to attract financers by offering them the incentive of a large stake (usually 10-30%) in coveted companies. This incentive would not have been made available to them without the partnership with a black company (Engdahl & Hauki, 2001).

The SPV model has both benefits and disadvantages for a financier. The benefit to financiers is that they are the owners of preference shares whilst the disadvantage lies in fact that because they are the sole provider of funding, they assume all downside risks as well. The SPV structure encouraged black people to participate in as many deals as possible without assuming any risk. Many black companies engaged in as many SPV deals as possible. These companies acquired corporate interests in various sectors without actually having the relevant strategic or operational expertise. In most cases black people where used as fronts to obtain empowerment contracts, they passively owned shares but did not participate in the operational and decision-making processes of the organisation.

Initially BEE and the SPV were a success and the positive response of the market attests to this. Between July 1996 and July 1998, the market capitalisation of black-controlled firms rose from 0.7% to 6% of the JSE market capitalisation. This was a short -lived feat because in late 1998 a market crisis in Asia affected the South African economy. The structural flaws of early empowerment deals were exposed as share prices decreased dramatically, and the interest rate increased due to the collapse of the South African rand. In several cases, BEE companies could not meet their financial obligations and lost their assets; in the process many financiers experienced substantial losses (Engdahl & Hauki, 2001). The market crisis revealed the structural weaknesses of BEE and emphasised the fact that there were no shortcuts to empowerment.

Reaction to the Market Crisis: The formation of the Black Economic Empowerment Commission

The market crisis that occurred in 1998 gave the government an impetus to redefine black economic empowerment. The government committed itself to addressing the problems that plagued the BEE initiative. It mandated the Black Economic Commission (BEECom) to investigate the successes of the BEE initiative, to identify possible barriers to the process and to make recommendations for the future. The creation of the Black Economic Commission (BEECom) was first initiated in November 1997 at a conference held by the Black Management Forum (BMF), a non –governmental organisation that supported the development of managerial leadership and the transformation of organisations. The commission was only formally established in May 1998.

The chairperson and head of the BEECom was Cyril Ramaphosa. Ramaphosa was an anti-apartheid activist and a prominent ANC member who at one time was widely expected to succeed Nelson Mandela as president of the ANC. In 1996, however Ramaphosa left the political arena and joined the private sector. At the time of his appointment as chairperson of the BEECom he was already one of the most prominent black businessmen in South Africa. In April 2001, the commission handed over the report to President Mbeki. The report was the culmination of extensive research and consultation with shareholders and experts from different sectors of the South African economy.

The BEECom report lamented that several years after South Africa's democratic election the country was still characterised by high levels of race and class inequality, increasing unemployment and the majority of South Africans still did not have access to basic necessities. The racial profile of the country's formal business sector still largely resembled that of pre-1994 and "white people still run the economy almost a decade after the ANC came into power with the pledge to transform the apartheid economy. Black people run the public sector, whilst white people run the private sector, the engine of the economy" (BEECom report, 2002).

SECTION THREE: The Evolution of Black Economic Empowerment

The ensuing Black Economic Empowerment report offered direction to future BEE strategies and public policy pertaining to empowerment. The report began by prescribing a coherent definition of Black Economic Empowerment. Amongst the problems facing Black Economic Empowerment was an ambiguity regarding the definition of empowerment. The term BEE often held different meanings for different people, which made the process extremely difficult to measure. In an attempt to provide an unambiguous and clear definition of BEE, the commission adopted the following definition:

- It is an integrated and coherent socio-economic process;
- It is located within the context of the country's national transformation programme i.e. RDP;
- It is aimed at redressing the imbalances of the past by seeking to transfer and confer ownership, management and control of the country's financial and economic resources to the majority of South Africans.

The report highlighted the need for the BEE process to be a state-driven process. It called on the government to play a more visible and active role in the empowerment process. In addition, it emphasised the importance of the role of business to the success of Black Economic Empowerment. Business had to play a facilitative role by supporting government, providing funding from the private sector and meeting legislative criteria. It warned that without the full support and commitment of both the government and the wider business community the moral and economic imperatives of BEE would not be achieved.

One of the commission's key proposals was the creation of an Integrated National Black Economic Empowerment Strategy. The strategy was a set of guidelines and regulations that would provide targets and demarcate the roles and obligations of the public, private and civil sectors of society over a ten-year period. Several key points underpin the strategy:

Firstly, the government needed to devise a legislative framework that would provide uniformity in BEE policy and would establish institutional support systems. As such a

National Black Economic Empowerment Act should be put in place to set guidelines against which the public and private sector could measure their performance.

Secondly, it proposed the development of an integrated human resource development strategy. This strategy would involve educating and training people with skills that are required by the economy. It would also include rural development, which would involve people in rural areas who were previously isolated and disenfranchised from the formal economy.

Thirdly the strategy makes provision for a black empowerment board on which five government Ministers would serve, along with two representatives each from the agricultural and corporate sectors and three representatives from labour. The purpose of the board would be to regulate applicants to BEE initiatives. It also called for the development of a Competition Tribunal, which would play a regulatory role. A Compliance Directorate would also be set up to oversee and supervise the empowerment stipulations in the various empowerment legislation.

Lastly, government, labour and the business sector needed to reach agreement on a Investment for Growth Accord, which simply means that they should agree that investment must lead to growth of the economy.

The BEECom proposed that some of the following targets be met within a period of 10 years with a view to facilitating the National Integrated BEE strategy[12]

- At least 40 % of both executive and non-executive directors of companies listed on the JSE should be black;
- At least 40% of government incentives to the private sectors should go to Black companies;
- At least 40% of senior and executive management in private sector companies should be Black;
- Black people should make up at least 40% of professional and training professional people;
- At least 30% of productive labour should be in Black hands;

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[12] Source: Black Economic Empowerment Commission, Integrated National BEE Strategy, 2001.

- At least 30% of Black companies should be black owned Small Medium and Micro enterprises;
- At least 50% of state-owned enterprise and government procurement should go to Black companies;
- At least 50% of people borrowing money on the National Development Finance Institutions should be Black people;
- Black participation in every sector of the economy has to be increased by at least 25% for both individual and collectives enterprises.

The BEECom provided the government with a useful foundation on which to rebuild empowerment. It also brought to the fore the problems and criticisms levelled against the BEE process.

The Shortcomings of Black Economic Empowerment

As mentioned above the BEE Commission highlighted some of the salient problems of the BEE process. What follows below is an examination of the criticisms and weaknesses of BEE:

One of the most common arguments is that instead of creating an entrepreneurial class, BEE initiatives have created a 'rentier' class. A 'rentier' class refers to a class of people who gain wealth through dividends and rents rather than through the creation of new businesses. Most black people involved in BEE transactions did not create new businesses or product lines (Hassen, 2003). During the first phase of BEE, the government placed pressure on historically white-owned firms to engage in the BEE process. The result of this was that many white companies scrambled to get BEE partners to join their companies in order to secure government contracts.

Legislation forced institutions to engage in BEE, as a result these companies' hired black people as part of social responsibility initiatives and not with the intention of empowering them with management or strategic decision-making positions within the company. Madi (1997) describes this approach as 'a carrot and stick' approach to empowerment where companies engaging in the empowerment process were rewarded with tax relief and lucrative government contracts. Black people were recruited because of the colour of their skin and not because of the value they could bring to the partnership. Thus BEE was being driven by white fear and not black entrepreneurship.

Black businessmen became 'rentier capitalists' who merely held shares in these white companies or served as token black faces in tender bids. Moeletsi Mbeki (2004) opines "what you are actually getting is that the brightest among the black people in this country, instead of creating wealth, building up their own companies, are becoming secondary fiddle players to the existing companies". Many black businessmen were preoccupied with owning shares or becoming directors of companies rather than with taking a hands-on approach to the operational management of a company. Yet real empowerment lies in the sphere of operational management where skills are learned and developed.

The development and transfer of skills is integral to the sustainability of BEE initiatives. Without the proper skills previously disadvantaged people will find it extremely difficult to get involved in mainstream business. Black people have to actively participate in the decision-making and operational running of the business, and for empowerment to really work 'it should change the soul of a company. It should mean looking after the staff of a company irrespective of the skin colour, hiring people equitably, training and promoting them'(Bonorchis, 2004).

Many people argue that BEE is leading to the enrichment of a few black people rather than the empowerment of the majority of South Africans. Proponents of the development of a black capitalist class, including the President Thabo Mbeki, assert that a black capitalist class is essential to uprooting the legacy of apartheid. These 'patriotic bourgeois' would engage in business activities, invest in the country and in the process create jobs for the poor majority. Supporters of such a proposal point to the success of countries like Malaysia, China and other Asian countries that have implemented such strategies.

