Helpdesk Report

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Indigenisation and economic empowerment in Malawi: lessons from other southern African states

Robin Richards
Independent Research Consultant
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Question

- *What can the government of Malawi learn from the use of economic empowerment/indigenisation and affirmative action policies?*
    - *Are there specific lessons for Malawi on the implementation of indigenisation and empowerment policies in other countries, including: Botswana, Zimbabwe and South Africa?*

Contents

1. Summary

This rapid review focusses on what the government of Malawi can learn from the implementation of indigenisation, economic empowerment and affirmative action policies in other countries. The review specifically looks at the lessons for Malawi on the implementation of indigenisation policies drawing on the experiences from the following countries: Botswana, Zimbabwe and South Africa.

The literature used for this evaluation was from a variety of sources, including the following types of literature: published journal articles and academic theses; grey sources and published reports. There was a dearth of literature on empowerment and indigenisation policies in Malawi. This was not the case for South Africa and Zimbabwe where there has been a lot of research on this subject. Noteworthy, is that few independent monitoring and evaluation studies on the implementation of BEE and indigenisation policies, as well as their impact across all countries in this review were found.

Findings from the review (see for example, Chiwunze, 2014) show that where indigenisation policies are implemented incrementally, without sweeping and radical changes, the risks in terms of discouraging foreign investments to the country are minimised because there is an element of predictability in the formulation and implementation of these policies. Empowerment legislation should also be introduced and implemented transparently with clear regulations for each sector of the economy. Botswana and South Africa are examples of an incremental approach to adopting empowerment policies for Black economic advancement. When empowerment policies are populist and politicised so that it favours a ruling elite and its network of supporters, this damages economic development and discourages investment into the economy of a country. In these instances, as the countries in this review show, empowerment programmes do not benefit the majority of economically marginalised citizens (Warikandwa and Osode, 2017).

In general, black empowerment programmes require financial resources for the setting up and funding of institutions to support the programmes; for training; as well as for setting up independent oversight bodies to regulate its implementation and ensure compliance. Resources and capacity are also needed to monitor implementation progress. For the countries in this review, resources and capacity were not sufficient to ensure that Black Economic Empowerment programmes were implemented so that they reached the majority of marginalised citizens

Evidence from Botswana, South Africa and Zimbabwe reveals that there is a need for an independent oversight body to oversee the implementation of Black Economic Empowerment regulations. This body should have the ability to impose sanctions where empowerment regulations are violated. In order to avoid corruption, business fronting and irregular practices in the implementation of Black Economic Empowerment (BEE), governments need to set up a monitoring and evaluation system to ensure that BEE procurement policies benefit ordinary citizens rather than a well-connected elite. BEE programmes can be effective for redressing imbalances in society, but there is a need for continual assessments of progress and adjustments to policies where necessary.

The following key observations emerge from this review:

- Definitions of indigenisation generally refer to those policies which result in a more equal distribution of opportunity and wealth in an economy from foreign or settler populations to indigenous or national populations (Zvoushe, Uwizeyimana and Auriacombe, 2017).
- Depending on the political context, indigenisation can be used by a government to exclude or give preference to different social groupings in a country. This can be on the basis of: race, ethnic identity and party affiliation/loyalty or; foreigners versus local-nationals. (Zvoushe, Uwizeyimana and Auriacombe, 2017).
- Malawi's National Economic Empowerment policy Statement (NEEP) and Action Plan developed in the early 2000's was an attempt to develop an integrated approach for the empowerment of indigenous Malawians which has developed more than 40 different types of empowerment initiatives since the 1960's. Despite these initiatives, Malawi remains one of the poorest countries in the world (Deloitte, 2004).

A review of evidence on indigenisation policies in Botswana, Zimbabwe and South Africa highlighted the following key insights.

Botswana

- Botswana has not followed the populist post-independence trend that some southern African states adopted to nationalise foreign-owned capital. Instead. Botswana continues to encourage and promote enterprise development by being open to various types of private investment, including investments by exclusively foreign-owned companies and; joint ventures comprising citizen and foreign ownership (Gergis,1999, Valentine, 1993);
- Botswana did not adopt a sweeping approach to empowerment legislation implemented suddenly. Its approach minimised risk of loss of Foreign Direct Investment (FDI) by introducing indigenisation policies incrementally and by incorporating this policy into other legislation enacted from the early 2000's (Chiwunze, 2014); and
- With respect to land reform, Botswana's approach has been viewed positively because it managed to preserve land rights granted by the colonial administration and at the same time, it limited access to private ownership and has been able to address landlessness (Kalabamu, 2000).

