

**Constructing Symbolic Agendas with the Discourse of
Black Economic Empowerment: Structural and Political
Change in South African Mining**

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SIGNED DECLARATION

The work presented in this thesis is entirely my own.

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DEDICATION

In memory of my late father, Motopi Makgoba, my late brother, Matome Makgoba, and my late Facebook friend, Peter Croeser, who I never had the chance to meet in person.

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THESIS ABSTRACT

This thesis argues that Black Economic Empowerment (BEE) has always maintained a discursive stance against the transformation of historical, structural, and power inequities in South Africa. It highlights how the government and mining corporations symbolically appropriate the discourses of colonialism and apartheid to associate BEE with these inequities without adopting and proposing any structural reforms. BEE also adopts discourses and social practices that resist institutional, cultural, and structural changes from its conception. There is a common, political, and scholarly consensus that BEE aims to transform these inequities that emanate from the structural legacies of apartheid and colonialism and so scholars proceeded to study its outcomes. However, the thesis disputes this assumption in constructionist and discursive terms. It concludes that BEE contains contradictory, hegemonic, corporate, and ahistorical discourses of managerialism, neoliberalism, sustainable development, and blackness that disconnect the policy from historical, structural, and power inequities. These discourses subtly preserve, conceal, reproduce, and depoliticise these inequities while at the same time contributing to the dehistoricisation and decontextualisation of BEE and the expansion of corporate power.

Drawing on Marion Young's (1990) concepts of the critique of the distributive paradigm of justice, the thesis employs a critical discourse analysis (CDA) of BEE legislation, policy documents, and annual reports. It also draws on interview data from mining, government and community officials in the mining sector to reach conclusions. The thesis finds that BEE legislation and policies originate outside of government from the BEE Commission Report. It reveals how both the government and mining corporations contextualise BEE in the discourses of colonialism and apartheid, adopting this technique from this Report. The thesis further finds that the government and corporations focus on what I call *distributive deracialisation* which discursively concentrates on changing the racial composition of corporate and ownership structures through neoliberal, market-based and distributive reforms to maintain the status quo. However, the same government and corporations ironically deracialise BEE by adopting ahistorical and dislocated forms of blackness and the discourses of managerialism, sustainable development and neoliberal practices. These discourses ironically contradict how these actors contextualised BEE historically to create an impression that the policy aims to transform the above-mentioned inequities. Furthermore, corporations construct their own managerial practices and discourses as addressing these inequities despite their depoliticising and dehistoricising nature. This symbolically functions to associate their corporate work with large-scale structural transformation while not changing their institutional practices at all.

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CHAPTER ONE: INTRODUCTORY CHAPTER

What is this PhD Thesis All About?

Black Economic Empowerment (BEE) is regarded as one of the major policy thrusts of the African National Congress (ANC) government's reconstruction programme that is associated with advancing the transformation of historical, structural, and power inequities in South Africa (Mohamed & Roberts, 2008). Both the government and the private sector started implementing BEE measures in the 1990s before its formalisation through the introduction of BEE legislation, frameworks, and national strategies (DTI, 2003). Since its introduction, the policy has been influencing and touching different aspects of political and economic life. However, the discursive, institutional, and ideological processes through which BEE earned this political and sociostructural status and how it came to be associated with this mode of transformation remain unclear. Nonetheless, the policy continues to occupy a hegemonic space in the political and scholarly discourse as advancing this mode of transformation. The policy also receives attention in the government's National Development Plan (NDP) and New Growth Path economic strategy frameworks (NPC, 2011; EDD, 2010).

Despite this attention, and its association with the transformation of structural, historical, and power inequities, other critics consider BEE as encouraging crony capitalism and corruption (Tangri & Southall, 2008; Mbeki, 2009; Kassner, 2015; Shava, 2016). While commentators consider BEE as an economic policy, it is surprisingly not coordinated by government departments that primarily handle economic policies (Lindsay, 2015). Its proponents present it as the necessary and progressive intervention which sought to redress 'the legacies of colonialism and apartheid' (Acemoglu, Stephen & Robinson, 2007; Ponte, Roberts & Sittert, 2007; Krüger, 2011). This view corresponds with the fact that South African whites continue to reap the rewards of colonialism and apartheid even under the current black government. As Modiri (2015:229) notes,

because a central outcome of *de jure* apartheid was the racial stratification of society in hierarchical terms, the unequal distribution of rights, resources and benefits continues to favour whites and disfavour Blacks. [W]e currently live under conditions of *de facto* apartheid or neo-apartheid/neo-colonialism in which the same macro-structure of "imperialist white supremacist capitalist patriarchy" which defined colonial apartheid continues to operate, although under a different legal and political arrangement (i.e. a liberal democratic government under non-white rule).

The 19th Commission for Employment Equity Report, which deals with one area of BEE, echoes Modiri's (2015) analysis and has concluded that white people, who form only 8.9

percent of the South African population, occupy 69.6 percent of top management positions in the private sector (Department of Labour, 2019).

The longstanding view that BEE aims to redress the legacies of apartheid and colonialism tends to ignore the problematic origins of the policy in both discursive and institutional terms. Mbeki (2009: 67) argues that national and multinational corporate capitalism developed BEE 'to co-opt leaders of the black resistance movement by literally buying them off with what looked like a transfer of massive assets at no cost. To the oligarchs, of course, these assets were small change.' These oligarchs, and multinational organisations, such as, the World Bank, Swedish International Development Agency, Shell, British Council, and Anglo American Platinum, among others, invented BEE to maintain their role in the development of economic policies in the country (Mbeki¹, 2009). To scholars who ignore these origins and tend to focus on BEE as an initiative of the ANC government, this argument may be far-fetched. Such scholars, including McEwan and Bek (2006), Ponte and Van Sittert (2007), Ponte et al. (2007), Acemoglu et al. (2007), Bek, McEwan and Bek (2007), Hamann, Khagram and Rohan (2008), Krüger (2011), Herman (2014), Diale (2014) and Bowman (2019), also contextually locate their BEE studies in the country's historical context which highlights structural and historical constraints of colonialism and apartheid over black people. However, they do so without accounting for the origins of BEE and its discourses in their constructionist, institutional, and material forms. As Lindsay (2015:145) notes,

BEE has been subject to little analysis of a conceptual nature and it has become the norm for authors to side-step questions about the complex origins and lack of [the] definition of BEE (and B-BBEE) and simply premise studies on the notion that BEE is a policy of the South African government.

This issue, as well as the scholarly historical contextualisation of BEE, tends to misjudge the problems of the policy and its discourses. In 1998, the Black Business Council (BBC), a non-governmental organisation, in partnership with white capital established the BEE Commission, which was chaired by the current president Cyril Ramaphosa, who had then left politics for business. The Commission worked with national and multinational organisations, most of which were economic oligarchs, to produce the 2001 BEE Commission Report. This Report provided and established national and sectoral strategies for the implementation of BEE in South Africa. Upon the release of this Report, then president Thabo Mbeki noted that the government 'has accepted the most critical recommendations of the ... Commission' and will examine its all sectoral legislation to ensure that they contained BEE obligations (Mbeki, 2002). The recommendations of the Report later informed the formulation of the BEE National Strategy (The Strategy,

¹ Mbeki is the brother of Thabo Mbeki, who became South Africa's president after Nelson Mandela.

henceforth), the National Empowerment Fund, and BEE legislation, as well as industry-specific charters. The Report defines BEE as

an integrated and coherent socio-economic process. It is located within the context of the country's national transformation programme, the RDP. It is aimed at redressing the imbalances of the past by seeking to substantially and equitably transfer and confer the ownership, management, and control of South Africa's financial and economic resources to the majority of its citizens. It seeks to ensure broader and meaningful participation in the economy by black people to achieve sustainable development and prosperity (BEE Commission, 2001:2).

The government reproduced this definition in its BEE legislation and policy documents with minor modifications. For this reason, the Strategy defines BEE

as an integrated and coherent socio-economic process that directly contributes to the economic transformation of South Africa and brings about significant increases in the numbers of black people that manage, own and control the country's economy, as well as significant decreases in income inequalities. The BEE process ...include elements of human resource development, employment equity, enterprise development, preferential procurement, as well as investment, ownership, and control of enterprises and economic assets (DTI, 2003:15).

How the Report defined BEE set both the academic and political agenda in South Africa. Different actors and studies tend to measure the implementations of BEE policies on the basis of this Report. For this reason, the common argument is that BEE has failed to redress the 'imbalances of the past'. This problematically seems to position BEE as a large-scale, structural and political phenomenon that aims to deal with the structural legacies of apartheid and colonialism. Furthermore, how the Commission and the Strategy defined BEE tends to represent its macro elements which serve as the BEE blueprint for both public and private sector.

The Report's definition of BEE and the Strategy represent what is now known as the second phase (from 2000 onwards) of BEE which characterises the policy according to the above-mentioned elements as outlined by the DTI's definition. The phase inspired the formulation of industry charters, the Broad-Based Black Economic Empowerment (BBBEE) Act and BEE codes and scoreboards, as well as procurement legislation (Ponte et al., 2007). The first phase (approximately from 1994–2000) focused largely on ownership deals without frameworks that guided its implementation (Ponte et al., 2007). This phase is known for benefiting 'only the aspirant African petit-bourgeois' (Terreblanche, 2002:47) or 'small class of unproductive but wealthy black crony capitalists' who received shares from white-owned multinational corporations (Mbeki, 2009: 61). According to Mbeki (2009: 61 & 67), these

capitalists became 'strong allies of the economic oligarchy that is, ironically, the caretaker of South Africa's industrialisation and are agents of white capital, hand in glove with the state; they aren't entrepreneurs.' The culture of the revolving door in South Africa which involves political officials moving from their roles as legislators and regulators to become employees and shareholders in the industries affected by the legislation and regulation also strengthens this alliance. However, other commentators note that BEE-type programmes at this stage 'went beyond being mere relationship-building exercises and... laid the foundation for the rules of access to elite structures in post-apartheid society' (Lindsay, 2015:13; Kassner, 2015).

BEE has become 'an amorphous, slippery catchphrase for politicians, journalists and academics of various ideological persuasions' since the concept joined the political discourse (Edigheji, 1999:2). Yet its conception, formulation, and definition in both academic and political discourse remain contested terrain. According to Lindsay (2015:06), this emanates from its lack of overarching conception, which meant 'that the various elements of [BEE] have been formulated in... a vacuum.' For this reason, different government departments pursue BEE measures without a central idea that organises their implementation (Lindsay, 2015). Despite these fundamental issues about the sociostructural and political status of the policy, commentators consider BEE as the 'centrepiece' of the ANC government's redistributionist policies and strategies which seek to drive and promote 'transformation agenda': to increase and facilitate the participation of black people in the economy (Southall, 2007; Tangri & Southall, 2008; Esser & Dekker, 2008; Krüger, 2011; Manning & Jenness, 2014; Bowman, 2019). As part of enforcing BEE, and encouraging compliance, the government has resolved to do business with private entities that are BEE-compliant. However, the extent to which this is enforced remains grey (McEwan & Bek, 2006).

In both academic and political discourses, BEE is now hegemonically associated with the creation of black crony capitalists who are regarded as an obstacle to the development of the economy. However, Bond (2000:39) describes this tendency as oversimplifying the country's structural and political problems by blaming this black elite who are themselves victims of the current political-economic system. As Gibson (2011:118) agrees, 'corruption and patronage are not simply a consequence of BEE; rather BEE is a consequence of a limited transition² that 'allows' a minority of the Black population to feed off state [and corporate] resources, the logic of which is of patronage, corruption, and exploitation.' Instead of focusing on building institutional capacity, as well as an indigenous bourgeoisie, the ANC government opted for comprador BEE deals with international finance and mining elites

² South Africa's transition from apartheid to democracy.

which undermined local industries (Mbeki, 2009; Gibson, 2011). Commentators state that the ANC followed the logic of 'patriotic capitalism' that integrating black businesses and individuals into the mainstream economy would translate into the broader empowerment of black majority (Mabogoane, 1995; Murray, 2000; Iheduru, 2004; Chibba & Luiz, 2011).

How does this PhD Thesis fit in the Scholarly Literature?

Despite uncertainties about its conception, and how it sits on a precarious macroeconomic structure and policy uncertainties, academic debates tend to assume that BEE aims to transform historical, structural, and power inequities, loosely known as the structural injustices or legacies of apartheid and colonialism. However, they do so without examining how the government and private entities construct BEE discourses, as well as their origins. This is despite the fact that discourses³ manifestly help reproduce domination and the status quo as well as giving rise to issues of power (Van Dijk, 1993; Fairclough, 1995a; Lemke, 1995; Fairclough, 2001; Van Dijk, 2001; Wodak & Busch, 2004). According to Lemke (1995:10), 'some discourses contribute directly to the maintenance of social relations of power and privilege.' This suggests that political actors that produce and 'control most influential discourse also have more chances to control the ... actions of others' to advance the agendas of dominant groups (Van Dijk, 2001:355). These debates reflect two hegemonic approaches to BEE that can be classified according to their macro and micro levels.

The micro-level of BEE

The micro-level approach to the study of BEE tends to focus on the 'what' aspect of BEE and proceed to measure its outcomes. This seeks to understand how the private sector uses different procedures, content, indicators and measurement devices of charters, codes and implementation mechanisms. The most common conclusion that emerges from this analytical approach is that BEE has benefitted a small black elite and that it has failed to transform the 'private sector' and the 'economy'. Firstly, this approach ignores BEE discourses in their constructionist terms which offer political insights on issues of power and structures. Secondly, it accepts 'empowerment' and 'transformation' as the aims of BEE. It also uses BEE, 'empowerment' and 'transformation' interchangeably while ignoring 'how' both the government and private entities construct BEE discourses, as well as tracing the evolution of the policy. In doing so, as well as removing the words, 'empowerment' and

³ CDA sees discourse as 'constitutive both in the sense that it helps to sustain and reproduce the social status quo and, in the sense, that it contributes to transforming it. Since discourse is so socially consequential, it gives rise to important issues of power. Discursive practices may have major ideological effects—that is, they can help produce and reproduce unequal power relations ... in which they represent things and position people' (Fairclough & Wodak, 1997:258).

'transformation' from their original contexts in the policy documents and legislation, the micro-level approach tends to focus on what BEE should be rather than what it is.

Looking at BEE at the micro-level, studies, such as Hamann et al. (2008), Diale (2014), Heyns and Mostert (2018) and Bowman (2019), have examined Mining Charters and made judgments on their outcomes and compliance processes. Makgoba (2019) has looked at the discursive processes of the 2010 Mining Charter as part of his micro-level analysis of BEE. The work of Hamann et al. (2008), Diale (2014), Heyns and Mostert (2018), Makgoba (2019) and Bowman (2019) makes reference to the concepts of 'empowerment' and 'transformation'. However, they have accepted how the government associated BEE with the concept of 'transformation' and 'empowerment'. They focus on the 'what' aspect of BEE while ignoring the 'how' aspect, which relates to how these terms are discursively and institutionally constructed in government and corporate discourses. For instance, Diale (2014:24) has argued that the Mining Charter has failed to 'tackle post-colonial and post-apartheid legacies.' The author has measured the outcomes of BEE compliances in the mining sector and reached this conclusion. Furthermore, Hamann et al. (2008:01) have argued that 'BEE charters prejudice more fundamental socio-economic transformation in the interests of the established corporations.' This argument suggests that BEE charters promote corporate interests. However, they define BEE as 'transformation' to suggest some symbiosis between the two concepts. This undefined concept of transformation, as used by the government, corresponds with Makgoba's argument that 'corporations manipulate discourses of transformation to reframe BEE to sustain their corporate legitimacy' (2019:05). Heyns and Mostert (2018) also accept BEE as referring to empowerment and transformation without contextualising these concepts.

Following the same pattern, critical works, such as McEwan and Bek (2006), Bek et al. (2007), Toit et al. (2007) and Herman (2014) have looked at BEE in the wine sector. Bek et al. (2007: 306) have argued that despite BEE legislation 'to tackle the racially delineated inequalities inherited from the previous regime', 'enormous obstacles to transformation persist.' This echoes Krüger's (2011:207) view that 'BEE was introduced by the current ANC government in a bid to overcome the economic legacy of apartheid.' Ponte et al. (2007:948) agree, 'in translating the ambitions of BEE to redress the apartheid legacy into policy practice, the ANC government denied itself the option of following the blueprint of ... Afrikaner nationalism.' These authors focus on the 'what' aspect of legislation while neglecting the elements of construction and discourse. Furthermore, McEwan and Bek (2006:1022) have argued 'that equating empowerment to economic empowerment threatens to reinforce structures of domination, rather than transforming them, while leaving power relations largely untouched.' These authors base their conclusion on the name of the

programme without providing any textual evidence from BEE legislation. They focus on BEE outcomes and depend on interview data, which cannot offer insights on the rhetorical and discursive elements of BEE discourses, to make this conclusion. Additionally, the authors assume that BEE relates to issues of 'empowerment' and 'transformation', as well as social structures and domination while ignoring the issues of the nexus of discourse, ideology, and power. Ponte et al. (2007) and Herman (2014) follow the same pattern of disconnecting the concept of 'empowerment' from the concept of BEE without engaging with how the government and private entities constructed the concepts. Similarly, they focus on *what BEE should be* rather than what it is by studying how the government should have constructed the policy. As Ponte et al. (2007:934) note, 'short of a major shift in conceptions of — and policy for — BEE, meaningful 'empowerment' is unlikely to take place.'

While other studies focus on 'empowerment' and 'transformation', Du Toit, Kruger and Ponte, (2007) focus on structural issues and race. They have argued that if BEE does not deal with 'underlying structural, racial and power inequalities' in the wine industry, despite its two legislative revisions, it would not allow 'meaningful action' (Du Toit et al., 2007:28). Here, the authors have politicised BEE and explicitly expect the policy to deal with structural relations and injustices. Just like Du Toit et al. (2007), Herman (2014) and Makgoba (2019) have identified material and discursive forms of dislocating the concept of blackness in wine and mining industries respectively. Toit et al. (2007), Herman (2014), and Makgoba (2019) tend to consider the dislocation of the idea of blackness as an equivalent of the deracialisation of transformation without defining their mode of transformation. Additionally, Du Toit et al. (2007) consider the managerialisation of BEE as an equivalent of the depoliticisation of transformation without defining this concept.

The macro element of BEE

Other works have dealt with the macro element of BEE and other political issues relating to the policy. The work of Terreblanche (2002) and Gibson (2011), as well as Bond (2000; 2005) and Southall (2007), offer a strong historical, political and economic context of BEE, as well as the government's macroeconomic policies. Lindsay (2015) offers a strong historical and sociological account of the policy from both the private and public sector. These texts critically trace the development of BEE, as well as how it became part of the ANC government policies. Browning (1989) indicates that it is hard to trace what process and institution influenced and shaped the formulation of the current framework of BEE policy. However, the political and economic reform policies towards the end of the apartheid's racist government might have been instrumental in the creations of BEE policies (Browning, 1989). As Cargill (2010) indicates, while different parties took part in negotiations to end apartheid

legally, individual members of the ANC and the liberation movement were already exploring means of cutting business deals with the private sector under the pretext of BEE.

One issue that offers insights into the government's choice of policies and its reconstruction agenda is that 'little attention was given to economic policy' as late as 1985 even though the ANC was on the brink of assuming office (Turok, 2008:30). Acemoglu et al. (2007) and Andrews (2008) have illustrated how BBBEE policies have failed to contribute to economic development and growth despite being hailed as progressive. Bond (2005), Malikane and Ndletyana (2006), and Mbeki (2009) have engaged BEE at the political level and have concluded that the policy aims to advance nation-building and preserve the current neoliberal agenda. While these macro-level studies highlight the weaknesses and the context of BEE policies, they focus on the analysis of the systems, practices, and processes of its political economy rather than its aims and outcomes.

The Main Research Questions and the Objectives of the Study

Despite these excellent micro and macro studies on BEE, its analysis as an institutionalised discursive phenomenon remained underdeveloped. However, macro studies have not tried to engage BEE as aiming to lead 'transformation' and 'empowerment' the way micro studies do. These micro studies focus on the outcomes of BEE, as well as, concentrating on the 'what' aspect of the policy to measure how it aims to transform historical, structural, and power inequities. Approaching BEE this way tends to produce deterministic conclusions and presents analytical limitations. First, it tends to ignore the analysis of the complex nexus of discourse, ideology, and power as conceptualised by Bourdieu (1977a), which might reveal how domination, oppression, and the status quo are discursively reproduced and maintained (Fairclough, 1995a; Fairclough & Wodak, 1997). Second, it also ignores and conceals how BEE may serve power differently in the manner in which it maintains the status quo, serving as a depoliticising mechanism. By ignoring the discursive and rhetorical elements of BEE, these micro-level studies tend to judge BEE based on what it should be rather than what it is, politically and structurally.

Rather than automatically accepting and considering BEE as seeking to effect the changes of historical, structural, and power inequities in the private sector, this thesis takes a step back. The thesis asks: How do the ANC government and mining corporations jointly use

BEE discourses to construct the symbolic agendas of structural and political⁴ transformation in South Africa? What are the political and discursive consequences? It investigates these questions by analysing BEE legislation, policy documents, and annual reports of mining corporations and by drawing on interview data from key informants in the mining sector. The thesis does not assume that BEE relates to 'transformation' and 'empowerment'. It does not take BEE at its word. Rather the thesis approaches BEE as an institutionalised discursive phenomenon which serves as an ideological tool for power, as well as involving the management and maintenance of political interests. For that reason, the thesis follows the logic that

the description's speaker, or the institution responsible or the description, has something to gain or lose; that they are not disinterested. They have a stake in some course of actions which the description relates to, or there are personal, financial or power considerations that come into play (Potter, 1996:125).

The thesis examines how the government and mining corporations jointly employed BEE discourses to construct symbolic agendas of structural and political transformation in South Africa, and the discursive and political consequences of this.

Drawing upon the concepts of Marion Young's (1990) critique of the distributive paradigm of justice, the thesis employs Fairclough's (1992a) three-dimensional model of critical discourse analysis (CDA⁵) and interview analysis. Young was the American political theorist and feminist who authored several books that focused on social justice, social difference and democracy, offering a structural analysis of political issues. Her seminal text, *Justice and the politics of difference*, which discusses different forms of oppressions, is widely celebrated. Young's work draws on the ideas of Frantz Fanon, Michel Foucault, Jacques Derrida, and Jürgen Habermas, among others. She differentiates between distribution, the reallocation of material goods, and non-distributive issues, decisionmaking structures, power, and procedures, the social division of labour and culture, that relate to institutional practices and context. These ideas support CDA's critique of the socio-political issues and social practices of discourse, as employed in this study, by naming and identifying BEE practices, rules, goods and processes to engage their relationship with historical, structural, and power inequities.

⁴ This thesis uses the term 'political' in its broadest sense. This relates to 'all aspects of institutional organization, public action, social practices and habits, and cultural meanings insofar as they are potentially subject to collective evaluation and decisionmaking' (Young, 1990:08).

⁵ CDA 'is a type of discourse analytical research that primarily studies the way social power abuse, dominance, and inequality are enacted, reproduced, and resisted by text and talk in the social and political context. With such dissident research, critical discourse analysts take explicit position, and thus want to understand, expose, and ultimately resist social inequality' (Van Dijk, 2001:355).

The thesis also draws on interview data from mining, government and community officials in the mining sector to draw conclusions in support of the CDA analysis, which provides a more process-oriented and relational conceptualisation. Considering that BEE operates in structural fields and processes, this thesis engages concepts of social structures and James Ferguson's (1994) concepts of the 'non-and-counter-intentionality of structural production'. Ferguson is an American anthropologist whose work focuses on the politics and anthropology of international development. Informed by Foucault, his work takes a critical stance on development studies. Ferguson is respected for his seminal text, *The Anti-Politics Machine: Development, Depoliticization, and Bureaucratic Power in Lesotho* which draws upon the ideas of Foucault (1979). In this thesis, his work helps explain how structural processes may turn BEE into powerful constellations of control which expands the exertion of power. This relates to how BEE may take a life of its own as it enters unacknowledged structures while deviating from its intentions.

What are the Findings and Conclusion of this PhD Thesis?

This thesis considers how the government and mining corporations employ BEE to construct the symbolic agendas of structural and political transformation. The thesis identifies the historical contextualisation of BEE, dehistoricisation, *distributive deracialisation*, and the discourses of managerialism, sustainable development and neoliberalism as well as the depoliticised discourses of empowerment and redistribution as the major hegemonic constructs of BEE in the mining sector. This demonstrates that BEE discourses are contradictory and disconnected from the transformation of historical, structural, and power inequities from their conception.

The thesis finds that the development of BEE originated outside of government and evolved since the publication of the Report. The Report is associated with the formalisation of BEE through legislation and the Strategy. This evolution also demonstrates that the macro aspect of BEE, which deals with BEE through the BBBEE Acts and this Strategy, tends to lose some of its historical and racial signification when it enters the micro space, the corporate sector. The thesis finds that both the government and mining corporations contextualise BEE historically in the discourse of colonialism and apartheid while focussing on neoliberal and distributive solutions and empowerment without autonomy. This involves how the government and mining corporations discursively acknowledge that apartheid and colonialism structurally curtailed the lives of black people while proposing ahistorical, neoliberal, and market-based reforms. The historical contextualisation of BEE emerged from

the Report and demonstrates how these discourses have become discursive resources to associate BEE with large-scale structural and political transformation.

The thesis finds that the government and mining corporations discursively focus on *distributive deracialisation* of the mining sector and corporate structures. This emphasises the notion of cosmetic empowerment i.e., empowerment without autonomy which involves the appointment of black people in managerial positions as well as encouraging their ownership of shares. The thesis further finds that both the government and mining corporations discursively treat BEE as a managerial concept and a genre of the discourse of sustainable development to dehistoricise and decontextualise the policy. These discursive actions, such as business-led development, the externalisation of responsibility, and moral responsibility, contradict the historical contextualisation of BEE. Despite their depoliticising and dehistoricising effects, mining corporations explicitly claim that their managerial practices and day-to-day corporate activities aim to transform these inequities without undergoing any cultural, structural, and institutional changes.

The decontextualisation and dehistoricisation of BEE also emanate from how the government and mining corporations deracialise BEE by adopting ahistorical forms of blackness. In this context, mining corporations explicitly follow the path of government by upholding and reifying the principles of the Mining Charter and the Mineral and Petroleum Resources Development Act (MPRDA) which introduced the broad concept of Historically Disadvantaged South Africans (HDSAs). The concept of HDSAs covers groups such as female white and Chinese South Africans. This highlights the disconnect between macro elements of BEE (the Report, the Strategy, and the BBBEE Acts) and its micro elements (the MPRDA, the Charter, the SLP Guidelines, and corporate reports). BEE loses its historical and racial component when it is taken from the macro-level to the micro-level. The deracialisation of BEE reframes the scope of its beneficiaries and tends to disconnect the policy from political contestation. However, this only dehistoricises BEE and does not necessarily represent the dehistoricisation and depoliticisation of the transformation of historical, structural and power inequities. This is because neither government nor corporate discourses provide equivalent measures to achieve this form of transformation.

The thesis concludes that BEE contains contradictory discourses that disconnect and decontextualise the policy from institutional practices from the start while subtly preserving, reproducing, and concealing existing historical, structural, and power inequities. It promotes hegemonic, corporate, and ahistorical discourses, such as managerialism, neoliberalism, sustainable development and the ahistorical forms of blackness which contribute to the expansion of corporate power. They maintain a future-looking approach to BEE which takes

a corporate social responsibility (CSR) and distributive logic that is not disruptive to managerial cultures and corporate structures that govern the mining sector. In consequence, these discourses and their neoliberal practices promote the absorption of BEE into the existing corporate cultures and structures. This depoliticises the policy and disconnects it from transformation of the above-mentioned inequities. Also, these discourses predominantly focus on distributive, ahistorical, and neoliberal practices which move away from the existing historical and institutional practices and social structures to recreate distributive inequality and to maintain the status quo.

The outcomes of these discursive processes depoliticise the existing institutional practices and corporate interests by symbolically associating the work of corporations with the transformation of historical, structural, and power inequities. They do so through the concept of 'stake transcendence' (Whittle, Carter, & Mueller, 2014) which associates corporate work with the ending of the structural legacies of colonialism and apartheid without the necessary institutional restructuring. Thus, both the government and mining corporations symbolically construct neoliberal and market-based measures, such as *distributive deracialisation*, as the equivalent of the transformation of historical, structural and power inequities. However, they essentially ignore and omit institutional practices and context that structure distributive patterns and maintain oppression in their construction of BEE discourses. Because of these discursive dynamics, the thesis concludes that both the government and mining corporations have artfully appropriated the discourse of the struggles against colonialism and apartheid to justify the creation, legislation, and implementation of BEE. This has built the opaque connection between BEE and the transformation of historical, structural and power inequities while maintaining the status quo.

How do these Findings and Conclusions Contribute to Knowledge?

This thesis contributes to scholarly knowledge by highlighting and providing textual and empirical evidence on how BEE remained disconnected from the transformation of structural, historical, and power inequities from its conception. Many studies that take a micro-level approach to BEE tend to assume that the policy aimed to transform these inequities and showed that it has not worked. This thesis disputes this assumption to complement the macro analysis of BEE which does not assume that BEE intends to achieve this aim. It argues that the micro-level approach ignores how the construction and discourse of BEE may offer insight on critical issues of power, as well as how the policy itself can expand corporate power.

The thesis traces the evolution of the policy and highlights that BEE contains contradictory discourses and social practices which favour these injustices while disfavours institutional, structural and cultural changes from its conception. Thus, the policy both ignores and conceals institutional practices that structure relations and govern decisionmaking and focusses on ahistorical, distributive, neoliberal and market-based practices. This dehistoricises and deracialises BEE while reproducing distributive inequality, oppression and domination at the same time.

Furthermore, the policy not only reproduces large-scale structures of mining capitalism and neoliberalism, which determine distribution and maintain the status quo, but also helps expand corporate power and serves as a depoliticising mechanism. This thesis draws upon Young's (1990) concepts of the critique of the distributive paradigm of justice to name and identify BEE practices, goods, processes and rules in the manner that explicitly illustrate their connection to, and disconnection from, institutional practices and context. This represents the originality of the findings of this thesis and their uniqueness. In addition, the thesis interprets the findings and how they support extant studies, contributing to scholarly debates.

By arguing that BEE has not transformed historical, structural, and power inequities, Bek et al. (2007), Du Toit et al. (2007), Diale (2014), Herman (2014), Shava (2016), and Heyns and Mostert (2018) suggest that BEE is intended to transform institutional practices. These studies tend to focus broadly on the 'what' aspects of BEE government policy and legislation. This treats the policy as expressing the 'objective interests' of the government which loosely relate to 'transformation' and 'empowerment'. In consequence, they have tended to treat these two concepts as an equivalent of BEE while ignoring issues of construction, discourse, and power. However, this thesis illustrates that BEE practices have ignored historical and institutional practices and concealed their context from conception while privileging distribution over non-distribution. Du Toit et al. (2007) and Makgoba (2019) have suggested that wineries and miners have managerialised BEE and therefore have depoliticised the transformation of the above-mentioned inequities. However, it was the government that formally and legally introduced the managerialism of BEE rather than the private sector. Moreover, these authors tend to use transformation and BEE interchangeably. In addition, their concept of transformation, as well as that of Bek et al. (2007) and Hamann et al. (2008), remains ambiguous, lacking both institutional and political context.

Du Toit et al. (2008) and Herman (2014) have approached BEE in the structural and political sense. However, they have not fully engaged the analysis of the nexus of discourse,

ideology and power, which may offer insights into how both the government and private sector exercised power discursively. Murray (2000) and Schneiderman (2009) have focused on the outcomes of BEE 'empowerment deals' and structures of decisionmaking. These studies have tended to treat deracialisation, or the changing of racial composition of ownership structures and managerial positions, as institutional transformation. The thesis highlights that deracialisation remained a distributive measure and focuses on the notion of empowerment without autonomy from its conception. *Deracialisation* ignores issues relating to the social division of labour, as well as cultural practices and decisionmaking structures.