Reality, however paints a different picture of the initiative in South Africa. This class of 'patriotic bourgeoisie' has not led to the upliftment and empowerment of the majority of black people. Instead it has created a small group of black-elite who have repeatedly reaped the benefits of empowerment deals. According to Madi (1997) empowerment and enrichment are not mutually exclusive. Enrichment can occur within the process of empowerment, however the problem arises when the enrichment of a few supersedes the empowerment of the majority of people. In many instances BEE deals have been levelled specifically at certain high–profile players and individuals.

In 2003, R4.2-billion worth of BEE deals were made and the beneficiaries of all these deals belonged largely to the politically well-connected elite. A review of Black empowerment deals reveals that direct ownership of assets by black people on the JSE Securities Exchange is at one percent and black participation in top and senior management in the private sector is at about six percent (Gqubule, 2004:30). Many black people who have entered South African business have either been members of the political or educated elite. They are or were at some stage involved in South African politics and try to keep their links with the government well oiled. There is an inherent danger that this new class with strong ties to the government will become an oligarchy like the old apartheid Broederbond. These former liberation heroes have embraced the bourgeois lifestyle of the former white minority:

> Cyril Ramaphosa's weakness for fly-fishing and single malt whiskies have become the hallmark of his equality with his white counterparts...The number of prominent ANC leaders living in upper-class suburbs like Hyde Park, Houghton and Constantia far outnumber those still living in the sprawling shack lands (Adam, Slabbert and Moodley, 1997:165).

Patrice Motsepe, Cyril Ramaphosa, Saki Macozoma, Tokyo Sexwale are black business men who often dominate empowerment deals and each one of them have links to the ANC-led government. Many institutions employ these big names even though they may not have the right background, skill or time to devote to the company. In most cases these black businessmen are given the title of director and non-executive director. Whilst by law there is no distinction made between directors and non-executive directors, there is a significant difference in the minds of shareholders and boards. When a company gives a black person the title of non-executive directors it "allows the company to feel magnanimous without giving away decision-making power". Black people were given positions in business on an allocative level as opposed to an operational level. These positions have more to do with the way the production takes place, rather than with overall policy decisions. Thus they are empowered only in limited institutional positions as opposed to positions of power (Bonorchis, 2004).

The banking group ABSA is a classic example of a company that has adopted such a strategy. In 2004, Absa appointed Patrice Motsepe as a non-executive director to add to the diversity of its board despite the fact that it had more that 30 000 staff members from which it could choose a director. ABSA appointed Motsepe purely because he is a well-known black businessman and as such was an ideal BEE candidate. By appointing him:

> They have bought in talent that is stretched to the limit and not necessarily focused on banking. They have issued a few more shares. And they have worked out long-term complex financing systems that will probably never see ownership shift across to the people it is intended for (Bonorchis, 2004).

According to Keyan Tomaselli (1997) the emergence of a black capitalist class will not shift class-based social formations. He argues that for real empowerment to occur a shift in ideology must take place and not just a shift in material wealth because 'identity that is forged through material struggles tends to bring communities of like experience, even if historically conflicted, into surprising cooperation when broader structural conditions change' (Tomaselli, 1997:67). The creation of new classes leads to social stratification because it distinguishes between those who can and cannot participate in the country's economy.

COSATU has deplored the replacement of 'white capitalists with black exploiters'. It argues that instead of changing the racial makeup and luring a small number of black executives with disproportionate salaries, money and resources should be spent on educating and skilling workers (Adam, Slabbert and Moodley, 1997). The man in the street will not gain if BEE legislation continues to strengthen and enrich the already well-off black middle class. BEE has to make "inroads into the swelling masses of the poor and unemployed' in order for it to work" (Wray, 2003).

Moeletsi Mbeki (2004) argues that BEE is a wealth redistribution model and not a developmental model. According to him South Africa should not concern itself with wealth redistribution. The key concern for all South Africans especially the state should be on job and wealth creation. Moeletsi Mbeki (2004) states that "the poor are getting poorer and their number is growing. If BEE was really an engine for growth, how come unemployment is rising and the poor are getting poorer?"[13]

The problem seems to lie in the fact that commercial interests have overshadowed community development. BEE was initially envisioned to occur on an institutional and a community level. Empowerment on a community level was supposed to have occurred through social upliftment projects, the support of small, medium and micro enterprises and through job creation. At an institutional level, empowerment would occur through joint partnerships, the unbundling of state assets and shares to previously disadvantaged people and the involvement of black people in both the policy and decision-making structures and companies (Boloka, 2003).

BEE policy has focused on large and complex deals and not on the up and coming black entrepreneur. The financing models of most BEE transactions on the JSE have left BEE companies debt–ridden. The special purpose vehicles (SPVs) set up to transfer equity in a business to empowerment groups have not worked. The value of SMMEs and cooperatives has not been adequately supported:

> Government programmes have attempted to assist small, medium and micro enterprises through financial assistance, tax breaks and the introduction of preferential procurement. SMMEs are supposed to have benefited, however the mushroom effect of SMME activity envisaged by the government has not yet become evident. (Hassen, 2003:4)

Co-operatives[14] and SMMEs should be the cornerstone of Black Economic Empowerment. Real empowerment lies in job creation and development and SMME's and co-operatives with their strong community and social orientation empowers and benefits the grassroots population. Broad-based empowerment rather than the empowerment of a few black elite is the key to the success of BEE initiatives.

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[13] Mbeki, M. (2004). BEE handicaps entrepreneurship. Interview with Alec Hogg. Mineweb.11September 2004. Available at: http://www.beewatch.co.za/modules

[14] A co-operative is an independent group of people who voluntarily join together to meet their economic, social and cultural needs and hopes through jointly owned enterprise and democratically controlled enterprise.

To ensure that Black Economic Empowerment is broad-based, empowerment should not only be measured in terms of ownership but also in terms of management employment equity, procurement, corporate social responsibility, skills development, investment and enterprise formation. The shortage of skilled black professionals and artisans needs to be addressed. Whilst some of the costs of this endeavour will have to be borne by the state and taxpayers the majority of it will have to be carried by individual companies. These companies will have to fund in house training, development and mentorship programmes.

The government has subsequently committed itself, both in principle and financially, to the BEE initiative and the development of BEE legislation. However before examining these initiatives, focus will be directed to New Africa Investment Limited (NAIL), a company often referred to as the flagship of BEE, to analyse how the company has fared since the concept of Black Economic Empowerment was initially conceived. The nature and structure of NAIL will be examined with particular focus on the history from which the company emerged. In addition, NAIL's ability to adapt to the continual challenges that face empowerment companies will be assessed.

NAIL: An Historical Background

In 1918 Sanlam, a life insurance company was created. Sanlam's beginnings were rooted in the common vision of a small group of men. In 1918, that vision was the economic empowerment of the Afrikaner. Since then, this vision has expanded to encompass all-inclusive empowerment of all groupings in South Africa. In the 1960s, the company began building extensive shareholdings in a broad range of companies throughout South Africa and by the 1970s and 1980s was experiencing high growth in its assets.

Due to exchange controls, Sanlam could not invest freely outside of South Africa therefore it created Sankorp, a wholly owned subsidiary that managed a substantial portfolio of non-financial interests[15]. In the early 1990s, as South Africa re-joined the global economy, Sankorp began unbundling in order to unlock value in its non-financial interests and refocused on Sanlam's core business of financial services. Unbundling refers to the sale of constituent parts of a company. Unbundling as undertaken by Sanlam was punted as an indication of the company's commitment to Black Economic Empowerment.

In 1993 Sanlam spearheaded the empowerment process by transferring effective control of Metropolitan Life (Metlife) from Sankorp to the black shareholders of Metlife Investment Holdings (Methold), a black-controlled company, with eighty-five of its policyholder's being black people. This transaction lead to the formation of New Africa Investments Limited (NAIL), the first black controlled company to be listed on the Johannesburg Stock Exchange (JSE). By 1996 NAIL held a ten percent interest in the cellular network MTN and twenty one percent in the African Bank, South Africa's first black owned financial institution. NAIL's interest in the financial services, media, information, technological and industrial sectors made it one of the major conglomerates to emerge after the apartheid era. The following chronological account traces the major events in NAIL's history as a Black Economic Empowerment company.

