



Broad-Based Black Economic Empowerment in selected Small and Medium Enterprises in Cape Town, South Africa

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Abstract

The implementation of the Black Economic Empowerment (BEE) legislation in 2003 amended to Broad-Based Black Economic Empowerment (thereafter, BBBEE) has indicated that not much has changed over the years. The qualitative research approach adopted an exploratory case study design to explore the perceptions of SMEs owners and managers in Cape Town, South Africa. The study findings indicate that the legislation has been a hindrance and has failed to address the social injustices of the past. Findings indicate lack access to opportunities in the public sector, ‘fronting’ by the connected elites, fraud, corruption. The main conclusions are that the legislation has failed to level the playing field for SMEs owned by the previously disadvantaged individuals (PDIs). The study recommendations are that legislation should be overhauled and re-purposed to deliver the economic empowerment of the previously disadvantaged individuals and communities in South Africa.

Key words: Broad-Based Economic Empowerment, Exempt Qualifying Enterprises, Qualifying Small Enterprises, Social justice

1. INTRODUCTION

The participation by citizens in the economic affairs of the nation is a fundamental human right in democratic countries (Donnelly, 1984). Inequalities among citizens in different countries arise from discrimination on the basis of gender, race, religious beliefs, sexual orientation and ethnicity (SA Department of Trade and Industry, 2018; Forbes and Rust, 2019). Redressing inequalities and injustices is still work in progress in some countries (McGowan and Ng, 2016). The post-1994 democratic South Africa has grappled with addressing the discriminatory legacy of Apartheid across the different socio-economic spheres of the new nation (Van Niekerk, 2019). Acts of Parliament have been promulgated to repeal the Apartheid era laws in the areas of education, health, job opportunities, housing and social care (Horwitz and Jain, 2011). The various legislation seek to proactively empower the majority Black population and previously disadvantaged minorities to fully participate in

national economic activities (Wallace, 2017). In recognition of the role of Small and Medium Enterprises (SMEs) in employment creation and economic development (Nwuzor *et al.*, 2019) in the transformation of the post 1994 democratic South African government promulgated the Black Economic Empowerment (BEE) Act 53 of 2003 amended to Broad Based Black Economic Empowerment (BBBEE) Act 46 of 2013. The primary focus of the legislation is to redress the injustices of the Apartheid-era through prioritisation to directly access business opportunities within the South African public sector by the marginalised and previously disadvantaged individuals (PDIs).

The Broad-Based Black Economic Empowerment(B-BBEE) legislation categorizes owner-managed SMEs into three categories, that is, (i) Exempt Macro Small Enterprises (EME) which are organizations that have an annual turnover of ten (10) million Rands or less. (ii) Qualifying Small Enterprises (QSE) with an annual turnover ranging between ten (10) million Rands to fifty (50) million Rands and (iii) Generic Enterprises (GE) organizations that have an annual turnover of more than fifty (50) million Rands per annum (Goldberg, 2015). Each of these categories qualify for different levels of business opportunities within the South African public sector as part of empowerment and transformation agenda. This study explores the experiences of selected BBBEE qualified SMEs in the Exempt Macro Small Enterprises (EME) and Qualifying Small Enterprises (QSE) categories on how they have benefited or otherwise from the BBBEE legislation since its inception.

2.LITERATURE REVIEW

2.1 Definition of SMEs

The definitions of SMEs vary across different countries (Muriithi, 2017). In general definitions of SMEs alluded to the characteristics that include entities which employ less than fifty (50) employees with a threshold of two hundred and fifty (250) employees (Fatoki, 2022), independent and self-funded entities, registered and unregistered, operating within wider eco-system of firms, account for the creation of the majority of new jobs (Dilger 2022). The variations in categorisations invariably note capture the nature of SMEs such as the number of employees, sales, assets, and annual turnover (Deyshappriyya and Maduwanthi 2021). Relatedly, definitions often emphasise the job creation capacity of SMEs within an economy and economic growth, employment creation, and revenue generation from different sectors (OECD,2016b; Dhewanto *et al.*, 2020). Equally, some definitions of SMEs propagate their inherent characteristics such as flexibility, creativity, innovation, and intentional ability to adapt to the unstable environments on limited resources and budget (Bocconcelli *et al.* 2018). Inevitably, the role of SMEs towards generating economic growth, wealth and job creation and social and economic upliftment (Razak *et al.*, 2018) has prompted policymakers and government institutions to focus on creating and enabling business environments that support the growth and expansion of the SMEs sector (Fatoki and Garwe, 2010; Sippitt, 2014). Notwithstanding the different defines of SMEs research evidence indicates that they support the development of economies (Muriithi, 2017; Ayandibu and Houghton, 2017; Razak *et al.*, 2018; Dzomonda and Fatoki, 2019; Luvhengo and Thomas, 2019).