Zimbabwe

- Zimbabwe has adopted a populist approach to indigenisation which has resulted in the destruction of its economy and impoverishment of its citizens (Marazanye, 2016, Chingono, 2019);
- Zimbabwe's Fast Track Land Reform Programme (FTLRP) that was implemented in the 2000's violated the Rule of Law and led to the further decline of its economy due to international economic sanctions imposed on it (Ndakaripa, 2017);
- The politicisation and radicalisation of Zimbabwe's empowerment policies under its Empowerment Act passed in 2007 led to state institutions such as the Small Enterprises Development Corporation (SEDCO), failing and this negatively affected the development of the SME sector and economic growth (Nyamunda, 2016);

- Zimbabwe's populist empowerment policies have resulted in corruption, businesses fronting and the enrichment of the elite and those supporting the ruling party (Warikandwa and Osode, 2017); and
- The lack of policy certainty with respect to the implementation of the Indigenisation and Economic Empowerment Act (IEEA) in Zimbabwe has negatively affected Foreign Direct Investment inflows into the country. Clear regulations underpinning IEEA are necessary for each sector of the economy (Chiwunze, 2014).

South Africa

- South Africa has not adopted a radical or populist approach to Black Economic empowerment based on a transfer of assets. Policies have been implemented incrementally in successive waves of Broad -Based Black Economic Empowerment (B-BBEE) and improvements to the policy have been made at each successive stage (Kamusoko (2019);
- In South Africa Black Economic Empowerment is monitored through a balanced scorecard based on a points preference system which is implemented in a transparent way which investors favour (Marazanye, 2016);
- There is an independent oversight body to investigate complaints, corruption and business fronting relating to the implementation of South Africa's Black Economic Empowerment programme. Harsh penalties can be imposed on those companies and individuals who violate the B-BBE regulations (Warikandwa and Osode, 2017);
- Although B-BBEE has had some successes in the advancement of the black population in the workforce and the growth of Black owned businesses, economic transformation of the society has been slow. Unemployment is still high and South Africa remains one of the most unequal countries in the world (The World Bank, 2018);
- The are some systemic and policy weaknesses in South Africa's B-BBEE system, for example, B-BBEE continues to favour the elite rather than broader society. Corruption and fronting remain as obstacles to successful implementation of the system to benefit society more broadly (Marazanye, 2016, Shava, 2016); and
- Land reform in South Africa has adopted an incremental approach, guided by the South African Constitution. Progress has been slow with the implementation of the land reform programme as a result of complex legal processes. The majority of agricultural land is still owned by Whites and the deadline for 30% Black ownership of agricultural land has been extended to 2025 (Africa Institute, 2013).

2. Introduction

Defining the concepts of indigenisation/economic empowerment and affirmative action as they apply in southern African states

Indigenisation is often used as a policy tool in African states for reshaping their economies towards a more equal distribution of wealth following colonialism and/or apartheid, where there have been sizeable European settler populations. Zvoushe, Uwizeyimana and Auriacombe (2017,p.2) note that there is little ambiguity in the meaning of indigenisation in most parts of the world from, Latin America, Asia to Africa. Scholars generally agree that it refers to “the transfer of wealth mostly from ‘foreigners’ to ‘natives’ through widened participation of the latter in national economies”. In some countries such as Zimbabwe indigenisation encompasses multiple levels of exclusion, depending on the context. These include, racial (Black versus White/or settler versus local black populations), party (party loyalists versus non-loyalists) and nationality (Zimbabweans versus non-Zimbabweans) domains (Zvoushe, Uwizeyimana and Auriacombe, 2017).

Indigenisation can also take many forms, including (Zvoushe, Uwizeyimana and Auriacombe, 2017

- Indigenisation of ownership, entailing giving economic ownership to locals/nationals;
- Indigenisation of control, whereby indigenous populations are given control of businesses through their elevation into leadership positions; and
- Indigenisation of manpower, through policies such as affirmative action entailing moving people up the job ladder.