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[15] Adapted from the Sanlam website http://www.sanlam.co.za

SECTION FOUR: The History of New Africa Investment Limited (NAIL)

New Africa Investment Limited began as a company solely focused on the financial sector however following the country's transition to democracy, extended its operations to the media industry. The company entered the South African media industry by taking over an ailing newspaper called the *New Nation.* This was followed by the acquisition of fifty two percent shares in the prominent newspaper *The Sowetan. The Sowetan* and its sister paper, *New Nation*, were owned by New Africa Publications, a company run jointly by NAIL and Tony O'Reilly's Independent Group (formerly Argus Newspapers).

In 1996, NAIL joined the National Empowerment Consortium (NEC), which gave the company a stake in the investment arm of Johannesburg Investment Consolidated (JIC), Johnnic. Johnnic also acquired parts of Times Media Limited. NAIL's attempt to acquire Johnnic was thwarted by Anglo- American, which was strongly against the creation of another conglomerate and wanted instead to empower the majority of the community. NAIL was already a highly concentrated corporation with interests expanding into various other sectors (Boloka, 2003). In the same year, Cyril Ramaphosa joined the company as its executive chairman. When Ramaphosa left parliament to join NAIL, the move was applauded by both the business and the political sectors as a step towards real economic empowerment.

Former president Nelson Mandela commented, "the gap between white and black business would be closed" (*Sowetan Business*, 16 April 1996:5). Nelson Mandela had great faith in Cyril Ramaphosa who was once hailed as his successor to the presidency. Ramaphosa was an ANC activist with a history of trade union activity and was at one time the General Secretary of the National Union of Mineworkers (NUM). His history of trade unionism meant that he was acutely aware of the daily struggle for survival that the disadvantaged masses faced. The twenty percent increase in NAIL's share price when Ramaphosa joined NAIL bore testament to Ramaphosa's popularity.

Robert Picard (1989) states that it is important to define the market or area in which a company sells its products as well as the type of services it offers in that particular area because market definition allows for the analysis of where a company's operations are concentrated as well as the level of competition in that market. NAIL began as a company focused purely on the financial sector but extended it operations to the media industry as soon as the government opened the doors for black empowerment companies to join the industry. NAIL's voyage into the media industry began with the print sector where it owned the newspapers, *The Sowetan, New Nation* and the *Sunday World.*

The print sector was a very competitive one. When NAIL and Johnnic's subsidiary Time Media Limited (TML) engaged in a joint venture to establish the Sunday newspaper, the *Sunday World,* they were met with strong resistance from two established Sunday newspapers. The *Sunday World* was aimed at a wealthy black readership, the same readership that the *Sunday Times* sought to cultivate. Mike Robertson, then TML editor, embarked on an aggressive campaign to prevent the *Sunday World* from entering its market. The *Sunday Times* introduced a *Read Right* educational supplement, hired an African editor and increased its sports coverage. At the same time Naspers dropped the cover price of it's Sunday paper *City Press* and launched a competition offering one million rand in prizes.

Both Naspers and TML tried to prevent *Sunday World* from entering a market in which they had previously dominated (Boloka, 2002). Conglomerates frequently work together to keep out possible competition. This is evident in the way TML and Naspers sought to keep *Sunday World* out of its market (Gomery, 1989:50). Mike Roberson's behaviour towards a publication partly owned by TML seems strange at first glance however it makes sense when one examines the ownership and control structure of TML. Although TML was black- owned through Johnnic, the people with the decision-making strategies (usually white people) remained the controllers. This case illustrates the distinction between ownership and control that was discussed in the previous chapter.

In 1996, NAIL had more than fifty one percent black ownership, introduced non-voting share (N-shares). Non–voting shares were created because there was a limited availability of black empowerment capital in South Africa. These shares were a mechanism through which black control could be secured because it helped facilitate opportunities for empowerment entrepreneurs to take their companies to public capital markets without losing their empowerment profile. However, as these companies began to expand, they needed to be able to access capital from both international and local investors. The lack of black shareholding base meant that NAIL had to expand its commercial interest beyond South Africa's borders.

The above action was confirmed by former Managing Director of NAIL, Dikgang Moseneke's assertation that a "principally black investor base is practically impossible to achieve" (1999:9). The limitation of a black shareholding base forced many companies to expand their commercial interests beyond the country's boarders. Moseneke (1999:10) justified NAIL's involvement in the global market by stating:

> Given that we are among the 30 companies in South Africa with a market capitalization of over R10 billion and Nett Asset Value (NAV) of close to R13 billion, we must have large institutional investors. That requires us to join the global business and normalize our share capital structure.

In order to make way for international investors, the company discontinued its popular N-shares because the shares were unpopular among foreign investors. NAIL realised that investors were unwilling to invest in companies with artificial control structures. NAIL had to restructure in order to establish itself as a focused competitive global player. These actions highlight the fact that empowerment was no longer a purely local imperative influenced by ideologies but a process driven by commercial interests. It also accentuates the fact that empowerment companies had to play an active role on global markets to survive, and that the global and the local markets are mutually constitutive and therefore in dialogue with each other.

According to the government's vision of empowerment, BEE companies would create capital, which would then be filtered into the social needs of the community. Through the creation of jobs, support of Small, Medium and Micro enterprises (SMMEs) and community projects, BEE companies would be able to economically empower disadvantaged communities. This was part of the social responsibility mandate of a BEE company. Since 1993, *The Sowetan* has sponsored the annual Community Builder of the Year competition. The competition recognised and acknowledged the efforts of people who dedicated themselves to community service.

Gibson Boloka (2003) argues that this event was more a publicity event to showcase and promote the *Sowetan* than a genuine attempt to uplift the community. NAIL's inability to economically empower disadvantaged groups was symbolised in the discontinuation of its N-shares and endeavours like the *Sowetan's* Community Builder of the Year competition, which was largely a self –promotion exercise. For NAIL financial imperatives took precedence over the social needs of the larger community.

In November 1997, NAIL joined forces with four COSATU-affiliated trade unions to form a union investment company, Union Alliance Holdings (UAH). In the first leg of the transaction, NAIL took a twenty percent interest in UAH. The investment companies of the National Union of Metalworkers, the Rail and Harbour Workers' Union, the Communication Workers' Union, the National Education Health & Allied Workers' Union, and the Transformation and Development Trust took fourteen percent each. Management held the remaining ten percent. It initially concentrated on acquiring controlling or significant minority shareholding in the financial services and related sectors.

In the second leg, the NAIL-controlled Metropolitan Life, entered into a joint venture with UAH to form an asset management company. MetLife, which had a thirty percent interest, and put R1-million equity capital into Union Alliance Asset Managers and committed two hundred million rands of its existing assets under management to the company, subject to shareholder approval. UAH, it was said at the time in a *Sunday Times* report, would have a controlling stake of seventy percent, while NAIL also provided twelve and a half million in seed capital.

Cyril Ramaphosa stated that the alliance was the most representative labour consortium of its kind, representing 500 000 workers and brought working people into the mainstream of the economy. Ramaphosa viewed the initiative as evidence that progress was being made to allow black people to take their rightful place in South Africa's economy (*Sunday Times*, 9 November 1997). But some people criticised the process stating that share schemes of this nature only benefited black business people who understand the value of owning shares. For the poor black man, living in abject poverty without a roof over his head, food and water are more important than shares in a company (Lalu, 2003).

In April 1999, the banking group BoE[16] almost doubled its stake in NAIL. As a result BOE could put four directors on NAIL's board and at the time BoE said that it would "play a strong directional role in its investment in NAIL' (*Sunday Times,* 1999). Therefore NAIL was yet to achieve full ownership and operational control of its core assets in the media and financial industries. NAIL observed corporate governance standards in theory, with the appointment of a long list of respected non-executive directors but in practice these directors had little say in the running and control of the group.

In 1999, NAIL was rocked by internal squabbles and a share scandal involving its four directors-Jonty Sandler, Nthato Motlana, Dikgang Moseneke and Zwelakhe Sisulu. It was alleged that the directors were planning to award themselves shares totalling around R130 million in African Merchant Bank (AMB). This plan caused an outcry within business circles as well as in the media who viewed the alleged action as self-enrichment at the expense of economic empowerment. Faced with scrutiny of peers and media, the directors withdrew the plan and the company saw the departure of Dr Nthato Motlana and his deputy executive Jonty Sandler who were bought out by NAIL (Vermeulen, 1999).