Despite the significance of SMEs in job creation and economic empowerment they face challenges in terms of limited resources, business management skills, finances and access to markets, limited government support, complex legislation, fraud, and corruption in the public procurement sector (Ayandibu and Houghton 2017; Razak *et al.* 2018) and low institutional credit that negatively impact productivity (Nwuzor *et al.* 2019). Internal organisational challenges include compliance with occupational health issues (OHS), human resources (HR), leadership style, workplace communication,

resource allocation, tender corruption, fraud, delays in projects completion and shortages of professional skills (Mafundu and Mafini, 2019). Further to negative effects of organisational cultures averse to innovativeness, proactiveness and risk-taking (Dzomonda and Fatoki 2019). Thus, the view that the success of SMEs depends on their ability imitate and adopt sustainable private sector business practices in responding to dynamic environmental, economic, and social factors (Masocha and Fatoki, 2018).

2.2 The Broad-Based Black Economic Empowerment (BBBEE) Legislation

The term Broad-Based Black Empowerment (BBBEE) refers to the South African government's legislative framework that seeks to ensure economic equity through the active participation of previously disadvantaged individuals. The BBBEE definition of Black people is generic to South African citizens through birth, descent or naturalisation of African, Coloured or Indian prior to 27 April 1994 stated as follows:

“the viable economic empowerment of all Black people, in particular women, workers, youth, people with disabilities and people living in rural areas, through diverse but integrated socio-economic strategies...” (SA Department of Trade and Industry, 2014:4).

The primary focus is to engender transformation in the South African economy through the active participation of previously disadvantage individuals in the ownership, management control, skills development, (ESD) enterprise and supplier development as well as (SD) socio-economic development (Cenfed B-BBEE Agency, 2020). Thus, the amended Broad-Based Black Economic Empowerment (BBBEE) Act is a legislation borne out of the need to redress social injustice through opening up equal access to economic opportunities in the new South Africa (Van Niekerk, 2019). Addressing social justice and equity through legislation is not unique to SA (McGowan and Ng, 2016) as the BBBEE legislation seeks to address the inequalities of the apartheid era to contend with the decline in the gross domestic product (GDP), unemployment rate increasing from 17% in 1994 to more than 30% in 2020 (Stats SA, 2020). The terms BEE and BBBEE are used interchangeably in highlighting the legislation-driven mandate to increase the inclusion and participation of Black people through owning, controlling and managing businesses in the South African economy. The B-BBEE Commission (2014) defines BBBEE as a government initiative with the intention of empowering companies owned by previously disadvantaged individuals (PDIs) participating in business opportunities within the South African public sector through the BBBEE verification and compliance process. The professionals responsible for BBBEE verification process are accredited by a designated BBBEE verification professional regulator.

The BBBEE legislation seeks to proactively redress social injustice suffered by the previously disadvantages individuals and racial groups under the Apartheid regime through opening up access to economic opportunities in the public sector (Van Niekerk, 2019). Despite the proactive government BBBEE strategies critical for achievement of social justice through active participation in the economy by entities owned by previously disadvantaged individuals, the negative economic growth rate negatively impacted the expansion of Small Medium Enterprises (thereafter SMEs) (Pillay, 2018). The decline in the Gross Domestic Product (GDP) diminished the growth of the economy and the public sector (Stats SA, 2020) collectively constrained the attainment of the intended BBBEE outcomes.

2.3 BBBEE and Small Medium Enterprises classification

The South African Broad-Based Black Economic Empowerment (B-BBEE) legislation categorizes owner-managed SMEs based on the following predetermined categories: (i) Exempt Micro Small Enterprises (EME) organizations have an annual turnover of ten (10) million Rands or less. (ii) Qualifying Small Enterprises (QSE) have annual turnover ranges of between ten (10) million Rands to fifty (50) million Rands annually, and (iii) Generic Enterprises (GE) organizations have an annual turnover of more than fifty (50) million Rands per annum (Goldberg, 2015). The Small Business Institute (South Africa) (2018) argues that the generic classification and lack of distinction between Micro, Small and Medium businesses create ambiguity and consequential red tape duplication to the detriment of focusing on appropriate support for the different entrepreneurial start-ups, operations, and the growth potential of the different entities.