The term ‘empowerment’ and ‘indigenisation’ overlap. Empowerment refers to a process whereby people in society are given the means to improve the quality of their own lives through for example better access to economic opportunities (Gergis, 1999). Marazanye (2016) argues that indigenisation and empowerment are terms that can be used interchangeably, and one can lead to another. Economic empowerment can be a product of indigenisation or indigenisation may lead to various economic empowerment policies. Affirmative action is another strategy government can utilise to address past injustices, or economic imbalances and is typically used in the context of employment practices and addressing social imbalances in the workforce Marazanye (2016).

Indigenisation policies in Malawi

Chingaipe and Leftwich (2007) note that an Indigenous Business Association (IBAM) was established in 2003 out of frustration expressed by local Malawian businesses that large and lucrative contracts from government were being awarded to Asians and foreigners, without requiring local partnerships. The need to correct imbalances in Malawi’s economy together with addressing poverty, motivated the government to develop policies to improve the lives and economic wellbeing of its citizens. Malawi has therefore developed various policies to promote the economic development of its citizens. This includes the Malawi Poverty Alleviation Strategy (MPRSP) finalised in 2002. This policy provided direction and costed-activities to target poverty reduction and pro-poor growth in the country. The main purpose of the MPRSP was to facilitate economic empowerment. (Deloitte, 2004[1]).

A further policy was developed to provide more detail on how pro-poor growth would be stimulated. The Growth Strategy Paper (GSP) identified specific sectors in the economy with the greatest prospects for growth. Despite these policy developments, most Malawians were still

[1] Commissioned by the Malawi Ministry of Economic Planning and Development, 2004

involved in low-value small scale enterprises. Only foreigners and a minority of Malawians were involved in lucrative large-scale business operations (Deloitte, 2004). For this reason, the development of a National Economic Empowerment Statement (NEEP) and Action Programme (AP) was commissioned by the Malawian Ministry of Economic Planning and Development and drafted in 2004 (Deloitte, 2004).

The NEEP was a recognition that since the 1960's Malawi has had more than 40 different types of empowerment initiatives and some are still operational while others are no longer in existence. In the process of developing NEEP, lessons were learned from earlier empowerment policies which informed the development of NEEP. These lessons included:

- Gaps in the supply of services such as training and loanable funds to support empowerment;
- Politicisation of the policies leading in some cases to defaults on loans, particularly those credit schemes promoted by politicians. This resulted in borrowers perceiving loans as non-repayable grants; and
- A lack of an integrated approach to empowerment policies.

The NEEP policy statement targeted indigenous Malawians, recognising that they faced many constraints in the achievement of their full potential to prosper in business activities (Deloitte, 2004). The policy called for an integrated approach to dealing with various causes of disempowerment, targeting the marginalised and poor in Malawi. The policy covered human resource development, employment equity, enterprise development, preferential procurement and investment and ownership, including managing, owning and control of productive assets (Deloitte, 2004). In terms of the Action Plan for NEEP, factors identified as important to the success of the programme were summarised into seven key pillars (Deloitte, 2004):

- The creation of an institutional framework for empowerment.
- The development of a regulatory framework.
- Access to services and capital.
- Access to science and technology and means of production.
- Access to rural development.
- Capacity building for economic development.
- Improving infrastructure.

Since the commissioning of the development of NEEP there does not appear to have been a substantial improvement in the lives of the poor and there is no evidence that NEEP was concretised into an integrated formal policy. Malawi remains one of the poorest countries in the world (The World Bank, 2020). However, guided by its Growth and Development Strategy (MGDS), which is a series of five-year plans, its economy has slowly improved with increasing growth rates in recent years (3.5% in 2018 and 4.4% in 2019). The economy remains heavily reliant on agriculture, employing some 80% of the population (The World Bank, 2020).

3. Lessons from indigenisation policies in other southern African states

Botswana

Botswana viewed economic empowerment as a set of policies and programmes customised to support the Batswana people who were disempowered by temporary residents from other countries. These new residents were able to economically dominate the indigenous population through superior educational resources and skills and entrepreneurship capacity (Gergis, 1999). Valentine (1993) notes that Botswana has not followed the post-independence populist trend of some African states, which has been to nationalise foreign-owned companies and set up state - owned enterprises. Botswana has continued to encourage and promote private enterprise including local citizen, foreign-owned and joint-owned companies. Kamusoko (2019) notes that Botswana did not follow the trend towards socialism that was preferred in other southern African states such as Zimbabwe, Namibia and Tanzania. Instead, Botswana adopted a hybrid path entailing capitalism and state intervention (Kamusoko, 2019). Botswana's transition to independence may also have shaped its approach to empowerment and indigenisation because even after it became independent, the colonial civil service system remained in place and the country continued to be dependent on European administrative and technical skills. This led to the need for local empowerment initiatives in areas which were neglected (Kamusoko, 2019).