The departure of Sandler and Motlana signalled the beginning of a new era for NAIL and the company began restructuring itself. NAIL changed the way it operated by implementing buying practices that provided opportunities to other empowerment companies and established an Empowerment Committee whose main function was to analyse and disclose information on empowerment issues and shareholding within the company and its subsidiaries *(Sowetan,* 19 April 2000:24). The company implemented a set of formalised analysis and disclosure, focused specifically on its empowerment aspects. The disclosure and transparency of this code fitted in with the context of South African economic transformation and for NAIL, this was the best mechanism to use in laying the foundation for the achievements of their empowerment goals.

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[16] BoE is a specialised banking and financial services group providing investment products, services and advice to clients.

SECTION FOUR: The History of New Africa Investment Limited (NAIL)

The following summarises the content of the code:

- The Board was to comprise persons with strong intellectual capital and other skills and was to be representative of the South African society as a whole,
- There was to be the promotion of diversity within management, with key positions being held by persons with the right skills and a diverse range of backgrounds,
- There was to be promotion of increased participation by previously disadvantaged persons in the shareholder base of the company,
- There was to be a high level of training to develop the intellectual capital base for disadvantaged persons,
- There was to be a full implementation of employment equity recommendations,
- There was to be the promotion of empowerment through the company's procurement and supply arrangement,
- The company was to conduct its operations in a socially responsible manner.

(*Sowetan*, 5 August 1999:21)

The above model served to demonstrate the company's commitment to empowerment especially through the promotion of increased participation by previously disadvantaged person's in the shareholding base, and in the operation of the company in a socially responsible manner.

In August 1999, NAIL's restructuring process saw the company being divided into two entities, NEW Africa Capital (NAC) and New Africa Media (NAM). The company aimed to forge a massive financial service entity (NAC) and a 'super' media group (NAM). NAC subsumed Metlife and was run by Advocate Dikgang Moseneke whilst Zwalelake Sisulu, headed NAM, which was responsible for media assets (*Business Report*, 1999). In 1999, NAIL also unbundled its subsidiaries African Merchant Bank (AMB) and Theta Group in order to release capital for other endeavours. This move launched NAIL's restructuring into a business focused on Metropolitan life. NAIL held forty eight percent share in Theta and about fifty three percent in AMB (*Business Report*, October 10,1999).

Jonty Sandler, one of the company's former directors, viewed the unbundling of African Merchant Bank (AMB) and Theta Group as undermining black advancement in post-apartheid South Africa because it reduced the black shareholding base of NAIL considerably. Apart from being important assets in NAIL's stable both Theta and AMB had a predominantly black shareholding base. The unbundling of the groups reduced the black shareholding base in NAIL considerably and as such undermined one of the central tenets of BEE, to empower the previously disadvantaged by allowing them to participate in the mainstream economy.

In December 1999, NAIL concluded an agreement with Metropolitan Life to implement a strategy, which would expand Metropolitan's product penetration into existing and new consumer markets. NAIL and Metropolitan life would become a single listed entity on the JSE. By March 2000 NAIL's restructuring was completed. It consisted of two divisions, namely New Africa Capital (NAC) with fifty one percent interest in Metlife and New Africa Media (NAM) with interests in *The Sowetan* (95%), New Africa Broadcasting (75%), *Sunday World* (100%), *Leadership Magazine* (100%) and New Africa Publications, a subsidiary company of NAIL.

In March 2001, Safika Holdings headed by Moss Noasheng acquired a twenty-five percent stake in the company that controls NAIL, Phaphama. In July 2001 NAIL announced its decision to retain low voting N-shares in its media subsidiary New Africa Media, in spite of originally intending to completely dismantle the N-shares.

On the 28 May 2001 NAIL announced its decision to acquire the business operations and assets of Kagiso Media, namely:

- East Coast Radio (Pty) Limited
- Jacaranda FM (Pty) Limited
- Radio Oranje (Pty) Limited
- RadMark (Pty) Limited
- Butterworth Publishers (Pty) Limited
- Systems Publishers (Pty) Limited
- Kagiso Exhibitions (Pty) Limited

Through the acquisition of Jacaranda, Kaya FM, East Coast and Radio Oranje, NAIL would have held over a sixty percent stake in commercial radio. The Kagiso Media acquisition would have turned NAIL into a significant media player consolidating its position in RadMark and enabling a larger geographical radio footprint, new advertising revenue sources and opportunities for cross –selling. Petros Isofides (1999) stated that a company is able to create capital and exercise dominance in a particular market through their assets. Powerful firms can influence economic conduct, performance and pricing behaviours depending on the market share. The acquisition of Kagiso's radio assets would have turned NAIL into a powerful media conglomerate with a monopoly in the radio sector. Through the acquisition of Kagiso, NAIL was hoping to engage in cross-media ownership, which refers to the control of different media products by a single media enterprise.

Cross-media ownership would have allowed NAIL to benefit from economies of scale and would have enhanced their market power (Murdock, 1994). This transaction was however subject to the Independent Authority of South Africa (ICASA) approval. Through the *IBA Act,* ICASA sought to regulate most forms of media concentration. Murdock (1994:4) defines media concentration as the tendency by larger media firms to increase their market share by taking over or merging with competitors or by forcibly taking over weaker players. He argues that through concentration, a few firms can decide on the type of information dispersed, and expression and debate that is made available to the public. In addition it allows larger media firms high stakes in other strategic media investments, which in turn creates large multimedia corporations with cross-media ownership links.

The *IBA Act* regulates monomedia ownership by requiring that companies do not own more than twenty five percent shareholding in more than two FM and AM radio stations. It limits cross-media concentration by requiring that broadcast media enterprise may not control newspapers and radio stations that dominate both the print and broadcast market of the same geographic area. It endeavors to regulate international concentration by requiring foreign ownership of media enterprises to remain below twenty percent. Finally, it requires that corporate holders of a broadcasting license maintain a strong black economic empowerment component in their ownership structure (Independent Broadcasting Authority Inquiry Report, 1995).

In July 2001, there was a change of shareholding in Phaphama, the holding company that controlled NAIL. It was initially believed that Worldwide African Investments would gain control of NAIL. However unbeknown to Worldwide, two empowerment companies

Safika Holdings and Women Investment Portfolio Holdings acquired a 34.5% and 25% in NAIL respectively. Safika was able to increase the fifteen percent share it acquired earlier in 2001 from Hollard by buying out former NAIL CEO Zwelakhe Sisulu's twenty five percent share in NAIL's holding company Phaphama. Wiphold managed to scoop former NAIL chairman, Dikgang Moseneke's twenty-five percent share in NAIL. Following the successful bid by Safika for NAIL shares, Saki Macozoma was voted in as New Africa Investment Limited's Chief Executive Officer.

Saki Macozoma: A New Direction for NAIL

At the age of 44 years Sakumzi (Saki) Macozoma was already a prominent black figure in South African politics and business. In the mid 1970s he embarked on a political career and became an organiser for the South African Students Movement. In 1976 he was arrested for leading a student protest march and was sentenced to five years on Robben Island. On release he played an instrumental role in the formation of the United Democratic Front (UDF) and became a member in the top ranks of the African National Congress.

He entered the world of business in 1993 when he joined South African Airways (SAA) as a business development manager. In 1994 he joined Parliament only to leave again to rejoin the business sector in 1996 when he took up a position with Transnet. Macozoma became a shareholder in Safika Investment Limited, an investment holding company that includes a small shareholding in MTN among its assets. The announcement that Saki Macozoma was in the running for the Chief Executive Officer's (CEO) position in NAIL was met with some criticism and resistance.

One board member was quoted as saying " Macozoma will have a bloody nose by the end of today's board meeting if he tries to take control" (Vermeulen, 2001:8). In the end however Macozoma left the boardroom, nose intact and as NAIL's new CEO. It was later suggested that Macozoma had enlisted the support of his former Transnet colleague, Gloria Serobe, director of Whiphold, to secure the support of the NAIL board. This was firmly denied by Macozoma who instead vowed to be "100% hands on in order to create value for South Africa's premier black empowerment company" (Munusamy, 2001).

SECTION FOUR: The History of New Africa Investment Limited (NAIL)

In January 2002, ICASA announced the reasons for blocking the R377 million acquisition of Kagiso assets by NAIL. According to ICASA, NAIL's acquisition of Kagiso would have diluted black ownership. NAIL's empowerment ownership was only five percent whilst Kagiso had a strong empowerment ownership of fifty percent. The acquisition of both East Coast Radio and Jacaranda would only curtail diversity and increase barriers to entry in the radio sector. ICASA regulations limited the number of radio stations that a company could own and the regulator did not want to act in an ad hoc manner by allowing NAIL to acquire Kagiso's assets. When ICASA refused to approve NAIL's bid for Kagiso, Saki Macozoma attributed his company's failure to acquire Kagiso to regulatory restrictions on cross-media ownership and the absence of suitably priced media assets (*Natal Witness*, 2003).