2.4 Implementation of the BBBEE legislation

The actual measurement of how and which each entity qualifies for accessing government tenders is beyond this paper. Suffice to state that entities with 51% or more black ownership achieve higher points on the overall Generic BBBEE scorecard (Van Wyk, 2015). However, the black ownership component as a percentage (%) may be offset for compliance purposes by scores in other areas of the scorecard such as skill development, enterprise development and supplier development (Chabant (2019: 19). The government imposed qualifying parameters to ensure compliance with the BBBEE legislation while the qualification matrix and the scorecards are assessed by BBBEE verification professionals accredited by the BBBEE verification professional regulator. Thus for SMEs to qualify to access opportunities within the South African public sector they are evaluated by BBBEE verification professionals to ensure compliance with the legislation (Cenfed B-BBEE Agency, 2020).

The government instituted changes to the 2003 BBBEE legislation “old” codes and introduced “new” amended codes gazetted in 2014 for Qualifying Small Enterprises (QSEs) which resulted in entities registered under the old codes dropping by at least one level which negatively impacted the effectiveness of the intended transformation at both the micro and national levels (Forbes and Rust, 2019). The “new codes” were deemed punitive and onerous and that they downgraded companies by three (3) levels on the BBBEE qualification matrix compared to the “old codes”. The changes have qualification assessment and cost implications of the BBBEE amended codes for the periods 2007, 2013 (Dongwana, 2016). The impact on the development of components which now constitute part of the supply chain framework for the enterprise, and supplier development (ESD) and supplier development (SD) criteria and upskilling staff have been overcomplicated by legislated requirements for economic active population (EAP) quotas.

The practical implementation of the BBBEE legislation has generated debates from large and small business organisations. The top 100 organisations listed on the JSE have demonstrated the tenuous relationship between BBBEE ownership deals and the dividend pay-out ratios as the short-term benefits for the beneficiaries and the interests of policy makers discourage ownership deals which compromise future profitable projects thereby negatively impacting employment creation opportunities and economic growth (Pequenino, 2018). While BBBEE transformation vehicles that award shares through profit-share trusts to gain access to government contracts benefit recipients with higher salaries and share allocations compared to unskilled workers thereby compromising the delivery of social justice for previously disadvantaged individuals (Ramplin, 2016). In the Mining sector, there are apparent contradictions between the BBBEE legalisation and the Mining Charter on

the implementation of the transformation agenda as mining executives interpret the legislation in terms of culture change whereas the BBBEE legislation emphasises redressing the historical imbalances of the Apartheid legacy (Moraka, 2016). There is need for clarity on the definition of transformation by the regulator and the integration of policy documents in mining sector to align the Mining Charter to the BBBEE legislation and setting realistic transformation targets that mainly affect Black people to address inequality, poverty and unemployment (Moraka, 2016).

Mahlangu (2016) highlights the negative perceptions on of the Preferential Procurement Policy Framework Act (PPPFA) as a supplier diversity tool of SMMEs towards redressing inequalities of the Apartheid system. Further highlighting, that the PPPFA is a preferential system that leverages the purchasing power of government to distribute wealth in favour of previously disadvantaged individuals (PDIs) using the 80/20 (80 points for price and 20 for PDIs) and 90/10 (90 points for price and 10 for PDIs) principles for awarding government tenders. These unintended consequences require regulatory agencies to prove black shareholding inadvertently adding to the administrative red-tape to request documentation related to share registers, certificates and agreements ultimately putting the burden on EMEs and QSEs which impacts the entire certification process, as they strive to secure their reputation as certification bodies (Van Wyk, 2015). In this context, the PPPFA, supplier diversity imposes the inclusion of suppliers from previously disadvantaged segments of the population for preferential access to government tenders. However, SMEs lack requisite knowledge on the legislation which increases chances for non-compliance due to the limited skills levels and perceived administrative burdens as these entities have to comply with the provisions the Basic Conditions of Employment Act (BCEA) and Labour Relations Act (LRA) historically aimed at protecting employees in large enterprises (Luvhengo and Thomas, 2019). Thus, the imposed supplier diversity clauses foster an unhealthy dependency by some SMMEs on government support at the expense of exploring alternative business opportunities outside of the public sector (Luvhengo and Thomas, 2019).