How these studies loosely use terms such as 'transformation' and 'empowerment' demonstrates problems of the political lexicon of structural and political transformation which fails to situate problems of social justice and the private sector in their institutional context. Ponte et al. (2007) and Du Toit et al. (2007) make political claims about BEE but question its ability to achieve 'meaningful empowerment' and 'meaningful actions' respectively. The word, 'meaningful', emerged from government documents and ignores the historical and institutional nature of the existing problems. Equally, McEwan and Bek (2006:1021) write about the undefined notions of 'broader issues of social and economic transformation'. Along with McEwan and Bek (2006) and Ponte et al. (2007), Herman (2014:01) approaches BEE as empowerment which should 'initiate broader social change'. Furthermore, while Bek et al. (2007:308) think that empowerment can be delivered, Hamann et al. (2008) have suggested that 'transformation' benefits established businesses. These authors tend to consider empowerment and transformation, even in their undefined forms, as possessions rather than rules and relations.

What is the Plan of this Thesis?

Chapter Two, the literature review, locates the thesis within existing theoretical concepts about BEE. Firstly, it provides the historical and political economy context of South African and move to discuss BEE and its relationship with the existing macro policy frameworks in South Africa, concluding that the policy occupies a precarious position in the current political system. Secondly, this Chapter broadly discusses studies that have dealt with BEE in the private sector, largely focusing on BEE Charters, issues of compliance, and ownership as well as studies that are related to this thesis. It highlights how these studies tend to focus on the outcomes of BEE. After this, this Chapter discusses conceptual frameworks for structural and political interpretation of BEE practices, rules and processes according to distribution, structural processes, and decisionmaking. Lastly, the Chapter discusses social processes,

such as corporate social technologies, the discourse of sustainable development, neoliberal discourses and practices that are specific to the mining sector.

Chapter Three describes the qualitative approach to the study and justifies the choice of research methods. It starts by highlighting the importance of pursuing the 'how' question of construction and analysis which goes beyond 'what' has been disclosed. This Chapter describes government legislation and policy documents, and annual reports as qualitative data. It also describes how they were collected and qualitatively sampled in a manner that captured and identified texts of relevance to BEE, transformation and empowerment. The Chapter presents and justifies the application of a discourse analytical framework that is based on the work of Fairclough (1992a). It concentrates on discourse analysis at three levels of engagement: textual analysis, discursive and rhetoric practices (both at the microscale), and, lastly, discourse-as-social practice – the social, economic, and political, and cultural goings-on of the discourse (the macroscale). In addition, it describes how the analysis of the discursive and rhetoric practices is based on Potter (1996) while some elements of discourse-as-social practice draw upon the work of Young (1990). In addition, the Chapter justifies how Fairclough (1992a) works well with interview data to broaden the analysis of BEE discourses and practices.

Chapter Four provides textual evidence on how the government and mining corporations constructed BEE discourses. It applies CDA according to Fairclough's mode of CDA which draws on Young (1990) to consolidate its socio-political analysis and Potter's (1996) constructionist ideas to engage its discursive and rhetorical practices. It focuses on the vocabulary of annual reports, BEE documents and legislation, as well as political speeches and media interviews, for its textual analysis drawing on Fairclough (2001). Chapter Five builds on Chapter Four and focuses on social processes that inform BEE discourses, as well as the political and discursive consequences of these discourses. It highlights fundamental social practices, issues, and processes that are absent from, and present in, both government and corporate discourses.

In Chapter Six, this thesis summarises and organises empirical findings according to themes, drawing general conclusions from them. It highlights how these findings and conclusions answer the research questions. The Chapter presents findings and shows how they relate to other scholarly contributions in the BEE literature, as well as drawing upon theoretical concepts to draw conclusions. In Chapter Seven, the thesis summarises the study and the main conclusions by presenting hegemonic discourses of BEE, showing its

evolutions and contradictory discourses. It offers some recommendations for future studies and explains its limitations.

CHAPTER TWO: LITERATURE REVIEW

Introduction

This Chapter starts by discussing the South African historical, political, and economic context by defining and explaining apartheid capitalism, as well as showing its ideological relationship with the ANC's liberal government, and its post-1994 policymaking. This part also shows that this form of capitalism and its colonial logics 'bleed into the postcolonial' (Gibson 2013: 6), and then move to discuss BEE, and its relationship with this context. Other parts of this Chapter discuss BEE literature in South Africa which focuses on micro academic studies that engaged the policy in the private sector. These studies tend to focus on the outcomes of the policy and largely employ content analysis to measure how private companies implement BEE. After this, the Chapter outlines theoretical concepts that underpin the study. Lastly, this Chapter engages other studies that deal with social processes and relations in the mining sector. This part demonstrates that BEE does not function in a social vacuum and is shaped by these processes and sociocultural technologies.

Section A

The Making of South Africa (1948 – 2019)

Colonial Apartheid (1948 to 1994)

The National Party legally adopted the apartheid⁶ system in 1948 until 1994 by perfecting discriminatory and anti-black laws⁷, such as the Land Act⁸ of 1913, of the previous colonial administrations in South Africa. The party won the 1948 election to take over the Union of South Africa (USA) which had already entrenched 'imperialist white supremacist capitalist

⁶ 'Prima facie, the doctrine 'apartheid' holds that each race has a unique destiny, history, religion, culture, values, etc. and that for this reason they must be kept apart. On face value, this might be taken to mean the separation of the different racial groups and their right to self-determination' (More, 2017:129).

⁷ 'This existential reality of antiblackness – through its political, economic, religious, legal, cultural and social institutions – succeeded in suppressing the consciousness of black people as human beings and thereby produced in them a consciousness of themselves correlative to the demands of each of these oppressive realities, the historical reality associated with being-black-in-an-antiblack-world, namely: slavery, colonialism and racism' (More, 2017:43).

⁸ Despite being many in numbers⁸, the Act confined 7% ownership of South Africa's land (then called native reserves) to Africans⁸ (who were called Natives according to British colonial policy of "native segregation") while leaving the remaining 93 to the white minority. As the Act noted, 'a native shall not enter into any agreement or transaction for the purchase, hire, or other acquisition from a person other than a native, of any such land or of any right thereto, interest therein, or servitude thereover' (USA, 1910).

patriarchy⁹ by ensuring that ‘political, economic, and social power was to be an exclusive European preserve’ (Magubane, 1979:15). This Union banned Africans from owning land and exercising any form of economic activities. There have been attempts to separate the impacts of colonialism and apartheid on the lived experiences of blacks, ‘cursed by a narrow focus on the character and experiences of the Afrikaner, rather than on those systemic aspects of imperialism that foster inequality and racism’ (Magubane, 1979:10). However, both systems were designed by a minority of Europeans ‘to keep the majority of the population, consisting of black people, in conditions of slavery or neoslavery’ (More, 2019:282) while imposing the incorporation of the South African economy into ‘imperial economic systems based on a single European metropoly’ (Konieczna and Skinner, 2019:06). As More (2019:252) notes,

the name *apartheid* emerged—in its legal sense—in 1948 as a means of strengthening and perfecting an already existing system of racial discrimination and domination rooted in the attitudes and values of the whites ever since they came into contact with the Africans. So the Afrikaner Nationalist Party¹⁰...established its fortification on grounds already prepared by the first Dutch settlers in the Cape of Good Hope under Jan van Riebeeck in 1652, and later by the British settlers in 1820. Rooted in the values of Europeans abroad and in South Africa, apartheid was a refined and fine-tuned British colonial policy of native segregation.

For this reason, South Africa¹¹ was governed and terrorised by political, economic, religious, legal, cultural, and social institutions of white supremacy for over 350 years. In its South African flavour, apartheid¹² became one of fewest political, social, and economic systems in the latter half of the twentieth century that generated so much controversy for its oppression and mass killing of blacks (More, 2017). Deliberately ‘structured by racial laws and socioeconomic arrangements, and propelled by past and present exploitation’ (Magubane 1979:97), apartheid inexorably reproduced racial inequality. According to Derrida, apartheid

⁹ ‘imperialist white supremacist capitalist patriarchy’ (bell hooks, 2015)

¹⁰ According to Magubane (1979), ‘before Afrikaner racism acquired a structure and a consciousness of itself, the social processes that it would take advantage of were already in operation.’

¹¹ South Africa then became a ‘quintessentially colonial racist society, a society violently compartmentalised into races’ that were ‘ruled by a Manichean world of the good white and the evil black’ (More, 2019:74).

¹² ‘The apartheid government of the Nationalist Party enacted a series of racially discriminatory laws, such as the Group Areas Act, mandating residential segregation; the Separate Amenities Act, requiring segregating public facilities; the Immorality Act, forbidding sexual liaisons across the colour divide; the Prohibition of Mixed Marriages Act, forbidding interracial matrimony; the Population Registration Act, the pillar of apartheid legislation that classified people according to their racial categories and ordering; the Bantu Education Act, enacting separate and unequal education for different racial groups; the Prevention of Illegal Squatting Act, preventing unemployed African work seekers from living in the white cities and towns; the Native Resettlement Act, coerced removal of Africans to Bantustans (homelands); the Land Act of 1913, the appropriation of African land, giving 87 percent of the total land to whites and 13 percent to Africans; and the Influx Control Act, regulating the influx and labour of Africans in the white urban areas. These laws legalized the separation of the races in almost every sphere of existence. Forced separation became the norm; from separate hospitals to separate cemeteries, separate beaches to separate swimming pools, separate toilets to separate transport systems, separate territorial areas to separate residential areas, separate churches to separate jails, separate sports to separate types of jobs, existential separation in full flight except at work’ (More, 2019:271).

was 'an untranslatable idiom' of racism, 'the worst . . . racism par excellence . . . the most racist of racism' and 'the ultimate racism in the world' (1985: 291). Just like other forms of colonialism, apartheid depended on the relationship between colonialization – 'the desire to take the land' – and that of capitalism – 'the desire to exploit black labour' (Magubane, 1979:08).

Its numerous discriminatory laws and legislations, such as the Native Resettlement Act, the Land Act, the Population Registration Act and the Bantu Education Act legalised racial inequality, spatial segregation, and land dispossession to entrench absolute white supremacy. In turn, this impaired the citizenship and dignity of blacks, limiting their access to health services and quality education, and infrastructure, as well as, economic opportunities. In 1952, the African National Congress (ANC) initiated the Defiance Campaign of 'passive resistance against apartheid policies, resulting in almost 10,000 people being arrested and harsh repression from the [apartheid regime]' (*Burki, 2019:155*). However, it was the enactment of the Bantu Education Act that undermined the efforts of Africans to overcome the existing systems of extreme subjugation by bringing Bantu education in line with broader apartheid policy that limited Africans to menial and less-skilled work (Lindsay, 2015). As Welsh (2009:77) notes,

in 1953, when this Act was passed, per capita spend on white and black education was R127,84 and R17,08, respectively. By 1970, spend on white education had increased by 121% to R282 per person while that on blacks had fallen to an average of R16,08.

The passage of these anti-black laws systemically restricted the commercial and economic activities of black businesspeople to their Bantustans, which accounted for 13 percent of the land in South Africa (Southall, 1980). These enabled white settlers to monopolise business in different sectors of the economy while limiting formal employment of blacks to these Bantustans, whose economic activities could hardly sustain the growth of the private sector (Welsh, 2009). In 1955, the ANC and its allies formed the South African Congress Alliance, which developed the Freedom Charter as their guiding document for liberation, as well as to respond to increasing white domination and racism. Although the document called for the restructuring of the nation through democracy and human rights, land reform, labour rights, and nationalisation, it demonstrated commitments towards non-racialism. This commitment caused ANC members who held pro-African ideologies to form the Pan Africanist Congress (PAC) as a breakaway political formation. Just after the 1960 Sharpeville massacre, the apartheid regime enacted the Unlawful Organizations Act to ban political activities that rejected its racist practices and to indemnify its securities forces for killing, wounding, and torturing activists. The apartheid government classified the Congress as treason, and

banned the ANC and the PAC, as well as arresting 156 activists, including Nelson Mandela while forcing many others into exile (Burki, 2019).

Building on the Land Act¹³ of 1913, the apartheid regime passed the Bantu Homelands Citizenship Act of 1970 to create Bantustans (African reserves, homelands, or slums), stripping blacks of their South African citizenship while declaring them citizens of the Bantustans under their 'independent' tribal government. The Act ideologically functioned to produce tribalism by homogeneously dividing Africans along ethnic lines as well as disguising apartheid as merely 'separate development'. The homelands, starved of basic services, such as housing, healthcare, water and sanitation, and infrastructure, advanced the concept of segregation, based on the residential and work patterns, and separated many Africans from major economic activities. This, in turn, required them to undertake often long commutes¹⁴ to provide cheap labour to the white-owned businesses and households. According to Motsuenyane (2012), the apartheid regime also created subsidised industrial zones for 'white business on the borders of the homelands' while forcing black businesses 'to source their raw materials from these whites at prices that generally rendered their entrepreneurial efforts uncompetitive' (cited in Lindsay, 2015:116).

Blackness, Black Resistance, and Soweto in South Africa (1970s and 1960s)

Historians use the term 'black people' to describe people who were described by the colonial and apartheid administration as 'natives' (Africans) and 'non-white' (an umbrella term referring to Africans, Indians, Coloureds and in some cases Asians (Chinese, Malaysians or Japanese). However, the term 'black people' only emerged in South Africa in the 1960s¹⁵ as adherents of Black Consciousness Movement (BCM)¹⁶ appropriated the term as a political instrument of 'reversing the white definition of black people' (More, 2017: 46). Thus, these adherents adopted the term in the manner which Negritudists appropriated the term Negro

¹³ Commenting on the impacts of the Act, Plaatjie, the first General Secretary of the SANNC, wrote: 'Awakening on Friday morning, June 20, 1913, the South African Native found himself, not actually a slave, but a pariah in the land of his birth... And under severe pains and penalties they were to be deprived of the bare human rights of living on the land, except as servants in the employ of the whites' (1915:16 - 23).

¹⁴ The transportation 'structure and patterns conformed to this basic design [of spatial segregation]. This residential pattern has not changed much in the 20 years since the end of apartheid' (Bhorat et al.2014:19).

¹⁵ The Rivonia Trial which led to the imprisonment of the leaders of the liberation movement, including Nelson Mandela, on terrorism charges, took place around this period in 1963. Mandela is now 'globally regarded as a hero because he declared during the Rivonia Trial that freedom is an ideal for which he was prepared to die and later sacrificed 27 years of his life in prison to free his country from oppression' (More, 2017a:08).

¹⁶ Proponents of BCM who 'promoted the category of black as inclusive of Africans, coloureds and Indians insisted that notwithstanding all the differences among these groups, there is a need for unity and solidarity of all those subjected to the oppressive political machinery of apartheid racism. Part of the major reason for adopting a political blackness, therefore, was to foster the politics of solidarity among the three oppressed groups' (More, 2017a:50).

as a unifying tool to combat political oppression¹⁷ of those who are not white [building on the idea that] the political sense of blackness concerns a consciousness of the fact that racialisation is calculated to promote and sustain certain power relations in society (More, 2017:49).

The project of unifying these categories of people (or non-whites as they were called by the apartheid regime) under the banner of political blackness faced resistance among these groups. Others indicate that the political blackness mainly focused on 'the political factor of common discrimination, not common cultural affinities. The weakness of the shared movement lies precisely in this abstract political bond, not backed up by shared experiences of everyday perceptions, save political exclusion' (Adams, 1985: 173–174). Steve Biko¹⁸ linked this resistance to the 'deeply embedded apartheid suspicions and attitudes of superiority found in the Indian and coloured communities against the African people, and the equally resentful responses of Africans to such attitudes' (More, 2017:52).

Despite these ideological struggles that came with the institutional construction of political blackness, the principles of BCM, as a grassroots anti-Apartheid activist movement, found expression in South Africa and heavily influenced the 16 June 1976 Soweto uprising. During this uprising, which spread throughout the country, the apartheid security forces killed 176 people. By 19 June 1976, the apartheid regime banned 123 of its key members and eventually banned BCM related organisations, as well as arresting many of its leaders, and assassinating National Leader Biko in 1977. According to observers,

the events in Soweto in 1976 were also a turning point in the cause of the liberation movement resulting in a strengthening of sanctions against the country, the declaration of apartheid as a crime against humanity by the United Nations, and the exodus of many young people from South Africa to the ANC's bases in Africa, Europe and elsewhere. Arguably, of most significance, however, was the recognition by many countries of the ANC as the legitimate government of South Africa, in waiting (Ellis, 2013 in Lindsay, 2015:107).

The Soweto uprising ushered a culture of protests which attracted attention from people of all walks of life in South Africa, who 'became involved in efforts to liberate the country from apartheid'¹⁹, adding to the 'rash of industrial strikes that had occurred since 1973'

¹⁷ 'Blacks should unite and work together because they suffer a common oppression; and they can overcome or ameliorate their shared conditions only through black solidarity' (Shelby, 2002: 232).

¹⁸ 'I must admit I say this with a pain in my heart... Coloured people harbour secret hopes of being classified as 'brown Afrikaners' and therefore meriting admittance into the white laager while Indian people might be given a vote to swell the buffer zone between whites and Africans' (Biko, 1996: 36).

¹⁹ 'The South African government also faced a transformed world order. Instead of being at the southern end of a continent controlled by Europeans, in a world dominated by Europeans and North Americans, South Africa had become an isolated anomaly. Except for Rhodesia and Namibia, its neighbors were no longer European colonies but black states. The white minority in Rhodesia was losing its war against African guerrillas. The United Nations had declared South Africa's control of Namibia illegal and in 1978 devised a program to liberate that territory' (Thompson, 2001: 222).

(Thompson, 2001:228). The regime²⁰ responded to these issues by abolishing job reservation and legalising trade unions (including African), giving them the right to strike, albeit, as one of ways of controlling African workers through legislation. According to observers, these events also encourage white businesses to lobby for the relaxation of controls over blacks particularly in the sectors which anti-black apartheid laws presented constraints for business. However, these measures largely focused on blacks living in urban areas and, later, mine workers (Welsh, 2009) because 'there was shortage of the skilled labour needed to run private industry and the bureaucracy' (Thompson, 2001: 221). Other urban businesses also started implementing CSR-themed programmes which intended to support black employees, black business, and the broader black community (Smollan, 1986).

During the 1980s, as black resistance became more formidable, the apartheid regime was in crises of legitimacy, faced massive pressure and resistance from home and abroad. It opted to apply state of emergency and arrested hundreds of activists. However, the regime could not contain these pressures, and was forced to reconsider its racist policies. A deteriorating economy at the time and the withdrawal of foreign investment due to political uncertainty compounded the regime's problems: 'The annual rate of inflation rose from 11 percent in 1983 to 13.25 percent in 1984, 16.2 percent in 1985, and 18.6 percent in 1986. Real growth per capita declined in 1985 and 1986 because of the [August 1985 financial crisis]. Unemployment was rising continuously' (Thompson, 2000:234). As a result, major white business elites started having meetings with the banned ANC and the South African Communist Party (SACP) leaders in their Zambian exile in September 1985 to offer some of them business shares and stakes as a way of buying their political loyalty (Bond and Malikane, 2019).

The formal declaration of the end of apartheid in 1994

The emancipatory politics of the 1980s, as well as global disinvestment campaigns, forced the apartheid regime to make concessions and give up its political power. In 1990, the last apartheid President FW de Klerk would make an announcement that changed the complexion of politics:

today, I am able to announce far-reaching decisions. Legislation is to be tabled shortly for the repeal of the Land Acts of 1913 and 1936.

²⁰ 'The government's domestic reforms resulted from investigations made by special commissions of inquiry and by the President's Council-a sixty one-member body appointed by the president with a large white majority and a few Coloureds and Indians but no Africans. The first significant change concerned labour relations and was a response both to the rash of industrial strikes that had occurred since 1973 and to the need of manufacturing industry for settled and compliant labour. By 1979, there were twenty-seven-illegal-democratically organized African trade unions, with African working-class leaders and significant support from key white activists' (Thompson, 2001: 224).

The prohibition of the ANC, the PAC and the SACP is being rescinded.

The unbanning of political formations and the release of political prisoners, including Nelson Mandela, in February 1990, heightened ideological and factional battles that led to political violence in the country rather than merely representing the moment of hope. However, De Klerk's announcement set the tone for the negotiations²¹ between the then governing National Party, and the ANC, as well as other political formations, which sought to pave the way for the institutionalisation of democracy. As the negotiation progressed amidst the escalating state-backed violence in some parts of the country, other political formations, such as the PAC and AZAPO, boycotted the negotiation. They 'favoured the armed struggle and believed that the ANC had given too much to the Whites' (Thompson, 2000:259).

To many, the negotiations ignored central problems of economic domination, injustice, structural poverty and land dispossession that emanate from colonial and apartheid system that build the economy for centuries through the slavery of blacks. Others argued that the 'settlement reached between the ANC and the white apartheid government in the early 1990s was a fraud²² perpetrated on black people who are yet to regain their land, stolen by whites during colonial conquest' (Mda, 2013). However, despite this, and other political events that nearly pushed the country to the brink of civil war, the negotiation led to the installation of Mandela as the first black president as the ANC emphatically won the election in 1994, and ultimately to the adoption of a new constitution in 1995 that envisioned South Africa as a non-racial society. As one of the central figures in this transitional politics, Mandela would later renounce violence and embrace reconciliation. He established the Truth and Reconciliation Commission (TRC) under the chairmanship of Archbishop Desmond Tutu that largely provided amnesty for political crimes of apartheid era. Although these measures earned Mandela international recognition, as well as the Nobel Peace Prize, his leadership received criticism for protecting capital, leaving the ownership of key resources, such as land and minerals, in the hands of whites. As More (2019: 174) notes,

²¹ CODESA opened on December 20, 1991, in the World Trade Centre outside Johannesburg. It was strikingly different from the National Convention of 1908-9, when thirty white men created the Union of South Africa out of four British colonies, with a flexible constitution that enabled the white minority to establish a system of racial domination. CODESA comprised nearly three hundred delegates, most of them Africans, many of them women. There were delegations from the government, from eight political parties, and from the ten Homelands. But CODESA was boycotted by parties on both extremes that hoped to wreck the negotiation process: the Pan Africanist Congress (PAC) and Azanian People's Organization (AZAPO) on the African side, and the Conservative party and others still further to the right on the white side. Buthelezi allowed an IFP delegation to take part, but declined to do so himself' (Thompson, 2000:252).

²² The situation in South Africa 'is a fraud, a fake. If they had the elections tomorrow and if Nelson Mandela became president, there would be no change because whites would still control 87% of the land, the airports, the mineral wealth of the country. You can only have an alliance between equals. ...Why do we keep lying to ourselves and think that we can gain freedom without hurting anybody; everybody else in the world had to do it' (Hendrick Clarke, 1992).

Mandela became a saint and was profusely praised by the white world. Unlike the Mugabes of this world, Mandela was the darling of whites precisely because he not only steered clear of the race problem but also ensured, through his reconciliation policy, to keep the whites comfortable in their whiteness with all that whiteness entails.

This meant that major economic, political, and cultural institutions of white supremacy that systematically reproduced the marginalisation, exploitation, and powerlessness of blacks remained intact while the ANC and other parties developed the bill of rights which promised dignity, equality and freedom for 'all South Africans'. In consequence, the ANC failed to 'place racial justice, restitution, reparation(s) and redistribution at the heart of the legal and political transformation of the nation' (Modiri, 2015:261). For this reason, while Mandela saved South Africa 'from a bloodbath, his focus on the symbols and atmospherics of reconciliation was at the expense of real economic reform' (Mda, 2013), 'making neoliberal deals with white corporate elites' (Cornell West, 2018). These elites, who controlled 'more than 99.95% of [the] economy' (Russell, 2011: 178), were not asked to 'account for their wealth, created from the super-exploitation and dispossession of blacks' (Mngxitima, 2016 cited in Desai, 2018:506). According to Bond and Malikane (2019:01), white capital had an upper hand over the ANC and used its financial power to co-opt leaders of the liberation movement. This white monopoly capital also had a strong lobby to influence how the government developed policies²³ to the delight of Mandela 'who thought that he had them on board in what the ANC saw as a hostile economic climate' (Waldmeir, 1997: 255; Desai, 2018:506).

The transition from apartheid capitalism to neoliberalism in South Africa (1994 to today)

The context is the continuity – not change – in various systems of South African super-exploitation, from the era of racial apartheid to the post-1994 class-apartheid era. - Bond (2014:50).

The factional battles in the ANC, and among negotiating political parties (Bond, 2000) in the early 1990s, undermined the post-1994 project of reconstruction on various grounds. The apartheid economic and social order, defined by its Manichean world that favoured 'a cheap labour system for South Africa's mines and farms', prevailed during this transition, 'blocking the structural transformation of the South African economy' (Bhorat, Hirsch, Kanbur and Ncube, 2014:73). While the nation has strong democratic institutions, such as a free press, independent courts, and a financial system, they are not 'strong enough to change the

²³ 'Under Mbeki, these economic 'realities' continued but with an ideological orientation to nurture a black bourgeoisie' (MacDonald 2004, 648 cited in Desai, 2018:506).

oligopoly structure of the economy' (Sharma, 2014:61). In consequence, the change of governments from the National Party to the ANC became 'an elite transition' (Bond, 2000:16) 'which defined the strictures of the debate in terms of an 'elite pact' overseeing a neoliberal economy and a democratic election, in exchange for the demobilisation of the mass movement' (Gibson, 2011:25). As the author emphasises,

not only were free enterprise and property rights enshrined in every major economic policy statement and the Constitution itself, full-blown neoliberal *compradorism* became the dominant (if not universal) phenomenon within the ANC policy-making elite²⁴ (Bond, 2000:16).

Thus, whether framed by neo-Keynesian or neoliberal policies, the 'transition from apartheid' became 'an elite project²⁵ of capturing the state and the means of governance, in contrast to creating an expansive and inclusive democracy based in the activity of the mass movements' (Gibson, 2011:02). In 1994, despite the global recognition of the failure of neoliberal practices, such as market-oriented policies in areas such as housing and land redistribution at the time, the ANC under Mandela adopted the *Reconstruction and Development Programme (RDP)* as part of its move towards a more neoliberal or free-market capitalist policymaking (Bond, 2000; Bond, 2004), guided by the World Bank and International Monetary Fund.

While the ANC inherited a complex economy – already under \$20 billion-plus of apartheid foreign debt and the \$50 billion of domestic debt – post-apartheid elites decided to draw lessons from 'international experience' instead of focusing on the uniqueness of their local, and historical conditions. According to (Bond, 2000:91), the *RDP* had fragmented voices, multiple identities and irreconcilable discourses that could be understood in three forms: 'from Left (or 'socialist'), Centre ('corporatist') and Right ('neoliberal') perspectives'. As well as being partly influenced by right-wing ideas, such as maintaining excessively strict limits on state expenditure, the RDP failed to 'grapple with challenges posed by private property rights within the Constitution, especially with respect to land reform and evictions' (Bond, 2000:91). As Bond (2014:52) notes,

as a result of the fracturing of working-class power and growing distinctions within the class during the 1990s, the post-apartheid

²⁴ 'Rather than opening up new spaces for emancipatory politics, the avenues developed by the movements of the late 1980s were closed off and suppressed' (Gibson, 2011:25).

²⁵ This elite enterprise followed 'the script systematised in US-government-backed, political-science studies of transitions, which defined the strictures of the debate in terms of an 'elite pact' overseeing a neoliberal economy and a democratic election, in exchange for the demobilisation of the mass movement' (Gibson, 2011:25).

state adopted a version of neoliberal social policy: what we can term *tokenistic* welfare is provided to the majority of South Africans, including the 30 per cent or so who receive monthly grants. Measured in early 2014 exchange rates, most grants are \$29/month for supporting each poor child under age 18, but in addition there is a \$125/ month pension for people over 60 years old, whose relative generosity disguises deeper state commitments to neoliberalism.

The RDP appeared to be a progressive and interventionist social policy. However, in practice, the ANC government implemented 'aggressive neoliberal strategies of privatisation, liberalisation and deficit reduction to stimulate the economy and create jobs' (Cheru, 2001:505). In consequence, its socialist and centrist ideals could not find expression as the ANC government prematurely abandoned RDP²⁶ in favour of the Growth, Employment and Redistribution (GEAR²⁷) strategy in 1996 (Cheru, 2001). However, as the role of the *RDP* as a populist symbol had already been entrenched (Bond, 2000), some commentators, in and outside the ANC, erroneously represented the RDP-to-GEAR shift as the move from lefty-wing ideas to neoliberalism (Bond and Malikane, 2019). However, the RDP was merely

critical for status quo forces to establish an artificial distinction between the progressive micro-social policies and what came to be known, ironically, as 'sound' macroeconomic policy, in part by building a myth: the feasibility of combining a social welfare state in the developmental sphere with neoliberalism in the economic sphere (Bond, 2000:63).

This forwarded 'the idea that (some level of) redistribution is actually possible in a neoliberal economic policy setting', which advances privatisation and commercialisation of state and basic services such as the payment of social grants and electricity, as well as the re-structuring and re-scaling of the economy to meet the demands of global capitalism, thus disenfranchising more radical options in policymaking' (Ponte et al., 2007: 936). Thus, advancing the idea of the 'growth and redistribution approach' (or 'trickle-down') which started in the early 1990s, both RDP and GEAR followed 'the same neoliberal restructuring that began in the mid-1980s under the National Party of FW De Klerk' (Cheru, 2001:570) through either market-oriented policies or providing tokenistic relief to the poor (Bond and Khosa 1999, Bond 2014 cited in Bond and Malikane, 2019:02). GEAR continued under the

²⁶ Before the government decided to terminate the RDP in 1996, it had connected 'electricity to 1.3 million homes and one million new water supply connections (in both cases on strict commercial terms). The housing department claimed (in 1997) that some 193 000 houses were built, compared with the 40 000 built in 1996' (Cheru, 2001: 578).

²⁷ GEAR 'projected that 650 000 jobs would be created between 1996-98, when in reality about 300 000 jobs were lost. Its much anticipated massive increase in private investment has not materialised, and productivity increases have been hampered by the shortage of skilled people in both the public and private sectors' (ANC, 1998b cited in Cheru, 2001:523).

presidency of Thabo Mbeki who took over from Mandela in 1999 as the ANC maintained a third majority. The key strategies of GEAR included the following measures:

- a renewed focus on budget reform to strengthen the redistributive thrust of expenditure;
- a faster fiscal deficit reduction programme to contain debt service obligations, counter inflation and free resources for investment.
- consistent monetary policy to prevent a resurgence of inflation;
- a reduction in tariffs to contain input prices and facilitate industrial restructuring, compensating partially for the exchange rate depreciation; decreasing barriers to trade and liberalising capital flows
- tax incentives to stimulate new investment in competitive and labour absorbing projects;
- speeding up the restructuring of state assets to optimise investment resources (RSA, 1996).

GEAR also 'projected that 650 000 jobs would be created between 1996-98, when in reality about 300 000 jobs were lost. Its much anticipated massive increase in private investment has not materialised' (Cheru, 2001:523). Throughout RDP and GEAR, the ANC maintained these conditions and policies through the employment of 'what is often rhetorically-radical African nationalist rule', fashioning itself as a 'permanent' political movement rather than a ruling party (Bond and Malikane, 2019). The rhetoric not only ideologically masked the growing government corruption but also disguised the state's adoption of neoliberalism, representing the 'strategy for 'talking left' while 'walking right' (Bond, 2014:49). This rhetoric was more aggressive under Mbeki who was a staunch critic of neoliberalism on public platforms. As Mbeki (2002) notes, 'If we were to follow the prescriptions of neo-liberal market ideology, we would abandon the masses of our people to permanent poverty and underdevelopment'.

However, according to Bond (2006:11), Mbeki²⁸ merely compounded matters 'with his tendency to talk in a radical manner, while he acted to preserve the overall premises of capitalist globalisation'. His presidency (1999 to 2008) excessively encouraged 'rapid financial and trade liberalisation, massive tax cuts for the wealthy and big corporates, privatisation, fiscal austerity, monetarism, and other indicators of domestic neoliberalism' (Bond, 2006:194). These measures continued even when GEAR was replaced in 2005 by the Accelerated and Shared Growth Initiative for South Africa (ASGISA) which focused on reducing poverty by 2010, and halving unemployment by 2014 from the 28% in 2004 to 14% by 2012 without any tangible success as both unemployment and poverty increased among the black population.

²⁸ 'Talking left while oppressing the poor and working-class meant that Mbeki's project soon earned the epithet, even within the ANC Alliance, 'Zanufication' (Bond, 2006:191).