Macozoma argued that ICASA was an ideological body that paid much less attention to the broadcasting side of its mandate than the telecommunications side. In response to ICASA's concern that the company's empowerment credential were lacking he said, "Their view is warped. If NAIL is not an empowerment company, there is no empowerment company on earth. They wanted us to give them the complexion of every person who buys a NAIL share, which we think is silly" (Macozoma cited in Beckett, 2003:4). Macozoma declared that since its inception NAIL had been synonymous with empowerment and as a publicly listed entity it had no desire to control the skin colour of the people who bought its shares. He stated that the real need was to improve the economic position of all South Africa's people and to level the playing fields to allow black people to catch up with white people who had previously enjoyed a massive lead in business during colonialism and the apartheid era (*NAIL Annual Report*, 2001).

Despite ICASA's ruling NAIL continued to try to expand its operations in the media industry. The company has engaged in mergers, strategic deals and alliances. The examination of its operations reveal cross ownership patterns and three strategies of corporate growth: Horizontal, Vertical and Diagonal expansion. Below is a brief outline of NAIL's operations:

The Print Sector

SECTION FOUR: The History of New Africa Investment Limited (NAIL)

New Africa Publication (NAP) publishes newspapers, magazines and books and is the proprietor of *Sowetan, Sowetan Sunday World* and *Leadership.* The ownership of different media products by one media enterprise is referred to as cross-media ownership. NAP is thus engaged in cross-media ownership because it is owns newspapers, magazines and books.

Thengisa Media, established in October 2000, sells advertising space for these newspapers. Prior to the establishment of Thengisa, other companies sold advertising for NAP' s publications, however NAP decided to take control of its key area of revenue generation.

According to Gillian Doyle (2002:4) vertical integration refers to the tendency of media enterprises to control some or all steps in the production and distribution of their goods or services because it allows a firm to reduce transaction costs, gain more control over their operating environment and expand the market power. Through the establishment of Thengisa Media, NAIL was able to expand forward into the supply chain into advertising.

New Africa Books (NAB) arose as a result of a merger between New Africa Educational Publishing and David Phillip Publishers (Pty) Ltd. New Africa Books has three imprints:

- David Phillip, which publishes high-quality reference books;
- SPEARHEAD, dealing with current affairs and New Africa Educational Publishing;
- Allied Publishing Limited is the distribution vehicle for NAP, Johnnic Publishing Ltd, Independent Newspapers and some routes for Caxton Ltd. This is another example of vertical integration whereby NAB activities range from publishing through to distribution via Allied Publishing Limited.

Radio

NAIL'S diversification from the print to the radio sector is yet another example of cross-media ownership, whilst the acquisition of different radio stations is evidence of horizontal integration whereby two firms involved in the same stage of the supply chain or who are engaged in the same activity combine forces (Doyle, 2002:2).

Kfm 94.5 broadcasts in the Western Cape and part of the Northern Cape. The radio station was established 11 years ago by the government. It was owned by the South African Broadcasting Corporation, and was privatized in 1996.

Jacaranda 94.2fm is the largest regional radio station in South Africa and broadcasts in English and Afrikaans. It is an adult contemporary music led station whose broadcast footprint includes Gauteng, Mpumalanga, North West and Limpopo province.

Kaya Fm 95.9 started broadcasting on 1 August 1997. NAIL acquired a stake in the Gauteng based station in the belief that future growth in the radio market would emerge from assets targeting emerging consumers. Kaya FM is well suited to take advantage of the emerging consumer market because it has a desirable footprint reaching important areas in Gauteng. The station has a unique license allowing it to broadcast sixty percent music. It is one of the fastest growing radio stations in the country.

RadMark is the largest private sector company dedicated to radio sales advertising in the country. The average daily figure in 2001 was 802000 listeners. This is an example of vertical integration whereby NAIL was able to extend its control beyond the process of production to advertising.

Film and Television Production

Urban Brew Studios has one of the most sophisticated and extensive infrastructures of any South African television production house. Its aim is to produce relevant, innovative and informative televisual entertainment and contribute to national broadcasting through a variety of programming. Successful media brands include the national lottery's *Road 2 Riches,* the live *Lotto draw,* magazine programme *Woza Weekend*, the weekly music show *Castle Loud* and the children's and youth brands *YOTV* and *X-Attitude*. As the preferred South African production partner of Disney, Urban Brew produces *Disney's Cartoon Café*. In addition, it has produced corporate videos for Cotton South Africa, Sowetan, Midrand Campus, Liberty Life Properties, Colgate and Sanlam.

Sowetan Television jointly owned by NAP, (50%), and Urban Brew (50%) produces local productions for television. New Africa Media Films (NAM Films) was formed in 2000 to create theatrical films for the international market. It completed its first full-length feature entitled *Slash,* which was sold at international film markets

Other Assets

According to Doyle (2002:5), diagonal or lateral expansion occurs when firms diversify into new business areas. Such a strategy allows firms to spread their risks. Large diversified firms are to some extent cushioned from any damaging effects that may affect any one of the sectors they are involved in. NAIL was able to diagonally expand into the car rental business, investments holdings as well as into the outdoor advertising business.

NAIL holds sixty percent in Hertz Rent A Car whilst Unitran holds the remaining forty percent. Following 11 September 2001 attack on the United States of America, it became apparent that the tourist market was unstable therefore Hertz shifted its marketing direction towards the longer term corporate and contract market.

NAIL played a vital role in the initial capitalization of Union Alliance holdings (Pty) Limited. Union Alliance is owned and controlled directly by ten trade unions affiliated to the Congress of South African Trade Unions and the National Council of Trade Unions.

The South African Commercial Catering and Allied Workers Union Investment Holdings (Pty) Ltd was established to benefit the members of that union and NAIL provided the initial capital to set up this company in exchange for a twenty percent interest.

As for New Africa Capital Limited (NAC), NAIL owned a 5.2% stake in this long term insurance company.

Johnnic Holdings Limited owned a 1.5% stake in this telecommunications and media company.

NAIL Outdoor

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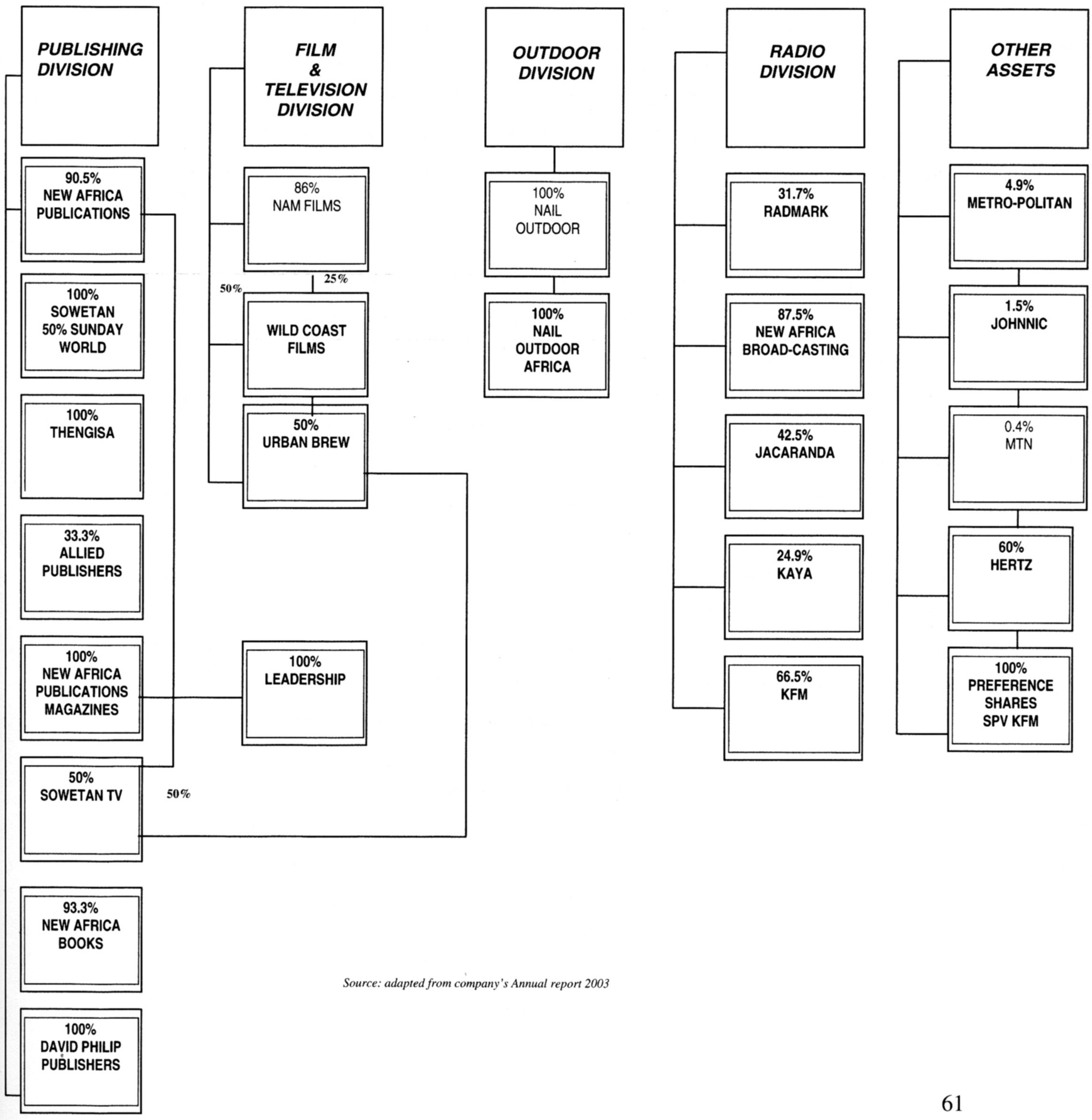
In January 2002, NAIL acquired Ntanya Outdoor SA (Pty) Ltd and formed an outdoor division, which was named NAIL Outdoor SA and NAIL Outdoor Africa respectively. The Outdoor business was still in its initial growing phase. This venture was part of NAIL's goal to grow the business both organically and through strategic acquisition and to expand continually throughout Africa.