The design and implementation of BBBEE legislation negates the intended empowerment mantra of proactive “broad based” participation of Black people in the economy through sustainable public procurement. The implementation process has been compromised by corruption, fraud, fronting and enrichment of the politically connected elite Black minority at the expense of the majority previously disadvantaged individuals (Shai *et al.* 2019, Shava, 2016). The unintended negative impact of BBBEE legislation on the SME sector include the entry of incompetent ‘compliant’ companies and tender corruption which economically strain the entities rather than empowering them to overcome past injustices as per the objectives of the BBBEE legislation (Pike *et al.* (2019). Notwithstanding the primary goal of the BBBEE legislation the ineffective implementation, support and monitoring mechanisms by government has created corrupt practices that have given rise to fronting by Black elites, tender corruption and nepotism (Shai *et al.* 2019; Pike *et al.* 2019)

Tourism micro-enterprises operating in South African townships highlighted minimal support of the BBBEE legislation (Koens and Thomas, 2016). There is apparent bias towards export-oriented Black-owned SMEs and SMMEs at the expense of White-owned SMEs that have to devise their own strategies to benefit from the same legislation (Ederlöv and Ring, 2017). In many ways, the challenges and sentiments regarding the efficacy and significance of the BBBEE legislation in South Africa, echo McGowan and Ng (2016) who cited the resistance to the Canadian government employment equity (EE) initiatives legislated through the Employment Equity Act of 1986 to address employment equity and economic opportunity for the benefit of previously disadvantaged designated groups. Notwithstanding the high costs and onerous processes, limited resources, limited government support

and complexities the BBBEE legislation has capacitated the growth and job creation of SMEs in South Africa (Ayandibu and Houghton, 2017).

3.METHODOLOGY

An exploratory qualitative case study design was adopted to explore the experiences of owner-managers of Exempt Micro Enterprises (EMEs) and Qualifying Small Enterprises (QSEs) with different levels of BBBEE status on the implementation of B-BBEE legislation in Cape Town, South Africa. The qualitative approach provides answers to *why*, *what* and *how* questions (Saunders *et al.*, 2019) and obtaining deeper insights on the phenomena within the context in which it occurs (Yin, 2018). The case study design enhances the rich understanding of the research context and the enacted processes (Rittenhofer, 2015: 420) within the real-life context (Yin, 2018). The study used face-face, video conference interviews and self-administered questionnaires to collect data. The interview method enables the exchange of information between the person conducting the interview (interviewer) and the one being interviewed (interviewee) (Bowling 2014: 279) and verbal communication between respondents and the researcher (Wilson, 2012). Semi-structured interviews are important in exploratory studies as they allow probing for elaboration to understand meanings and interpretations (Paine, 2015). Self-administered questionnaires are widely used in collecting survey information (Bryman and Bell, 2015; Saunders *et al.*, 2019). The questionnaire was pilot-tested to check its relevance and validity of the items. All the questions were found to be clear to all the participants.

The study population comprised all Exempt Micro Enterprises (EMEs) and Qualifying Small Enterprises (QSEs) in Cape Town. The purposive sample of seventeen (17) participants comprise twelve (12) males and five (5) females) SMEs owners and 1 (one) employee based in Cape Town. The study sample (Saunders *et al.*, 2019), did not have representation from the Black African ethnic group. Participants consented in writing to participating in the study and were informed that they were free to withdraw at any point. To ensure anonymity participants were instructed not to write their names on the questionnaire. In addition, all participants were assured that their responses will be kept confidential and used strictly for the purpose of the study.

Descriptive analysis, content and thematic analysis were used to analyse the data. Frequencies and percentages were used to present the data. Data are presented in Table 1 below.

4.FINDINGS

The findings are presented below:

Table I: Case profile (n=17)

SME (Case study)	Gender	B-BBEE Status Level	SME Status	Business Sector	Years in Business
1	Female	1	EME	Leisure & Tourism	2
2	Male	1	EME	Manufacturing	38
3	Female	2	EME	Business Services	31
4	Male	1	EME	Engineering	9
5	Male	1	EME	Business Services	8
6	Male	4	EME	Manufacturing	2

7	Male	1	EME	Manufacturing	1
8	Female	1	EME	Media & Marketing	3
9	Male	2	EME	Retail	15
10	Male	4	EME	Retail	29
11	Female	4	EME	Laundry services	29
12	Male	1	QSE	Engineering	1
13	Male	1	QSE	Information Technology	23
14	Male	1	QSE	Business Services	11
15	Male	1	QSE	Business Services	4
16	Female	1	QSE	Manufacturing	4
17	Male	4	QSE	Manufacturing	17

Key:

- (i) *EME = Exempt Macro Small Enterprises organizations that have an annual turnover of ten (10) million Rands or less.*
- (ii) *QSE= Qualifying Small Enterprises whose annual turnover ranges between ten (10) million Rands to fifty (50) million Rands annually*

The racial and ethnic backgrounds show that 65% define themselves as Coloured, 29% as White and 6% as Indian. The business ownership status shows that 53% are owners and 41% are Partners in the business and 6% employees. The SME status shows that 65% have EME status while 35% have QSE status. While the BBBEE status shows that 65% are Level 1, 12% Level 2, 18% Level 4 and 6% Level 8. The B-BBE status as per the B-BBEE legislation shows that 65% were Exempt Micro Enterprises (EMEs) generating a maximum annual turnover of ten million rand (R10m) per annum. While 35 % are Qualifying Small Enterprises (QSE) generating a turnover of more than ten million rand (R10m) and less than fifty million rand (R50m) per annum.

4.1 BBBEE outcomes and SMEs

The Broad-Based Black Economic Empowerment (BBBEE) was enacted to the delivery of social justice and to redress the injustices of the Apartheid-era through prioritising access to business opportunities with the different levels of the South African government by the marginalised and previously disadvantaged individuals (PDIs) and businesses.

Most of the respondents reported that their businesses have not benefited from BBBEE legislation and that it has not lived up to expectations in terms of availing access to public sector business opportunities for their businesses.

This view was summed up by Participant 1 who stated that: *“I did not gain any customers based on my BBBEE status.”* While Participant 16 retorted that: *“BBBEE has not really opened any doors for us.”*

One respondents pointed out that BBBEE legislation should provide equal opportunities for White-owned SMEs that have the requisite BBBEE status to access business opportunities in the public sector.

Respondent Participant 11 (BBBEE Level 4 status) noted the following with respect to the BBBEE status:

“It does not benefit us. It would benefit our company 100% if we were Level 1”
“It [also] affects us negatively, instead of positively. It is difficult to grow.”

Further stating that the BBBEE legislation is cumbersome for White organisations to qualify for the requisite BBBEE status. Most of the respondents irrespective of ethnicity reported that the BBBEE legislation has not created significant benefits for their business organisations in terms of accessing opportunities in the South African government sector. The BBBEE legislation has not opened business opportunities for most BBBEE compliant businesses (Irene, 2017; Pike *et al.* 2019). The White minority groups the echoed the sentiments that the BBBEE legislation which by design excludes them from accessing public sector business opportunities is tantamount to “reverse Apartheid” and “reverse discrimination” (Ramagaga, 2015; Dongwana, 2016).

4.2 Facilitator or hindrance for SMEs?

Most of the White respondents (80%) were of the view that the BBBEE legislation was a hindrance given the exclusory provisions which discourage, penalise and curtail the growth prospects of White-owned family companies. While 33% of the Coloured and Indian respondents cited the negative effects of fraud and corruption in the BBBEE eco-system and 16% specifically cited the high cost of the BBBEE certification process. Most of the respondents were of the view that the BBBEE legislation has failed not promote equality and empowerment for the majority of previously disadvantaged individuals. Further stating that the built-in hindrances defeat and susceptibility to corruption and fraud in the implementation process negates the basic tenets of restoring social justice and equality enshrined in the BBBEE legislation to redress the inequalities of the Apartheid era.

Most of the respondents cited the flaws in the BBBEE that allow the Black elites with connections to government officials to benefit at the expense of the majority. The ‘fronting and window-dressing’ practices, corruption and fraud (Shai *et al.* 2019) and the enrichment of the politically connected elite Black minority groups inherent in the BBBEE implementation process defeats the tenets of the implied transformation agenda (Pike *et al.*, 2019; Shai *et al.* 2019; Watson, 2018).

4.3 BBBEE and Wealth distribution

Wealth distribution through shareholding by the previously disadvantaged individuals in the majority white-owned companies qualifies an entity for the Level 1 BBBEE status. Most of the White respondents pointed out that the shareholding provision was unfair since it compels them to transfer 51% ownership of their companies to a few mainly politically connected Black individuals. Further stating that this shareholding provision would not equate to wealth distribution to the majority previously disempowered individuals but rather empowers a handful of politically connected Black elites. The implications of this company shareholding provision were expressed as follows by one of the White respondents as follows:

“To me there is a requirement of 45% [related to the scorecard] to do with management and shareholding. To become Level 1 BBBEE company, you need to bring on board people in your

company that will give you that 51% of shareholding where we don't currently have that. Why do I need to do that? The company is running perfectly well but all of a sudden now we got to change our shareholding and directorate structure to accommodate BBBEE. BBBEE is not structured to suit business. BBBEE can be classified as compulsory. You have to abide by it. You don't have a choice."