Concerns about slow employment growth and low citizen participation in the non-agricultural productive sector of the economy, led to the appointment of a Presidential Commission on Economic Opportunities (Valentine, 1993). To address the marginalisation of Botswana's population from the economy, the Commission recommended the introduction of the Financial Assistance Plan (FAP) in 1982. The purpose of FAP was to provide financial equity to citizen-owned productive enterprises. This was done through giving grants to new businesses and to help with the expansion of existing ones in the manufacturing, agricultural production and small-scale mining sectors (Valentine, 1993). FAP was administered by the Ministry of Finance and Development (Valentine, 1993). To support local businesses, the FAP programme provided a capital grant to small businesses; a labour (employment) grant; a training grant and a sales grant (Valentine, 1993).

Under FAP's new industrial development policy, the government introduced an industrial reservation scheme. This involved reserving industries involving relatively low-level technological skills levels for local citizens (Valentine, 1993). Foreign owned enterprises were able to operate in sectors involving more complex manufacturing at a larger scale of production. In this way, strong support was provided for indigenous entrepreneurs and at the same time the growth of foreign owned- enterprises was not impeded (Valentine, 1993).

Although FAP was successful in its early phase of implementation by contributing significantly to growth of local industries, by 2000 following a fourth evaluation of the scheme, it was decided to end it. This was because of the existence of fraud and abuse of the system as a result of deficient monitoring and administration capacity of the programme especially in relation to small-scale businesses. The scheme was then replaced with the Citizen Entrepreneurial Development

Agency (CIDA) in 2001 (Motswapong and Grynberg, 2014). This scheme had similar objectives to FAP, including employment creation for citizens as well as promoting Botswana's indigenous entrepreneurs. Themba (2015) notes that the implementation of CIDA has had challenges. Operational challenges have included project monitoring, loan processing and training and mentoring. The performance of the scheme has been mixed. For example, it has created only a small number of jobs and this may be attributed to the limited growth of CIDA funded enterprises. However, the programme has been successful in creating a relatively large number of citizen-owned businesses that have been competing well in the domestic economy (Themba, 2015).

In the industrial sector, a Citizen Empowerment Programme was developed through providing opportunities and support to the local population This entailed citizens taking responsibility for their own advancement but the state also provided incentives to support local businesses (Gergis, 1999). The purpose of the Citizen Empowerment Programme was to increase employment and income generating opportunities for as many Batswana people as possible and the specific policy tools to achieve this are through the following interventions (Gergis, 1999):

- Financial support through increasing their access to credit;
- Enterprise development by improving skill levels through training;
- The development of marketing strategies for locally produced goods and services;
- Improved bargaining strategies for employees to facilitate higher wages;
- Job creation through supporting more labour-intensive business; and
- Customising training and education that responds to industry needs.

Botswana did not enact sweeping empowerment legislation in its approach to indigenisation. The gradualist and clear approach it adopted appeared to minimise the risk of loss of Foreign Direct Inflows (FDI) into the country. FDI is critically important to a country's economy because it facilitates economic growth through the use of new technologies and employment creation (Chiwunze 2014). Indigenisation policy was implemented incrementally in Botswana and nested in various laws highlighted overleaf.

Chiwunze (2014) notes that joint ventures are permitted in the sectors (see Table 1) up to 49% of foreign participation, subject to approval by the Minister of Trade and Industry. The empowerment policy is further limited to facilitating access to financial resources and ownership of assets. The policy also lacks enforcement regulations.

Based on data on Foreign Direct Inflows (FDI) to Botswana, Chiwunze, 2014 believes that Botwana's empowerment programme has had a minimal negative impact on FDI inflows between 1985 and 2012.