For these reasons, post-apartheid policies involved the extension and tweaking of apartheid-era social welfare policies (Bond, 2005) which merely increased the social wage which has now pushed the national debt to over R3-trillion. The terms of their political and economic arrangements amplified 'rather than correct apartheid capitalism's main economic distortions' such as land inequality and ownership patterns (Bond, 2000:24) despite efforts to construct South Africa as a thriving *rainbow and non-racial nation*. As Ballard (2005: 7–8) agrees, 'the change from segregation to assimilation [was] not necessarily a weakening of the White social agenda but a shrewd move that ensures the sustainability of White social control.' According to (Barchiesi, 2009 in Bond, 2014:54), these policies are 'characterised by a high degree of commodification, intended, borrowing from Esping-Andersen, as the dependence of social provisions and living standards on individual labour market positions and waged employment, rather than on subsidisation from either employers or the state'. Although some of these policies appear interventionist, they are merely introduced to ameliorate 'the worst consequences of apartheid and neoliberalism's effects on economic and social restructuring' (Ashman, Fine, Padayachee, and Sender, 2014: 73), suggesting that 'the deeper crises of society and economy are not being addressed effectively by the state' (Bond, 2014:48).

The National Development Plan and Racial Inequality in South Africa

South Africa is a very unequal society. It consists of two nations. One, a highly developed, 'first world', and the other an underdeveloped, 'third-world'. Racial and class differences generally coincide. Most members of the wealthy minority are white, and most members of the poor majority are black (Cheru, 2001:505).

In 2009, Jacob Zuma became president, becoming the third black president after Mandela and Mbeki, when the ANC maintained its domination despite rising inequality and poverty as well as unemployment in South Africa. His presidency, which just started when the world was recovering from the 2008 financial crash, adopted the New Growth Path (NGP) 'placed jobs and decent work at the centre of economic policy. It sets a target of five million new jobs to be created by 2020' (RSA, 2010). However, unemployment has largely stood at over 25 percent since 2000, reaching the highest of 30.40 percent in 2018 and 29.1 in 2020. Without meeting this target as well as shedding more jobs, the ANC government abandoned this socioeconomic plan in favour of the National Development Plan (NDP). According to the policy document, the NDP aimed to 'eliminate poverty and reduce inequality by 2030' (RSA, 2012). These promises have become religious under the ANC rule without any tangible shift as the socioeconomic conditions of Africans continue to go south due to rising poverty and

inequality, showing the patterns of apartheid system whose roots 'were most powerfully dug in when the settler-colonial economy emerged during the nineteenth century, exacerbated by the discovery of diamonds in 1867 and gold in 1886, and by the role of key financial institutions in directing capital accumulation' (Bond, 2000:20).

While the ANC presidencies of Mandela (1994 to 1999) and Mbeki (1999 to 2008) experienced modest economic growth, that growth did not translate into the reduction of poverty and inequality. As Bhorat et al., (2014:02) note, the 'three-year period 2005–07 represented the economy's most successful growth spurt, as annualized real GDP growth rates exceeded 5 per cent in each consecutive year'. However, this 'did not result in a windfall of jobs, rather what we had was escalating unemployment' (Desai, 2018:505). These issues gave birth to social movements which were disillusioned with the euphoria that came with the 'new' South Africa (Gibson, 2011), the systemic negligence by the government that impoverish many blacks, and the rise of rampant corruption and the unbridled accumulation of wealth by the ruling party apparatchiks that began when Mandela was president (Mda, 2013). The situation worsened under the Zuma presidency (2009–2018), which was 'dogged by persistent allegations of corruption and the looting of State Owned Enterprises (SOE's) by those allied to him' through tender-based capitalism which have also seen him firing two finance ministers in the space of five days which the markets reactive negatively costing the nation R 500 Billion. There allegations, accusing Zuma and the Guptas of capturing the state, were laid bare at the Zondo Commission in which Zuma was asked to testify. However, Zuma's defenders have argued that 'the real culprits of state capture, both historically and in contemporary South Africa, is white capital, through its ability to determine macro-economic policy' (Desai, 2018: 499).

Under Zuma, economic growth declined while the economy was downgraded to junk status by both Standard & Poor's and Fitch in April 2017. As former finance minister, Malusi Gigaba, noted in the 2017 Medium Term Budget Policy Statement, the NDP

targets sustained economic growth of 5.4 per cent per year to dramatically reduce unemployment, poverty and inequality. This year, we expect the economy to grow by only 0.7 per cent. This is clearly insufficient to achieve our development aspirations, and places pressure on our fiscal framework. Government remains committed to a path of fiscal consolidation. We will take steps to narrow the primary budget deficit and stabilise gross public debt, while protecting social spending and investments supporting economic expansion. Yet there are limits to what these measures can achieve.

The decline continues under Cyril Ramaphosa who became president after Zuma in 2018, undoing the main achievement of their ANC predecessors who 'had created a platform of macro stability—controlling debt and inflation—that at least gave South Africa a chance to grow' (Sharma, 2014:63). The South African Revenue Service (SARS), the government tax-collecting agency, started failing to meet the target of tax collection set by National Treasury²⁹ since 2014. According to Stats SA, 'GDP growth for [fourth quarter of 2019] was recorded at -1.4%, leading South Africa into a technical recession over the period, following a decline of 0.6% in the third quarter' (Businesstech, 2020).

Whether captured by white capital (through policy influence and state contracts or black bourgeoisie capitalists (through state contracts), the ANC government is generally amiable to corporate capital and interests (wealthiest strata) and tends to privilege 'the overall state budgets much more towards elites than in other societies' (Bond 2015 cited in Bond and Malikane, 2019:02). This problem is coupled by the 'systemic lack of accountability in fiscal and financial policies and the conniving role of major accountancy firms', making fraud³⁰ in 'state procurement contracts the single largest state expenditure annually' (Bond and Malikane, 2019:03). Making matters worse, wages paid to 'state employees take up 14% of South Africa's GDP – the second-highest proportion in a recent World Bank survey, just behind the UK' (the South African, 2019). The OECD's 2017 Economic Survey of South Africa notes that 'the public sector wage bill at 35.3% of the budget, and interest on debt at 10%, limits government's room for fiscal manoeuvre' (Ryan, 2019).

According to commentators, the combination of these economic challenges and the culture of corruption, as well as the ANC's adoption of neoliberalism, have negated the Constitution's³¹ promise of dignity, equality and freedom for all that were championed as aiming to help end the 'country of legacies of apartheid such as huge economic inequalities and entrenched poverty' (Madlingozi, 2007:77). They argue that this unaccountable economic system renders these promises 'facile and irrelevant [and] has generated huge inequalities while also deepening and leaving those of the past intact' (Modiri, 2015:39). Thus, as these causes are entrenched in the capitalist mode of production in the economy, 'a socialist economy would at least eliminate those aspects that can be traced to the drive for profits and for capital accumulation at any cost' (Bond and Malikane, 2019:01). However, calls for a socialist economy, which have seen the rise of the Economic Freedom Fighters

²⁹ According to (Bhorat et al., 2014:17), tax revenue, 'which amounted to 89.6 per cent of total revenue in the fiscal year 2012/13', is 'the single most important source of government revenue.

³⁰ Leading Treasury official Kenneth Brown estimated in 2016 'that vast shares of the annual tender budget are lost to overcharging by corporate suppliers of outsourced goods and services' (Bond and Malikane, 2019:03).

³¹ 'Despite the establishment of a liberal constitutional order, the inclusion of a large catalogue of "justiciable" socio-economic rights in the Bill of Rights, as well as legal reforms in the area of remedial equality and anti-discrimination law, Blacks still constitute the majority of the poorest and most disadvantaged stratum of South African society' (Modiri, 2015:07).

(EFF), the third largest and far-left political party in South Africa, have been squashed by the neoliberal media which repeats the narratives of the destruction of the Zimbabwe as the risk of pursuing a socialist economy.

Despite increasing spending on social wages, 'investment in education, health services, social development including social assistance to vulnerable households and individuals as well as contributory social security, public transport, housing, and local amenities' (World Bank, 2018:01), as well as revising its economic policies, the ANC continues to reproduce the architecture, framework and logic of apartheid³² in the distribution of benefits, rights and resources under its NDP. Thus, the expansion of social wage tends to alleviate poverty while doing little to address structural problems such as inequality and poverty. According to the World Bank (2018: 12-13), South Africa is

one of the most unequal countries in the world, with consumption inequality having increased since 1994.³³ Wealth inequality is high and has been rising over time. A polarized labour market results in high wage inequality. Intergenerational mobility is relatively low and serves as a barrier to inequality reduction. Poverty³⁴ remains high for an upper middle-income country with more than half (55 percent³⁵) of the population of South Africa being poor at the national upper bound poverty line of ZAR 992 per person per month in 2015 prices.³⁶

Writing almost two decades ago, Cheru (2001: 567) noted the same patterns of poverty³⁷, indicating that 'poverty is not confined to any one racial group, but it is heavily concentrated among black people: 61% of 'Africans' and 38% of 'Coloureds' are poor, compared with 5% of 'Indians' and 1% of Whites³⁸. Mostly considered 'chronically poor' (World Bank, 2018:19),

³² Colonialism 'bleeds into the postcolonial... The attitudes and systems of thought promoted by colonial classifications (racism, classism, orientalism, sectarianism, tribalism, and so on) are often uncritically if not unconsciously mimicked and promoted as truth because life for the majority is still organized through such categories' (Gibson 2013: 6).

³³ 'Inequality has remained stubbornly high. South Africa started the 1990s with already elevated inequality as the policy of apartheid excluded a large swath of the population from economic opportunities. South Africa's Gini—an index that measures inequality—has increased further in the early 2000s and has remained high ever since. Meanwhile, its peers have been able to make inroads in reducing inequality' (IMF, 2019).

³⁴ 'The trajectory of poverty reduction was reversed between 2011 and 2015, threatening to erode some of the gains made since 1994. At least three million more South Africans slipped into poverty during this period, with the poverty rate increasing from 36 percent to 40 percent. Not only did poverty rates rise between 2011 and 2015, the level of poverty became deeper and more unequal' (World Bank, 2018:21),

³⁵ This number shows an increase in people living in poverty. It was 'estimated that about 40% of the South African population may be considered poor. This translates into 3 126 000 households or more than 18 million citizens living below the poverty line' (Cheru, 2001:567).

³⁶ 'Nearly half of the population of South Africa is considered chronically poor at the upper-bound national poverty line of ZAR 992 per person per month (2015 prices)' (World Bank, 2018:19).

³⁷ In 2010, almost 55 per cent of this population group were considered poor according to the upper bound line, whilst 28 per cent of coloureds were considered poor at that line. In addition, the data show that in 2010, of the just more than 23 million South Africans who were poor according to the R577 a month poverty line, more than 94 per cent, or almost 22 million individuals, resided in African-headed households (Bhorat et al.2014).

³⁸ From 1995 to 2005, ... 'African households lost 1.8 per cent of their overall income (including wages, salaries, and unearned income), whereas white households gained 40.5 per cent' (Bhorat et al 2009: 8 cited in Bond, 2014:50).

blacks continue to represent the face of poverty, as well as the chronic unemployment, highlighting the continuing colonial and apartheid patterns of socio-economic inequalities. In particular, African individuals 'still account for the majority of the poor in the country, irrespective of the choice of poverty line' (Bhorat et al., 2014:06). According to Leibbrandt et al. (2010:33) 'across 1994, 2000 and 2008 the richest 10 per cent of the population took 54, 57 and 58 per cent of total income. The share of wealth of the 'bottom' 50 per cent of the population decreased from 8.3 per cent in 1993 to 7.8 per cent in 2008' (cited in Ashman et al., 2014:67). The education system³⁹, which accounts for 4 percent of the GDP, has been earmarked as one of the potential solutions of addressing inequality but 'the outcomes are disappointing' because 'the rates of graduation from secondary school have barely shifted since 1994' (Bhorat et al., 2014:17).

³⁹ Worse, this system experience structural inequalities which carried to the post-school systems according to racial and now class lines, largely painting the outcomes of apartheid education system.

Ownership of key resources and poverty in South Africa

The ownership of financial assets and key resources of the economy has been marked as one of the central features that highlights the reproduction of capitalist structures of colonialism and apartheid. As the World Bank (2018: xvi) notes, for the poor (mostly black and African) financial assets represent 36 percent of total assets compared to 75 percent for the rich (mostly white). This prevents many segments of the population from participating in asset accumulation and wealth building.’ Despite constituting 8 percent of the South African population, whites own and run over 70 percent of strategic industries of the economy, such as banking and finance, mining, tourism, agriculture, private health systems, construction, and automobile. In consequent, only 2 percent of companies on Johannesburg Stock Exchange (JSE) are fully under black ownership while 50 percent of these entities have less than 25 percent of black ownership and the remaining 46 percent of have more than 25 percent of black ownership (DTI, 2018:09).

Sector	2018		2017	
	Black Ownership	Black Women Ownership	Black Ownership	Black Women Ownership
AgriBEE	16.92%	6.70%	4.04%	1.07%
Construction	44.32%	16.25%	45.20%	4.75%
Financial sector	22.81	8.30%	42.82%	17.12%
Forestry sector	40.33%	12.81%	15.48%	3.58%
Generic sector	30.08%	13.78%	29.60%	12.45%
ICT	40.09%	19.40%	33.86%	9.97%
Transport	28.70%	9.47%	32.51%	11.02%
Advertising and Communication	23.68%	9.14%	34.82%	17.82%
Property	48.07%	14.84%	34.	8.20%
Tourism	34.44%	17.69%	41.35%	7.63%

Table 1: Black and Black Women Ownership of large entities (dti, 2018)

Black Economic Empowerment and Policymaking: A Lip Service

In 2001, five years after the abandonment of the RDP, the producers of BEE defined the policy as ‘an integrated and coherent socio-economic process that is located in the context of the country’s national transformation programme, the RDP’ (BEE Commission, 2001:37). Considering that the ANC stopped the RDP before the formalisation and legalisation of BEE as a government policy, it is unclear how the producers of the policy politically imagined its conceptualisation and implementation. Nevertheless, this followed the misguided idea that the RDP sought to restructure the apartheid economy. However, this symbolic connection between this construction of the RDP as a transformative macroeconomic programme and BEE contained fundamental and ideological implications which defined the ANC’s visions and principles of *empowerment* and *transformation* in South Africa. Without close reading of its political lexicon, and its institutional context, as well as its place in RDP, BEE became widely characterised as the ANC government’s transformative intervention that sought to undo the economic *legacies of both colonialism and apartheid* (Mohamed & Roberts, 2008; Krüger, 2011; Tangri & Southall, 2008; Bowman, 2019). Without providing empirical evidence, Heyns and Mostert (2018:19) argue that ‘BEE was introduced in South Africa, as part of the RDP and GEAR, to deracialise business ownership and to create a black middle class.’

However, how, and the extent to which, BEE sought to address these *legacies*, and which mechanisms should be put in place, remains a grey area. As Ponte et al. (2007:948) put it,

there are important differences regarding how, and on what terms, [redressing the legacy of apartheid or BEE] should be achieved. Apartheid fundamentally curtailed effective participation of black people in the country's economy and society through systematic discrimination in education, ownership, access to resources and opportunities.

Equally, the institutional discursive process through which BEE earned this political status has not been researched. However, despite these uncertainties, BEE continues to occupy a hegemonic space in the political and academic discourse as aiming to address these inequities. In consequence, political discourse 'about fundamental structural change in the economy has become limited to the discourse of [BEE], a discourse that supposedly promotes the development of a Black capitalist class' (Gibson, 2011:116). Without the provision of empirical evidence, its proponents justified its creation on the notion that 'one cannot expect the market to naturally remove the misallocation of resources left by Apartheid' (Acemoglu et al., 2007:11). For others, BEE represent the ANC's strategy of the growth and redistribution. However, this strategy raises two pressing questions: 'first, whether [BEE] is possible within a neo-liberal economic context and, second, how [BEE] might be depoliticised through appropriation in a context of neo-liberal governance' (McEwan & Bek, 2006:1030). As Tangri & Southall (2008:699) note, the ANC government 'pursues several important goals at the same time, sometimes emphasising equity and redistribution of wealth, and sometimes advocating rapid economic growth and corporate investment. These goals have been difficult to reconcile with each other.'

The ANC's macroeconomic policies, such as the NGP (2010 to 2012) and the NDP (2012 to 2030), which should ideally provide a blueprint for the implementation of BEE, have paid lip service to the policy and merely commented on its failures and the need for revision. As the NGP⁴⁰ indicates, the ANC has adopted the position that BEE 'should seek to empower all historically disadvantaged people rather than only a small group of black investors' (New Growth Path, 2010:50). The NDP indicates that the government 'should continuously seek to improve the efficacy of [BEE] models. Perceptions that the structure of the economy is unjust, historical inequities and new forms of empowerment that have benefited politically connected individuals fuel a culture in which corruption thrives, both in government and in business' (National Development Plan, 2012:46). However, Gibson (2011:118) suggests

⁴⁰ The document further indicates that 'to ensure a broad-based approach, instead imposing significant costs on the economy without supporting employment creation or growth, the present BEE model remains excessively focused on transactions that involve existing assets and benefit a relatively small number of individuals. The New Growth Path requires a much stronger focus on the broad-based elements of the BEE regulations – ownership by communities and workers, increased skills development and career pathing for all working people, and support for small enterprise and co-ops – as well as a new emphasis on procurement from local producers in order to support employment creation' (New Growth Path, 2010:50).

that 'corruption and patronage are not simply a consequence of BEE; rather BEE is a consequence of a limited transition that 'allows' a minority of the Black population to feed off state [and corporate] resources, the logic of which is of patronage, corruption, and exploitation.' This suggests that BEE policies lack an overarching conception and 'that the various elements of [BEE] have been formulated in... a vacuum' (Lindsay, 2015:06). For this reason, Shava (2016:161) notes that 'BEE as a black economic emancipation blueprint requires proper implementation and alignment with other economic policies such as the [NDP] to accelerate economic opportunities for the black majority.' Because of this misalignment, the ANC tends to 'use the language of race and nation in its trumpeting of the free market, while at the same time it narrows race to a political phenomenon disconnected from capitalist reproduction' (Gibson, 2011:116). Acemoglu et al. (2007) and Andrews (2008) have illustrated how BEE policies have failed to contribute to economic development and growth despite being hailed as progressive.

The Mineral 'Revolution' and the Mining Sector

The mining industry has been associated with the institutionalisation of colonialism and apartheid as well as positioning colonial governments in the global capitalism (Magubane, 1979). As the western imperialist capitalism evolved and expanded, the plight of black people increased with the discovery of the diamond in Orange River in 1867 and gold in the Witwatersrand in 1884. According to Magubane (1979:45), these discoveries coincided with the 'insatiable need of British capitalism for markets and raw materials including mineral wealth'. This mining industry attracted interest and foreign capital from other European imperialists. The country's capitalist system developed around this industry, especially gold mining⁴¹, and 'quickly became the [fulcrum and] "heart" of the entire political economy; in time, the heart became independent of the body it controlled, able to rely on its own institutions and its worldwide network of interests' (Magubane, 1979:105). The industry institutionalised racist practices which sharpened and reproduced race relations of the Cape Colony, and the already existing social practices of European western capitalist imperialism that used racism to justify slavery, political oppression, and exploitation. As Thompson (2001:111) notes,

⁴¹ In 1910, 'gold made up 80 percent of South Africa's exports. The Dominions Royal Commission of 1914 estimated that 45% of South Africa's total income was attributable directly or indirectly to the gold-mining industry. Today gold and its by-product, uranium account for almost half of South Africa's exports and are its major source of foreign exchange. In 1950 Sir Harry Oppenheimer, chairman of the giant Anglo-American Corporation, quotes figures to show that in 1946-1947 industrial raw materials valued at R 208 million (R1 = \$1.40) were imported, while exports of manufactured goods amounted to only R48 million' (Magubane, 1979:74).

perhaps the most fateful process of the period was the struggle that led to the racial structure of preindustrial, colonial South African society being applied in the mining industries. This was done by splitting the labour force between white workers, with skilled or supervisory roles, opportunities for advancement, high wages, and relatively good living conditions, and black workers, devoid of the means to exercise skilled or supervisory roles, poorly paid, and subjected to harsh living conditions in all-male compounds. A precedent was thus established for structuring industry on racial lines throughout the region.

Magubane (1979:80) notes that the mining industry⁴² 'sets the standards for the [racial and capitalist] exploitation of African labour'. The Truth and Reconciliation Commission branded mining in South Africa as 'the blueprint for grand apartheid' because of its history of exploitation of cheap black labour. While the mining industry boomed, the migration of black labour caused various injustices, such as the disruption of communities and family structures (Heyns & Mostert, 2018:02). This produced devastating political and social effects in Southern Africa and contributed to the distractions of African families through the housing and migration system.

The Mining Charter(s), Compliance and CSR

This section focusses on studies that have focused on BEE practices and outcomes in the mining sector, as well as the private sector in general. It shows how studies tend to ignore how the government and mining corporations employ political and corporate discourses to construct agendas of structural and political transformation. The government has introduced industry-wide charters to implement BEE in different industries, which also encourage corporations to do business with BEE-compliant companies (Ward & Muller, 2010). These Charters emerged through industry consultations. Although not supported by empirical evidence, Manning and Jenness (2014:313) argue that the ruling party justified BEE initiatives on two basic principles: economic and moral. Its economic premise sought to incentivise the private sector to offer shares to black people by rewarding compliance. The moral premise advocates redress and reparations for the sins of apartheid and colonialism. However, despite the introduction of BEE and equity policies in the sector (Dansereau, 2010), mining corporations still exploit African people who work under some of the worst working conditions and safety records in the world (Hattingh, 2010). According to Hamann

⁴² The sector 'only appointed black people in semi-skilled positions while others maintain business introduced migrant labour, single-sex hostels, workplace segregation through the division of labour on racial grounds and discriminatory salaries, and by providing services, technologies and weapons that were directly used as a means of oppression by the apartheid government' (Babarinde, 2009 cited in Ramlall, 2012:272).

et al. (2008: 21), how 'BEE charters are implemented [depends on] collaborative negotiation and hard-ball bargaining' that is guided by the 'particularities of the sector and the company at hand'. Analysts state that the Charters do not clearly define the role of government in this process (Kloppers & du Plessis, 2008). In consequence, the government leaves everything in the hands of the industry to manage its own affairs. Since their inception, the ANC government has drafted and revised three Mining Charters since 2004 to implement the objectives of Mineral and Petroleum Resources Development Act (MPRDA) which was enacted in 2004. The Charter aims to 'ensure that the economic benefits resulting from mining are shared with those affected by the history and activities of the industry, such as mining communities' (Heyns & Mostert, 2018:21). While the government continues to revise these Charter(s), structural and historical problems in the mining sector remain (Dansereau, 2010).

Writers have criticised the Mining Charter and the Social Labour Plans (SLPs⁴³) for failing to help ensure a fair distribution of benefits to address poverty and underdevelopment (CALS, 2016; 2017; Bowman, 2019). Heyns and Mostert (2018) argue that the Charter advances the neoliberal paradigm of community development which uses the rhetoric of development without making a 'meaningful change' in the mining-affected communities. Rather than help address issues of 'community development', the ideological practices of this paradigm tend to misrepresent BEE beneficiaries. As the authors note, 'if development is regarded as assisting the poor, poverty must be defined to become measurable. It is here where the misrepresentation or misconfiguration of the beneficiaries of development can be witnessed' (Heyns & Mostert, 2018:15; McEwan et al., 2017). Although the Mining Charter(s) represents the paradigm of development in the context of BEE – or 'empowerment' as universal and objective, it remains an ideological process which implies 'a particular worldview that may cause a disconnect between the creator of development policies and the developing subject' (Heyns & Mostert, 2018:04). As the authors further note,

the rhetoric [of development] creates expectations with mining communities that mining companies cannot meet, placing significant pressure on the already volatile relationship between mining companies and mining communities (Heyns & Mostert, 2018:03).

How the creators of the Charter emphasise the rhetoric of development without clearly defining the concept of 'community' tends to increase problems in the mining sector. Although this conclusion is plausible for showing how the concept of development is politically problematic, it tends to highlight one aspect of the problem. It would have been critical if the authors considered other sociostructural processes that demonstrate that

⁴³ SLP Guidelines, which 'address much of the content of SLPs, are not hard law and thus cannot function as a prescriptive framework. Second, the vast majority of the SLPs did not provide evidence that there was a plan for community participation in the design, operation, amendment and termination' (CALS, 2017:66).

implementation of BEE takes place in the already conflict-prone environment. Furthermore, their conclusion tends to rely on a legal content analysis alone which may not help offer insights on social processes. Their study focusses on what the policy intends to achieve while ignoring the nexus of discourse, ideology and power, as well as how structural processes could reframe BEE to expand power. The approach produces predictable and deterministic outcomes considering that the mining sector is already conflict prone.

Equally doing a legal content analysis, Kloppers and du Plessis (2008:91) note that BEE legislation merely uses the language of social responsibility to 'bring about measures to achieve some of the CSR objectives' in the mining sector rather than carrying legal liabilities. These authors reduce BEE legislation to quasi-legislation because the government does not authoritatively enforce it. Although this argument partially carries some weight, regarding BEE legislation as merely seeking to achieve CSR objective tends to ignore social processes, such as the endogeneity of law, that may help shape government laws and policies (Fig, 2005). Importantly, while the study looks at language, it focuses 'on what element' of the legislation while ignoring the 'how' aspect which offer insights on discourses and critical issues of power.

Other writers have continued to associate BEE with CSR despite the former carrying legal implication even though under limited enforcement. While Ramlall (2012) believes that the private sector generally treats its implementation of BEE policies as CSR strategies, Akinsomi, Kola, Ndlovu and Motloun (2016) indicate that corporations that implement BEE policies are regarded as being socially responsible. According to Wolmarans and Sartorius (2009), corporations consider the selling of their shares to black entrepreneurs, businesses, and workers as CSR. While associating BEE with CSR may be relevant in other sectors, especially because BEE scoreboards do measure CSR practices (Diale, 2014), it may not make sense in the mining sector where implementing the objectives of the Mining Charter is legally associated with the mining licence.

Other observers have criticised BEE measures, such as the SLP⁴⁴, for encouraging international models of CSR. They regard these as incoherently based on self-regulation, resulting 'in a region-specific understanding of CSR developing in South Africa' (Ramlall, 2012:272). This argument equally emanates from issues of enforcement, necessarily considering that some requirements of BEE policies, including scoreboards – except for ownership and representation at management levels – generated criticisms for their rigidity and mechanistic approach. Not only were they criticised for creating rooms for manipulation

⁴⁴SLPs 'displayed limited engagement with the social and economic dynamics in mining areas and how these informed the design of SLP projects. Most projects had not been preceded by feasibility analysis' (CALS, 2017:66; CALS, 2016).

but also for encouraging companies to provide quantitative answers without giving explanations. These measures also 'set targets but have no sanctions in case of non-compliance' (Ponte et al., 2007: 946). Since the government seemingly does not impose sanctions on noncompliance, BEE policies are seen to be voluntary and CSR-driven in this context. As Hamann et al. (2008:21) argue,

business has been eager to portray and mould the process of defining and implementing BEE in a way that emphasises business voluntarism and ownership of decisions taken. Some business leaders subsequently declared the final charter as being in the enlightened self-interest of mining companies.

Because of these issues of regulation and noncompliance, BEE policies, as well as how they have been reframed, discounted, and invalidated by the government and mining corporations (Makgoba, 2019), have catapulted CSR into the 'transformation' agenda (Mersham & Skinner, 2016). Writers such as Manning and Jenness (2014) and Diale (2014) indicate that BEE has facilitated the culture of box-ticking and performativity in different sectors, which focuses on superficially complying with BEE scores. As the authors note,

analysts bemoan the 'tick-box' mentality that has become prevalent in many companies, with the emergence of a strong compliance culture, widely perceived to have developed sophisticated mechanisms to 'game the system' to achieve high scorecards. The government remains concerned that companies treat BBEE as largely a compliance issue (Manning & Jenness, 2014:319).

These authors also observe that the application of one-size-fits-all systems and codes of good practice promotes this tick-box-processes – failing to explain 'the reality of dynamic and unpredictable global and local conditions' (Manning & Jenness, 2014:319 citing in Cargill, 2010).

Despite these concerns relating to enforcement and associating BEE with CSR, Mueller-Hirth (2015:51) notes that the government forces the private sector to 'adopt socially responsible policies that are more advanced than those in many of the richer economies.' By comparing South Africa with other 'rich economies' this way, Mueller-Hirth (2015) tends to make this conclusion without considering the social and historical context that shape BEE policies, especially the role of the private sector in the institutionalisation of the apartheid and colonialism (Heyns & Mostert, 2018:21). As Hamann (2009: 435) notes, 'the country's complex and painful history has significant implications for how CSR is understood and implemented [because] big business has been implicated in human rights abuses committed under apartheid.' Furthermore, Visser, Middleton and McIntosh (2005) support moral volunteerism, and maintain that the private sector is better positioned to improve social and

environmental conditions in Africa. They also call for the resolution of confrontational politics and differences among civil society, the government and the private sector to forge partnerships that drive a transformative rather than ameliorative CSR agenda. Murray (2000:203) describes this call and BEE as the promotion of 'token corporate blackwash' because 'there is nothing patriotic about capital – it knows no community, state or national loyalty – only the incoherent march towards globalisation.'

The common denominator among the above-discussed studies is that they highlight that BEE activities tend to reproduce CSR discourses and practices. How these studies deal with compliance, CSR and the Mining Charter remained focused on the outcomes of BEE without extending the debates beyond this limitation. These also tend to reduce BEE and its discourses to CSR and the dichotomy of non-compliance and compliance without examining how the government and the private sector constructs BEE. This effectively ignores issues of power and social structures that emerge from BEE discourses. Furthermore, they mainly emphasise that BEE projects CSR tendencies because it is not legally binding, or rather the government has not authoritatively enforced its legislation. Kloppers and du Plessis (2008), and Mueller-Hirth (2015) look at this from the structure of the legal framework while other studies such as Ramlall (2012), Diale (2014), Akinsomi et al. (2016) focus on corporate actions. Manning and Jenness (2014) have not made judgement about BEE and CSR but have highlighted the weaknesses of the policy relating to compliance.

While Heyns and Mostert (2018) have not made any judgement about CSR, they have looked at the structures of the legislation and how it mischaracterises BEE beneficiaries, effectively dealing with the outcomes of BEE. While these studies demonstrate the weaknesses of BEE that comes with lack of enforcement, and the subsequent non-compliance, as well as the weak structures of the legal framework, they remained limited at this level of outcomes. Their approach plausibly highlights the problems of BEE legislation and policy. However, it has not asked questions about the potential functions of the 'failures' and the 'side-effects' of BEE that comes in the form of CSR, for instance, as well as how the construction of BEE may raise issues of power. Thus, merely indicating that BEE is not working, or is reduced to CSR because of the limitation of legislation, may miss the chance of addressing important questions relating to political functions of CSR in this context and BEE in general.

BEE, Black Ownership, and Racial Inequality in South Africa

The ANC government uses BEE to encourage mining companies to 'transform' their ownership and management structures by increasing the number of black people, as well as

selling stakes to black people and businesses (Thomas, 2014). This is part of meeting the requirements of the Mining Charter. Different studies have looked at this issue and mainly criticised BEE for creating the politically connected black elite rather than help promote wider 'redistribution' or 'transformation' (Tangri & Southall, 2008; Bowman, 2019). This also raises important questions about the political mandate of BEE, as well as how it has been conceptualised (Lindsay, 2015) and its connection with the agendas of structural and political transformations which relate to redressing the legacies of apartheid and colonialism. It also cast doubts over the country's image in the eyes of foreign investors who see the policy as an economic deterrent (Wolmarans & Sartorius, 2009; Schneiderman, 2009).

BEE studies dealing with the subject of ownership tend to demonstrate a complex scholarly preoccupation with the outcomes of BEE. They have consistently demonstrated that the policy failed to achieve its intention of ensuring wider redistribution by creating a small number of politically connected black elites. Despite this consistency, no study has investigated whether BEE outcomes may be serving power or 'can end up coming together into powerful constellations of control' (Ferguson, 1994:19). Thus, they have not examined how these outcomes, which may represent the failures of BEE, may achieve other political activities. Equally, while BEE studies have identified the creation of the black elite as one of the failures of BEE, their focus does not fully engage the social process through which this happens. They also ignore how government and corporate discourses may serve power and maintain domination and oppression in more symbolic forms.

For instance, Tangri and Southall (2008) have looked at ownership patterns that emanate from BEE transactions in the private sector and argued that BEE has created the black elite. Southall (2007) has observed the same trend in the mining sector. As Tangri and Southall (2008:701) put it,

BEE has amounted mainly to the transfer of shares, which have been acquired disproportionately by a small number of prominent, politically connected black figures. This handful of persons has amassed large fortunes from empowerment transactions and accompanying directorships.