There are challenges in reconciling the ambiguous BBBEE legislation and the need for transparent implementation in the spirit of the transformation agenda (Moraka, 2016). The folly of awarding shares as a BBBEE status qualification heightens resentment and erodes trust among the White South African population group (Ramplin, 2016).

4.4 BBBEE Implementation challenges

Most of the respondents cited the main challenges as the cumbersome and costly application process of filling forms that adds to the administration burden exacerbated by poor monitoring of compliance with the BBBEE legislative framework by the government. From their point of view these bureaucratic 'red-tape' processes are prone to corruption and exploitation by politically connected Black elites.

Participant 16 expressed the challenges as follows:

"Some kind of judicial oversight of procurement [is required]. National Treasury has failed. Misuse of legislation and systems have developed that focus on criminality and procurement corruption in B-BBEE implementation. Zondo [Commission] is failing. Declaration of Interest (SDB4 Forms) be firmed up where families and connections of families of politicians and officials are denied the right to do business with any level of government or SOE's. That lying in any declaration is criminalised. Politicians and officials' lifestyles audited while in office and up to 5 years after they leave office. Proper advancement paths be created for small and emerging companies to grow; Closer scrutiny given to anti-competitive behaviours

In addition to the corruption, fraud and fronting by politically connected Black elites, some the main challenges cited by respondents are (i) the cumbersome implementation processes and the default to an apparent tick box exercise when scoring the highest BBBEE points on the back of the lowest amount of money spent to achieve those points raises significant challenges with the justification for the BBBEE legislation (Ramagaga, 2015) and (ii) the negative effect of the punitive and onerous BBBEE codes (Dongwana, 2016).

5.DISCUSSION

All the respondents were BBBEE qualified and conversant with the primary focus of the BBBEE legislation towards redressing the injustices of the Apartheid era (Ederlöv and Ring (2017). Despite the BBBEE status, the respondents failed to access the public sector business opportunities (Koens and Thomas, 2016; Irene, 2017; Luvhengo and Thomas, 2019). In particular, the exclusionary nature of the BBBEE legislation was cited by White respondents as akin to "reverse Apartheid" and tantamount to "reverse discrimination" (Ramagaga, 2015; Dongwana, 2016; Pike *et al.*, 2019). Similarly, the BBBEE provision for White-owned business to qualify through ceding majority shareholding to Blacks (Ederlöv and Ring (2017) was deemed untenable and considered as modern day robbery. Relatedly, the ambiguity of the legislation on the dispossession of shareholding to deliver the transformation agenda was contested by the respondents (Moraka, 2016; Ramplin, 2016; Pequenino,

2018). The corruption and fraud favouring the Black elites with connections to government networks through *fronting and window dressing practices*, and the manipulation of BBBEE qualifying scorecard evaluations (Mahlangu, 2016; Shava, 2016; Watson, 2018; Shai *et al.*, 2019) major hinderance in the implementation of the BBBEE legislation. The cumbersome, bureaucratic and costly red-tape certification processes and scorecard evaluations (Ramagaga 2015), the punitive and onerous BBBEE codes (Dongwana, 2016) are disincentives hindering SMES to apply for BBBEE status.

6.CONCLUSIONS

The study main conclusions are that the BBBEE legislation has real and perceived challenges in delivering the envisaged social justice and equality for the previously disadvantage individuals and their businesses. Key indications point to the systemic failures in the implementation of the BBBEE to enable the qualifying designated groups to access business opportunities in the different levels of the South African public sector. Some of the key challenges are in the actual certification process which is mired in red-tape and the monitoring complexity by the accredited BBBEE verification processes as unintended outcomes such as corruption and fraud are reported to have upstaged the implementation process. There is need for policymakers, key stakeholders and representatives of the diverse designated groups to review and take stock of the impact of the BBBEE legislation against its intended focus to redress social injustices since its promulgation at the dawn of democracy post 1994. The review should re-calibrate the BBBEE legislation its fitness for purpose towards wealth creation and the uplifting of previously disadvantaged in the midst of growing levels unemployment and rising levels poverty and inequality. Further studies should consider and examine the efficacy and competence and fitness for purpose of the public sector to implement procurement policy at the core of BBBEE Act.

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