Table 1:Nested empowerment legislation and sectors

Legislation	*Sectors with empowerment Component*
Industrial Development Amendment Regulations, 2008	*Reserves small-scale manufacturing for Botswana Citizens or companies wholly owned by Botswana citizens*
Trade Act 2008	*Reserves retail companies with less than 100 employees*
Liquor Act 2003	*Reserves bars, night clubs and bottle stores for citizens*
Public Procurement and Asset Disposal Act 2001	*Preferential treatment to Botswana citizens or wholly-owned Botswana companies in state procurement processes*

Source: Author's own. Data taken from *Chiwunze (2014), https://www.polity.org.za/article/economic-empowerment-and-foreign-direct-investment-the-cases-of-botswana-south-africa-and-zimbabwe-2014-02-13*

With respect to land reform in Botswana, the country has taken an incrementalist approach introducing modest and gradual changes to land tenure whilst strengthening its administrative capacity and processes to support land management (Adams and Kalabamu, 2003). There are more than ten departments and agencies involved in land management currently (Kalabamu, 2000). Botswana's land reform has been gradualist in nature with a continual conversion of state land (formerly known and Crown land) back to customary land tenure, increasing its share from 47% at independence to 71% of the country's land presently (Kalabamu, 2000). State land has decreased from 48% to 23% and freehold land ownership has increased slightly from 5% to 6%. To avoid concentration of land in a few individuals or companies, no freehold has been created since 1978 (Kalabamu, 2000). Botswana's land reforms have generally been viewed positively because it has managed to balance the preservation of land rights granted by the colonial administration whilst at the same time also limiting the increase in private land ownership. Secondly, it has been able redistribute land to individuals and companies without eliminating, communal land ownership and has been able to deal with landlessness among its present and future populations. Finally, the state has been able to maintain a transparent, fair and effective land management system through technology and regular reviews and amendments to regulations (Kalabamu, 2000).

Zimbabwe

Seidman (1982) notes that at independence in 1980, Zimbabwe had one of the highest per capita incomes in Sub-Saharan Africa. However, the majority of the population lived in poverty. Agriculture made up a significant share of the economy and was dominated by Whites. Whilst

6,000 White-owned farms made up 14% of the country's GDP, some 320 farm workers employed on these farms lived in conditions of poverty not dissimilar to the slaves in 19th century America who worked on plantations (Seidman,1982). Marazanye (2016) highlights that Zimbabwe has been classified as a low-income country now, having experienced economic collapse between 2000 and 2009. As a consequence of the decline of economic performance in the early 2000's, Zimbabwe has also experienced a huge increase in poverty and estimates of unemployment range from 65%-80%. In 1980 the country recorded the tenth highest gross national income but by 2005 it ranked 34 out of 48 among Sub Saharan countries in terms of this indicator (ZIMSTATS 2013, cited in Marazanye, 2016). Although once producing sufficient food for export and to feed its own population, Zimbabwe has become food insecure with more than 60% of the population unable to obtain enough food (Chingono, 2019). The decline in the economy and hyperinflation together with the El Nino weather pattern causing drought has resulted in about 5.5 million rural Zimbabweans and 2.2 million urban dwellers to become food insecure (Chingono, 2019).

According to Zvoushe, Uwizeyimana and Auriacombe (2017) Zimbabwe has had three forms of indigenisation, viz: indigenisation of the civil service (which started in 1980); indigenisation of land which began in the 1980s but has spanned decades and; indigenisation of the economy beginning in the 2000's. Zimbabwe has experienced varying levels of indigenisation across the key sectors of the economy with agriculture recording the highest level of black ownership at over 85% of land owned by indigenous Zimbabweans. The Indigenisation and Economic Empowerment Act, 2007(IEEA) is the main piece of legislation directing the indigenisation programme. In terms of this Act, the definition of indigenous included any person or descendent of that person who was disadvantaged on the grounds of race by unfair discrimination before 1980 (Ndakaripa, 2017). The legislation made it clear that White people were not viewed as indigenous. However, the Act was unclear as to whether Asians, and those of mixed decent (Coloureds) were also not regarded as being indigenous (Ndakaripa, 2017). In terms of the IEEA, the governing party gazetted specific regulations, known as the Indigenisation and Economic Empowerment Regulations of 2010 as instruments to operationalise the IEEA. In terms of these regulations, non-indigenous companies (foreign and White) were required to cede 51% of their shares to indigenous people over a period of five years (Ndakaripa, 2017). A wide range of productive sectors including agriculture, mining and manufacturing were covered within these regulations.