This tends to suggest that BEE had a larger purpose rather than the creation of these black figures. The term, 'empowerment', remains undefined and is loosely used to refer to BEE, to suggest some form of marriage without engaging how the government has constructed the term in the legislation and policy documents. In this context, 'empowerment' mainly relates to (re)distribution rather than institutional transformation. While many black people primarily remained marginalised, and excluded from the economy, politically black figures continued to receive lucrative BBBEE deals (Manning & Jenness, 2014). Others accessed these BBBEE deals by using their political connections to do business with the state through what

is now called *tenderpreneurship* (Mbeki, 2009; Kassner, 2015). Mbeki shares the conclusion of Tangri and Southall (2008) and believes that the entrenchment of systemic patronage and cronyism in BEE practices has created a toxic ideological framework for wealth creation among the black elites who work closely with white-owned corporations. As Mbeki observes,

BEE [has] become both the core black ideology of the black political elite and, simultaneously, the driving material and enrichment agenda which is to be achieved by maximising the process of reparations that accrue to the political elite (2009: 61).

While Tangri and Southall (2008), as well as Mbeki (2009), mainly regard the creation of this black elite as an outcome of BEE, Manning and Jenness (2014) focus on the consequence of this creation. They argue that the enrichment of these black capitalists promoted the perception that the ANC government merely created BEE to enrich politically connected elites because of how BEE created the culture of rent-seeking. As Kassner (2015:106) agrees, 'BEE deals now effectively necessitate political connections more than business skills, perpetuating a government-led de facto system of patronage rather than an equal opportunity meritocracy.'

According to Manning and Jenness (2014), rent-seeking helped justified the inclusion of smaller black businesses in all areas of the economic value chain. Furthermore, the fact that members of the elite class and ANC activists such as current president Cyril Ramaphosa (former Secretary-General and chief constitutional negotiator in 1994), Tokyo Sexwale (former Gauteng provincial premier) and Mathews Phosa (former premier of Mpumalanga province and former ANC Treasurer-General) have benefited from BEE deals has done nothing to dispel this negative perception (Schneiderman, 2009). Ramaphosa also headed the BEE Commission, a non-government organisation, which was 'envisioned as a vehicle through which to address this specific perception of the flaws of BEE, as well as to provide a coherent understanding of the definitions and processes associated with it' (Ponte et al., 2007:11).

While maintaining the logic of focusing on the outcomes of BEE, other scholars maintain that black ownership transactions remained cosmetic while white companies still largely maintain and exercise their corporate power over this black elite. These transactions resulted in what they call 'passive' ownership of minority black shareholders who held shares in white companies without 'control and direct underlying company assets or to use their voting rights to drive the transformation agenda within companies' (Murray, 2000; Manning & Jenness, 2014:318). As Schneiderman (2009:08) agrees, 'voting rights were circumscribed while black directorships may have involved no operational control over productive assets, giving rise to the phenomenon of BEE corporate fronts.' This contributed to the emergence of BEE

equity 'sleeping partners' in white businesses (Tangri & Southall, 2008). This trend, as well as other evidence of nepotism and cronyism, prompted an anti-apartheid activist Desmond Tutu to lambast BEE for benefiting what he called a small 'recycled elite' (Schneiderman, 2009).

How the ANC government has given this elite power, in fact, has worsened structural problems, such as black poverty in already disempowered communities and groups (Iheduru, 2004; McEwan & Bek, 2006; Kovacevic, 2007) while maintaining the survival and dominance of 'white capitalist class' and 'the defence of property rights' (Malikane & Ndletyana, 2006). Malikane and Ndletyana (2006) tend to highlight the political activities of BEE but their work tends to focus on the intention of the State rather than the outcomes of BEE. They regard the creation of this black capitalist class through BEE deals as the ANC's attempt to legitimise the construction of its 'rainbow' neoliberal economic and political system. This black capitalist class helps maintain this political stability, concealing the already opaque link between white power and corporations and mass black poverty (Iheduru, 2004, 2008).

Despite these concerns, the ANC government regarded this approach of increasing black ownerships as a quick way of deracialising the private sector (Williams, 2005). This followed the long-stated logic of creating 'patriotic capitalism to ensure that there emerges a black bourgeoisie' (Murray, 2000:183) that would, in turn, work to fight poverty and to empower broader black communities (McEwan & Bek, 2006; Iheduru, 2004). On the contrary, the approach continues to spark controversy, raising ethical questions, as income and wealth inequality, underdevelopment, and structural inequity, remained acute (Babarinde, 2009). As McEwan and Bek (2006:1024) note, 'many black people are ambivalent about BEE and suspicious of self-interest amongst the small black elite that has emerged since 1994.' This remains one of the negative impacts of the ANC's focus on changing ownership patterns without a clear policy to achieve a wider distribution of wealth (Manning & Jenness, 2014). According to Heese (2003), this narrow focus shows that the government does not engage in inclusive and wider consultation to broaden the implementation of the policy. Although stakeholder engagement seems a plausible approach for policymaking, it does not guarantee any good result in increasing the number of beneficiaries.

The common denominator among these studies and arguments is that they focus on the outcomes of the policy, as well as its limited impacts. They also focus on the actions of the private sector while ignoring the construction and discourse of the policy, as well as how structural operations may shape its outcomes. By relying on these aspects of the policy, these studies tend to produce deterministic results and conclusions which tend to blame the

state and the private sector without engaging how the policy was institutionally constructed in the first instance. Furthermore, they ignore how the government constructs the legislation and proceed to measure its outcomes. For that reason, this research closes this paucity of research by examining how the government and mining corporations employ BEE discourses to construct the symbolic agendas of structural and political transformation and the discursive and political consequences of their construction. This displaces the opaque connection between BEE and the transformation of historical, structural and power inequities.

Displacing BEE and ‘Transformation’ Discourses in South Africa

BEE is hegemonically associated with the transformation of historical, structural and power inequities in the private sector in both dominant academic and political discourses (McEwan & Bek, 2006; Bek, et al., 2007; Kovacevic, 2007; Du Toit et al. 2007; Hamann et al., 2008; Krüger, 2011; Herman, 2014; Diale, 2014; Shava, 2016; Heyns & Mostert, 2018; Makgoba, 2019). As Ponte et al. (2007:948) put it, ‘in translating the ambitions of BEE to redress the apartheid legacy into policy practice, the ANC government denied itself the option of following the blueprint of ... Afrikaner nationalism.’ However, the process through which BEE earned this status remains unclear. The policy continues to occupy a hegemonic space in the political and academic discourse, as aiming to advance the transformation of the above-mentioned inequities in the private sector. Nonetheless, this association has informed these studies that uncritically accepted BEE as a structurally and politically transformative tool (or rather the link between BEE, empowerment and transformation) while ignoring discursive practices, processes, social relations and institutional rules that guided, shaped, produced and constrained its production.

It is unclear how this association developed and became entrenched, because the government has failed ‘to deal with existing corporate structure and the control of the ‘commanding heights’ of the economy’ (Ponte et al., 2007:935). It is also unclear because ‘policy has always been oriented to the best way to allocate the surplus for individual and collective consumption rather than the more central question of the best way to control the process to realize social needs and the full potentialities of human beings’ (Smith & Judd, 1984:184). Furthermore, policy tends to hide mechanisms of power, as well as political interests, instead of addressing social and political problems (Rajak, 2006). Equally, the issues that constitute “good policy”—policy which legitimises and mobilises political support—in reality, make that policy rather unimplementable within its chosen institutions and regions’ (Mosse, 2003: 1).

Despite this, BEE studies have necessarily accepted BEE as leading the transformation of historical, structural, and power inequities in the corporate sector and have gone to investigate, and make judgments on, its outcomes without critically scrutinising its construction, rhetorical and discursive practices. Firstly, these studies have not made attempts to deconstruct BEE legislation and policy to understand the nexus of discourse, ideology, and power. This is despite that language-in-action 'indexes power, expresses power, and is involved where there is contention over and challenge to power' and 'functions in constituting and ... organizing social institutions, or in exercising power' (Wodak & Busch, 2004:109). Secondly, they have not deconstructed BEE legislation and policy to understand the government's political interests and stakes that may be scaffolded by *defensive rhetoric* and *reifying discourse* (Potter, 1996). Because of missing these two elements, these studies consequentially tend to ignore how BEE tends to serve power because of the complexities of structural operations and productions.

For instance, Du Toit et al. (2007) have examined the process of managerialism in the South African wine sector and the use of codification technologies, codes of conduct and sectoral BEE charter, scorecards, and auditing as part of implementing BEE. They observe that the wine industry has responded to BEE's calls for 'equitable change' by containing and sidelining them. Thus, instead of making a radical rupture with its racist past by altering structural relations, they argue, this industry has not only been slow in undergoing transformation but has also developed ideological and managerial ways of continuing its racism. Furthermore, Du Toit et al. (2007) argue that the industry has adopted modes of deracialising exploitation, including deploying an essentialist racial discourse, to diffuse its responsibility of seemingly 'empowering' black workers, and of changing labour regimes that reify exploitative power relations. Because of this, they note, the industry offers ahistorical notions of blackness, which disconnects the existing exploitation of African and coloured workers from the country's history of racial slavery. They argue that

if the BEE process, currently in-between phases two and three, reaches the 'fourth phase' without addressing the underlying structural, racial and power inequalities on which the South African wine industry is based, there will be little space left afterwards for meaningful action. In other words, once the Wine BEE Charter is agreed upon and legalized, and auditing, certification and accreditation processes start, BEE will be a 'done deal' and is likely to assume an ever more technical and apolitical (managerial) character (Du Toit, et al., 2007: 28).

Du Toit et al. (2007) operate with the thesis that BEE aims to address structural, historical, and power inequities, effectively reconstructing the policy as a macro concept, which can transform institutional practices and structures. They also argue that these processes

contribute to the depoliticisation of transformation and turns it into a technocratic and managerial entity. As they put it, 'the codification of BEE criteria in complex technical scorecards further removes the terms of transformation from political struggle and contestation' and reduces transformation to a marketing exercise (Du Toit et al., 2007:30). Du Toit et al. (2007) also tend to use 'transformation' and BEE interchangeably, suggesting some sort of marriage while remaining vague by using phrases and words such as 'equitable change' and 'transformation'. However, what is clear is that they assume that BEE aims to advance the transformation of the above-mentioned inequities in the wine industry. Their conclusion vaguely talks about 'meaningful actions' which tend to depart away from the central points about structural, racial and power inequities.

Du Toit et al. (2007) are not alone in expecting BEE to lead this mode of transformation in the private sector. Despite the uncertainty relating to the concept of 'empowerment', as well as its special meaning in the context of BEE legislation and policy, McEwan and Bek (2006) equally tend to accord BEE a complex structural and political status of leading the transformation of macrostructures. As the authors conclude,

equating empowerment with economic empowerment threatens to reinforce structures of domination, rather than transforming them, while leaving power relations largely untouched. Until more radical understandings of power and empowerment are acknowledged and incorporated into government policies the failure to address broader issues of social and economic transformation will persist and policies aimed at the empowerment of marginalised individuals and communities will continue to have apparently pre-determined and depoliticised outcomes (McEwan & Bek, 2006:2022).

Their study plausibly notes that 'empowerment' has generally been poorly defined. However, rather than showing how the concept of 'empowerment' is dealt with in the legislation and policy documents, they depend on interview data to draw conclusions. McEwan and Bek (2006) tend to base their arguments on the label or the name of the policy without discursively dealing with how the government constructed its concept of 'empowerment' in the legislation and policy documents. Ponte et al. (2007:934) share the sentiment of McEwan and Bek (2006) and argue that 'short of a major shift in conceptions of — and policy for — BEE, meaningful 'empowerment' is unlikely to take place.' Just like Du Toit et al. (2007), McEwan and Bek (2006) and Ponte et al. (2007) assume that BEE relates to 'empowerment', as well as 'transformation' and 'empowerment' without engaging the questions of construction from the beginning. McEwan and Bek (2006) have then interviewed key informants to draw conclusions while using theories of empowerment and power without fully engaging the specific construction of the concept in the legislation and policy documents beyond its label.

Treating BEE this way, or rather detaching the concept of 'empowerment' from 'black economic empowerment' tends to reconstruct a new process that decontextualises the meaning of empowerment when it is connected to BEE legislation and policy. As a result of holding this view, as well as decontextualising, or separating empowerment from BEE, McEwan and Bek (2006) plausibly argue that 'empowerment' does no longer mean enabling black people to have greater political and economic autonomy. Rather it is based on 'a new notion of citizenship, in which previously-disadvantaged individuals are "trained" to see themselves as stakeholders with choice and voice' (2006:1031 cited in Du Toit et al., 2007). This argument plausibly demonstrates the reframing and the perversion of the concept of empowerment in its original, structural and political sense. However, the authors have not provided textual evidence to demonstrate how this new construction of empowerment differs from how the government constructed its version of empowerment.

Furthermore, it is rather vague to consider the concept of 'empowerment' in the concept of BEE as meaning the concept of 'empowerment' in South Africa because BEE is not a macroeconomic and institutional policy. As Shava (2016:161) notes, 'BEE ...requires proper implementation and alignment with other economic policies.' Although its unique framing ought to transform the political discourse, as an order of discourse, it should be allowed to retain its meaning as embedded in its BEE legislation and policy documents. The authors tend to consider the meaning of 'empowerment' in the context of BEE as universally accepted in South Africa. The issue with this approach is that it tends to overstate the position of BEE in the country's political system and tends to consider it as a macrostructural issue. As Heyns and Mostert (2018:03) note,

in the post-apartheid South African economic landscape, the idea of "empowerment" has been given special meaning in the concept [of] BEE. BEE serves as a vehicle for the transformation of the South African economy.

As noted here, Heyns and Mostert (2018) acknowledge the existence of a special meaning of 'empowerment', which is specific to BEE. However, they note the special nature of the concept without investigating and providing how did BEE become known as a 'transformation vehicle'. Furthermore, the work of Makgoba (2019) reflects this vague connection between empowerment and BEE by arguing that mining corporations employ their discursive strategies to [re]frame and [in]validate the political meaning of BEE. This empowers corporations themselves with symbolic capital but disempowering the government through de-politicising its transformation and empowerment agenda.

However, Heyns and Mostert (2018) and Makgoba (2019), alongside McEwan and Bek (2006), have accepted the connection between BEE and transformation without critiquing

the government's political interests and stakes that may be ideologically hidden and carried by its discourse and rhetoric. Their description of BEE demonstrates one of the ways in which BEE invaded the political discourse as advancing the transformation of historical, structural and power inequities. The main issue here, which preoccupies this thesis, is the tendency by these researchers to use government policy as a theory and then proceed to study its outcomes. They also use 'BEE' and 'transformation' as well as 'empowerment' interchangeably. While the concept of transformation here remains vague, it also runs the risk of accepting the government's rhetoric and discourse at face value, as reflected in the concept of 'broader-based empowerment', without critiquing the government's political interests and stakes.

As with the concept of 'meaningful actions' as employed by Du Toit et al. (2007), the notions of 'broader issues of social and economic transformation' (McEwan and Bek, 2006) remain vague. They also problematically associate BEE with the transformation of historical, structural and power inequities. The work of Bek et al. (2007), just like that of Du Toit et al. (2007), and McEwan and Bek (2006) associates BEE with this mode of transformation, accepting the policy as aiming to address historical and structural injustices of colonialism and apartheid. As they argue,

although employment legislation seeks to address class-based imbalances, [BEE] legislation has sought to tackle the racially delineated inequalities inherited from the previous regime. These two facets of legal change define the legislative parameters within which the wine industry operates but enormous obstacles to transformation persist (Bek et al., 2007:306).

Equally, just like how they may have accepted government's rhetoric and discourse without critiquing it, the authors have accepted one of the activities of the South African Wine and Brandy Company (SAWB), an NGO, as 'facilitating transformation through the production of a scorecard system that rates individual companies according to their achievements in delivering empowerment' (Bek et al., 2007:308). The notion of transformation here remained undefined, lacks a historical context, and runs the risk of politicising and overstating the work of SAWB even though it is based on depoliticised discourses of managerialism and auditing. Furthermore, Bek et al. (2007) consider empowerment as something that can be delivered. However, empowerment cannot be possessed or delivered. Empowerment can be regarded as a

condition of enablement, which usually involves a configuration of social rules and social relations, as well as an individual's self-conception and skills. [Empowerment] is a concept of enablement rather than possession; it refers to doing more than having. A person [is empowered] if he or she is not constrained from doing things, and lives under the enabling conditions for doing them (Young, 1990: 26).

Equally, the work of Diale (2014:24) found that how South African mining corporations treat the Mining Charter paints 'a bleak picture on the responses by the mining industry at macro or on aggregate level to tackle post-colonial and post-apartheid legacies' (Diale, 2014:24). Diale (2014:24) has concluded that mining corporations 'embrace the provisions of the Charter for convenience and compliance and not so much out of necessity.' Diale's argument is trapped in vagueness, just like how McEwan and Bek (2006), Du Toit et al. (2007), and Bek et al. (2007) have loosely used the term, 'transformation'. While it is not clear what 'necessity' is in this context, the author assumes that BEE, or rather the Charter, should '*alleviate the injustices of the past*' or lead macrostructural transformation (Diale, 2014:15).

Although the argument of Diale (2014) and Bek et al. (2007) remains vague, it has indicated that BEE legislation and policy aim to change historical, structural and power inequities. Shava (2016:166) has equally accepted BEE as intending to advance the change of these inequities and has gone to study whether BEE can empower and 'transform the lives of million citizens as enshrined in the policy documents.' The study concludes that corruption, fraud, mismanagement, poor accountability, lack of monitoring and evaluation, difficulties in registering companies 'have hindered the capacity of BEE to become an economic imperative aimed at redressing past imbalances' (Shava, 2016:168). Kovacevic (2007: 6) agrees, BEE 'programme has achieved little success in eradicating poverty, increasing employment or fostering economic growth.' In addition, while their study did not focus on the outcomes of BEE, Hamann et al. (2008:01) note that 'the BEE charters prejudice more fundamental socio-economic transformation in the interests of the established corporations'. While this argument equally regards BEE charters as expected to lead above-mentioned form of transformation, the authors seem to suggest that BEE has not changed the status quo. However, because of the marriage between BEE and the undefined concept of transformation, as well as empowerment, the authors have used the concept of transformation this way. Nonetheless, determining whether BEE legislation seeks to address apartheid inequalities or not requires one to engage issues of language and power as reflected in both government and corporate discourses to engage 'domination and oppression in [their] linguistic forms' (Fairclough, 1995a:02). This should precede the study of the outcomes of the so-called 'transformation initiatives' which are ambitiously expected to deal with the legacies of apartheid and colonialism.

The common denominator among these studies is that they have accepted BEE as aiming to advance the transformation of historical, structural, and power inequities in some way or another. They proceed to study the outcomes of BEE in different forms. McEwan and Bek (2006) interviewed different officials in the wine sector to understand how they understand

the concept of 'empowerment' as well as studying different 'empowerment initiatives'. They do not specify how they engaged BEE legislation. Bek et al. (2007) studied SAWB and WIETA's 'transformative impact' within the wine industry, stakeholder perceptions, and improvements. Equally, focusing on the wine sector, Du Toit et al. (2007) relied on content analysis to examine the implementation of the sectoral BEE charter, and scorecards. Herman (2014) examined how 'empowerment' could potentially contribute to inclusive development. McEwan and Bek (2006), Bek et al. (2007), Du Toit et al. (2007), Herman (2014) and Makgoba (2019) as well as Ponte et al. (2007) tend to use the concepts of 'empowerment', 'transformation' and BEE interchangeably to suggest some sort of marriage between them. They also separate the term, 'empowerment' from the concept of 'black economic empowerment' while ignoring how the government constructed BEE from the beginning.

Heyns and Mostert (2018) and Makgoba (2019) have focused on mining and equally followed the same patterns of assuming that BEE aims to advance the transformation of historical, structural, and power inequities, as well as that of using the concept of 'transformation' undefined. They also separate 'empowerment' from the concept of BEE. While Heyns and Mostert (2018) have depended on content analysis to study how the Mining Charter frames the concept of development, Makgoba (2019) has conducted a CDA that focused on how mining corporations responded to government BEE legislations. Hamann et al. (2008:01) have focussed on the process of creating BEE Charters and vaguely claims that 'transformation' benefits established corporations. Just like how Bek et al. (2007) treat empowerment as something that can be delivered, Hamann et al. (2008:01) tend to treat transformation as a possession. Diale (2014) has employed content analysis to measure the outcomes of BEE legislation and the Mining Charter.

Despite their various approaches to the study of BEE, these studies tend to accept and assume that BEE aims to advance the transformation of historical, structural, and power inequities. They consider BEE as representing 'transformation' and 'empowerment' without accounting for how this happened. In consequence, they use BEE, as well as 'empowerment' and 'transformation' interchangeably. This approach, or rather this assumption, tend to ignore how the government and [mining] corporations employ BEE to construct the agendas of political and structural transformations. It also ignores the nexus of discourse, ideology, and power – as well as the 'how' aspect of construction – and how BEE may serve power differently. This thesis disputes the assumption that BEE aims to advance the transformation of historical, structural, and power inequities. Rather than accepting this assumption, this thesis approaches BEE as an institutionalised discursive phenomenon. It

examines how the government and mining corporations employ BEE discourses to construct the symbolic agendas of structural and political transformation, moving away from focusing on BEE outcomes.

Rather than associating BEE with the transformation of historical, structural, and power inequities, other studies have noted that BEE managerially shifted the political mandate of promoting BEE and political responsibility from government officials towards the hands of accountants, technocrats, auditors, and certifiers through the introduction of industry-wide charters (Ponte et al. 2007). As a result of this systemic shift, BEE became 'portrayed in fairly depoliticised and technical ways' in corporate management circles (Ponte et al., 2007:935). According to Hamann et al. (2008), rather than necessarily promoting this form of depoliticisation through managerial practices, the genesis and content of the charters presented significant opportunities for collaborative governance between the government and the corporate sector. This includes 'a reliance on interest-based negotiation and an expectation that business contributes to the public benefit as good corporate citizens' (Hamann et al., 2008:01).

Hamann et al. (2008:01) acknowledge that the notion of corporate citizenship remained superficial, 'despite efforts by business to portray the outcomes and agreements in terms of business voluntarism and enlightened self-interest.' The work of Ponte et al. (2007) and Hamann et al. (2008) pay attention to the implementation of BEE which largely relates to its outcomes. However, this ignores the idea that BEE legislation and policies may have emanated from the private sector which they seek to regulate. As Edelman (2005:337) argues, the government, as one of the 'actors within the same broad social environments—or organizational fields—as organizations, tend to incorporate ideas about the law that have arisen and become institutionalized within these fields.' Thus, as these laws and legislation become 'progressively institutionalized in organizational fields, [they are] simultaneously transformed by the very organizational institutions that [they are] designed to control (Edelman, 2005:337). Even though accountants, technocrats, auditors, and certifiers carry out what is now managerialised political activities and responsibilities, they cannot be held responsible for the weakening of redistribution and the depoliticisation of policymaking. As critics observe, BEE

is moving the debate from a political terrain, where redistribution is, in theory, possible, to a managerial terrain, where discussions are technical and set within the limits of codification, measurement intervals and systemic performance (Ponte et al., 2007:935).

There are problems with associating BEE with redistribution this way and studying BEE outcomes without engaging the question of how the government has constructed this

redistribution. The authors tend to assume that BEE relates to redistribution without dealing with the how question, as well as specific issues that show the relationship between the two. This assumption tends to reduce BEE to redistribution without explaining the constructive process. Just like scholars who associate BEE with the transformation of historical, structural, and power inequities, this direction uncritically locates BEE in the discourses of redistribution without rigorous consideration of discourse and rhetoric. Nonetheless, this move, Ponte et al. (2007) argue, has weakened State power and encouraged the entrenchment and insourcing of managerial practices in political spaces.

BEE also gave rise to a slew of verification agencies which specialised in standardising BEE scores and compliance sometimes through the manipulation⁴⁵ of data (Iheduru, 2008). Furthermore, critics suggest that this shift has separated redistribution from economic policy, especially through the application of technologies of codification and marketing in regulatory processes – the historical domain of the state (Ponte et al., 2007; Du Toit et al., 2007). While their work deals with managerialisation of BEE, just like Du Toit et al. (2007), Ponte et al. (2007) tend to focus on redistribution which relates to the allocation of goods and the depoliticisation of policymaking while superficially dealing with the issues of ‘transformation’ and ‘empowerment’. As Ponte et al. (2007:950) conclude,

the concept of ‘system management’ is currently deployed in ways reminiscent of the use of ‘the market’ in the 1980s and 1990s to justify liberalization policies in Africa and elsewhere. Both concepts allow the diffusion of responsibility and the de-politicization of policymaking. The combination of market and management allows a full separation of economic policy from redistribution, while at the same time giving the illusion that the government is heavily engaged in (and in control of) BEE.

This suggests that the depoliticisation of economic policy which relates to the processes that precede and conceive redistribution rather than the depoliticisation of BEE itself as others would have argued. For Herman (2014:1942), ‘the inherent inequities of the market system limit’ the capacity of BEE to transform structural inequality in the wine sector. Unlike Ponte et al. (2007), Herman (2014) tends to see BEE as structurally transformative. Equally, Bowman (2019) supports Herman by assuming that BEE intends to drive economic transformation without defining the mode of transformation. As the author argues, ‘the internationalisation of domestic big business [in the mining sector] and consequent exposure to international capital market sentiment have shaped and constrained the ability and inclination of the state to pursue radical redistributive measures’ through BEE (Bowman, 2019:239). According to

⁴⁵ This involves the simplification of policy which, ‘makes the phenomenon at the center of the field of vision more legible and hence more susceptible to careful measurement and calculation. Combined with similar observations, an overall, aggregate, synoptic view of a selective reality is achieved, making possible a high degree of schematic knowledge, control, and manipulation’ (Scott, 1998:11).

Karwowski (2015:09), this may be because 'listed mining companies [logically] use financial markets to support their speculation in mining assets [rather than to distribute assets]. In consequence, financial funds are channeled into few productive activities.' Another form of depoliticisation came through the displacement of the political discourse of land reform and worker empowerment, turning different political issues into managerial processes and systems which facilitated new possibilities for black entrepreneurs and white farmers to form partnerships (Du Toit et al., 2007).

Despite how their work has problematically regarded BEE as leading or expected to lead the transformation of historical, structural, and power inequities, the work of Du Toit et al. (2007) and McEwan and Bek (2006) plausibly demonstrates how the industry employs managerial processes, such as scoreboards, codification, and auditing, as well as compliance procedures to deal with government policies. It demonstrates how these processes undermine government laws and policies, such as BEE, to contain their political impacts and costs. According to McEwan and Bek (2006), these corporate strategies reveal ways in which the industry uses neoliberal tools of governance which employ mechanisms of symbolic inclusion while depending on forms of material exclusion. In particular, the use of these marketing exercises, such as black branding, and black winemaker showcasing, ideologically aims to maintain, background, and conceal structural relations of oppression while providing a 'halo' effect to their organisers (Du Toit, et al., 2007).

Their work represents how corporations strategise to maintain managerial rationality, authority and discretion to contain and dilutes the political costs of government laws and policies (Edelman & Talesh, 2011). According to critics, corporations institutionally respond to new charters and legal frameworks by 'creating new offices and developing written rules, procedures and policies [to] achieve legal legitimacy while simultaneously limiting law's impact on managerial power' (Edelman & Talesh, 2011:109, citing Edelman, 1990). They also employ their rhetoric to maximise the appearance of compliance and to create symbolic structures which 'institutionalise managerialised notions of what constitutes compliance' (Edelman & Talesh 2011:112; Makgoba, 2019).

According to Dolan and Rajak (2016: 21), 'this language and performance of corporate virtue go beyond rhetoric to endow corporations not with ethics, but with a [new] source of power in relation to new social and political problems.' As De Neve agrees, that 'the politics of compliance contributes to the consolidation of the power of standard-setting actors by facilitating the devolution of risk, uncertainty, and responsibility' (2016: 106) while claiming moral purposes which tend to 'have enormous power in their ability to naturalise authority' (Ferguson, 1998: 5). These strategies of managerialism and audit culture symbolically

convey the message that the mining industry is addressing its structural and political problems, such as paternalism, the exploitation of workers, and the exclusion of marginal communities from structures of decision-making while materially side-lining them (Kirsch 2014). This also relates to how these corporations may turn transformation imperatives into 'uniform, measurable units without any specific skills or experience' to exercise power over the beneficiaries of their initiatives and the government (Sydow, 2016: 225 citing Scott, 1998).

Section B: Basic Theoretical Constructs

Young's Critique of the Distributive Paradigm of Justice

My approach is anchored in Young's (1990) concepts of the critique of the distributive paradigm of justice as the main theoretical departure to guide its qualitative analysis. Young did not construct or present any theoretical framework. However, this study draws on her concepts to make judgements on how the government and mining corporations frame distributive and non-distributive issues in their BEE-related discourses. It looks at how these issues are [dis]connected to, and from, the transformation of historical, structural, and power inequities. In this critique, Young (1990) makes a [analytical] distinction between distributive issues and non-distributive issues. This is a distinction that offers insights on whether the BEE measures of government and mining corporations intend to promote merely distribution, or non-distribution, or both. This critique provides the basis for understanding different tenets of structural, institutional and cultural change. It helps name and identify BEE practices, rules, activities, and goods, as well as structures that define this mode of change. In this context, the critique systematically helps in the analysis of BEE discourses according to these distinctions which offer insights on the structural and political nature of BEE – or the lack thereof.

This approach partly shifts the focus from the outcomes of BEE itself to conception and creation: the naming of BEE practices, goods and rules (Young, 1990; Walzer, 2004). By explicitly focusing on these issues of naming, we can then make judgements about the scope and the nature of BEE rather than assuming that BEE aims to end or address the legacies of apartheid and colonialism. This offers insights on the opaque nexus of discourse, ideology and power that comes with both non-distributive and distributive issues that shape the scope, the design and the depth of BEE. This theoretical innovation makes possible the identification of hegemonic constructions of the symbolic agendas of structural and political transformation while clearly naming and identifying BEE practices, processes, goods and

rules. Distributive issues relate to the allocation of material goods while non-distributive issues relate to the issues of decisionmaking structures, procedures and power, the social division of labour, and culture.

By 'distributive paradigm'⁴⁶, Young denotes that conceptions or worldviews of justice tend to limit its conceptualisation to 'the distribution of benefits and burdens and goods and resources among members of society' (Modiri, 2015:240). It excludes issues of decision-making power and structures, the division of labour, and culture which have the potential to change or maintain structural, institutional, and cultural change. Young (1990:15) criticises this paradigm for focusing on 'the allocation of material goods such as things, resources, income, and wealth, or on the distribution of social positions, especially jobs.' In its focus on this, this paradigm ignores 'the social structure and institutional context [which relate to non-distributive issues] that often help determine distributive patterns' (Young, 1990:15).

Institutional context

includes any structures or practices, the rules and norms that guide them, and the language and symbols that mediate social interactions within them, in institutions of state, family, and civil society, as well as the workplace. These are relevant to judgments of justice and injustice insofar as they condition people's ability to participate in determining their actions and their ability to develop and exercise their capacities (Young, 1990:21).

Young defines her conception of justice as the means of eliminating 'institutionalized domination and oppression' (1990:15). This conception of justice relates to the legacies of apartheid and colonialism. In both coordinated and uncoordinated fashions, these structures institutionalised the oppression of blacks. As already noted above, fundamental structural changes in the economy have been confined to BEE discourses (Gibson, 2011) in the post-1994 ANC governments. This effectively politicises the policy, as well as fashioning it as an instrument to end institutionalised domination and oppression. Young's work becomes useful in understanding the connection between BEE and structural change or institutional context as defined above.