What follows is an organogram of NAIL and it assets, which were modified, from the company's 2003 annual report.

GROUP STRUCTURE
NEW AFRICA INVESTMENT LIMITED



Source: adapted from company's Annual report 2003

NAIL: The Final Chapter

In May 2003 NAIL announced that it was reviewing its strategy of building media assets because it was frustrated by a combination of regulatory constraints and appropriately priced assets. The company called for interested parties to acquire some or all of its assets or to explore alternative merger options. In July 2003 NAIL announced that it had received, outside of its bid process, an unsolicited notification of a firm intention to make an offer for NAIL's shares from the Tiso Consortium which comprised of Tiso Private Equity Fund, Safika Holdings (Pty) Limited, Investec Bank Limited and Mineworks Investment Company (Pty) Limited. By August 2003 the professional service group PriceWaterhouseCoopers was brought in to conduct an independent assessment of NAIL's value.

In September 2003, NAIL's directors met to seal the group's fate. Two Offers, one made by a consortium of Caxton, CTP, Johnnic Communication and Kagiso Media and another made by the Tiso group had to be discussed. On 3 October 2003, the Tiso Consortium announced that it had obtained in excess of fifty percent of NAIL' s ordinary N shares and it placed an unconditional offer of R10.50 a share. On 7 October 2003, NAIL issued a circular supporting the Tiso Consortium offer as it was not conditional on regulatory approval and was supported by NAIL's controlling company Phaphama.

When the competition authorities approved the merger of Tiso Consortium and NAIL, the board decided to embark on a process of disposing NAIL's underlying assets by soliciting competitive bids and returning excess capital to shareholders. On 29 March 2004 R870 million in cash and R273-000 worth of Methold shares were returned to shareholders. The following NAIL assets were sold:

775 6917 MTN shares realising R232.4 million
245ten52 Johnnic shares realising R39.0 million
50.1% Urban Brew realising R21.5 million
93.3% NAB realising R9 million
31.7% Radmark realising R14.2 million
Kaya FM funding structure over twenty percent of Kaya FM.

The following assets have been sold subject to conditions present:

Sowetan –subject to the Competition Authorities
Jacaranda FM –subject to approval by ICASA.
KFM and funding structure of a 28.5% stake in Kfm –subject to shareholder approval, Competition Authorities and ICASA approval.

Negotiations are in progress to dispose of the remaining assets, Hertz Car Rental, Kaya 95.9 and NAIL Outdoor. On 31 May 2004, Saki Macozoma stepped down as CEO of NAIL but remained on the board as a non-executive director. The day to day running of the company was left in the hands of two executive directors, Kenny Setzin and Raymond Kevan.

NAIL: Concerns and Contradictions

The previous section provided a historical overview of NAIL, its various operations and identified the company's key assets. This section provides an analysis of the impact that NAIL's actions have had on Black Economic Empowerment as well as the challenges the company has faced as a pioneering BEE company. New Africa Investment Limited was born as a company purely focused on the financial sector, however after South Africa's first democratic election the company decided to exploit the opportunities being made available by the government to black empowered companies to enter the media industry. Black Economic Empowerment allowed black companies to enter the previously white dominated media market for the first time

Prior to 1994, South Africa's media industry was concentrated in white hands. The Broadcasting sector was in a state of monopoly, exclusively dominated by the South African Broadcasting Corporation (SABC), which owned 21 radio stations and four television stations. The print sector was controlled and dominated by a few white firms; Naspers, Perskor, Argus and Time Media Limited (TML) shared ownership in the print sector. Argus and TML were linked to two mining conglomerates, Anglo-American and Johnnic Consolidated Investment whilst Naspers and Perskor emerged as an outcome of Afrikaner nationalism (Boloka, 2003). The structure of print media aided the Apartheid government's initiative to control the press. With the advent of democracy the new government attempted to change press ownership patterns and open the media to black economic empowerment groups, trade unions and foreign media corporations.

SECTION FOUR: The History of New Africa Investment Limited (NAIL)

NAIL's foray into the media industry was an extremely strategic one. NAIL knew that the media yielded incredible power and that there were numerous opportunities available to make money in the media industry. NAIL's entry into the media industry began in the print sector but over the years the company began to explore other media avenues. By the time Saki Macozoma became CEO in 2001, the company was already exploring options to expand into outdoor advertising.

From the very beginning, NAIL tried to increase its market share by taking over or merging with competitors or by forcing weaker players out. Graham Murdock (1994) refers to this action as media concentration. He states that media concentration and cross-media ownership are a danger to democracy because highly concentrated markets usually lead to strong barriers to entry by new competitors, a decline of public expression, and increased economic power and political influence. Through the proposed acquisition of Kagiso's radio assets, NAIL was attempting to increase its market share in radio broadcasting. The transaction would have allowed NAIL to dominate the radio sector, owning around sixty percent of commercial radio and thus making it extremely difficult for another company to enter the radio market.

According to Murdock (1994) as the economic strength of media conglomerates increases, its market power extends to political power. NAIL's domination of this sector would have given the company the power to control the type of radio content, which may have posed a threat to media diversity, and pluralism. It would have also made it extremely difficult for new radio stations to enter and survive in radio. NAIL, however was unconcerned with the social ramifications of it actions instead it focused solely on growing and forging itself into a major media conglomerate.

The South African regulatory body ICASA put to rest NAIL's plan to dominate the radio market. ICASA refused to approve NAIL's bid to add Kagiso's radio assets to its stable because it believed that the acquisition would threaten diversity of ownership and opinion. One of ICASA's stipulations was that a company had to have a strong empowerment component. ICASA argued that NAIL did not have a strong empowerment component. It opined that the major shareholders of NAIL were white-owned institutions and this was not adequate at a time when black economic empowerment was the order of the day. If NAIL acquired Kagiso's radio assets, the empowerment component of those stations would have been diluted. The regulator's decision also emphasised the fact that the media has played itself out from a time when there were existing structures in place and BEE companies could fast track their status through large buy-ins and acquisitions (Evans, Mall & Moodley, 2003).

One of the reasons why NAIL's empowerment status was continually questioned was due to the fact that the company stopped using non-voting shares, which it initially used to broaden its shareholding base. NAIL, like many other black empowerment enterprises was experiencing financial problems, often because black partners could not inject significant capital into the companies therefore in order to attract new capital it had to revise its shareholding structure to allow non-empowerment partners to inject funds. The consequence of this action meant that commercial interests became the driving force with job creation, SMME support and community development put on the back burner. Financial imperatives spurred NAIL to embark on indiscriminate merging, and selling of assets, without actually looking at the long-term benefits of these deals to its existing structure.