Ndakaripa (2017) notes that following the implementation of an Economic Structural Adjustment Programme, leading to hyper-inflation, increasing unemployment and a collapsing economy between 2000 and 2008, the ruling ZANU-PFs populist indigenisation policies were implemented with increased vigour. In July 2000, the ruling party initiated the Fast Track Land Reform Programme (FTLRP), involving the invasion of White-owned farms by peasant, war veterans, securocrats, elite bureaucrats and politicians. Government's failure to abide by the rule of law led to targeted sanctions and isolation by the United States, the European Union, Canada, Australia and New Zealand. The further worsening economy was the product of the Indigenisation programme (Ndakaripa, 2017). Ndakaripa, 2017 notes the joining of forces between ZANU-PF and indigenous interest groups was motivated by rent seeking objectives on the one hand, and "governments desperate need for allies in its political battles" on the other (Ndakaripa, 2017, p.254).

Table 2: *Regulations reserving the sectors for indigenous Zimbabweans in the IEEA*

Processing, production and manufacturing	**Services and retail**
Agriculture -primary production of food and cash crops	Transportation
Grain milling	Retail and wholesale trade
Milk processing	Hair salons and barber shops
Arts and crafts	Bakeries
Tobacco processing, grading and packaging	Advertising agencies
	Valet services
	Employment Agencies

Source: Author's own. Data taken from Ndakaripa (2017), https://scholar.ufs.ac.za/bitstream/handle/11660/7767/NdakaripaM.pdf?sequence=1&isAllowed=y

Nyamunda, 2016 notes that the radicalisation of the government Indigenous Economic Empowerment policies ultimately led to the politicisation and demise of the Small Enterprise Development Corporation (SEDCO). SEDCO was a statutory body established in 1983 to support black Small to Medium Enterprises in Zimbabwe. Nyamunda (2016) notes that the achievements of SEDCO were modest and compromised by limited funding. When the IEEA was passed in 2007 a more aggressive indigenisation Economic Empowerment programme (IEE) programme was followed by government and there were funding cuts to SEDCO, following an Economic Structural Adjustment Programme (ESAP) that government adopted. Due to a shortage of resources following the implementation of ESAP, the state stopped funding SEDCO and other statutory corporations that were sustained on government funding. A new and more politically connected platform was established in 1990 to support Black business development and SEDCO was marginalised. Business lobby groups called for the privatisation of SEDCO, but instead government created an SME Ministry, led by a ZANU-PF party leader. This ministry became the political mouthpiece of the ruling party's populist indigenisation policies. SEDCOs importance as an institution supporting Black businesses diminished further during this period and its role changed towards microfinancing of informal enterprises. The appointed Minister of SMEs was more interested in campaigning for the ruling party than implementing proper SME support policies (Nyamunda,2016). Although SEDCO had the capacity to play an important role in transforming the Zimbabwean economy, the government failed to support it in a sustained way. It was not well resourced despite a dedicated management and was eventually replaced under a more radical Indigenisation and Economic Empowerment Programme (IEE) (Nyamunda, 2016).

Warikandwa and Osode, 2017 argue that the radical populist policies to promote Black economic advancement underpinned by the IEEA have benefitted the elite but delivered little to ordinary Zimbabweans. The IEEA legislation does not prevent business fronting and it excludes the state/government as a specific beneficiary of indigenisation (Warikandwa and Osode, 2017). This means that only individuals and juristic persons can benefit from the programme. However, the effect of excluding the state as a direct beneficiary is that it encourages business fronting by unscrupulous individuals or companies owned by persons related to or connected to government officials. Therefore, instead of increasing the participation of the Black majority in the economy of Zimbabwe, the policy results in the further enrichment of the elite and politically connected (Warikandwa and Osode, 2017). Beneficiaries of Zimbabwe's IEEA are supporters of ZANU-PF and its policies. Although Zimbabwe has an Anti-Corruption Commission to monitor the implementation of EEA legislation, its Commissioners are appointed by the President and political patronage affects its abilities to perform its functions impartially (Warikandwa and Osode, 2017).

Chiwunze (2014) reports that Zimbabwe's economic empowerment programmes have had a negative impact on FDI flows into the country. Policy inconsistency more than the indigenisation policy itself has been a problem identified with respect to the application of the IEEA (Shumba, 2014). Some ministers have been more flexible in the interpretation of this legislation and Shumba (2014) suggests that government should draft laws with guidelines for each sector of the economy to guide the implementation of the IEEA in future so that investors have a clear understanding of the regulations. There has been a substantial decline in FDI following the more radical and populist approach to economic empowerment, including land reform programme. FDI outflows increased from 0.05% of GDP in 2007 to 0.47% of GDP in 2012 as investors feared losing their investments with these policies (Chiwunze, 2014).