Young (1990) shows that the elimination of institutionalised oppression, which still characterises the lives of many black people in South Africa as the result of the so-called the legacies of apartheid and colonialism, is associated with distribution. According to Young, these not only ignore and conceal social structures and institutional context but also treat

⁴⁶ In terms of this paradigm, social justice is defined 'as the morally proper distribution of social benefits and burdens among society's members. Paramount among these are wealth, income, and other material resources. The distributive definition of justice often includes, however, nonmaterial social goods such as rights, opportunity, power, and self-respect. What marks the distributive paradigm is a tendency to conceive social justice and distribution as coextensive concepts' (Young, 1990:16).

distribution, the allocation of material goods, as equivalent to the elimination of institutionalised oppression. It shows the tendency of expecting distributive issues to address structural and institutional problems, which depend on the configurations of social rules and social relations. At the same time, this considers relational nonmaterial social goods such as rights, opportunity, power, and self-respect as distributive issues. As Young (1990: 16) notes, 'when metaphorically extended to nonmaterial social goods, the concept of distribution represents them as though they were static things, instead of a function of social relations and processes.' The elimination of oppression and domination, she argues, 'includes all aspects of institutional rules and relations insofar as they are subject to potential collective decision' (Young, 1990: 16). In consequence, the concepts of domination and oppression, rather than the concept of distribution, 'should be the starting point for a conception of social justice' (Young, 1990: 16).

While Young (1990) did not claim to build any theory, her arguments offer insights on how we can deconstruct policies and social interventions to make judgement about their ability to address institutionalised oppression and domination, such as the legacies of apartheid and colonialism. Her critique highlights the importance of looking at issues of justice according to both their non-distributive and distributive nature, as well as social structures and institutional contexts that define their existence. While distributive issues are important, especially in the mining sector where 'mining communities are still exposed to poor socio-economic conditions' (Heyns & Mostert, 2018:04), reducing justice to distribution and economic outcomes is misguided. The differentiation between non-distributive and distributive issues to deconstruct BEE define the theoretical innovation of this study. By reading Young's critique, we can deduce that any analysis that seeks to understand the outcomes of any policy that claims to address institutional and structural problems should make analytical distinctions between non-distributive and distributive issues, as well as the institutional context. Before assuming that BEE aims to end the legacies of apartheid and colonialism, we need to start understanding and identifying these issues as well as their social structures.

This necessitates the discussion of the three non-distributive issues such as decisionmaking structures, procedures and power, the social division of labour, and culture to demonstrate their differences from distribution, the allocation of material goods, which cannot address institutionalised domination and oppression. The latter is the result of the work of social structure and institutional context. These three key issues may help in understanding the sociostructural and political status of the policy, as well as its intervention and measures of eliminating injustices such as the legacies of apartheid and colonialism. They are central issues that determine and govern social processes and structures that maintain, resist, or

undermine oppression. Young (1990) conceptualises oppression⁴⁷ as structural and as having five faces: exploitation, marginalisation, powerlessness, cultural imperialism, and violence. These oppressions form part of dominant political discourses because of the structural outcome of de jure apartheid. Young defines oppression⁴⁸ as the

systemic constraints on groups that are not necessarily the result of the intentions of a tyrant. Oppression in this sense is structural, rather than the result of a few people's choices or policies. Its causes are embedded in unquestioned norms, habits, and symbols, in the assumptions underlying institutional rules and the collective consequences of following those rules. We cannot eliminate this structural oppression by getting rid of the rulers or making some new laws, because oppressions are systematically reproduced in major economic, political, and cultural institutions (1990:41).

Furthermore, these non-distributive issues also determine, precede and conceive issues of [re]distribution which form a critical part of dominant discourses of affirmative action and BEE as well as the outcomes of policies in welfare capitalist societies, such as South Africa. Young defines decisionmaking issues as including

not only questions of who by virtue of their positions have the effective freedom or authority to make what sorts of decisions, but also the rules and procedures according to which decisions are made. Discussion of economic justice, for example, often de-emphasises the decision-making structures which are crucial determinants of economic relations (1990:22-23).

This indicates that changing economic relations requires the reorganisation of their rules and procedures that govern and structure such relations. The latter determines and conceives these relations as well as establishing structural relations between different actors. Thus, economic domination and oppression do not only occur principally because some people have more income and wealth than others but because of the institutional rules, norms and procedures. In other words, maximising distribution while de-emphasising the decision-making structures may still oppress other individuals. In other instance, this does not necessarily de-emphasise these structures. According to Young (1990), this promotes the idea of 'empowerment without autonomy', which constrains individuals in some forms. By autonomy, Young (1990:250) suggests that 'an agent, whether individual or collective, is autonomous to the degree that it has sole and final authority to decide on specific issues and actions, and no other agent has the right to interfere. Autonomy implies sovereignty.' The idea of empowerment without autonomy suggests that one can make decisions that are in

⁴⁷ When this thesis employs the term, oppression, it tries to cover these five elements to politicise the conditions of mining-affected communities.

⁴⁸ Young's 'extended structural definition of oppression shows more clearly the vast and deep injustices that Blacks suffer not only as a consequence of the legacy of systemic racial discrimination but also because of the normal routines of everyday life, which stabilise and perpetuate existing racial hierarchies and inequalities, either by denying them (colour-blindness and post-racialism), downplaying them (liberalism) or obscuring them (formalism)' (Modiri, 2015: 230).

line with the existing corporate and legal structures but is not given autonomy to change such structures. This form of decisionmaking power, or autonomy limits the individual or the collective. It relates to the concept of power to as opposed to power over⁴⁹ (Göhler, 2009).

This tends to perpetuate oppression because

economic domination derives at least as much from the corporate and legal structures and procedures that give some persons the power to make decisions about investment, production, marketing, employment, interest rates, and wages that affect millions of other people. Not all who make these decisions are wealthy or even privileged, but the decision-making structure operates to reproduce distributive inequality and the unjust constraints on people's lives (Young, 1990:23).

The issues of decisionmaking relate to the social division of labour which deals with both distributive and nondistributive issues. These issues touch upon institutional structures that conceive and determine job tasks and positions, as well as the level of political autonomy that comes with these. They form a critical part of the calls for the structural and institutional change of the private sector which is common to the post-1994 South African state. The primary concern about the social division of labour is that occupying a prestigious position in a corporate organisation may not guarantee the person the power to make decisions. As Young (1990:23) argues,

as a distributive issue, division of labour refers to how pre-given occupations, jobs, or tasks are allocated among individuals or groups. As a nondistributive issue, on the other hand, division of labour concerns the definition of the occupations themselves. Division of labour as an institutional structure involves the range of tasks performed in a given position, the definition of the nature, meaning, and value of those tasks, and the relations of cooperation, conflict, and authority among positions.

This may emphasise the number and identity of people occupying certain occupations, and jobs which places emphasis on distribution. Young's conception highlights that this distribution depends on institutional structures that conceive and determine job descriptions and issues of political autonomy as well as the authority that comes with occupying certain positions. Lastly, Young (1990) identifies culture as one of the non-distributive issues that may transform structural relations such as those that reflect the private sector in South Africa:

culture is the most general of the three categories of nondistributive issues...It includes the symbols, images, meanings, habitual comportments, stories, and so on through which people express their

⁴⁹ Pitkin (1972) identifies two major forms of power as an effort to clarify how power can be theorised and analysed. He states that 'one man may have *power over* another or others, and that sort of power is relational; though it is not a relationship, but he may have *power to* do or accomplish something by himself, and that power is not relational at all; it may involve other people if what he has power to do is a social or political action, but it need not' (Pitkin, 1972:277).

experience and communicate with one another. Culture is ubiquitous, but nevertheless deserves distinct consideration in discussions of social justice (Young, 1990: 23).

Young tends to consider culture in the traditional sense. However, when conceived broadly, cultural relations also form part of racial discourses, corporate cultures, identities and histories that may structure social relations between different political actors. These form critical part of BEE, as well as how the oppressed may understand their identities and access their positions in society. The broad understanding of culture mainly relates to the issues of habitual components. This reflects a complex form of cultural imperialism which relates to how the nature of corporate cultures and practices of the white-dominant private sector may not reflect the cultural experiences and identities of many blacks. This may also touch upon the cultural design of business structures which relates to profit-making rather than systemic development of communities.

The Mobilisation of Bias and Decisionmaking

Young's (1990) non-distributive element of decisionmaking works well with Bachrach and Baratz (1962) who have critiqued the premises of the pluralist approach to power and extended the view to develop their own model of *two faces of power*. The authors dismiss the pluralist approach, which is associated with the work of Dahl (1957), as largely anti-behaviourist. Dahl defines power as 'the intuitive idea' that 'A has power over B to the extent that he can get B to do something that B would not otherwise do' (Dahl, 1957:203). This 'unduly emphasises the importance of initiating, deciding, and vetoing' and, as a result, takes 'no account of the fact that power may be, and often is, exercised by confining the scope of decision-making to relatively 'safe' issues' (Bachrach & Baratz 1970:06, cited in Lukes, 2005:22). Pluralists focus on conflicts and tend to ignore 'wider questions concerning less overt and visible ways of securing the compliance of more or less willing subjects' (Lukes, 1974:61). Conflict is seen as important 'in providing an experimental test of power attributions: without it the exercise of power will...fail to show up' (Lukes, 2005:19).

Bachrach and Baratz state that 'power is also exercised when A devotes his energies to creating or reinforcing social and political values and institutional practices that limit the scope of the political process to public consideration of only those issues which are comparatively innocuous to A' (1962:948). Its analysis shows that 'many ways in which potential issues are kept out of politics, whether through the operation of social forces and institutional practices or through individuals' decisions' (Lukes, 1974:28). Fundamental to their concept of power is the *mobilisation of bias*, which they define as

the set of predominant values, beliefs, rituals and institutional procedures . . . that operate systematically and consistently to the benefit of certain persons and groups at the expense of others. Those who benefit are placed in a preferred position to defend and promote their vested interests. Often, the 'status-quo' defenders are a minority or elite group within the population in question (Bachrach & Baratz, 1970: 43-4).

Its introduction paved the way for the analysis of non-decision-making — 'a decision that results in suppression or thwarting of a latent or manifest challenge to the values or interests of the decision-maker' (Bachrach & Baratz, 1970: 44). According to Lukes (1974: 24), this form of power ignores 'the crucial point that the most effective and insidious use of power is to prevent such conflict from arising in the first place.'

Ferguson's Foucauldian Concepts and the Non-and-Counter-Intentionality of Structural Production

The critique of the distributive paradigm of justice, as well as the concepts of social structures, are powerfully in synch with Ferguson's (1994) concepts on the impact of social structures on development projects and social interventions. He has investigated development projects, and social interventions in Lesotho and concludes that social structures reframed their original intentions to perform other sensitive political activities of exercising power under the cover of seeking to drive change. As social intervention enters into corporate structures, they may lose their original intention and expands power in the manner that was never imagined because of the 'non-and-counter-intentionality of structural production' (Ferguson, 1994:18). He insists that social structures are 'multi-layered, polyvalent, and often contradictory, and that economic functions and 'objective interests' are always located within other, encompassing structures that may be invisible even to those who inhabit them' (Ferguson, 1994:17). For this reason, an intervention may become a productive force that expands power in the manner which does not serve the original intention because of the polyvalent, and often contradictory nature of social structures. As Callinicos (2004: xxxv) agrees,

social structures exist in an environment partly constituted by other social structures. Those social structures that fail to provide a favourable climate for the development of the productive forces gradually disappear, to be replaced within the population of social structures by those that do tend to have this beneficial consequence.

By objective interests, Ferguson denotes the 'good intention' of the government and planners in seeking to implement social interventions that seek to address issues such as poverty – a mission that has been associated with BEE. Ferguson calls us to avoid taking the 'planning' and the intention of a social intervention at its word. For instance, if the

government states that BEE aims to drive economic transformation, it would be a mistake to accept this, without critically questioning its 'objective interests.' Ferguson (1994:17) posits that while the interests of social interventions and development projects may be 'dear', and their intentions 'well', social and cultural structures may reframe and change their original purpose because of 'how easily structures can take on lives of their own that soon enough overtake intentional practices'. As he elaborates,

whatever interests may be at work, and whatever they may think they are doing, they can only operate through a complex set of social and cultural structures so deeply embedded and so ill-perceived that the outcome may be only a baroque and unrecognizable transformation of the original intention (Ferguson, 1994:17).

This shows that when social interventions and development projects interact with unacknowledged structures, their outcomes may be unrecognizable while serving power. This produces 'unintended outcomes which turn out to be intelligible not only as the unforeseen effects of an intended intervention, but also as the unlikely instruments of an unplotted strategy' (Ferguson, 1994:20). Because of this, focusing on the outcomes of social interventions may be a mistake and tends to conceal the operations of social structures. This argument suggests that planners, such as government and corporations, may develop projects and interventions to address social problems, but the outcomes of the latter depend on the complex operations of social and cultural structures.

For that reason, treating the outcomes as an [in]explicable mistake, or even studying the outcomes without engaging social processes may misconstrue the problem. For instance, the planner's intention of development projects may be considered as machines to end poverty that incidentally end up helping with exercise of bureaucratic power. This 'result has quite a different character when apprehended as part of a different 'strategy'' (Ferguson, 1994:19). Because of the complex operations of cultural and structural process – 'the non-and-counter-intentionality of structural production' as Ferguson (1994:18) puts it – the development project may simply use 'poverty' as a starting point to advance other political activities. As Ferguson (1994:272) notes, social interventions and development projects

are not a machine for eliminating poverty that is incidentally involved with the state bureaucracy; it is a machine for reinforcing and expanding the exercise of ... power, which incidentally takes 'poverty' as its point of entry-launching an intervention that may have no effect on the poverty but does in fact have other concrete effects. Such a result may be no part of the planners' intentions – indeed, it almost never is but resultant systems have an intelligibility of their own.

In other words, social interventions may fail to achieve their political goal in one area but help establish power relations in another which serve the functions of controlling people in given situations because of their productive nature and the dynamism of structures. As

Ferguson (1994:255) notes, 'in terms of this larger unspoken logic, "side effects" [or failures] may be better seen as "instrument-effects" that are at one and the same time instruments of what "turns out" to be an exercise of power.' Thus, as development and social interventions enter social structures in the form of resources and productive forces, which served as the vehicles of power (Giddens, 1979/1984), they transform beyond the imagination of their planners to form part of the rules and practices of the structure. As the interventions go through different structural processes – considering their productive nature – they take a different dimension which tends to possess some level of political intelligibility. This dimension initially appears as 'side effects' of failed interventions that converge to become some system that drives authorless and invisible control of agents. As Ferguson (1994:21) put it, at first, these outcomes

appear as mere "side effects" of an unsuccessful attempt to engineer an economic transformation become legible in another perspective as unintended yet instrumental elements in a resultant constellation that has the effect of expanding the exercise of a particular sort of ... power while simultaneously exerting a powerful depoliticizing effect.

Rather than encouraging transformation and development, these social interventions and development projects tend to become what Ferguson (1994:21) calls 'the anti-politics machine' which comes in the form of 'side effects' of the failed interventions. As Ferguson (1994:256) expounds, social interventions may end up

performing extremely sensitive political operations involving the entrenchment and expansion of ...power almost invisibly, under cover of a neutral, technical mission to which no one can object. The 'instrument-effect' ...is two-fold: alongside the institutional effect of expanding bureaucratic [and institutional] power is the conceptual or ideological effect of depoliticizing both [the policy] and the state (Ferguson, 1994:256).

His theoretical innovation connects outcomes with power, 'one that avoids giving a central place to any actor or entity conceived as a 'powerful' subject' (Ferguson, 1994:19). It adopts the concept of power which is relational and decentred. This Foucauldian conception considers power as 'diffused rather than concentrated, embodied and enacted rather than possessed, discursive rather than purely coercive, and constitutes agents rather than being deployed by them' (Gaventa, 2003: 1). It is not more 'fixated on the mechanics of apparent objects' (Clegg, 1989:158). Because of this relational nature of power, a development project may be deemed a failure in one area but a success in other areas by advancing and serving political interests and functions which overtake intentional practices (Ferguson, 1994).

Social Structures

In the critique of the distributive paradigm of justice, Young (1990) explains how social structures of decisionmaking, reproduce distributive inequality. However, the critique does not account for the operations and reproduction of these structures, as well as the actions of different actors in the processes. Showing how these structures may operate, shape and inform actions of different actors is crucial and warrants further explication. For this reason, this thesis conceptually draws on different concepts of social structures to think about how structures of decisionmaking, as well as macro-structures, reproduce themselves, and produce positions, as well as how they create possibilities and constraints. This account helps offer insights on how structures shape BEE practices, as well as how they constrain or enable actors in the process. Young (2011) identifies the concept of 'objective constraints', 'positions of actors', and 'structures as produced in action' as three main concepts of undertaking a structural analysis⁵⁰. Young (2003:03) defines structure as

a confluence of institutional rules and interactive routines, mobilization of resources, and physical structures; these constitute the historical givens in relation to which individuals act, and which are relatively stable over time.

As these institutional rules become stable through the convergence of different actions, it becomes rather increasingly difficult, or impossible to trace the actions, rules and routines to a certain agent (Young, 2011; 2003). This denotes a dialectical process which shows a constant engagement between social actors and rules which reproduces the structures (Callinicos, 2004: xix). As soon as they become stable, because they are historically given, structures constrain, and enable the actions of a large number of individuals (Reiman, 1989). As Young (2011:53) notes, as much as structures constrain people and objects, 'they also enable. They structure possibilities for action such that individuals can take them up and take advantage of them.'

Objective Constraint

Young (2011) uses the concept of *objective constraints* to explain how social actors experience institutional rules passively. This relates to how people's sociohistorical collective decisions and actions eventually become institutional, 'opening some possibilities for present and future action and foreclosing others, or at least making them difficult' (Young, 2011:54; Young, 2003). As Young (2011:55) states,

⁵⁰ Structural analysis is an 'account offers a way of understanding inequality of opportunity, oppression and domination, that does not seek individualized perpetrators but rather considers most actors complicit in its production, to a greater or lesser degree' (Young, 2005:21).

part of the difficulty of seeing structures, moreover, is that we do not experience particular institutions, particular material facts, or particular rules as themselves the source of constraint; the constraint occurs through the joint action of individuals within institutions and given physical conditions as they affect our possibilities.

They constrain and enable at the same time depending on the position one occupies in the structure. In this fashion, institutional rules 'appear as objective, given, and constraining. Social structures do not constrain in the form of the direct coercion of some individuals over others; they constrain more indirectly and cumulatively as blocking possibilities' (Young, 2011:55). They function as an 'always-already' (Jessen, 2013:17), or practico-inertia (Sartre, 1976). Their constraining elements function cumulatively and undermine transformative efforts and block their possibilities for action. As Young (2011:55) states,

institutional and social rules constitute another stubbornly objective and difficult-to-change⁵¹ aspect of structural processes. Some are legal rules, enforced by state action enacted by public officials. Many others are more implicit rules that people follow through habit, or because they feel constrained to do so by others or because they perceive advantage to themselves by doing so.

These institutional rules remain virtual and invisible, demonstrating, impressing and exerting their constraining character on the physical environment without being necessarily traceable to a specific individual and institution. As Callinicos (2004: xxvi) agrees, 'structures impose constraints on individuals that are irreducible to these individuals and their properties'. However, this does not completely hinder their freedom. Rather they 'produce differentials in the kinds and range of options that individuals have for their choices' (Young, 2011: 55). In consequence, agents 'will almost inevitably be aware of the necessary limits to freedom that such commitments and connections demand of them' (Stones, 2005:90).

Considering Position

The notion of position emphasises that 'structures connect not named individuals but any persons who come to occupy the positions specified by the relation(s) in question. Structures are... sets of empty places [and] help to explain why societies persist in time' (Callinicos, 2004: xxi). This follows the understanding of structure as 'power-conferring relations' (ibid). The concern is over the analysis of larger macro structures, which represent combination of institutional rules and practices, to identify major positions of society, as well as how they systematically shape people's relations and positions in different arenas in defining their constraints and opportunities (Bourdieu, 1984; Swartz, 2016). By defining their constraints and opportunities suggests the structure of domination as 'other powers are, however,

⁵¹ Institutionalisation 'is not, however, an irreversible process, despite the fact that institutions, once formed, have a tendency to persist' (Berger & Luckmann, 1996:99).

structurally determined: that is, they depend on the position that the actor in question occupies in prevailing social structures... What social structures do, then, is to give agents powers of a certain kind' (Callinicos, 2004: xx; Clegg, 1989).

Structures Produced in Action

This idea that structures are produced in action emanates from the work of Giddens (1986/1979). He defines structure or social-structural processes as 'rules and resources recursively implicated in social reproduction; institutionalized features of social systems have structural properties in the sense that relationships are stabilized across time and space' (Giddens, 1986: xxxi). His concept of structure 'conceives humans as knowledgeable actors that are both enabled and constrained by the social structures that are at once the consequence and condition of their actions' (Callinicos, 2004: xxi). Therefore, for individual persons to act in social structures, they must know the existing rules and be able to mobilise resources to exercise their capabilities. In this context, 'rules and resources are drawn upon by actors in the production of interaction but are thereby also reconstituted through such interaction' (Giddens, 1979:71). As Young (2011:60) notes,

the rules and resources that define structures, however, exist only insofar as the individuals in the society have knowledge of them, see them as creating possibilities for themselves, and mobilize them in their interactions with others.

In drawing from these rules and resources, they reproduce practices of the structure which later constrain or enable their possibility for action. In short, the structure is both the medium of individual actions, as well as the outcomes of such actions overtime, as many people's interaction merge to produce the structure (Giddens, 1986/1979). The structural operations of these rules and resources defines agency and its implication in two ways:

when individuals act, they are doing two things at once: (1) They are trying to bring about a state of affairs that they intend, and (2) they are reproducing the structural properties, the positional relations of rules and resources, on which they draw for these actions (Young, 2011:61).

According to Young (2011), these resources provide an enabling environment for people to achieve their goals and to take up their social positions. Since people may not have the same capacity to mobilise resources because of their position in social relations, they experience the governances of social-structural processes differently.

Section C: Social Processes and Discourse in Mining

This section discusses social and political processes that help configure and structure social rules and social relations in the mining sector. BEE processes form part of the day-to-day activities of different actors of the mining sector and cannot be studied in isolation from these social processes and their institutional contexts. According to (Haalboom, 2012:96), these remain critical for understanding how state–company–community relations are influenced by mining capitalism, neoliberalism and politics. These issues shape how BEE can be practised and studied. For that reason, this section discusses relevant issues, which relate to structural relations, corporate power and cultures, sustainable development, neoliberal practices, mining capitalism that may help conceive and configure the implementation and the practices of BEE in the sector.

Corporate Social Technologies

One of the social rules and processes that may be relevant to the understanding of BEE practices and processes relate to the application of corporate social technologies that helped the industry to reclaim its political legitimacy. The industry adopted several modes of ‘corporate social technologies’ (Rogers, 2012) to respond to social movements that threatened its business operations. These encouraged ‘companies to set their own standards higher than existing regulations in order to enhance trust and improve their standing in the community’ (Kirsch, 2014:52). In the late 1990s, the industry drafted these technologies to respond to the growing opposition of indigenous people and NGOs that caused a ‘crisis of confidence’ (Danielson, 2002:7). These technologies have enabled the industry to neutralise criticism, as well as, to pursue the strategy of divide and conquer.

Critics regard this as a game-changer that aggressively helped the industry to reclaim its dominance and power while undermining, containing, and concealing socio-economic problems, and policies that sought to effect changes in the sector. The industry uses a variety of technologies, including the distortion of scientific facts to cover its environmental effects, and the co-option of the discourse and rhetoric of NGOs and political critics (Kirsch, 2014). These technologies legitimise the neoliberal orthodoxy that ‘supports the role of transnational corporations (TNCs) as dominant institutions of governmentality’ (Rajak, 2006: 194). This agenda of care and morality depoliticises corporate interests while promoting TNCs as agents of development to maintain the status quo, and undermining government and marginal communities even though they avoid environmental legal compliance.

The beneficiaries of this moral agenda become citizens under the leadership of the company and are subjected to 'its notions of responsibility, and recipients of its paternalistic concerns' (Rajak, 2006: 194). This represents 'the growing power of TNCs as a threat to democratic governance in situations where the global mobility and rights that corporations have acquired are not matched by systems of regulation to govern their activities' (Garvey & Newell, 2005:390). In consequence, corporations end up developing 'discursive regime' by unilaterally determining and controlling the nature and structure of their relationship with the local communities (Coronado & Fallon, 2010). It also gives them room to 'prioritize particular components of the environment over more holistic concerns of indigenous groups, and to exclude certain types of knowledge about the interaction of local peoples with their environment' (Haalboom, 2012: 977). This contributes to sustained conflicts between local communities, NGOs and multinational corporations.

The complexity of this situation allows mining corporations to employ corporate philanthropy and partnership paradigm to organise social relations while taking credit for having the capacity to influence the social development agenda in the way that suits their interests (Wilson, 2015; Rajak, 2016a). This is because 'corporations frequently operate in contexts where political and legal institutions are weak, corrupt, or not trusted and where there are marked imbalances in political, economic, and cultural power' (Kemp, Owen, Gotzmann & Bond, 2011:93). Although mining corporations claim that these projects merely seek to promote their good corporate citizenship, they raise questions of power. As Utting (2002:277) states, development and community projects are 'not simply a technical issue of know-how, resource availability, 'win-win' situations or even greater environmental awareness on the part of key decision makers, but rather they are political processes 'involving power struggles between different actors and stakeholders.'

Sustainable Development

The discourse of sustainable development forms the critical part of corporate social technologies. The industry deploys this discourse in profoundly political ways to move the debate from harmful practices, to the notion of business-led development and the idea of empowerment through the global markets (Rajak, 2011; 2016a). As Kirsch (2014:35) observes,

this includes efforts to promote mining as a form of sustainable development. Mining corporations creatively appropriate the tactics of their opponents, including the use of satire to discredit environmentalists. They also collaborate with conservative political organizations in the critique of NGOs and public participation in sciences.

This practice transformed the terms of the debate and social practices in the mining sector. It also presents corporations as the proponent of social and sustainable development rather than as exploiters to construct the 'alternative' discourse of corporate social investment. The transformation 'effected a seamless shift from calls to "do no harm" to an expression of corporations as active agents of global improvement, 'bringing in its wake rapprochement and even a wholehearted marriage between NGOs and big business' (Rajak, 2016a:37). The shift also perverted the original meaning of sustainable development to delegitimise the political activities of its NGOs critics, reframing, and evading their discursive space, as well as, thwarting their moral high ground (Kirsch, 2014). In consequence, this decontextualised the discourses of CSR and sustainable development from the arena of activism which sought to expose the shortcomings and evils of the industry (Welker, 2009). The industry uses channels, such as the World Summit on Sustainable Development (WSSD), to recognise mining corporations for being responsible, sustainable, and transparent (Rajak, 2011). As (Kirsch, 2014:21) notes,

since the late 1990s, however, the industry has promoted the view that mining contributes to sustainable development through the creation of economic opportunities that extend beyond the life of the project, although the definition of *sustainability* employed in these claims completely elides the concept's original reference⁵² to the environment.

The co-option of the discourse of sustainable development and CSR politically neutralises political debates about the redistribution of resources, indigenous rights, and environmental impacts while empowering mining corporations with symbolic capital (Rajak, 2006; Kirsch, 2014). In this new version of sustainable development, the industry projects mining corporations as self-disciplining moral actors that play a leading role in the neoliberal orthodoxy of business-led development (Rajak, 2016a). Socioculturally, this may lead to the replacement of [state] regulation with market-based solutions, such as the trickle-down effects (Shamir, 2010).

The redirection of sustainable development, and the new mode of social investment has transformed the social practices of the industry and has neutralised political autonomy of NGOs and conservation organisations (Beder, 1996; Kirsch, 2014). The financial muscles of the industry, as well as the general political marginalisation of the indigenous people, enable mining corporations to achieve this (Farrell, Hamann & Mackres, 2012). For instance, the industry works with these organisations to create notions of 'appropriate behaviour' and customs (Rajak, 2016a). This becomes ritualised to guide community partnerships to minimise contestations and to legitimise neoliberal worldviews and practices of the mining

⁵² The original notion of 'sustainable development' argued 'that ways could be found to sustain economic growth without creating too much pollution or environmental degradation' (Beder, 2006:18).

business, such as empowerment through global markets (Barker, 2007; Rajak, 2016a). As these rituals become hegemonic, as well as establishing power relations, they force collaborators, such as NGOs and government agencies, who benefit from, or get co-opted into, these partnerships, to become amenable to corporate interests (Rajak, 2016a). In consequence, they become hesitant in violating the rules of the partnerships, and in challenging corporate misconduct (Kirsch, 2014).

The trend also gathered momentum as many NGOs became more disenchanted with the state's failure to regulate corporate behaviour, at the height of free-market economics, seeing the opportunity to mobilise 'consumer power' and to partner with 'the enemy' (Doane, 2005:23). This shift offered corporations the ammunition to project NGOs—known to be critical of corporate misconduct—as powerful partners that drive socioeconomic development in the absence of sound governance (Kirsch, 2014; Rajak, 2016a). However, their projection sought to conceal their abuse of their corporate power and represent the partnership as 'apolitical and market-oriented, with business cast as a neutral party transcending the parochial politics of national governments' (Rajak, 2016a:39).

The discourse of sustainable development tends to carry more weight because it is framed in an institutional context in which governments adopt neoliberal reforms. These reforms tend to compel countries to externalise their regulatory and political responsibilities to corporations and markets, leaving unequal structures of power between mining corporations and mining-affected communities largely untouched. As Kirsch (2014:16) states,

the situation is exacerbated by neoliberal economic policies that view the market as the most efficient means of solving these problems and assert that effective management of these issues by the corporation can substitute for regulation. These policies have led the state to transfer many of its regulatory responsibilities to corporations and markets. Yet the failure of market-based policies and corporations to address these concerns—or, in many cases, to even acknowledge their existence—reproduces the status quo.

This approach protects corporate interests while potentially giving mining corporations some flexibility to move around in search of stable investment havens, as well as dividing and conquering governments and mining-affected communities (Garvey & Newell, 2005). This is because neoliberalism 'is a political project for facilitating the re-structuring and re-scaling of social relations in accordance with the demands of an unrestrained global capitalism' (Bourdieu, 1998 cited in Fairclough, 2003:04). The neoliberal context enables mining corporations to externalise 'the costs of production onto society and the environment, despite making widely publicized claims about the social benefits of their activities, their

commitment to abide by existing laws and regulations, their willingness to cooperate with the state, and their responsibility as corporate citizens' (Kirsch, 2014:17). As Maconachie and Hilson (2013:353) agree, 'to minimize costs and accumulate capital, numerous extractive industries companies have blatantly disregarded environmental regulations, at times, with the active complicity of host country governments.' According to (Reed, 2002), allowing non-state actors to drive the social and economic development agenda of their host communities signifies the 'self-regulatory nature of the neoliberal mode of social and environmental governance' (cited in Haalboom, 2012: 970).

BEE and Gift Cultures

The culture of rent-seeking and the notion of 'passive ownership', as well as the notion of business-led development, that characterise BEE and CSR activities relate to gift cultures and its institutional practices. Thus, how corporations distribute wealth, shares and material goods, as part of honouring the ideals of the Mining Charter cannot be separated from the politics of gift cultures, power struggles and inequities. However, BEE studies have not looked at BEE this way, and have mainly focused on its outcomes without engaging the political functions of these outcomes. Rajak (2006) uses the anthropological theory of the gift to critique corporate giving and partnerships. Thinly disguised as empowerment and partnerships, this practice enables corporations to build opaque trust, networks and alliances of patronage to avert conflict and to attain socio-economic capital. As Rajak states,

gifts ...contain inescapable elements of power and morality which create a social bond between giver and receiver as the expectation of reciprocity inherent in the gift leaves the receiver in a position of indebtedness, vulnerable to the whims of the donor, so empowering the giver, while weakening the recipient (2006: 195).

As the motive of the gift is often veiled in secrecy, receivers fail to realise that they stand to surrender their freedom when they accept gifts. Meanwhile, these gifts legitimise the activities of the giver (Rajak, 2006) and allow 'them to claim a certain authenticity: we are of and for the people' (Stirrat & Henkel, 1997: 75). In the end, the gifts serve as the currency that holds the systems of patronage (Stirrat & Henkel, 1997). They also hide mechanisms of power that corporations deploy to dominate their stakeholders and the consequent rewards that they reap from the outside world. Moody-Stuart (2006) confirms the existence of this patronage when he described the interdependence between corporations and NGOs, implicitly affirming the hierarchy between donor and recipient. As he notes, 'without business, there is no development aid, and no money generated to *donate* to NGOs. NGOs did not thrive under communism' (Moody-Stuart, 2006:30 cited in Rajak, 2006). According to Rajak (2016a), this description exposes the tacit notion that NGOs should work to support

the interests of business if they are to receive corporate donations. It is something that tends to be sanitised in the intricacies of the 'language of economic correctness' (Ferguson, 1998: 11). This language conceals how mining corporations engage 'in a sustained discursive manipulation of the rhetoric' to depict their relations with various stakeholders as value-free (Coronado & Fallon, 2010:667).