The company tested various markets ranging from financial services to broadcasting and outdoor advertising without actually focusing specifically on any of them. As a result, NAIL's resources were stretched across different markets with varying needs. Whilst this action protected the company during market crashes it also prevented the company from being able to specialise or build a strong capacity in a particular sector. This is perhaps the reason why NAIL (in its 2003 annual report) stated that it had exhausted all possibilities of growth in the media sector, "We cannot continue with NAIL in its current form. Although the media assets are performing well, the board is of the view that they lack strategic mass in key areas"(*Business Report,* 2003).

Over the years, NAIL has become a conglomerate with a pyramid management structure[17] and an interlocking directorate. An interlocking directorate refers to the practice whereby a director of a company also serves on the board of another company. Interlocking directorates can be extremely beneficial to a company because it reflects economic interdependencies amongst corporations, creates a stable means of

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[17] A pyramid management structure is one where the majority of the decision–making authority is vested in a relatively small number of senior managers at the top of the company.

communication and liaison between corporations and promotes collaboration in joint ventures (Savage, 1984). The process can also be detrimental to a company. NAIL is a classic example of a company where the practice of interlocking directorates has not worked well.

Many prominent black people have served on the NAIL board and have used the company as a stepping-stone to bigger empowerment ventures. It has become the trend for BEE companies, like NAIL to employ directors who are key South African figureheads because this lends prestige to the corporations and helps draw in and encourage investment. Dikgang Moseneke, Nthato Motlana, Cyril Ramaphosa and Saki Macozoma, key figureheads of NAIL have been involved in interlocking directorates during their tenure with the company.

Dr. Nthato Motlana was a medical doctor by profession who later became a well-known member of South Africa's business community. In 1994 he was appointed Chairman of both *Metropolitan Life* (Metlife) and its holding company, Methold. He has held directorships in many companies, including Southern Life, The Development Bank of Southern Africa, Lesedi Clinic, Sizwe Medical Aid and Small Business Development Corporation. He was also a director in the country's leading oil company, Sasol. Dikgang Ernerst Moseneke, a judge by profession left the Bar to pursue a full time corporate career. During this time he has been involved in various companies in different capacities.

The disadvantage of interlocking directorates lies in the fact that a director's time, energy and resources are split across different companies. New Africa Investment suffered this consequence when Cyril Ramaphosa was accused of not meeting his responsibilities in NAIL. At one stage during his tenure, as executive director of NAIL, Ramaphosa was the chairman of Johnnic, TML and Molope Foods. Ramaphosa was accused of concentrating and devoting most of his time to Molope Foods instead of focusing on his responsibilities at NAIL. These accusations eventually lead to Ramaphosa's resignation from the company in 1999.

Saki Macozoma has served as the chairman of financial institutions STANLIB and Andisa Capital. In addition he was a director of the Standard Bank Of South Africa, the

Standard Group, the Liberty Group, Murray and Roberts, Volkswagen and is a significant shareholder and Deputy Chairman of Safika Holdings. Macozoma's involvement in Safika is perhaps the most controversial because this company was part of TISO Consortium, which purchased NAIL at the end of the year 2003. As the Chief Executive Officer of the company it was argued that he deliberately put NAIL assets on sale so that his own company Safika could bid for them.

Saki Macozoma is frequently involved in deals to buy out or acquire shares in companies where he is the director, CEO or board member. As a member of the board of Standard Bank, Macozoma's company Safika together with Cyril Ramaphosa's company Millennium Consolidated Investments (MIC) was involved in a R5.5 billion transaction to acquires shares in Standard Bank and its subsidiary, Liberty, a life assurance group.

Interlocking directorships undermine one of the central tenets of BEE is to ensure that more black people become economically empowered because only a handful of black people have benefited from the process. People like Cyril Ramaphosa, Saki Macozoma, Dikgang Moseneke, and Nthato Motlana dominate and monopolise empowerment deals and serve on so many company boards that it is extremely difficult for the average black person to become involved in BEE transaction let alone become empowered by them.

In its heyday, NAIL was the most powerful black-owned company on the JSE, a feat that later earned the company the title of 'Flagship of BEE'. Over the years however the company has bowed to the challenges and problems associated with BEE. The lack of adequate financing forced NAIL to abandon the popular N-shares, which in turn affected its empowerment status. Financial imperatives and the need to survive overrode the ideals of empowerment, with SMME support and community development almost totally ignored. It was argued that *The Sowetan's* Community Builder of the Year competition was created with the intention to boost the papers popularity rather than with the intention to uplift, acknowledge and motivate the broader community.

The motives behind NAIL's implementation of an Empowerment Committee can also be questioned. At face value the creation of the committee seems to have been a spontaneous and magnanimous gesture to advance the ideal of BEE. However a closer inspection reveals that the Empowerment Committee was implemented during the period when NAIL was rocked by the share scandal involving its four directors. Thus the creation of the committee could be seen as a ploy to restore faith in the company rather than an attempt at true empowerment.

The problems and challenges that faced NAIL proved to be too much for the company to handle, and the board decided to put NAIL assets up for sale. In January 2004 after the Tiso Consortium acquired the assets of NAIL, Saki Macozoma resigned as Chief Executive Officer and took up the position of non-executive director. The day to day running of the company was left to two white directors, Kenny Setzin and Raymond Kevan. This move points to the controversiaL nature of BEE, where the ownership of the company is black but white people still manage the crucial day-to-day events and decision-making activities. Black people remain window dressing to attract potential investors. NAIL has become the epitome of the difficulties, contradictions and problems associated with the implementation of black economic empowerment in South Africa.

The Future of Black Economic Empowerment

Since its inception Black Economic Empowerment has become a significant political and economic issue in South Africa. The preceding sections have demonstrated that the process has also become a controversial and criticised one. However the BEE policy is being revised following the review and recommendations made by the Black Economic Empowerment Commission (BEECom). The BEECom report called for an interventionist strategy by the government and for comprehensive legislative measures to accelerate economic development in South Africa.

The report highlighted the structural weaknesses of the BEE initiative, forced the government to re-look Black Economic Empowerment and develop a more sustainable and workable Black Economic Empowerment model. Government has been forced to acknowledge that whilst it has made considerable inroads in deracialising the economy, it has not made significant strides in economically empowering the previously marginalized black community. The government has realised that a comprehensive black economic empowerment strategy is needed to weave together the different elements of its transformation programme in a coherent and focused manner.

In his budget speech on 26 February 2003, the Minister of Finance, Trevor Manuel stated that Black Economic Empowerment had a central role to play in sustaining South Africa's growth trajectory and improving the distribution of income and job opportunities. He committed the government to setting aside R10 billion over the next five years to support the funding of new ventures and business expansions that meet agreed empowerment criteria. According to the government "the time is right for the introduction of a comprehensive and focused strategy for broad based black economic empowerment" (http://www.dti.gov.za).

The government devised the Broad-Based Empowerment Strategy in March 2003. This policy document moves beyond simply redressing past imbalances and redistributing wealth. It views Black Empowerment as a tool to boost the country's economy, increase growth, accelerate job creation and eradicate poverty. The key principles underpinning the government's new Black Economic Empowerment strategy are that it has to be:

- Broad based in order to deracialise the country's economy and to accelerate the re-entry of disempowered communities into the country's mainstream economy;
- An inclusive process whereby all people in South Africa should participate;
- Ensure the highest standards of corporate governance.

The policy document concedes that in the past Black Economic Empowerment has lacked a clear definition and understanding of what constitutes empowerment. In an attempt to rectify this problem it has developed a definition that is neither too broad nor overly narrow. Black Economic Empowerment is now defined as:

> An integrated and coherent socio-economic process that directly contributes to the economic transformation of South Africa and brings about significant increase in the number of black people that manage, own and control the country's economy as well as significant decreases in income inequalities (Broad-Based Black Economic Empowerment Act 2003).

The two key instruments in the policy are Charters and Scorecards. The Charters are agreements created between government, business and labour on the future direction of an industry. The charter guides business in the regulation of the industry, sets targets and provides measurement indicators of BEE. Related to the Charter is the Scorecard. A scorecard measures the performance of a company by adopting a set of criteria that have been traditionally used in Black Economic Empowerment. The BEE criteria set out in the scorecard will be implemented when the government grants licenses or concessions, sells assets or state- owned enterprises, enters into public-private partnerships and when it engages in any economic activity. The Scorecard is also applicable to any company that makes an application for a license, concession or other authorisation to an organ of state or when bidding for public procurement contracts.