South Africa

Kamusoko (2019) notes that South Africa developed its Black Economic empowerment policies in three waves starting in 1993 with the selling of Metropolitan Life under Sanlam to black shareholders, Metlife Investment Holdings which was a consortium of Black business leaders, that later became known as New African Investments Limited (NAIL). With an economic downturn in 1998, BEE lost impetus and a second wave of BEE (2000-2014) brought about a period of reflection on how it could be improved. During this phase the Black Management Forum (BMF) suggested the establishment of a BEE Commission. This suggestion was adopted by the ANC. The purpose of the Commission was to concretise BEE through the adoption of common definitions, benchmarks and standards (Kamusoko, 2019). BEE was also broadened from ownership of companies to employment equity; preferential procurement policies and skills development. The second wave of BEE was designed to benefit more people from more sectors and levels of employment. It was not just meant to benefit the elite few (Kamusoko 2019).

A third wave of BEE was from 2014 onwards and was based on public procurement reforms set out in a in a Green Paper. Government procurement was used to develop small, medium and micro businesses. Government purchasing of services from SMMEs insisted on compliance with BEE regulations (Kamusoko 2019).

The main pieces of legislation implemented in the post-apartheid era driving BEE in South Africa are summarised below:

Table 3: Post-Apartheid Empowerment Black Legislation

Legislation	Empowerment component
Broad Based Black Economic Empowerment Act, 2003	Sets out guidelines and codes of good practice on BEE and establishing a BEE Advisory Council to assist the President on BEE implementation
The National Small Business Act, 1996	Promotes the development of small black businesses and capacity building of Black entrepreneurs
The Competition Act, 1998	Designed to improve the numbers of Black entrepreneurs participating in the economy
Employment Equity Act, 1998	The Act requires employers to adopt affirmative action in the workplace to increase the representation of black people at all levels of the workforce.
The National Empowerment Fund Act, 1998	To facilitate funding for BEE

Source: Author's own. Data taken from Marazanye (2016), https://core.ac.uk/download/pdf/188222239.pdf

The main instrument to measure progress with implementing BEE requirements in South Africa is the balanced scorecard which is part of the Broad Based Black Economic Empowerment (B-BBEE) Codes of Good Practice. The scorecard measures three elements of B-BBEE (Marazanye, 2016):

- Direct empowerment through ownership and control of enterprises and resources;
- Human resource development and employment equity; and
- Indirect empowerment through preferential procurement and enterprise development.

A number of strengths and challenges are evident in South Africa's black economic empowerment policies:

- Chiwunze (2014) notes that foreign investors favour South Africa's approach to empowerment which is transparent and emphasises preferential treatment as opposed to an asset transfer approach. Whilst there have been declines and increases in FDI, often due to global circumstances and other events, FDI inflows and outflows have been relatively stable over time since the end of apartheid.

- South Africa, has a relatively robust regulatory system to oversee the implementation of B-BBEE and investigate fronting, various complaints and monitor the implementation of the system. Its B-BBEE Commission is the oversight body set up to perform these tasks. A B-BBEE Amendment Act (2013) was passed with fairly severe penalties prescribed for businesses involved in corruption or fronting. This includes fines and prison sentences. This serves as a deterrent for such activities (Warikandwa and Osode, 2017).

- South Africa's has various policy programmes, including a comprehensive BEE programme to address inequality following apartheid. Horwitz and Jain (2011) highlight that some progress has been made in black economic empowerment. For example, Black Managers represent 32% of all employees at the top level of management whilst Whites comprises 64% at this level and there has been a significant increase in black equity ownership and control in South African companies. For example between 1993 and 1997 Black ownership increased from 1% to 16-17%. However, the country remains one of the most equal in the world and inequalities have increased since apartheid (World Bank, 2018). There are still high levels of unemployment and gender and racial disparities continue to occur in South Africa's labour market (World Bank, 2018). Although there are very high levels of unemployment, skills are difficult to find in the workforce. The World Bank (2018) notes that the rigid regulatory environment contributes to high unemployment. Small Micro and Medium Enterprises (SMMEs) have also been struggling to advance inclusive growth as this sector has been shrinking over time and absorbing fewer employees (World Bank, 2018).