Community as Homogenous and Decisionmaking

Mining corporations construct mining-affected communities as a 'homogeneous' group while exploiting their differences and the existing structures of power in the industry (Coronado and Fallon, 2010; Wilson 2015). By depicting their local community as 'our community', they seek to demonstrate a sense of 'personal relationship' (Rajak, 2006: 195), feigning their relationships as more personal rather than institutional (Eigen, 2003: 9). This practice also helps deflect attention from the harmful practices of the industry (Rajak, 2011). Representing people as faceless, homogenous tends to depoliticise their social problems (Modiri, 2015). While this action suggests that marginal communities have actively participated in decision-making and have benefited considerably from [community] projects, 'diverse groups are often viewed homogenously', to prevent them from taking part in the same process (Wilson, 2015:03). Meanwhile, this conceals the balance of power and enables traditional leaders and political elites to 'reap considerable benefits at the expense of the entire community' (Wilson, 2015:3). This functions to silence critical voices, and to 'colonize... identities of critics' and marginalise them 'from the development mainstream of policy-making and power' (Rajak, 2016a:40-43).

The homogenisation of mining-affected communities enables mining corporations to 'define who the stakeholders are, which of them are to be considered legitimate and who should rightfully represent these stakeholders' (Coronado & Fallon, 2010:671). Part of this 'involves the construction of a corporate commitment to social and environmental causes in ways that contribute to an expanded market presence, if not actually, masking contradictory corporate behaviour' (Coronado & Fallon, 2010:670). Mining corporations employ community programmes to manage social relations by reducing decision-making processes to 'symbolic participation' (Kapelus, 2002 in Sydow, 2016:221). Critics attribute this to the idea that these corporations 'are largely structured in a Western, industrial pattern and do not attempt to reflect or mirror the local cultural context, leading to an ethnocentric approach to engagement' (Kemp & Owen, 2013:524). Their internal organisational structures, processes, and procedures restrict mining managers from addressing community interests and needs (Kemp & Owen, 2013).

Conclusion

This Chapter reviewed the literature on BEE demonstrating how different studies focus on its outcomes and how it has failed. The micro-level studies, which are adjacent to this study, approach BEE as aiming to address historical, structural and power inequities. They also treat the concept of BEE and the undefined mode of 'transformation' and 'empowerment' in the political sense interchangeably suggesting some form of symbiosis between the concepts. The study shifts the focus from the outcomes of BEE itself to conception and creation by looking at how the government and mining corporations employ BEE to construct the symbolic agendas of structural and political transformation. This focuses on naming of BEE social practices, processes, goods and rules as they appear in the policy documents and corporate literature before assuming that they intended to address historical, structural and power inequities. The naming of these issues focuses on distribution and non-distribution, as well as institutional practices and context. In doing so, the study draws on theoretical concepts that recognise the relations between structures, power, and institutional practices. This sort of framework clearly names structural and power relations without talking about power in the most abstract forms. The next Chapter describes the methodology.

CHAPTER THREE: METHODOLOGY

Introduction

This Chapter describes the qualitative approach to the study. BEE studies tend to depend on content analysis to study BEE legislation and policy without a critical reflection on how the government and the private sector have framed and constructed agendas of structural and political transformation. They fail to explain the connection between language-in-action, ideology, and power as well as its institutional context. Studies tend to focus broadly on the 'what' aspects of this government policy and legislation, effectively focussing on its aims and intentions while essentially neglecting the 'how' question. The latter relates to how the government has attempted to construct its policy to promote and conceal its political stance.

Focusing 'only on 'what' is disclosed may not be helpful to get an in-depth idea about the issue' (Hossain, 2017:4). The focus on the 'what' question of BEE which relies on content analysis relies on meanings rather than its construction and creation. This has shaped BEE research agenda and thus inspired a concentration on its outcomes and intentions that birthed its connection with the ending of the legacies of apartheid and colonialism. This, however, ignores how 'language indexes power' (Wodak & Busch, 2004:109), and how 'power relations are discursive' (Fairclough & Wodak, 1997 cited in Van Dijk, 2001:353) as well as how 'some discourses contribute directly to the maintenance of social relations of power and privilege' (Lemke, 1995:10). Makgoba (2019) highlights the importance of focusing on the microelements of BEE discourse through a critical analysis of government and corporate texts. However, this line of research remains underdeveloped and calls for further explorations. Studies such as Koller and Merkl-Davies (2011), Van Leeuwen (2013), and Haji and Hossain (2016) have employed discourse approaches to demonstrate the need to explore corporate narratives beyond looking at what has been reported to engage how it was reported.

This study draws inspirations from interdisciplinary works in the social and management sciences such as business and accounting studies as well as linguistics. It seeks to address the following research questions: How do the ANC government and mining corporations jointly use BEE to construct the symbolic agendas of structural and political transformations in South Africa? What are the discursive and political consequences of this? However, applying discourse theoretical approaches to study both government and corporate narratives does not solve all problems. Thus, discourse analytical approaches, such as CDA,

works well when one seeks to understand how language-in-action has been socially used to bring something into existence. However, other issues such as intentions, purposes, and comprehensions go beyond the reach of any discourse analysis and necessitate the use of other methods to bridge this gap (Cruickshank, 2012).

Informed by these concerns and limitations, as well as the comprehensive and in-depth nature of discourse theoretical approaches, this study combines CDA with interviews to deal with issues which relate to BEE social processes that may not be reached through textual analysis. In this context, conducting interviews alongside CDA not only provides an avenue for developing and testing alternative interpretations, as well as these social processes but also issues that can be lost 'if the researcher does not enter into a direct dialogue with the actors' (Cruickshank, 2012:42). No BEE study has ever used CDA to precede interviews with the intention of balancing the textual with the political.

This Chapter outlines the research programme: A CDA analysis of the construction of structural and political transformations in the BEE legislation, policies, and annual reports in South Africa. It is based on qualitative evidence and interpreted in terms of the comparison of government and corporate discourses, as well as incorporations of wider social processes and practices that relate to BEE. It also explains how this programme addresses the research questions of the study as mentioned above. Firstly, the discourse method of the study traces the evolution of the construction of BEE and its association with the transformation of historical, structural, and power inequities since 2001 with the start of the BEE Commission Report. Secondly, the interview method allows for the exploration of social processes and practices that may be related to BEE but otherwise could not be reached through textual analysis. More importantly, this helps answer questions relating to the political outcomes and functions of the 'side-effects' of BEE. It also allows the study to test and develop different alternatives that could accept or dispute corporate and government discourses. The combination of these methods allows for a comprehensive analysis of the relationship between corporate and government discourses, as well as accounting for other BEE social processes and practices that inform these discourses and their relationship with practices and action. Focusing on the construction of BEE, as well as these processes, provide an avenue for understanding corporate behaviour, as well as putting both government and corporate discourses into perspective.

The Chapter describes the objects of the study, namely, BEE government legislation and policy documents, and corporate annual reports. It also describes how they were qualitatively sampled to identify relevant texts for the exploration of BEE discourses in a manner that clearly identifies large-scale variant patterns. Furthermore, this process explains

how interview subjects were qualitatively sampled according to the criteria which sought to increase the depth and the richness of the study. The Chapter motivates for the choice of the research methods, as well as the analysis of discourse in the government and corporate documents as well as the subsequent thematic analysis of interview data. It discusses the conceptual analytical frameworks and links it with a social theory for a critical interpretation of government and corporate discourses. This does not only show how this answers the research questions but also does it in a complex manner which avoids traditionally focusing on hegemonic constructs. This is typically associated with CDA while seeking to bring social processes that may be neglected by textual analysis under review through interviews. The combination of CDA, with its historical contextualisation of discursive and textual evolution, and in-depth interviews, attempts to understand the link between intentions, practices and action. More importantly, breaking BEE discourses according to issues of distribution and non-distribution systematically offers a deconstruction of the micro and the macro aspects of discourses. This is normally deterministically hidden through the nexus of a text and its institutional context.

This methods Chapter is structured as follows. Section Two describes the objects of the study, and their qualitative sampling. It demonstrates how the process yields a relevant sample of exploration of the construction of BEE discourses and the symbolic agendas of structural and political transformation. In addition, this describes the process of applying purposeful and snowball sampling for the interview subjects, or respondents. In Section Three, this Chapter discusses the application of discourse analysis, based on Fairclough's (1992a) three-dimensional model of critical discourse analysis (CDA). This mode of CDA broadly draws on wide range of concepts, Potter's (1996) concepts of defensive rhetoric and offensive rhetoric as well as his concept of stakes and interests. This section demonstrates the link between this mode of CDA with Young's (1990) critique of the distributive paradigm of justice. It both practically and theoretically justifies this choice of framework and illustrates how this help us answer the two main questions. In Section Four, this Chapter explains the link between interviews and CDA. It proceeds to explain the process of thematic analysis, as well as how the analysis answers the question: 'How have mining-affected communities used BEE processes, or what considered to be failures or 'side effects' to amplify their agency and to challenge corporate power?' This aspect helps in developing alternatives interpretations of the actions of mining corporations. This also helps demonstrates both similarities, and contradictions between the experiences of government, community, NGO and corporate officials. Section Five delivers a conclusive summary.

Section Two: Research Data

Policy has always been oriented to the best way to allocate the surplus for individual and collective consumption rather than the more central question of the best way to control the process to realize social needs and the full potentialities of human beings (Smith & Judd, 1984:184).

BEE Legislation and Policy as Data

Smith and Judd (1984) tend to cast doubts over policymaking and the intentions of the policy. Yet there is a broad academic and political consensus in South Africa that hegemonically associate BEE with the idea of advancing the transformation of historical, structural, and power inequities. This consensus may be emanating from the superficial consideration of the intention of government policy without engaging its constructive, discursive, and institutional process which may reveal critical issues of power. Thus, many studies have largely investigated the impact, intentions, and outcomes of BEE. In consequence, they consistently illustrated that BEE has not achieved its perceived political mandate of 'broad-based black economic empowerment' in the private sector without engaging discursive and rhetorical elements of the policy itself. Other scholars have even argued that BEE has not solved problems of structural inequality and poverty. For this reason, critically analysing government policy is crucial for understanding how the government has used discourse to construct the policy rather than looking at the outcomes of the policy or its meanings. As Bryman (2012:550) puts it, official government documents 'can be interesting precisely because of the biases they reveal [and] caution is necessary for attempting to treat them as depictions of reality.'

How studies tend to focus on the outcomes of BEE informed the choice of these BEE legislation and policies such as the 2001 BEE Commission Report (Henceforth, the Report), the BEE National Strategy, the Broad-Based Black Economic Empowerment Act of 2003, the Broad-Based Black Economic Empowerment (Amendment) Act of 2013, the Mineral and Petroleum Resources Development Act (MPRDA) of 2002, the 2010 Mining Charter, and 2010 SLP Guidelines for this study. These documents communicate the 'objectives' of BEE programmes, as well as the 'intentions' of the ANC government which tend to be accepted as reality or the state of the affairs without any attempt at deconstruction. The study expands the analysis to the political speeches, addresses, and media interviews to engage political context of BEE discourses as well as counterdiscourses and hegemonic discourses to capture their complexity and breadth. While the government evidently accepted the recommendation of the Report, it was not created by the government. The BBC, a non-governmental organisation, established BEE Commission to produce the Report with the aim

of developing 'a powerful case for an accelerated National BEE Strategy and to make recommendations on policies and instruments required to guide a sustainable strategy' (BEE Commission, 2001: 1). In addition, Section 100 of the MPRDA informed the Mining Charter, which is created through 'public participation' under the guidance of the Department of Mineral Resources.

There have been limited attempts to understand how BEE has come to be associated with the transformation of historical structural and power inequities. The researcher posed this question: Why does the government keep on revising the legislation and the policy, but structural problems, as many studies pointed out, persist? Furthermore, the argument that BEE has helped create a politically connected black elite has been superficially linked with corruption and the culture of patronage in the ruling ANC. However, there have been limited efforts to investigate the constructive, discursive and institutional process of the policy which may offer insights on its relations – or lack thereof – with the transformation of above-mentioned inequities. Therefore, these government documents offer a starting point to understand what determines and conceives the outcomes, and what many people regard as the failures of BEE. Thus, the government tends to use policy and legislation to set political agendas, which may include structural and political transformation, for different industries.

I came to realise the importance of these documents to the study when I read corporate documents, especially annual reports, of the mining corporations under study: Palabora Mining Company (a national corporation), and African Rainbow Mineral (a South African multinational corporation), Gold Fields, and Exxaro Resources, and Anglo American Platinum (a British multinational corporation). They kept on referring to these documents, with the exclusion of the Report and BEE National Strategy, throughout their corporate reports. Then, I realised that these documents were important for understanding BEE in South Africa and the Mining Sector because they mattered to the actions of mining corporations. I decided to read all the documents since they did not contain many pages. I engaged how they dealt with the concepts of 'race', 'transformation', 'empowerment' and 'BEE', as well as how they broadly dealt with issues of distribution and non-distribution as well as institutional context. It was not important to develop themes at that stage. It was necessary to keep the analysis of the government documents as broad as possible to keep their patterns and discourse topics open for further exploration in the corporate documents. These documents only provide the starting point and the institutional context to study corporate discourses. I used BEE discourses that emerged from the documents to construct themes by identifying their common features, and differences in terms of their patterns, as well as by crystallising them according to the analysis of other public discourses. Deciding

whether something related to 'race', 'transformation', 'empowerment' and 'BEE', as well as issues of distribution and non-distribution, was not difficult because these documents largely address these issues in the most explicit forms.

Corporate Reports as Data

The study focuses on the annual reports of five (5) firms, namely, Palabora Mining Company (PMC), African Rainbow Mineral (ARM) Anglo American Platinum, Gold Fields, and Exxaro Resources as already highlighted. I started looking at the websites of mining corporations in South Africa to identify which ones reported on their BEE activities. The initial plan was to focus on local mining corporations in Limpopo because it would have been accessible to me. However, this proved difficult because corporations that operate in Limpopo are largely [multi]national and have centralised forms of corporate governance in which the head office handles their communication. The rationale for choosing these firms is that they have reported on their BEE activities and have diverse stakeholders. The ownership structures of these corporations provided the motivation for understanding how different private entities may understand their BEE obligations.

I focused on the annual reports that were published from 2010 to 2017 to cover the duration of the 2010 Mining Charter. The government renews the Charter every five years and mining corporations base their corporate annual reports on each Charter until it is renewed. However, the 2010 Charter lasted for seven years, two years above the normal duration, because the Mining Council challenged the 2016 Charter through the courts, delaying its implementation by two years. The mining industry criticised the validity of the Charter and launched a court action to halt its implementation. Because this study relates to how the corporations respond to the government's construction of BEE, especially through key documents such as the Charter, I chose the years (2010 to 2017) to ensure that the corporate data relate to that of government. My choice of the annual reports was guided by their importance to the corporate entities. They are not only regarded as 'the pulse of corporate realities' (Bhatia, 2012: 80) but also the means 'of consolidating the private interests of corporations, rather than increasing transparency and accountability' (Koller & Merkl-Davies, 2012: ii). In doing so, they help 'in the sustenance of corporate power and gaining control over society. In many ways, accounting discourses and corporate narratives help in 'justifying the activities of corporations in the society' (Hossan, 2017:04). For others, these are vehicles through 'which companies account for themselves to their stakeholders and ask them to accept their account of themselves and their predictions of future performance' (Van Leeuwen, 2013:13).

Before deciding on the annual reports, I read through website texts, press statements (2010 to 2017), sustainability reports (of ARM, Gold Fields, Exxaro Resources, and Anglo American Platinum 2010 to 2017) and newsletters (only of PMC). This activity helped with the identification of key and pressing issues that dominated their corporate agenda through a preliminary discourse analysis. I later discovered that annual reports were more suitable for analysis and exploration because they systematically and coherently reported on 'transformation', 'empowerment' and 'BEE' with dedicated sections in the reports. It was easy to develop themes from these annual reports for one reason. I looked at the words and the patterns that were used to construct and describe these three concepts and then created themes by recognising the genre of discourse they belonged to. Analysing both government documents and annual reports helped provide an understanding of how they framed discourses relating to BEE, empowerment and transformation, getting an opportunity to identify inconsistencies, contradictions, and similarities. I started identifying discourses with their names as well as specifying their domain and perspective.

Section Three: Qualitatively Analysing the Discourse of Government Documents and Corporate Annual Reports

Critical Discourse Analysis (CDA)

This study employs a traditional model of CDA that is based on the work of Fairclough (1992a/1995a). Fairclough (1995b) identifies the three basic properties of CDA: it is relational, it is dialectical, and it is transdisciplinary compared to other discourse-driven approaches. It is relational because its main concern is socio-political relations. It is also dialectical because its concern is not on discourse per se, but the 'analysis of dialectical relations between discourse and other objects, elements or moments, as well as the analysis of the 'internal relations' of discourse' (Fairclough, 1995b:04). Drawing on this mode of CDA, the thesis examines how the government and mining corporations jointly employ BEE to construct symbolic agendas of political and structural transformations. According to Fairclough (1995a:132), CDA

aims to systematically explore often opaque relationships of causality and determination between (a) discursive practices, events and texts, and (b) wider social and cultural structures, relations and processes; to investigate how such practices, events and texts arise out of and are ideologically shaped by relations of power and struggles over power; and to explore how the opacity of these relationships between discourse and society is itself a factor securing power and hegemony.

In other words, CDA seeks to make ideologies and opaque structures of power relations manifest and uncover the connection between discursive, social and cultural changes. This involves illuminating how mechanisms of power function to produce, reproduce, contest and transform discourses. It tries to ask, '...what kind of world is created by the texts and what kinds of inequalities and interests [the texts] might seek to perpetuate, generate or legitimate' (Machin & Mayr, 2012:24). CDA may be defined as 'fundamentally concerned with analysing opaque [and] transparent structural relationships of dominance, discrimination, power and control as manifested in language' (Wodak, 2011:53). For Wodak (2001:2), CDA aims to investigate critically 'social inequalities as it is expressed, signalled, constitutes, legitimised and so on by discourse'. This does not only deconstruct implicit social processes and structures that shape the production and consumption of a text. It also provides an account of how 'the social structures and processes within which individuals or groups as social historical subjects create meanings in their interaction with texts' (Wodak, 2001 cited in Smith & Higgins, 2013:9).

CDA offers insights on the effects of discursive practices in the sociocultural processes involving how texts are consumed, produced, distributed and interpreted and to what social effects. It is interested in systematically explicating how powerful actors employ discourse to legitimise and maintain power relations of domination (Van Dijk, 2003). It highlights how this process has been discursively constructed as natural – the 'inevitable consequence of common-sense necessity' (Lemke, 1995:17). In doing so, it shows concern to discourse as 'the instrument of power and control as well as with discourse as the instrument of the social construction of reality' (Van Leeuwen, 1993:193). Put differently, CDA is concerned with demonstrating how such relations and discursive practices disguise their injustices and serve to exercise power in the interests of the elite. This view advances the idea that dominant relations structure the orders of discourse and stabilise conventions – 'that is, the effects of power and ideology⁵³ in the production of meaning are obscured and acquire stable and natural forms: they are taken as given' (Wodak, 2001:03).

Fairclough's Three-Dimensional CDA Framework

This study adopts Fairclough's (1992a/1995a) Three-Dimensional CDA Framework to examine how the government and mining corporations employ BEE discourses to construct agendas of structural and political transformation. It adopts this mode of CDA in its traditional form, involving the adoption of three complementary perspectives of examining social events

⁵³ Discourses 'function ideologically when they represent the institutional context in which they arise as natural or necessary. They thereby forestall criticism of relations of domination and oppression, and obscure possible more emancipatory social arrangements' (Young, 1990:74).

through their *textual form*, *discourse practice* (text production, distribution and consumption), and *social practice*. As Fairclough (1995a: 97) notes,

how a text is produced or interpreted, in the sense of what discursive practices and conventions are drawn from what order(s) of discourse and how they are articulated together, depends upon the nature of the sociocultural practice which the discourse is a part of (including the relationship to existing hegemonies); the nature of the discourse practice of text production shapes the text, and leaves 'traces' in surface features of the text; and the nature of the discourse practice of text interpretation determines how the surface features of a text will be interpreted.

This description promotes the notion that texts, and communicative events should be analysed in relations to both other texts while accounting for how the social contexts produce and inform them. The study grounds its socio-political conceptual approach to the social practice in Young's (1990) critique of the distributive paradigm of justice that makes a distinction between distributive issues and non-distributive issues. It also draws upon Potter's (1996) constructionist approach to rhetoric to engage some elements of discursive practices while maintaining Fairclough's (1992a) original formulations and framework. As this will be described later in this Chapter, the study draws upon Potter (1996) not only to deal with elements of discursive practices but also to adopt a double analytic approach that caters for both offensive and defensive rhetoric. It aims to look both at the 'procedures through which [constructions] are built up, and the ones by which they are undermined' (Potter, 1996: 107). The application of Potter assumes that there are significant connections between government documents and corporate reports. These connections are constructed and deal with different BEE discourses and constructions, and the nature of their social practice. Furthermore, this study follows the traditional logic of CDA which offers a 'linguistic description of the language text, interpretation of the relationship between the (productive and interpretative) discursive processes and the text, and explanation of the relationship between the discursive processes and the social processes' (Fairclough, 1995a: 97). This CDA

looks to establish connections between properties of texts, features of discourse practice (text production, consumption and distribution), and wider sociocultural practice. [It highlights] the link between sociocultural practice and the other two dimensions involves the integration of 'macro' and 'micro' analysis of discursive events, where the former includes analysis of discourse ... processes (Fairclough, 1995a: 89-90).

Text

The first dimension of Fairclough's (1992a) framework deals with 'how the text is designed, why it is designed in this way, and how else it could have been designed?' (Fairclough, 1995b: 202). Text producers draw on a series of formal features to produce their texts, Fairclough notes, making choices from various options in the type of discourses which the text draws upon. This is because 'texts function within discourses' (Smith & Higgins, 2013:07). Text analysis in CDA can take different forms, focusing on formal features such as vocabulary, textual structures and grammar, among others. Fairclough (2001) draws a distinction between three different values of a text – that is, experiential, relational and expressive. Each formal feature may potentially have these values. According to Fairclough (2001:93), a 'formal feature with experiential value is a trace of and a cue to the way in which the text producer's experience of the natural or social world is represented' relating to their knowledge and beliefs while its relational value focuses on the traces of and cues to the 'social relationships which are enacted via the text in the discourse.'

The latter focuses largely on relations and social relationships. Lastly, the expressive value of a formal feature offers traces of and cues to the 'producer's evaluation (in the widest sense) of the bit of the reality it relates to. Expressive value is to do with subjects and social identities' (Fairclough, 2001:93). In analysing both government and corporate documents, this thesis draws on these three values to conduct the analysis while focusing specifically on vocabulary. Combined, these values offer insight on how 'texts treat events and social relations and thereby construct particular versions of reality, social identities and social relations' (Jorgensen & Phillips, 2002:83). Focusing on vocabulary advances the idea 'that different ways of 'lexicalizing' domains of meaning may involve ideologically different systems of classification' (Fairclough, 1992b:23).

While vocabulary can be studied in many ways, this study strictly focuses on the aspects of wording, and rewording according to their experiential, relational and expressive values while paying attention to individual words, phrases, and paragraphs. By looking at vocabulary, this textual analysis aims to reveal how words draw on different types of discourse, as well as how they are contributing to them (Fairclough, 2001). In turn, the analysis aims to engage vocabulary to understand how words may be ideologically and politically contested, as well as tracing discourse types with the intention of understanding their political implications. This assumes that lexical 'choices and decisions are not of a purely individual nature: the meanings of words and the wording of meanings are matters which are socially variable and socially contested, and facets of wider social and cultural

processes' (Fairclough, 1992b:185). Equally, creative texts, such as annual reports and policy documents, are characterised

by ambiguities and ambivalences of meaning, and by rhetorical play with the meaning potentials of words. Creative texts necessarily use meaning potentials as a resource, but they contribute to structuring and restructuring them, including the shifting of boundaries and relations between meanings (Fairclough, 1992b:185).

This involves looking at the choice of the lexical items and the structure of the texts and how they fit into 'larger structures of sets of texts and sets of interactions' to understand the encouragement they give to the audience (Johnstone & Eyechart, 2008:10). Establishing this relationship and making it more explicit will reveal the effects of discourse and the way it reproduces dominant power relations.

Discursive Practice

Although textual analysis inevitably intersects with the analysis of discursive practices, the second dimension of the model (Fairclough, 1992a), it is analytically important to separate them. This permits the systematic analysis of the text and its formal features and how they change or help build orders of discourse as well as establishing discursive effects. This aspect seeks to show how discursive practices mediate the relationship between texts and social practices (Jorgensen & Phillips, 2002:69). Its analysis examines text production, distribution, and consumption processes, and how the 'nature of these processes varies between different types of discourse according to social actors' (Fairclough, 1992b:78). This involves looking at text-and-interaction, and how the social contexts of the texts dialectically tend to determine its formal features – that is, texts shape and are shaped by social practices. It also looks at the impact of distribution and consumption at socio-political levels. Such involves analysing how producers of texts draw 'on already existing discourses and genres to create a text and on how receivers of texts also apply available discourses and genres in the consumption and interpretation of the texts' (Jorgensen & Phillips, 2002:69). To analyse discursive practices, this work draws upon Potter's (1996) constructionist ideas that describe 'rhetoric' as the way people communicate or interact to share meanings rather than as the means of persuasion, which relates to cognitive psychology. As he notes,

rhetoric [is] treated as a feature of the antagonistic relationship between versions: how a description counters an alternative description, and how it is organized, in turn, to resist being countered (Potter, 1996:108).

When he brings his conception of rhetoric closer to discourse, he defines it as the construction of reality, and the way constructions are undermined. In other words, rhetoric is

‘discourse used to bolster particular versions of the world and to protect them from criticism’ (Potter, 1996:33). Potter suggests distinctive ways of analysing rhetoric. Firstly, he makes a distinction between offensive rhetoric, which undermines alternate descriptions by damaging, reframing and reworking them, and defensive rhetoric, which resists and contains potential criticisms. Secondly, he differentiates between *reifying* discourse, which he regards as capable of producing ‘an event, person or thing as an object, and *ironizing* discourse, which undermines an alternate description’ (Potter, 1996 cited in Walsh, 2013:73). As he surmises, this approach treats

ironizing discourse as talk or writing which undermines the literal descriptiveness of versions. It is the opposite of reifying discourse: it turns the material thing back into talk, which is motivated, distorted or erroneous in some way (Potter, 1996:107).

How Potter presents his analytical concepts demonstrates that taking a double analytic approach may be necessary to make visible power relations that come with discursive and rhetorical practices. This involves establishing procedures of building up factual versions, constructions, or descriptions as well as that of undermining them. The importance of looking at rhetoric this way is that when descriptions ‘are analysed, part of the interest will be in what alternative claims or arguments are being undermined. Put at its simplest, one of the features of any description is that it counters – actually or potentially – a range of competing alternative descriptions’ (Potter, 1996:106).

This study basically compares government and corporate documents: it effectively seeks to show instances of offensive rhetoric and defensive rhetoric as well as ironizing discourse and reifying discourse. It connects Potter’s constructionist ideas with Fairclough’s (1992a) mode of CDA. However, it maintains the idea that discursive and rhetorical practices mediate the connection between texts and social practices (Fairclough & Wodak, 1997; Fairclough, 1992b). While doing CDA in its traditional sense, this focuses on how stake and interests are managed through descriptions as well as how they are undermined. The starting point for this analysis is the assumption that both the government and corporations have in a stake or an interest in how they describe BEE, transformation, or empowerment. As Potter (1996:125) puts it, thinking about stake or interests this way suggests

that the description’s speaker, or the institution responsible or the description, has something to gain or lose; that they are not disinterested. They have a stake in some course of actions which the description relates to, or there are personal, financial or power considerations that come into play.

In consequence, as well as a form of dealing with what Edwards and Potter (1992) call the *dilemma of stake*, political actors, such as the government and corporations, employ

discursive and rhetorical devices to ‘draw attention away from concerns with the producer’s stake in the situation – what they might gain or lose – and their accountability, i.e. responsibility for it’ (Potter, 1996: 150). To undertake this analysis, this thesis focuses on the following concepts of managing interests or stakes without defining them each time:

Ontological gerrymandering	the notion of manipulating description and construction ‘making certain phenomena problematic while leaving others unproblematic’ (Woolgar & Pawluch, 1985: 214).
Detail and narrative	the notion that the ‘ <i>detail</i> , the <i>specifics</i> of a description, are crucial for the activity that the description is used to do. They can provide an impression of being there by sketching features which, although not substantial to the claim or argument, would have been apparent to someone who actually witnessed some event’ (Potter, 1996:117).
Recontextualisation	‘texts in different social fields and at different social scales (e.g. in different societies or localities), and analysing for instance how, when these discourses are recontextualised, they are articulated with discourses which already exist within these new contexts’ (Fairclough, 2007: 54).
Overlexicalisation	‘results when a surfeit of repetitious, quasi-synonymous terms is woven into the fabric of ... discourse, giving rise to a sense of overcompleteness’ (Teo, 2000: 20/ Halliday, 1978). ‘gives a sense of over-persuasion and is normally evidence that something is problematic or of ideological contention’ (Machin & Mayr, 2012: 37).
Stake construction	‘the discursive process through which people describe and shape a shared understanding of what (legitimate) interest, stake and motive an individual or group has, or should have’ (Whittle, Carter & Mueller, 2014:09).
Stake inoculation	‘the discursive process through which actors deny, or down-play, the notion that they have an illegitimate stake, interest or motive in a particular argument or course of action’ (Whittle et al., 2014:09).
Stake confession	‘the discursive process through which actors admit or “confess” to having a particular stake, interest or motive’ (Whittle et al., 2014:09; Whittle, Mueller, Gilchrist & Lenney, 2014:619).
Stake alignment	‘the discursive process through which actors claim to share, or align with, the (legitimate) interests of certain others’ (Whittle et al. 2014:09).
Stake transcendence	‘the discursive process through which actors claim to transcend self-interest through attachment to a certain higher norm, value or ideal’ (Whittle et al. 2014:09).

Table. 2. Definitions of Discursive Strategies of interests/stake management

This aspect maintains Fairclough's traditional analysis of the notions of intertextuality, especially in the analysis of corporate reports. This helps demonstrate how they seek to orient audiences to read the texts in certain ways. Such aims to sustain ideological standpoints, as well as making certain descriptions more acceptable as objective and independent. According to Fairclough (1995b:77), a text is considered an intertextual chain, an outcome of how a series of texts find their way in it, coming along with their modes of discourses. Intertextuality can be defined as 'the property texts have of being full of snatches of other texts, which may be explicitly demarcated or merged in, and which the text may assimilate, contradict, ironically echo, and so forth' (Fairclough, 1992a:84; Fairclough, 2007). It refers to 'the condition whereby all communicative events draw on earlier events. One cannot avoid using words and phrases that others have used before. A particularly pronounced form of intertextuality is *manifest intertextuality*, whereby texts explicitly draw on other texts, for instance, by citing them' (Fairclough, 1992b:117 cited in Jorgensen & Phillips, 2002:73).

This section explains how text consumers and authors draw upon other texts socially, or historically, to interpret and produce the text in question to explain its ideological effects and standpoints. This part also examines the notion of interdiscursivity, or interdiscursive mechanisms connected with other themes and topics in the reports to help explain their ideological positions and mechanisms of legitimation and manipulations. Interdiscursivity is another form of intertextuality. It 'occurs when different discourses and genres are articulated together in a communicative event. Through new articulations of discourses, the boundaries change, both within the order of discourse and between different orders of discourse' (Jorgensen & Phillips, 2002:73). One of the crucial elements of looking at intertextuality is to understand how discursive practices conventionally combine discourses to highlight the hegemonic and the dominant status of orders of discourse, and the social order that help create them.

Social Practice

The third dimension turns to issues of social practices. It relates to different ideological orientations (such as economic, political, cultural, and institutional) that implicate discourse in various ways 'without any of them being reducible to discourse' (Fairclough, 1993:66). Viewing language-in-action as social practice suggests it is a means of action (Chouliaraki, 2008). This means that discourse is always socio-historically situated. It implies that it is in a 'dialectical relationship with other facets of 'the social' (its 'social context') – it is socially shaped, but it is also socially shaping, or *constitutive*' (Fairclough, 1995a:92). Described as 'discourse-as-social practice' (Blommaert & Bulcaen, 2000: 449), this aspect deals with the

political functions of discourse to highlight how it contributes to the enactment, confirmation, legitimization, reproduction, or challenging relations of *power* and *dominance* in society (Van Dijk, 2003). In doing so, it shows the link between macro-level analysis (involving power, dominance, and inequality between social groups) and micro-level (involving text, talk or interaction), as well as how the latter is connected to larger discourse communities (Van Dijk, 2001:354).