SECTION FIVE: The Future of Black Economic Empowerment and Conclusion

On 6 January 2004, the Broad Based Black Economic Empowerment Act 2003 was passed into law. It will come into operation at a date still to be determined by the President, Thabo Mbeki, by proclamation in the Government Gazette. The Act empowers the Minister of Trade and Industry to give legal backing to the industry's transformation charters by publishing them in the government gazette. The Minister can only approve these charters once he has ensured that they are in line with the BEE Act and the BEE code of good practice, which the Department of Trade and Industry have yet to make public.

Conclusion

As South Africa enters its second decade of democracy, it is easy to take for granted the significant strides made by the government in transforming the country from a white dominated autocracy into a democracy. A brief examination of South Africa a decade ago reveals a severely fragmented society, deep in public debt and straddled with a state machinery ill equipped to deal with the needs of the majority of South Africans. Today, South Africa has a democratic political order that is buttressed by social and political stability. South Africa has travelled a remarkable path to liberation and freedom and "it would be difficult to find examples elsewhere in the world where a negotiated transfer of power took place, where such progress was achieved in so short a period of time to redefine the nature of the new social order" (Mbeki, 1998:4).

The government has made significant structural advances in terms of health care, education and in the provision of housing, safe water, sanitation, electricity and telephone lines to millions of its poor. A brief snapshot of some of the government programmes in the year 1999 reveals the strides it has made in terms of the delivery of social services:

- In 1994 more than thirty percent of South Africans lacked access to a safe supply of water. By the year 1999, three million people had already benefited from the government's water supply programme.
- In 1994 less than forty percent of households had access to electricity. In 2000, sixty three percent of households were electrified.
- The government's primary school Nutrition Programme was able to reach around five million children, and by 1999 ten thousand classrooms had been built or repaired

(South Scan, 1999)

As remarkable as South Africa's transformation process has been; all indicators point to the need for an accelerated pace of delivery. Unemployment, poverty and economic inequality continue to pose a serious problem. Thus, formidable challenges still exist and one of the major challenges is to develop a workable and sustainable Black Economic

Empowerment model that will enable previously marginalised people to participate in the country's economy in a meaningful way.

Within the context of this dissertation, empowerment was described generally as the upliftment of previously disadvantaged communities. A more succinct description is provided by Cyril Ramaphosa who describes the process as "the transference of social, political and economic power to historically disadvantaged South Africans" (*Sunday Times*, 1997:1). When the ANC-led government was voted into power in 1994, one of its socio-economic imperatives was to "redress the existing distribution of income and assets where the market system was distorted according to the non-market criteria of race" (BEECom Final Report: 5). The government realised that the attainment of a democratic dispensation could only be realised through the deracialisation of business ownership and control for Black Economic Empowerment. The first seeds of Black Economic Empowerment were thus sown in the ANC's Reconstruction and Development Programme (RDP).

When the government abandoned the RDP and its related projects to adopt the Growth, Equity and Redistribution plan (GEAR), the shift was met with fierce resistance from both its alliance partners and opposition parties. The move from RDP to GEAR was considered to be a radical shift from the government's ideological paradigm of equality and democracy. GEAR was a capitalist model and as such a renegade to empowerment (Boloka, 2002). Of equal concern to those in opposition to GEAR was President Thabo Mbeki's call for the creation of a strong black capitalist class.

According to Tomaselli (1997) every capitalist, irrespective of race, is driven by the desire for self-enrichment through the accumulation of wealth and capital often at the expense of those less fortunate. It is this notion of self-enrichment and the accumulation of wealth and capital, which some movements, interest groups and trade unions are opposed to. This explains why at its inception Black Economic Empowerment was viewed with a great deal of scepticism and resistance.

The first years of the BEE initiative were dominated by empowerment deals and the creation of a black capital base. Conglomerates began to flourish and created a small black elite class, which continually dominated empowerment deals. As a result, trade unions, civic organisations and other groups argued that BEE was a self-enrichment endeavour rather than a vehicle for real empowerment. Many people became disillusioned with BEE and some like the President's brother; Moeletsi Mbeki called for the complete eradication of Black Economic Empowerment.

Despite these problems and the fact that the initiative failed to meet its desired goals during its initial implementation, one cannot dismiss the importance of Black Economic Empowerment to South Africa's transformation process. The realisation of political emancipation was only the first step towards transformation. The government's vision of transformation as set out in the freedom charter of 1985 is that "the people shall share in the country's wealth" and "the nation's wealth shall be restored to the people".

The reality in South Africa is that the country's potential will only be realised when ownership of the economy is shared broadly and when economic decision-making is no longer limited to a few people. Peter Vundla, a member of the BEE Commission and deputy executive of an empowerment company, AMB Holdings asserts, "BEE has not been a failure as some commentators have suggested, but the process has been a learning curve" (*Business Report*, 2002:5).

Black Economic Empowerment was envisioned to be a long-term process however many people believed that as soon as South Africa attained political freedom all other problems would peter out. Charles Kieffer (1984:7) states, "it is completely unrealistic to presume that the cumulative effects of domination cannot be reversed in any other way than a long term frame of reference. It would be frivolous therefore to pretend that there can be a well-developed 'short-course' in empowerment". South Africa is still a fledgling democracy and there are no quick fixes to empowerment. It took Malaysia twenty years to achieve an effective empowerment policy and to reach the level of empowerment that the country has achieved today.

Black Economic Empowerment cannot be achieved in a short time frame and the initial failure of the process attests to this. The government faces tremendous challenges in implementing BEE because unlike the apartheid government, which provided for the needs of only thirteen percent of the population, the new government has to provide for the needs of South Africa's millions. Black Economic Empowerment has to be implemented within the framework of democracy, the constitution, the law and human rights. The government is therefore placed in the precarious position of trying to meet the needs of the black population, who make up the majority of its voters and the needs of the white population, who still have most of the economic power in South Africa.

In addition, the government has to mediate the different political, social and economic pressures advanced by different movements in the country, and deal with the challenges posed by globalisation. These constraints have clearly limited the government's ability to accomplish its goal of socio-economic reform as effectively as it would have liked. It has also highlighted the need for a more determined and focused approach towards economic transformation and development.

In the last two years, the government has re-evaluated its Black Economic Empowerment policy and has passed the Black Economic Empowerment Bill, which provides a detailed guide for the transfer of wealth and skills to previously disadvantaged people. According to Vundla (2002) "if we want to establish an equitable society, empowerment must be central to national economic policy. If black people were economically disempowered by legislation, they should be empowered through legislation" (Business *Report*, 2002:5). Broad-Based Empowerment benefits people at a grassroots level by placing greater emphasis on Small Medium and Micro Enterprises (SMMEs) and the development of co-operatives. Both co-operatives and SMME's have a strong community and social orientation, enable the poor to participate in the economy and empower the community by providing jobs, and skills development.

The Black Economic Empowerment legislation promulgated by the government seeks to fundamentally transform the economic landscape of South Africa. It acknowledges that economic inequality and social stratification is inimical to democracy and that the transformation of the country's economic sphere, the development of black business and the eradication of poverty are crucial for economic liberation. The success of this legislation however depends not only on government intervention but co-operation by the country's people, the business sector and trade unions.

Research has demonstrated that the increased capacity of the state is positively correlated with the increased vitality of civil society (Rodrik, 1996; Evans, 1996). The mutually beneficial partnerships between the state and civil society as envisioned in the RDP needs to be rekindled. In the same way the struggle for liberation was fought by South Africa's masses, the struggle for economic empowerment needs to be a collective one in order for it to be successful. A shared responsibility for economic transformation calls on all parties involved to understand that different sectors bring different but beneficial qualities to the process. A government that works in close partnership with its people will "ensure that we draw on the energy and genius of the nation to give birth to something that will surely be new, good and beautiful" (Mbeki, 1999:3).

President Thabo Mbeki has described South Africa as two nations in one; one nation that is white, affluent and privileged and the other black and disadvantaged. This is one of the main reasons he has strongly advocated the rise of a black bourgeoisie class. I argue however that it is a parochial misnomer to view the ultimate objective of Black Economic Empowerment as the cultivation of a black bourgeoisie or capitalist class. The transformation of the South African economy and society as a whole depends on the simultaneous rise of a black entrepreneurial class and the eradication of poverty.

Black capital does have a crucial role to play however it is not the sole ingredient for economic transformation. As South Africans we need to work towards creating job opportunities, education and skill development because Black Economic Empowerment in its truest sense occurs "every time a black person acquires the means to earn a living" (Madi, 1997:10). The problems associated with Black Economic Empowerment should not be a reason to discard the initiative after all as former South African president Nelson Mandela reminds us "the greatest glory in living lies in not in never falling, but in rising every time we fall[18]"

[18] Taken from http://www.allgreatquotes.com/nelso-mandela_quote

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