- Despite the revised BEE policies, there is still too much emphasis on transfer of ownership that benefits only a small pool of the elite (Marazanye, 2016)

- The Balanced Scorecard at company level has some weaknesses. For example, the scorecard classifies a company as being black empowered based on ownership, eventhough senior managers are all White (Marazanye, 2016)

- Fronting is another problem that bedevils the system. This is where Black managers are appointed as window-dressing to give the impression that the company is BEE compliant. In this way BEE is circumvented (Shava, 2016 and Marazanye, 2016)

- Corruption, fraud and nepotism with the tendering process is another perennial problem and is often referred to as 'tenderpreneurship.' Shava, (2016) notes that decentralisation in governance and lack of accountability including at provincial and municipal levels may also increase corruption. Most recently this has come to prominence again with the supply of Personal Protective Equipment during the COVID-19 pandemic. The Special Investigations Unit has been asked to investigate allegations corruption at the provincial level concerning the overpricing of PPE amounting to R10.5bn following the tender process (Businesstech.co.za, 2020)

- Compliance issues and the need to streamline processes for the registering of emerging Black owned businesses is another obstacle. Many emerging entrepreneurs have skills and capacity shortages and cannot respond effectively to the business registration and verification hurdles they are presented with (Shava, 2016). Cohen (2020) argues that a reason for the rapid decline in the manufacturing sector may be attributed to this and no study has been undertaken on the exact costs of BEE to the economy. Foreign investors question their return on investments, noting that the implementation (overhead) costs of B-BBEE are high.

- The lack of monitoring and evaluation of BEE systems is a further weakness especially at local government level. Effective monitoring and evaluation systems are necessary to ensure accountability in public policy implementation and prevent escalating corruption (Shava, 2016)

Land reform in South Africa has been incremental in its approach. The Natives Land Act, No.27, 1913 and legislation which followed this excluded Black South Africans from ownership of approximately 90% of the country's land. Many Black South Africans were relocated to black townships or black 'homelands' as a result of apartheid legislation. In 1996, some 60 000 White commercial farmers owned almost 70% of land for agricultural purposes and leased a further 19% (Africa Research Institute, 2013). With the ANC in power land reform was initiated to redress population inequalities and landlessness resulting from apartheid. A deadline was set for the redistribution of 30% agricultural land by 1999 to Black South Africans. Following delays, this deadline was further extended from 2014 to 2025 (Africa Institute, 2013). According to the state's 2017 Land Audit, some 72% of agricultural land is still held by Whites, whilst 4% is owned by Blacks (Pretorius and Makou, 2019). In South Africa land restitution is another key plank of its land reform policy. Land restitution aims to return land or provide compensation to victims who lost land under apartheid due to discriminatory laws. Progress with land restitution has been significant. The Centre for Development Enterprise (2005) noted that by 2004, about 70 percent of the 80 000 claims that were submitted before a 1998 cut off were settled.

More rapid progress with land reform is hampered by complex legal processes. Section 25 of the Constitution protects property rights but also requires the state to give citizens access to land on an equitable basis (Africa Institute, 2013). Expropriation is an instrument that government can use to acquire land for public projects including land reform. Since 2008 the government has attempted to pass expropriation legislation and a new Bill is before Parliament to give effect to this, viz: the 2020 Expropriation Bill. The new Bill will require an amendment to the section 25 of Constitution that in some instances it is "just and equitable" to pay no compensation for the expropriation of property for public purposes. In a further parallel process, an amendment to Section 25 of the Constitution has been drafted for discussion and stakeholder input (du Plessis, 2020). This would facilitate the passing of the new expropriation Bill. In a new land reform process, the Department of Agriculture, Land Reform and Rural Development has announced that some 896 state-owned farms would be available for public purchase or lease over a 30-year period. This measure will prioritise Black farmers and this earmarked land would be non-transferrable to ensure that it is used for farming purposes only (Mlaba, 2020). It has been noted that South Africa has one of the world most accessible property markets and foreigners are allowed to acquire and own property including agricultural property. South Africa is one out of 54 countries in Africa that is on foreign buyers purchasing radars (Private Property Reporter, 2020).

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About this report

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