At this level, CDA investigates the 'ideological effects and hegemonic processes in which the discourse is a feature' (Blommaert & Bulcaen 2000: 449; Blommaert, 2005). This entails contextualising and identifying the text within wider social events and socio-political contexts within which it has been framed and produced (Fairclough, 2003: 191-194). Investigating the socio-political contexts, social practices and production processes entails offering a critique of the dominant social structures of the society and the social order which guide the production and discursive practice of the text. This critique enables the researcher to track and identify different ideologies governing text production and consumption to explain their social effects and how they emerge within the text. The study examines the questions relating to how the text constructs and 'represents' society and its functions in preserving domination and oppression. It covers its effect on the wider structures and patterns of socio-political relations. But it also focuses on the sociocultural practice of a text or 'the social and cultural goings-on which the communicative event is part of' (Fairclough, 1995a:57)

While preserving Fairclough's CDA tradition of establishing dominant and stable orders of discourse⁵⁴, and their hegemonic (ideological) struggle⁵⁵, this study draws upon Young's (1990) critique of the *distributive paradigm of justice*. This ideological struggle, or what Gramsci called "hegemony" (Gramsci, 1971) means that 'the power of dominant groups may be integrated in laws, rules, norms, habits, and even a quite general consensus' (Van Dijk, 2001:355). Young criticises the paradigm for its predominant focus on the distribution of wealth, income, and positions which 'ignores and tends to obscure the institutional context within which those distributions take place, and which is often at least partly the cause of patterns of distribution of jobs or wealth' (Young, 1990:21). This study draws on the concepts of this critique, which draws a distinction between non-distributive issues, which deal with issues of decisionmaking structures, power, and procedures, the social division of labour and culture, distributive issues, which involves the allocation of material goods, to make

⁵⁴ How 'discourses are structured in a given order of discourse, and how structurings change over time, are determined by changing relationships of power at the level of the social institution or of the society. Power at these levels includes the capacity to control orders of discourse; one aspect of such control is ideological ensuring that orders of discourse are ideologically harmonized internally or (at the societal level) with each other' (Fairclough, 2001a: 25).

⁵⁵ Orders of discourse 'can be seen as one domain of potential cultural hegemony, with dominant groups struggling to assert and maintain particular structuring within and between them' (Fairclough, 1995b: 56).

judgements on discourses and constructions of BEE. It employs these distinctions to establish hegemonic constructs and descriptions of BEE in both government and corporate documents while making judgement on how they reproduce the status quo, domination and oppression.

Section Four

Interviews and CDA

This study uses in-depth or semi-structured interviews to explore the main discourse topics that emerged from the literature review on social processes in the mining sector and relate to the CDA analysis of government and corporate documents. These interviews also seek to understand the social and institutional context that produces corporate discourses and address the intentions of government and mining corporations through engaging their officials and that of community members and NGOs. The combination of the two methods sought to crystallise key features of both government and corporate discourses, as well as to establish key elements of the discourses that may have been marginalised, silenced and strategically omitted. For this reason, semi-structured interviews sought to develop and test alternative interpretations of BEE corporate and government discourses, actions, and interests. This helps gain insights into the intentions and comprehensions of the government and corporate officials who interact with BEE beneficiaries, mining-affected communities and BEE processes.

Semi-structured interviews sought to generate an understanding of how stakeholder groups, such as NGOs, government departments, and community leaders understand corporate BEE activities, and practices, especially in the context of community development and relations. CDA is suitable for exploring government and corporate constructions of BEE, as well as that of 'transformation' and 'empowerment' through the analysis of corporate annual reports and BEE government documents. However, it was not sufficient to generate a holistic understanding of BEE activities and practices without exploring the intentions of government and mining corporations, as well as how other stakeholder groups comprehend the actions of government and corporations. In consequence, the complexity of the study, dealing with the intersection of government, corporate and community interests, also required a phenomenological exploration of social processes, dynamics, and relationships that shape corporate discourses (Mason, 2002; Seidman, 2006). This offers a different perspective and understanding concerning the construction of BEE activities, 'transformation' and 'empowerment'. It involves considering broader socio-political and

cultural contexts by considering multilevel stakeholder views, understanding and experiences of different actors in the mining sector.

The combination of interviews and textual analysis mainly enhanced the depth and breadth of the analysis of BEE, and how it has been used to construct the agendas of structural and political transformation. In short, it expanded the scope to examine the social processes and contexts that shape corporate and government discourses. The combination is also based on the notion that although qualitative interviews may be useful for understanding these social processes and the context of constructing BEE discourses, they would not be enough to illuminate discursive and rhetorical practices. As Cook (2008:423) notes, relying solely on in-depth interview may not allow

a full investigation of the topic because the participant and researcher are limited by the recall of the participant, the ability of the participant to articulate his or her experiences within the timeframe of the interview, and the ability of the researcher to ask the “right” questions to prompt more detailed discussion and aid the analysis.

This view informed the use of government and corporate documents and the subsequent CDA analysis alongside interviews to ensure a comprehensive picture of the research topic (Brinkmann, 2013; Cook, 2008). The use of CDA and qualitative interviews helped provide a comprehensive account of the research topic and offered insights on the social and contextual situations of BEE practices, discourses and processes. The latter produces BEE discourses and practices by bringing forth the views, understandings, interpretations, experiences, and interactions of both the consumers and producers of BEE discourses.

These interviews built on the textual analysis and sought to generate an understanding of how people such as government officials, community leaders, and representatives of NGOs, interact with corporations to contextualise both government and corporate discourses of BEE. The richness and vividness of their data added a new layer that complexified and illuminated the multilevel nature of BEE practices and discourses, as well as offering an insight on the intentions of BEE corporate and government officials. In the context of this study, qualitative interviewing helped explain the ‘*hows of human action and experience*: How is something *done* [...], and how is something *experienced* [...]’ (Brinkmann, 2013:49). In particular, as a multilevel approach, this involves considering how BEE corporate and government discourses, and BEE practices and processes, as described in the corporate and government documents, are produced as well as how they are received, understood and interpreted by other actors.

Research Questions and Interviews

The textual analysis partially dealt with the two main questions of the study: How do the ANC government and mining corporations jointly use BEE to construct the symbolic agendas of structural and political transformations in South Africa? What are the political and discursive consequences of this? Qualitative interviews expanded these corporate and government perspectives by exploring contextual and situational processes of consumption and production of BEE activities, practices and processes which related to both government and corporate discourses. These interviews also added another layer of analysis by generating the views and the experiences of officials of NGOs, government and other leaders who have worked and interacted with government, mining and local communities. It tried to answer the analytical question: How do NGO, community, and government officials understand the intention of mining corporations and government with regard to BEE, 'empowerment' and 'transformation'? What are the social consequences of how the government and mining corporations construct 'transformation' through BEE over mining-affected communities or how have they responded to this? To what extent do BEE activities and the actions of the government, mining corporations and mining-affected communities reflect the work of larger structural processes? This sought to explore their understanding of the intentions of both government and mining corporations, as well as social and situational contexts that shape BEE activities to develop alternative understanding and comprehension of both corporate and government discourses. As Mason (2002: 62) notes,

a perspective regarding knowledge as situated and contextual, requiring the researcher to ensure that relevant contexts are brought into focus so that the situated knowledge can be produced. Meanings and understandings are created in an interaction, which is effectively a co-production, involving the construction or reconstruction of knowledge.

Consequently, using interviews has been considered as a suitable research design given its ability to facilitate the exploration and understanding of both material and social processes that are key in producing and consuming BEE activities (Seidman, 2006). This provided access to the understanding of discursive choices and actions of these corporations. Furthermore, this study considered the way the government constructs BEE agenda in the South African mining, as well as the responsiveness of mining corporations to the above agenda as contextual, situational and interactional (Mason, 2002). This required qualitative interviewing to delve deeper into the social experiences and processes that underpin the producers and consumers of BEE discourses to contextualise government-corporate perspective of BEE. This is because the multilevel nature of the study required an in-depth and complex understanding of the key actors as situated and contextualised accounts underlying experiences of those actors. In addition, doing interviews contributed a different

angle to the study by providing an in-depth understanding of the phenomenon. It allowed the incorporations of the views of community leaders, government, and NGOs in the analysis in understanding BEE discourses.

Semi-Structured Interviews

Bernard (2006:210) defines semistructured, or in-depth interviewing, as ‘a scheduled activity. [It] is open-ended but follows a general script and covers a list of topics.’ It also enables the researcher to ask predetermined but usually open-ended questions to address specific questions and topics relating to the research topic. This tends to position both the participants and the researchers as co-producers of knowledge (Mason, 2002), enhancing the flexibility of providing new meanings and perspectives to the focus of the study (Galletta, 2013). The open-ended questions, very deliberately tied to the research topic, create space for participants to share their experiences, views and understandings of the phenomenon under study. Although the researcher predetermines the interview questions and topics, they consider that asking open-ended questions may generate the data researcher might have least expected. Mann (2016) contends that this flexibility also gives the researcher the room to reflect critically on the participant’s responses: probing for clarification and meaning making. To achieve this, this form of data collection involves the use of a guide rather than a script – enabling this researcher to build upon, and explore, such responses (Mann, 2016; Seidman, 2006).

Sampling and Techniques

The study employed purposive sampling and identified research interviewees such as, mine managers (3), and government officials (6), NGO officials (2), as well as community leaders and activists (4), BEE beneficiaries (2) and policy expert (1). I chose these people partly because of their formal positions, and because they have an intimate understanding of social processes of BEE which are relevant to this study. I employed a sequential approach by starting with an initial sample and gradually added to the sample as suited the research questions and topic. I had a predetermined idea of the profile of my research informants, based on their affiliation with their organisations and the kind of work which they did, but not necessarily specific people. These informants have worked and interacted with mining corporations, mining-affected communities and BEE processes. These interviewees were selected based on their knowledge and experience of ‘the research issue, or capacity and willingness to participate in the research’ (Oliver, 2006:224). Secondly, the study employed snowball sampling to select individuals with insights on the research topic. I initially identified these interviewees by collecting information on the websites of their organisations. However,

I did not make contacts with these persons before arriving in South Africa. It is not easy for people to respond to emails or honour telephonic appointments. I identified government agencies such as departments of Water and Sanitation, Land Reform, Mineral Resources, Local Economic Development, Treasury, Premier's Office. I visited their offices to ask for officials dealing with the mining sector and BEE processes, or who have worked with the mining sector.

These government agencies have relationships with the mining industry and work closely with mining-affected communities, especially when they have conflicts. They identified officials or advised me to speak to someone from a different government agency. I then arrange to interview them depending on their availability in the next two to three days. Based on the interview, I asked each interviewee to recommend someone whom they think can provide me with the relevant information. They also referred me to the two BEE beneficiaries. I also visited the offices of the NGOs and they recommended me two officials whom I arranged to interview the following day. With mining officials, I contacted the local branches of the three companies in Limpopo, and they referred me to their national offices. I managed to gain access to these officials through phone calls and interviewed them in their offices. I contacted and interviewed three community leaders and the policy consultant after being exposed to their work on mining in the media.

Thematic Analysis

I transcribed the interview data from the tape recorder and read the transcripts line by line to identify themes as well as sub-themes while both theoretically and practically linking the themes with my CDA findings. This involved 'organizing and preparing the data, an initial reading through the information, coding the data, developing from the codes a description and thematic analysis [...], representing the findings in [themes], and interpreting the findings' (Creswell, 2013:212). This process helped contextualise some elements of both government and corporate discourses by showing their relationships and contradictions, as well as to demonstrate how some topics and patterns consistently occurred on the texts as well as the interviews. Adopting thematic analysis was suitable to explore CDA themes by showing how they are maintained or contradicted as well as providing their social context as well as their political and cultural sources. It also helped answer the analytical research question: (s) How do NGO, community, and government officials understand the intention of mining corporations and government with regard to BEE and 'transformation'? What are the social consequences of how the government and mining corporations construct

'transformation' through BEE over mining-affected communities or how have they responded to this?

Firstly, I developed themes based on how research participants *repeated topics and words* when they dealt with interview questions and issues relating to the research focus. This approach helped create categories out of unexpected combination of the views of different participants. Thus, there were instances in which community, government and officials repeated words and topics, as well as agreeing on certain issues. I also used the similarities and differences between the views of these participants over different topics, largely using either the government official or mining official as a starting point. This was not straightforward. In some instances, mining officials shared the views of community leaders while, in other instances, government officials contradicted each other or presented critical views of the government. In many instances, mining officials presented views that differed with that of government, NGO and community officials, as well as CDA findings. Looking at similarities was crucial in that these research participants offered similar views on some topics despite representing different interests and constituencies. I also depended on theory-related material to create themes by linking the data with the literature deductively.

Limitation and Generalisability

Through triangulation, the use of interviews and CDA remains the most suitable way to undertake this project. They provided the depth and richness to offer a comprehensive analysis of the topic which provided a good balance between the textual and the socio-political. The choice of documents sample, as well as that of interviews, has allowed for an exploration of different themes and issues about BEE practices from different perspectives. Thus, by critically analysing government documents and corporate reports, as well as using three samples of companies, the study identified some key similarities and differences which produced an analytical generalisation. The racial profile of ARM and PMC, as well as that of Anglo American Platinum also offers another important layer of analysis which increases the credibility of the findings. Thus, how ARM, a black-owned, PMC, having 25 percent of shareholding, and Anglo American Platinum, which is white-owned, have reached consensus on certain issues demonstrates the validity of the findings and that the problem might be industry-wide. The approach was rigorously systematic and enabled the researcher to understand how corporations interpreted government legislations and policy by studying documents as well as interviewing different officials who understand the mining sector. Furthermore, how the interview data confirmed and offered alternative interpretations of CDA data has also enabled this researcher to achieve this analytical generalisation.

Both theoretically and practically, if one uses CDA and interviews this way to study BEE, they are likely to discover similar instances as those discovered in this study. Furthermore, the choice of the interview sample, and how interviewees showed consensus on certain issues has enabled the research to produce what we call *moderate* generalisations. This allows the research to make generalisation on some aspects of the focus of enquiry, such as mining-affected communities, traditional leadership, and corporate and government discourses. Furthermore, how the study relied on different theoretical concepts has enabled the researcher to highlight a broader set of recognisable features of BEE practices in the mining sector, as well as other industries. Thus, if the same approach is employed, other researchers would be able to achieve the same level of analytical generalisation. Since this study deals with issues of distribution, it could have been important to understand a case-to-case situation of its impact and outcomes. Thus, while the overall arguments of the thesis and the finding are valid, the analysis of case-to-case scenarios of BEE activities of mining corporations could have further strengthened the findings by crystallising the difference between distribution and non-distribution. Furthermore, while traditional authorities and community forums formed part of the analysis, their leaders were not interviewed due to their inaccessibility.

Section Five: Conclusion

In this Chapter, this thesis demonstrated how it answers the research questions with government and corporate documents as well as interview data as collected, sampled, and analysed. CDA fundamentally handles issues of construction and power very well. It works well with interviews that deal largely with the consequences of BEE discourses that come in the form of social practices, political interests, and intentions. Government and corporate documents rhetorically revolve around ideological persuasions which intend to consolidate political interests. This requires the combination of these methods to merge ‘the how aspect’ of construction with ‘the what questions’ of the actions and outcomes of BEE discourses. For this reason, these methods intend to provide an avenue for making claims about the sociocultural goings-on of BEE discourses, moving between a closely-analysed text and a sociostructural analysis. This thesis investigates the relationship between government and corporate documents and how they construct symbolic agendas of structural and political transformations. Because of its process-oriented, historical, and relational conceptualisation, CDA helps map out the evolution of BEE discourses through the intertextual nature of this discursive relationship. This evolution runs parallel with BEE discourses and their concern with these symbolic agendas. The infusion of the concepts of social theory to engage social practices of CDA and interview data crystallises economic, political, and social relations that

come with the outcomes of BEE discourses. Concomitantly, this identifies hegemonic discourses as well as how they advance ideological struggles in the expansion and exertion of power.

CHAPTER FOUR: CRITICAL DISCOURSE ANALYSIS OF BEE DOCUMENTS

Introduction

This Chapter employs CDA to analyse BEE discourses (BEE legislation, policy documents, political speeches, and public interviews) and corporate annual reports of mining corporations according to how they engage issues of distribution and non-distribution as conceptualised by Young's (1990) critique of the distributive paradigm of justice. While this focuses on BEE discourses at the level of the government and mining corporations, the Chapter engages other discourses from other political actors, such as parties and industry representatives, to highlight the complexities of BEE discourses and their counterdiscourses. The Chapter mainly highlights how these discourses evolve (from macro levels to micro). It also demonstrates how the government advances visions and principles of empowerment and transformation that originated from the private sector by consistently highlighting how the discursive and rhetorical traditions of the BEE Commission Report permeate government and political discourses through the three political processes of *policy formulation, legislation and implementation*. Furthermore, the Chapter engages how BEE discourses deal with broader political, economic, social, and cultural issues in South Africa, as well as how they establish, maintain, and conceal power relations through discourse. Throughout the analysis, the Chapter points to 'the necessary interdependence of 'micro' analyses of specific discourse samples and more 'macro' analysis of longer term tendencies affecting orders of discourse, the construction and restructuring of hegemonies in the sphere of discursive practices. These 'macro' dimensions constitute part of the context of any discursive event and are necessary for its interpretation' (Fairclough, 1995:101). Thus, this Chapter follows the logic that 'subscription to a particular discourse at the individual level is likely to be [the] effect of the processes of discursive formation that occur at the societal level' (Locke, 2004:32).

Rather than assuming that BEE aims to lead the transformation of structural, historical, and power inequalities, the study takes a step back. It looks at this transformation as an institutionalised discursive phenomenon as well as how the government employs BEE discourses to construct it. This approach partly shifts the focus from the study of the intention and outcomes of BEE itself to conception and creation: the naming of BEE practices, goods, processes, and rules according to the issues of distribution and non-distribution. By explicitly focusing on these issues of naming this way, we can then make judgements about the scope and the nature of BEE in terms of its [dis]connection to, and from, the transformation of historical, structural, and power inequities rather than assuming that BEE aims to advance this mode of transformation.

The 2001 BEE Commission Report and the Elite Origins of BEE policies

This section deals with the origins of BEE and intends to demonstrate how the BEE Commission Report (henceforth “the Report”) help heavily influenced the structure of BEE frameworks, legislation, and policies, as well as its visions and principles of ‘empowerment’ and ‘transformation’ in South Africa. This report originated from the private sector through the partnership of representatives of both black and white businesses and literally recommended the creation and formulation of the BEE legislation and policies, such as the BBBEE Acts, the Strategy and BEE charters. This analysis, in part, highlights the influence of private interests over the government by demonstrating how BEE legislation and policies ideologically and discursively carry and maintain the visions and principles of the Report. In short, this politically demonstrate the power of white monopoly capital and black elites over the government in South Africa, as well as their influence on how the ANC developed policies in post-1994. These economic realities started under Mandela (1994 – 1999) ‘who thought that he had them on board in what the ANC saw as a hostile economic climate’ (Desai, 2018:506) and continued under Mbeki (1999 – 2008) who believed in the concept of ‘patriotic capitalism’ that nurtured the growth of a black bourgeoisie (Murray, 2000; MacDonald, 2004). The political significance of the Report starts when Mbeki formally told Members of Parliament in his State of the Nation Address that

government has accepted the most critical recommendations of the BEE Commission [a private sector project]. On the two specific areas of legislation and institutional frameworks, it has been decided as follows: All sectoral legislation will be examined to ensure that the obligation of [BEE] is incorporated, on the basis of common principles agreed upon. Once a comprehensive policy statement on this issue has been finalised, within the next 4 months, BEE Council will be established, bringing together government and other experts and practitioners in this critical area (Mbeki, 2002).

This acceptance of these recommendations raises important ideological questions about the intention of the policy and its origins, given the character of its producers, as well as the economic context of capitalism. How can the private sector develop policies that may disrupt its capitalist structures and cultures? From the start, the notion of incorporating BEE into the existing legal frameworks suggests that the policy intends to preserve the underlying structure of political economy that began during colonialism and apartheid. However, the Report constructs BEE in a manner which presents the policy as a new measure of restructuring the economy and addressing the economic domination of blacks while merely depending on [re]distribution.

To achieve this goal, the Report confesses that the systems of colonialism and apartheid have oppressed blacks to contextualise the policy historically. This confession helps recontextualises the postcolonial discourses of policymaking that emphasises that socioeconomic policies should take account of historical events and processes. As the Report reads,

South Africa [needs to] break the cycle of underdevelopment and continued marginalisation of the majority of its people from the mainstream economy and catapult the country onto a course of sustained rates of economic growth. In making this case, the BEECom believes that the legacies of colonial and apartheid oppression and deliberate disempowerment provide a sufficient moral and political basis to justify an Integrated National BEE Strategy. The historical evolution of the South African economy has been predicated on the domination, exploitation and marginalisation of the black majority (BEE Commission, 2001:03).

The Report continues:

Apartheid's race and gender oppression was not mere prejudice, but ultimately about using power and control in the interests of a minority white population. In the early colonial period, reliance was placed on the theft of land from black people and the institutionalisation of an economic system that used black people as cheap labour (as "hewers of wood and drawers of water"). The Colonial system introduced the pass laws, hut taxes, influx controls, and a plethora of other oppressive remedies that were perfected under Apartheid. Colonialism, white racial power, privileges and wealth were systematically legitimated through the effective propagation of a multitude of racist ideologies (BEE Commission, 2001:03).

These descriptions and their construction of historical context tend to construct BEE as an economic measure that intends to deal with the economic marginalisation, cultural oppression, and racial exploitation of blacks. For instance, both the colonial and apartheid regimes banned blacks from owning businesses and land, except in native reserves or Bantustans which only accounted for 13 percent of the land in South Africa. They enacted racist laws, such as the Native Resettlement Act, the Land Act, the Population Registration Act and the Bantu Education Act which curtailed any meaningful economic activities, such as ownership of black businesses⁵⁶. However, the Report merely employs the discursive strategy of *stake confession and construction* to appropriate anti-colonial and apartheid discourses to justify the creation of BEE. Thus, these descriptions merely acknowledge that 'the legacies of colonial and apartheid oppression and deliberate disempowerment' of black people necessitates state intervention⁵⁷ and therefore the creation of BEE through this

⁵⁶ Because they were also politically oppressed and disenfranchised, Blacks could only provide cheap labour or work menial jobs in white corporations and white homes as slaves.

⁵⁷ In South Africa, the social wage and distributive policies must be 'seen in this light, introduced to temper the

discursive practice. However, this does not suggest that BEE will address such political and structural issues. Thus, recognising, firstly, that colonial and apartheid culturally, politically and economically disempowered blacks and, secondly, developing the economy and its discourses in the way that is structurally and radically responsive to this disempowerment are different political ideas and discourses. In this context, the Report⁵⁸ symbolically employs and compounds the history of black oppression to justify its tokenistic, distributive, and market-oriented policies.

Rhetorically attacking and critiquing the system of colonialism and apartheid, as well as its legacies that produced structural poverty and chronic unemployment among blacks, presents BEE as legitimate without providing any equivalent (or equally legitimate) remedies to drive the restructuring of the economy. These remedies focus on the surface allocation of material goods, such as, resources, income, jobs, and wealth while leaving the underlying political economic structure, as well as its decision-making structures and procedures, the social division of labour and culture, that began during colonialism and apartheid intact. As the Report notes,

BEE should therefore seek to promote new opportunities for and increase the levels of participation of black people in the ownership, management and control of economic activities. Strategies should support individual entrepreneurs as well as social and collective capital (BEE Commission, 2001:02).

This suggests that remedies, such as '[increasing] the levels of participation of black people in the ownership, management and control of economic activities', encourage the assimilation of blacks into apartheid capitalism and status quo while inevitably strengthening the sustainability of white domination. In consequence, this depends on the discourse of redistribution and depoliticised empowerment by focusing on empowerment without autonomy, and how far the existing apartheid economy and its white-dominant corporate sector are willing to distribute shares and income without restructuring their institutional design and rules of decision-making. From the start, this approach suggests that BEE does not represent the departure from the status quo and the neoliberal policies of the 1980s

worst consequences of apartheid and neoliberalism's effects on economic and social restructuring. As a result, we have to be wary in assessing new policy initiatives that present themselves as a departure from neoliberalism' (Ashman, Fine, Vishnu Padayachee and Sender, 2014: 73).

⁵⁸ The report also implicitly acknowledges how racist policies and processes have shaped structural relations between blacks and whites in the private sector by juxtaposing the state of the private sector with what it should be doing. However, rather than explicitly calling for the institutional transformation of the sector, the document downplays this. Instead, it constructs a new form of stake and interests which calls for the active role of business in economic development and policymaking. The phrase, 'limited impact on the economic landscape', recontextualises the hegemonic discourse of neoliberalism that defines multinational corporations as agents of development beyond tax paying.

under the rule of the white National Party even its historical contextualisation may make the policy appear interventionist. However, Mbeki (2003) later tried to downplay this:

the government will lay greatest stress on [BEE] that is associated with growth, development, and enterprise development and not merely redistribution of existing wealth. We will work in partnership with the private sector and will further ensure that government actions are coordinated and monitored. The government is firmly of the view that economic growth, development and [BEE] are complementary and related processes. The empowerment we speak of is an inclusive process and not an exclusive one. No economy can meet its potential if any part of its citizens is not fully integrated into all aspects of that economy.

Mbeki's words emphasise that BEE should find expression in the macroeconomic policies of the ANC, such as GEAR, and NDP, while reconstructing the myth that some form of redistribution is possible within a neoliberal economic context through what the ANC termed the 'growth and redistribution approach' (or 'trickle-down') in the 1990s. However, by focusing on 'participation', this description depoliticises the idea of empowerment and suggests that black people would operate and exist within capitalist relations of apartheid which historically produced inequality. Consequently, the Report advances a distributive logic and tokenism that support the mere surface reallocation of income, shares, and wealth while ignoring and concealing white domination that coordinated the disempowerment of blacks in the first instance. In consequence, this remained confined to the discourse of redistribution that reproduces distributive inequality while maintaining the domination of white businesses in the economy. As the extract shows,

BEE should be viewed within the broad scope of empowerment processes including, amongst others: job creation, rural development, urban renewal, poverty alleviation, land ownership, specific remedies to empower black women, skills and management development, education, meaningful ownership, and access to finance for households and for the purpose of conducting business (BEE Commission, 2001:02).

This description suggests that this model of BEE, which is now known as Broad-based Black Economic Empowerment is different from CSR programmes of the 1970s and 1980s in which white corporations gave members of the liberation movements shares and managerial positions. This sought to give an impression that BEE seeks to achieve wider distribution and largescale structural and political transformation. The Report states that it broadened the policy to address concerns such as the

tendency⁵⁹ in South Africa to define BEE narrowly and to equate it with the development of a black capitalist class [and] the narrow definition [which focused] on the entry and transaction activities of black people in business, especially what is commonly referred to as BEE investment companies (BEE Commission, 2001:02).

This description of *the broad scope of empowerment*⁶⁰ recontextualises the depoliticised discourses of empowerment and redistribution for various reasons. The issues of 'urban renewal', 'education', 'poverty alleviation' and 'land ownership' take a distributive logic even though they are connected to the discriminatory laws, such as 'the Group Areas Act, mandating residential segregation; the Bantu Education Act, enacting separate and unequal education for different racial groups; the Native Resettlement Act, coerced removal of Africans to Bantustans (homelands); and Land Act of 1913, the appropriation of African land, giving 87 percent of the total land to whites and 13 percent to Africans' (More, 2019:271). However, despite appearing more important to the reconstruction project in South Africa, these distributive goods depend on how the government could expropriate land and distribute it equitably through the right legal framework that explains rights and practices of making decisions about the disposition of land. However, the ANC has left the land question untouched and failed to 'grapple with challenges posed by private property rights within the Constitution, especially with respect to land reform and evictions' (Bond, 2000:91). This suggests, for instance, that the patterns of land ownership can be transformed only if white farmers and capital are willing to sell their land at a reasonable market price through the ANC's policy of the willing-buyer willing-seller which reproduced land inequality and gave rise to state corruption. As Mbeki (2006) acknowledged this issue,

Land reform and land restitution are critical to the transformation of our society. Accordingly, the state will play a more central role in the land reform programme ensuring that the restitution programme is accelerated, further contributing to the empowerment of the poor, especially in the rural areas.

However, the current president, Ramaphosa, still laments about land inequality in South Africa 16 years after Mbeki endorsed and accepted the Report:

It is precisely because the legacy of land dispossession has been so devastating and enduring – responsible in large measure for the widespread poverty, inequality and underdevelopment of the present – that the current discussion on land redistribution is so critical, so

⁵⁹ By acknowledging this 'tendency', as well as contextualising BEE historically as we have noted, the notion of 'broad scope of empowerment' symbolically constructs BEE as aiming to lead the transformation of historical, structural, and power inequities.

⁶⁰ This tokenistic shift emphasises the broad scope of empowerment without fundamentally offering new social rules, processes, and practices of transforming the economy, on one hand, and of politically empowering blacks, on the other. The suggests that the same historical constraints on black people's lives remain unchanged while the report distribution that merely reproduces inequality.

timely and so fundamental to the success of our democracy
(Ramaphosa, 2017).

The state has only started the process of amending the Section 25 of the Constitution in 2018 which protected property rights and prevented the ANC from expropriating the land stolen during colonialism after the 1994 election as part of its 'Faustian Pact' between its political elites and the white establishment. In consequence, this suggests that the notion of 'the broad scope of empowerment', as described here, represents the preservation and extension of apartheid capitalism, its capitalist decision-making powers and racial exploitation while promoting the surface allocation of goods such as land. In consequence, this notion promotes the inclusion of Blacks in the economy rather than promoting the restructuring of its capitalist relations. Because the issues of 'education', 'poverty alleviation' and 'land ownership' are central to any project of reconstruction, BEE tends to encourage people's commitments to the same system by promising them something credibly material such as broad-based empowerment.

BBBEE Strategy, economic participation, and private influence

This section builds on the previous section. As BEE evolves, the influence of the private sector over the ANC government becomes crystal. The Report informs the formulation of the National BEE Strategy. Thus, the government adopted the distributive logic, design, vision, and principles, of BEE from the private sector without making any major changes. Politically, this resonates with the idea that the transition from apartheid capitalism to the post-1994 neoliberal agenda became 'an elite project of capturing the state [through policy formulation] and the means of governance, in contrast to creating an expansive and inclusive democracy based in the activity of the mass movements' (Gibson, 2011:02). In this case, the ANC acknowledges that the development of its BEE strategy emanates from the private sector. As the document indicates,

this strategy document is the outcome of an extensive consultation process within government and with the private sector. It is informed by contributions of the [BEE] Commission as well as the views of the President's Black Business and Big Business working groups (DTI, 2003:05).

In consequence, despite noting 'extensive consultation process within government' to suggest some form of democracy and transparency, both the Report and the Strategy have explicit intertextual links, demonstrating how the Report unduly informs the vision and principles of the BEE strategy. This is emphasised by how they uniformly defined BEE

as an integrated and coherent socio-economic process that directly contributes to the economic transformation of South Africa and brings

about significant increases in the numbers of black people that manage, own and control the country's economy, as well as significant decreases in income inequalities (DTI, 2003:15, BEE Commission, 2001:02).

This highlights the application of manifest intertextuality and further politically problematises this notion of *economic transformation*, given the character of the producer of the policy. This transformation merely encourages the assimilation of blacks in the white-dominated economy by focusing on 'significant increases in the numbers of black people'. In consequence, this reduces the process of *economic transformation*, as described here, to numbers which defines empowerment 'as a broad-based process and the scorecard approach' (Mbeki, 2003). However, this ignores how the political economic structure generates the economic marginalisation, racial exploitation, and deprivation.

Following the discursive choices of the Report, as well as highlighting the depth of the private influence, the Strategy constructs BEE in a manner that symbolically employs the *discursive strategy of stake confession* to appropriate the discourses of the struggles against colonialism and apartheid to justify its creation. As the strategy emphasises,

apartheid systematically and purposefully restricted the majority of South Africans from meaningful participation in the economy. The assets of millions of people were directly and indirectly destroyed and access to skills and to self-employment was racially restricted. The accumulation process under Apartheid confined the creation of wealth to a racial minority and imposed underdevelopment on black communities. The result is an economic structure that today, in essence, still excludes the vast majority of South Africans. It is crucial to understand the magnitude of what took place in our past [...] to understand why we need to act together as a nation to bring about an economic transformation in the interest of all. Progress has been recorded in undoing the legacy of the past, however, the extent to which this economic success has been shared by all of our people is still inadequate for the requirements of a stable and prospering society. The time is right for the introduction of a comprehensive and focused strategy for broad-based black economic empowerment (DTI, 2003:04 - 5).

This is reflected in how former president Jacob Zuma (2013) talks about *economic transformation* in his address to the BEE Summit:

in 1994 we inherited a racial economy whose capacity to grow was severely constrained by the exclusion of the majority. We knew that transformation was not going to happen by osmosis. Deracialisation had to happen through an effective implementation of transformative policies. We pride ourselves on having sound economic transformation policies. Our approach to economic transformation is informed by the historical principles espoused in the Freedom Charter, Ready to Govern and the [RDP] (Zuma, 2013).

This appropriation of anti-colonial and anti-apartheid discourses artfully follows the logic of postcolonial discourses of policymaking that emphasises that policies in post-colonial economies should take account of historical events and processes. However, the government merely uses history to justify the implementation of BEE and to masquerade its ahistorical, distributive, and market-oriented remedies as contributing to the restructuring of the political economy. This discursive practice permeates through government policy documents and helps symbolically construct BEE as aiming to lead large-scale structural and political change while merely focusing on distributive deracialisation⁶¹. Such ahistorical, market-oriented, and distributive remedies include the creation of National Empowerment Fund (NEF), which was recommended by the private sector through the Report, to

provide historically disadvantaged persons with the opportunity to, directly and indirectly, acquire shares, to encourage and promote savings, investment and meaningful economic participation by historically disadvantaged persons, [as well as] promoting and supporting business ventures pioneered and run by historically disadvantaged persons (DTI, 2003:15).

In his address to BEE Summit, Zuma (2013) indicated that the Fund,

mandated to grow black economic participation in South Africa, has approved over 500 transactions worth more than 5 billion rand to black-empowered businesses across the country. Over 60% of its beneficiaries are SMMEs, and these are in virtually all sectors of the economy. To date the NEF has supported in excess of 44 000 jobs. The cooperative sector has proven to be highly successful in empowering disadvantaged communities and countering poverty.

In one of his state of the Nation Addresses, he also indicated that

one of our new interventions is the Black Industrialists Scheme, which has been launched to promote the participation of black entrepreneurs in manufacturing. We urge big business to partner with new manufacturers including businesses owned by women and the youth, as part of broadening the ownership and control of the economy (Zuma, 2016).

This notion of acquiring shares relates to redistributionist discourses that ignores important questions about relations of power and ideological foundations that inform the injustice being challenged. This is despite the ideological and ambiguous application of the concepts of *economic transformation*, *transformation*, and *broad-based empowerment* in the discursive context of the appropriation of discourses of colonialism and apartheid. The NEF and Black

⁶¹ Even so, the Strategy attempts to construct BEE as more than distributive deracialisation. As it states, 'societies that are characterised by racial or ethnically defined wealth disparities are not likely to be socially and politically stable. The process of BEE seeks to accelerate the deracialisation of the South African economy and fast track the re-entry of historically marginalised communities into the mainstream of the economy' (DTI, 2003: 17). However, this focuses on the concept of deracialisation and racial integration and the notion of empowerment without autonomy. Furthermore, the contextualisation of the discourse of colonialism and apartheid, as recontextualised through the notion of 'historically marginalised' and 'racial or ethnically defined wealth disparities' ideologically function to inflate the political significance of BEE. However, its remedies remain ahistorical and distributive and ignore institutional practices.

Industrialists Scheme merely focus on growing 'black economic participation'. Focusing on participation de-emphasises the decision-making structures that engineered economic domination and marginalisation and will continue to impose unjust constraints on blacks. These remedies operate according to the ahistorical logic of the markets which organises and determines the surface allocation of resources, income, and wealth while ignoring and concealing the dominance of white capital.

However, as noted above, as well as drawing upon the discursive practices of the Report, the Strategy constructs BEE, as emphasised by the use of race, as moving from BEE to the notion of BBBEE to suggests that the policy promotes more than just redistribution and large-scale structural change by rhetorically adding the 'broad-based' on the label through manifest intertextuality. As it states, 'to define BEE too narrowly limits it to a set of transactions transferring corporate assets from white to black ownership' (DTI, 2003:15).

Zuma also echoed this shift:

I would like to emphasise as well that economic transformation is not just about big business deals for a few individuals in society. The policy should be consistently implemented across all parts of the economy to ensure maximal impact on as many South Africans as possible (Zuma, 2013).

This recontextualises how the Report indicated that 'the narrow definition [focused] on the entry and transaction activities of black people in business' (BEE Commission, 2001:02). As noted above, this is one of the symbolic forms of suggesting that BBBEE represented the new forms of *economic transformation* which represent the radical break with the past.

BBBEE Legislation, distributive practices, and apartheid status quo

This section is connected to the previous sections and mainly indicates how BEE legislation contains the discursive traditions of the Report that presented BEE as a legitimate intervention, as well as highlighting the historical origins of this legislation. The intertextual relations between the Report and the Strategy – especially how they constructs BEE as more than just distribution – demonstrate the political influence of the private sector over the ANC government. This influence extends to legislative and democratic processes as the Report recommended the creation of BBBEE Act, indicating that 'the Act should require the private sector to agree on industry-specific targets for a number of BEE indicators within the guidelines and targets provided for by the Act' (BEE Commission, 2001:37). Just like Mbeki, his predecessor, Zuma endorses this influence of white corporate power, and black elites, who have been described as being 'extremely comfortable [with managing] the economy of white people' (Malema, 2020). As he notes in one of his speeches,

along the legislative route since 1994, we can reflect on several milestones. This includes the early ground-breaking work done by among others the Black Management Forum, the Black Business Council and its member organisations through the B-BBEE Commission, which resulted in the B-BBEE Act of 2003 and the issuing of the Codes of Good Practise by the Department of Trade and Industry in 2007 (Zuma, 2013).

This demonstrates that the ANC government, in large part, adopted the principles and vision of BBBEE from the private sector to develop its legal framework which intends to guide its version of *transformation* and *empowerment*. In consequence, the Report and the BBBEE (Amendment) Acts have discursive relations through manifest intertextuality. What is more politically important is how the Acts continue with the discursive tradition of compounding the anti-apartheid and anti-colonial discourses to justify the legalisation of BEE. As the Acts indicate,

WHEREAS under apartheid race was used to control access to South Africa's productive resources and access to skills; **WHEREAS** South Africa's economy still excludes the vast majority of its people from ownership of productive assets and the possession of advanced skills. **WHEREAS** South Africa's economy performs below its potential because of the low level of income earned and generated by the majority of its people; **AND WHEREAS**, unless further steps are taken to increase the effective participation of the majority of South Africans in the economy, the stability and prosperity of the economy in the future may be undermined to the detriment of all South Africans, irrespective of race (RSA, 2003 & 2013).

In highlighting the importance of the legislation, Zuma echoes this appropriation which ideologically starts by recognising the impact of colonialism and apartheid while preserving their power structures and the dominance of white capital by ambiguously using the concept of *economic transformation*:

the skewed patterns of ownership and production, the spatial legacies of our apartheid past and the tendencies of the economy towards inequality, dualism and marginalisation will not recede automatically as economic growth accelerates. Therefore, decisive action is required to thoroughly and urgently transform the economic patterns of the present in order to realise our vision for the future. This includes addressing the monopoly domination of our economy, which remains an obstacle to the goals of economic transformation, growth and development. It is important therefore to underline, that [BBBEE] is an integral part of our economic policies and economic transformation (ANC, 2007, Zuma, 2013).

These descriptions and strategic confessions depend on the application of interdiscursivity in which the economic discourses of colonialism and apartheid, redistribution, and nation

building⁶² as well as depoliticised empowerment have been merged together to highlight the urgency of BEE and its implementation as ideologically inevitable. Even so, while BEE is associated with, and constructed as, a new mode of *economic transformation*, its measures limit empowerment and transformation to the surface reallocation of goods. The discourse of nation building emphasises the construction of BEE as a peace-making tool in South Africa to emphasise its ideological inevitability. This discourse emerges from BEE strategy which notes that:

societies that are characterised by racial or ethnically defined wealth disparities are not likely to be socially and politically stable. The process of BEE seeks to accelerate the deracialisation of the South African economy and fast track the re-entry of historically marginalised communities into the mainstream of the economy (DTI, 2003: 17).

How the government employs anti-colonial and anti-apartheid discourses highlights important discursive and rhetorical traditions. The government *culturally* recognises that racist practices of colonialism and apartheid have structurally constrained and oppressed blacks. Despite making this recognition, the government does not provide any equivalent cultural, institutional, and structural remedies to this injustice. Through the discursive strategy of *stake confession*, this cultural recognition of this impact ideologically functions to reduce suspicions about its questionable motives and origins while using BEE remedies to conceal the structural nature of racial inequality, deprivation, and economic marginalisation. For these reasons, the Acts continue the trajectory of the Report and the Strategy by contextualising BEE historically but offering ahistorical, distributive, and market-based remedies, such as racial integration, that recontextualise the depoliticised discourses of empowerment and redistribution. By doing so, the Acts attempt to construct deracialisation as the equivalent of structural transformation. These remedies include the establishment of integrated socio-economic strategies that should be aimed at:

- promoting economic transformation in order to enable meaningful participation of black people in the economy.
- increasing the number of black people that manage, own and control enterprises and productive assets.
- facilitating ownership and management of enterprises and productive assets by communities, workers, cooperatives, and other collective enterprises.
- human resource and skills development.

⁶² Mbeki echoes the use of BEE as a tool for nation building in one of his speeches to the nation: 'as we approach the end of the first decade of our new democracy the need for an economic transformation that brings about effective and significant black economic empowerment becomes more pressing. We believe that it is in the interests of all citizens that we succeed in this endeavour. Through a far-sighted partnership between all sectors of our society we can ensure a stable and growing economy that erases the inequities of the past and draws us all - irrespective of our race, sex or creed - into a more prosperous and equitable future' (Mbeki, 2003).

- achieving equitable representation in all occupational categories and levels in the workforce; preferential procurement.
- investment in enterprises that are owned or managed by black people (RSA, 2003 & 2013).

The State constructs this mode of participation as promoting 'the achievement of the constitutional right to equality' (RSA, 2003). However, the political economy structure that merely focuses on redistribution tends to render this promise facile and trivial by upholding historical and oppressive practices of distribution. These measures also involve the appointment of the Presidential Advisory Council on BEE that is 'asked to advise government on measures it should take to promote economic transformation in order to enable meaningful participation of black people in the economy' (Former Deputy President, Kgalema Motlanthe, 2009). On the issue of preferential procurement, the ANC promised to use its state power to procure goods and services from black-owned and BEE compliant business. As Mbeki (2002) and Zuma (2009) as well as Ramaphosa (2014) indicate to emphasise this practice,

Government will, as an actor in the economic arena, particularly in the massive procurement of goods and services, examine its structures and systems to ensure that they fully meet the objective of [BEE]. It should be emphasised that the task of [BEE] faces all sectors of society (Mbeki, 2002).

We will utilise state levers such as procurement, licensing and financial support to assist small medium enterprises as well as to promote the implementation of [BBBEE] and affirmative action policies. The implementation will be done in recognition of the need to correct the imbalances of the past (Zuma, 2009).

We need to use the resources of the state to promote black business through preferential procurement. We need to refine the codes of good practice and better implement them (Ramaphosa, 2014).

However, given the lack of institutional capacity, infrastructure, and support for black businesses, as well as the dominance of white-owned and foreign capital, these measures produced a small black elite who largely use their political currency to access state contracts while maintaining the survival of white capital. Equally, the State has collapsed and stifled the growth of black-owned small and medium-sized enterprises (SMME) by delaying payments to their services and goods. As Zuma (2009) also noted, 'we were informed that many black businesses rely on effective cash-flow management, and that waiting 90 days for government to pay is proving to be most detrimental to the survival of small black businesses'. The issue of the procurement of goods and services also cost the state millions of rand due to the systemic lack of accountability in fiscal and financial policies and the

conniving role of major accountancy firms', making fraud⁶³ in 'state procurement contracts the single largest state expenditure annually' (Bond and Malikane, 2019:03). More importantly, the policy of preferential procurement has not been supported by policies that removed historical, cultural, and economic sources of oppression and become limited to the issues of tokenistic inclusion of blacks in the economy. As a deputy former minister of Department of Trade and Industry (dti) indicates,

in its current form, the PPPFA (Preferential Procurement Policy Framework Act PPPFA) does not assist our transformation ideals. There should be a process of changing this piece of legislation to actualise the agenda of black industrialists. We will review the current incentives which seem to have been stringent and making it difficult for Black industrialists to access the funds. We will soon launch an incentive scheme that will specifically focus on black industrialists. (Masina, 2014).

The regulations do not adequately incentivise employment creation, support for small enterprises and local procurement. The preferential procurement regulations aggravate this situation by privileging ownership over local production. Finally, [BBBEE] regulations penalise public entities as suppliers. The democratic state owns public entities on behalf of our people yet the regulations do not count them as "black empowered" (RSA, 2010, *the New Growth Path*).

Business Unity South Africa, a non-profit company representing business interests in South Africa, indicated that

business fully and unconditionally endorses the transformational intent of [BBBEE], Employment Equity and Skills Development legislation. However, recognises the need to critically assess whether the legislation has successfully realised its transformational intent (BUSA, 2017).

These remedies, advanced by the legislation and these political actors, suggest that BEE discourses mainly adopt the depoliticised discourses of empowerment, managerialism, and redistribution which maintain a distributive logic under the socioeconomic condition of white-dominated economy. These discourses reduce the process of economic participation and transformation to numbers, targets, and representation in both the private sector and public sector rather than focus upon issues of decision-making powers and procedures as well as capitalist relations and reproduction that ideologically underpin and inform racial injustices supposedly being contested. By focusing on these micro issues of participation, representation, compliance, and targets to achieve *distributive deracialisation*, BEE helps forestall criticism of unequal relations of white power and the influence of private sector over government while reinforcing domination and oppression by blocking Blacks from politically

⁶³ Leading Treasury official Kenneth Brown estimated in 2016 'that vast shares of the annual tender budget are lost to overcharging by corporate suppliers of outsourced goods and services' (Bond and Malikane, 2019:03).

envisioning more emancipatory institutions and practices. This echoes the critique of BEE that

South African capitalism continues to be characterised by the extreme exploitation of the black working class. In short, the black majority, whatever their class location, are integrated into the mainstream of the economy in a subservient position relative to white people. While the legalistic forms of colonial-apartheid domination have been eroded 20 years ago, the economic system that marginalised, oppressed and exploited the black majority is still intact, with a few individuals benefiting, but only because they have been co-opted to portray a wrong picture that all is and will be well in our country (EFF, 2013).

While BEE's minimalist approach to *economic transformation* ignores the historical issues of power and inequality, it enables corporations to build *defensive rhetoric* by symbolically claiming that their corporate actions are politically and structurally transformative while they merely focus on surface allocation of social goods, such as jobs and shares according to racial lines. This is supported by the following corporate views:

true transformation⁶⁴ takes time and although we exceed the current Mining Charter targets for employment equity and gender diversity, the increased HDSA representation required from 2014 (40%) will be a demanding target to meet especially in professionally qualified employees and senior management. We have implemented strategies to achieve these targets and their successful execution will also contribute to improving transformation within top management (ARM, 2013:48).

Clearly, we must not waiver in continuing to transform the sector to make it truly representative of the South African population, upskilling and educating our workforce and host communities and providing business opportunities to emerging entrepreneurs and companies. But **true transformation** will take time and cannot come at the expense of investors, who have fled the sector over the past few years amid poor returns on their capital (Gold Fields, 2014:27).

our approach to the Mining Charter is not just to tick the boxes, but to ensure **real transformation**. In South Africa, we have continued to engage with government and other stakeholders to further our contribution towards a better, **more equitable and participative society**. While many of our initiatives were necessarily put on hold during the strike and until production stability resumed and people returned to work, we nonetheless made good progress and by year end had met or exceeded all the targets for 2014 set out by the Mining Charter. We invested R580 million in training and development

⁶⁴ The corporation adds that 'one of the most **significant transformation** challenges we face is achieving employment equity targets in the professionally qualified employees and senior management categories. Our Human Resources strategy aims to improve employment equity at senior levels through succession planning, graduate development and by ensuring that open positions are offered to equity candidates whenever possible' (ARM, 2015:63).

(4.9% of payroll); and increased the representation of [HDSAs] to 63% of management (2013: 60%) (Anglo American, 2014:13 - 27).

The ambiguous use of the concept of transformation can be seen through the application of *true transformation* and *real transformation* which intends to construct BEE as breaking from past capitalist relations and corporate cultures despite its hegemonic focus on redistribution. Mining corporations also indicate that taking the responsibility of increasing and meeting this targets, representation, and participation among HDSAs and women remains hard. This difficulty can be linked to the issues of inequality in the education standards that bear the mark of the legacies of the apartheid policies that prevented blacks from receiving quality education. The education system, which accounts for 4 percent of the GDP, has been earmarked as one of the potential solutions of addressing inequality but its outcomes are disappointing: the numbers of learners graduating have barely changed since 1994 and remained categorised by class and race. These are the effects of the Bantu Education Act of 1953 that condemned Africans to extreme subjugation by bringing education in line with broader apartheid policies. As the corporations indicate,

our transformation programme aims to create a workforce that reflects the diversity of South Africa's population and, in so doing, comply with the requirements of the mining charter. We seek to diversify our workforce through targeted recruitment and development campaigns for women in mining, HDSAs and people with disabilities. The demand for skills at managerial level, particularly for HDSAs and women, is an ongoing challenge (Anglo American, 2015:36).

This demonstrates the challenge of providing tokenistic remedies that tends to conceal underlying structural problems. While the distribution of jobs may be necessary considering the history of Bantu education, this description suggests that BEE tends to reduce collective and political responsibility of addressing inequality to individual corporate actors who mainly engage in distribution and could not deal with educational inequality structurally.

BEE Counterdiscourses, Corporate Fraud, and Non-compliance

This section deals with BEE counterdiscourses that have challenged the legitimacy of BEE, especially under Ramaphosa's ANC. However, such discourses mainly focus on the implementation and the outcomes of BEE rather than the conceptualisation of the policy, the political economic system and institutional context that produce it. This section also highlights how these counterdiscourses forestall criticisms of the political economic structure by concealing capitalist institutions and class relations through this focus. These discourses come from the *left* and the *right* in South Africa. For instance, the Democratic Alliance (DA), the official opposition to the governing ANC, states in its policy document that

the change from BEE to BBEE⁶⁵ did not result in a meaningful shift from elitist interventions to broad-based interventions. Focus on ownership and management control of large companies has received greater policy attention than the contributions the private sector can make to broader society. It is clear that the ANC's model of [BB-BBEE] has failed dismally. It has doomed millions to the despair of unemployment, and has serially enriched a politically connected elite. BEE embodies trickle-down redress. The idea that transferring assets, positions and contracts from one elite to another, would result in broad-based prosperity (Ngwena, 2020, DA Head of Policy, *Politicsweb, Media Statement*).

BUSA and BBEE Commission, a government entity, echo the DA's stance on the BBEE despite endorsing the policy:

BUSA has critically evaluated transformation policies and found that they are not achieving the desired transformation results. BUSA argues that ownership has largely failed to deliver meaningful control and value to black people. Minority black equity ownership has generally been insufficient to exert direct influence on the strategic direction of investee companies and is limited to a concentrated number of established businesses which have access to capital. B-BBEE ownership transactions should instead be structured to stimulate value generation in a cost-effective manner. Similarly, BUSA observes that well intended transformation policy has driven a compliance⁶⁶, rather than transformational culture (BUSA, 2017).

This is not limited to the managerial concept of compliance. There are issues of corporate fraud which involve non-compliance and corporate fronting. The BBEE Commission which deals with issues of compliance and enforcement has noted these issues of fronting and corporate fraud that remain persistent in the private sector:

We are aware that fronting occurs in various ways, and has become even more sophisticated and looks genuine. Many black people sit in executive positions but fail to reap the benefits or take strategic decisions in line with their positions because they are not aware that they are used for fronting. Fronting is contributing to the slow pace of economic transformation (Busisiwe Ngwenya, the executive manager for compliance at the B-BBEE Commission⁶⁷, 2018).

⁶⁵ 'We need a wholesale change in empowerment policies, to move away from race-based policies that enable elite enrichment, towards policies that fundamentally break down the system of deprivation that still traps millions of South Africans in poverty' (Mmusi Maimane, 2018).

⁶⁶ The issue of compliance culture is emphasised by how 'Exxaro has given BEE investors greater flexibility through a range of liquidity options, but structured so that our black shareholding will never drop below the level required for compliance or contractual purposes' (Exxaro Resources, 2018:68).

⁶⁷ Although former president Zuma officially announce the establishment of BBEE Commission in his 2012 state of the nation address, the commission was firstly established in 1998 by the private to develop the vision and an agenda of 'transformation' and empowerment in South Africa by recommending the establishment of the B-BBEE Act, the National Empowerment Fund and empowerment charters. As he noted, 'on economic transformation, we are amending the Broad-Based Black Economic Empowerment Act. The amendments amongst other things, establish a statutory Commission that would deal with non-compliance and circumvention. The proposed law will also criminalise fronting and other forms of empowerment misrepresentation'.

Although complaints decreased slightly this year, fronting practice remains constant. We find more and more companies' schemes fronting workers through trusts. Fronting as a practice started off on a small scale and continued unabated to the point that it became sort of a norm. Fronting has now become so complex and sophisticated, and made part and parcel of many BEE deals as if it is a legitimate practice. Fronting undermines transformation and is unacceptable (Commissioner at the B-BBEE Commission, Zodwa Ntuli, 2018).

As previously noted, the idea of *economic transformation* and *transformation*, as overlexicalised here, merely relates to the *distributive deracialisation* which consolidates historical forms of unequal power relations and decision-making processes despite the historical contextualisation of BEE. Thus, by focusing on the outcomes of the policy and implementation, such as non-compliance, fronting and corporate fraud, the DA, the BBBEE Commission and BUSA echo the longstanding view that BEE has created and benefited a black elite while maintaining the dominance of white corporations in the economy. However, the ANC government, the DA, and BUSA, as well as the BBBEE Commission, believe that the distribution of shares, wealth, and income, for instance, could be widened to include the majority of Blacks while leaving underlying political-economic structure that determines economic relations intact. Thus, they propose redress and the elimination of maldistribution while ignoring the deep structures that engineered racial disadvantage in the first place. This ignores the fact that economic domination derives from decision-making structures and power, as well as the corporate and legal structures and procedures that reproduce distributive inequality by placing the unjust constraints on the lives of blacks. Two leaders of the DA note in an interview:

I think affirmative action when properly applied is a wonderful corrective measure for any country ... but if you spend time and effort ticking boxes and deciding whose family is going to benefit from which scheme you are not going to create any jobs (*Former DA Leader, Tony Leon, 2020, Sowetan*).

BEE started out with a noble intention to diversify the ownership patterns in the country and it morphed into a fig leaf for wide-scale corruption and massively enriched a tiny coterie of people. The economic effects of apartheid are still very much with us; we aim eventually for a South Africa where race is no longer relevant. The current focus is on ownership. This is easy for companies to implement, as they just put a few black people on boards to be in compliance. It's much harder to establish community and employee share ownership schemes. The DA⁶⁸ will incentivise these to allow for new entrants and not the constant recycling of politically connected people in business (DA MP Geordin Hill-Lewis, 2019).

⁶⁸ From this logic, the DA 'supports a much-simplified system that measures real empowerment. Our approach would see the current BBBEE scoreboard vastly simplified with the inclusion of timeframes for initiatives in the scorecards to help business plan for the medium and long term' (DA, 2019).

These beliefs are part of the larger political problem in South Africa that shifted focus from the conceptualisation and formulation of BEE and the political economy structure and power that informs it to the failures of the policy and the ANC. As the EFF states in its policy documents,

It is important to note that even if all the objectives of empowerment charters were reached, South Africa would still be characterised by high levels of unemployment, poverty and inequality, therefore rendering the approach taken a wild goose chase (EFF, 2013).

This view emphasises that BEE and its visions of *transformation* and *empowerment* form part of remedies that contribute to *tokenistic* welfare. How the ANC adopts the minimalist approach to social democracy in the form of BEE means that 'the deeper crises of society and economy are not being addressed effectively by the state' (Bond, 2014:48) since its redistributive measures emphasise both cultural and economic 'assimilation'. Part of these crises relates to the existing institutional racism in the financial sector which presents obstacles for the growth of black businesses. As the Black Business Council (BBC), a non-profit organisation that represents black businesses, president Sandile Zungu, indicates, 'the banks do not want to give money to black business and even the Development Finance Institutions do not give money to black business. Those that are able to do so complain that they are under capitalised. Those that will ask for unreasonable forms of security for lending' (IOL, 2019, *interview*).

Zungu's claims echoes the issues of widespread banking abuse and the discrimination allegations levelled against one of the biggest banks in South Africa, FNB's FirstRand Finance Company. The Bank was accused of discriminating 'against more than 4 000 black customers by charging them 30-40% more than white customers on their mortgage loans' (The Citizen, 2018). For these reasons, the main issue here is not the outcomes of BEE as well as who it has benefited. Rather BEE forestalled criticism of the post-1994 political economic system⁶⁹ and its relations of power and culture, by diverting attention from this untransformed apartheid capitalism to the issues of implementation. It also represents the continuation of elite capture of the state by private interests that began under Mandela as its beneficiaries became 'strong allies of the economic oligarchy that is, ironically, the caretaker of South Africa's industrialisation' and are agents of white capital, hand in glove with the state' (Mbeki, 2009: 61 & 67). This view echoes those in the *Left* who have seen the whole

⁶⁹ The EFF states that 'concerning real economic transformation, the post-1994 democratic state has not achieved anything substantial owing to the fact that the economic-policy direction taken in the democratic-dawn years was not about fundamental transformation, but empowerment/enrichment meant to empower what could inherently be a few black aspirant capitalists, without the real transfer of wealth to the people as a whole. Empowerment legislation, particularly Black Economic Empowerment policies and various sector-transformation charters adopted by the democratic government dismally failed to empower the majority of the population substantially and sustainably, mainly targeted groups' (EFF, 2013).

power structure and political economic system as well as BEE as problematic. As one of the political parties indicates,

political power in the control of the post-1994 government is meaningless, because it has not been used to win the battles that began during the wars of dispossession. Instead, the post-1994 government has played an active role in reproducing the inequalities and imbalances of the past by not doing anything to transform the economy, opting for superficial changes through **Black Economic Empowerment** instead. The neoliberal policy approaches adopted and embraced by the post-1994 government have worsened the conditions of the poor, and ossified the structural unemployment and inequalities designed by colonial and apartheid South Africa. Vestiges of apartheid and colonial economic patterns, ownership and control remain intact despite the attainment of political freedom by the former liberation movement. Political freedom without economic emancipation is meaningless (EFF, 2013).

This description suggests that BEE helps disguises the continuation of the current apartheid capitalism and its main economic distortions, such as land inequality and ownership patterns. Politically, this relates to the fact that the ownership of financial assets and key resources of economy has been marked as one of central features that highlights the reproduction of capitalist structures of colonialism and apartheid. As the World Bank (2018: xvi) notes, 'for the poor (mostly black and African) financial assets represent 25 percent of total assets compared to 75 percent for the rich (mostly white)'. Mostly considered 'chronically poor' (World Bank, 2018:19), Blacks continue to represent the face of poverty, as well as the chronic unemployment. For these reasons, the EFF sees BEE as window-dressing and proposes the abolishment of the current political-economic structure which continues to define access to official labour markets and justify new forms of exploitation according to racial lines. The view of the EFF differs from that of the DA and the ANC which believe that market-oriented policies, such as financialised redistribution and empowerment through the markets, will end structural injustices such as poverty, and unemployment. While the DA resolved to 'redesign the system' of BEE to move away from its use of race, the EFF promised to scrap it. Its former leader once stated in his address during the Budget Vote Debate on the Presidency, Parliament:

we cannot talk about inclusive growth and yet persist with narrow economic empowerment. We must start by admitting that [B-BBEE] has not delivered economic inclusion. It is a fig leaf for redress, and it does nothing for 99% of SA's excluded citizens. Scrap B-BBEE, Mr President, and replace it with a plan that offers real broad-based inclusion in our economy (Maimane, 2019).

However, both Zuma and Ramaphosa (a BEE beneficiary) have defended BEE as the necessary intervention:

Going forward, active [BBBEE] will continue to be an important policy of the ANC government, driving real and meaningful economic transformation and growth. The State will continue to intervene and promote transformation (Zuma, 2013).

So, honourable Maimane, we are not going to scrap [BBBEE], because it has brought real material benefits: to black South Africans, to women and to persons with disability. It has contributed to the significant growth of a black middle class, to improvements in employment equity and enabled black people and women to become owners and managers of businesses (Ramaphosa, 2019).

Although these descriptions suggest that BEE may be interventionist, its remedies merely function to ameliorate, and mitigate against, the worst outcomes of underdevelopment and neoliberal reforms by focusing on surface allocation of the existing benefits, resources, and incomes. Politically, the descriptions attempt to legitimise the ANC's neoliberal approach of the 'growth and redistribution approach' (or 'trickle-down') which advances the belief that the empowerment of the black middle class will eventually lead to the empowerment of the poor. However, black poverty remained at 55 percent since 1995. Thus, while the presidencies of Mandela and Mbeki experienced modest economic growth⁷⁰, that growth did not translate into the reduction of poverty and inequality. Thus, this also 'did not result in a windfall of jobs, rather what we had was escalating unemployment' (Desai, 2018:505).

Race, BBBEE, and distribution

This section pays attention to how the ANC government and the Report use race as an organising tool for distributive remedies and constructive tool for BEE. The arguments of this section are further discussed in the section which deals with '*BEE and the Reframing of Race*' to show how the formulation of race changes as the policy is taken from its macro space to the micro. Although this may seem trivial and obvious to the racialised nature of the economy, it is worthy of critical attention. BEE legislation and policies explicitly construct black people as the main beneficiaries of BEE and therefore recontextualise the discourses of affirmative action. This explicitly describes who counts as black and intertextually emphasises the historical and racial context of the programme as reflected in the Report, the Strategy, and the BBBEE Acts. These Acts define black people as 'a generic term⁷¹ which means Africans, Coloureds, and Indians' (RSA, 2013 & 2003) while emphasising its

⁷⁰ 'The three-year period 2005–07 represented the economy's most successful growth spurt, as annualized real GDP growth rates exceeded 5 per cent in each consecutive year' (Bhorat, Hirsch, Kanbur and Ncube, 2014:02).

⁷¹ The project of unifying these three categories of people faced resistance among these groups. This mode of the political blackness focused on 'the political factor of common discrimination, not common cultural affinities. The weakness of the shared movement lies precisely in this abstract political bond, not backed up by shared experiences of everyday perceptions, save political exclusion' (Adams, 1985: 173–174). Biko (1996) linked this resistance to the 'deeply embedded apartheid suspicions and attitudes of superiority found in the Indian and coloured communities against the African people, and the equally resentful responses of Africans to such attitudes' (More, 2017a:52).

historical context to emphasise the practice of affirmative action. For this reason, an expanded version of BEE, means:

the viable economic empowerment of all black people [including], women, workers, youth, people with disabilities and people living in rural areas, through diverse but integrated socio-economic strategies (RSA, 2013).

In this context, this notion of blackness tends to conceal how the ANC sees blackness according to hierarchical forms while constructing itself as a non-racial organisation which also caters for the interests of whites according to the constitution. As Zuma (2009) notes,

we are defined by the principles of leading our country to a united, non-racial, non-sexist and democratic society. Our policies seek to affirm blacks in general and Africans in particular because of well-known historical facts of systematic oppression and exclusion. Our work takes into consideration what steps we need to take to ensure that African people are affirmed, without dismissing the reality that other black South Africans, such as coloureds and Indians, face.

Politically, these contradictions are compounded by the fact that the ANC uses the concept of blackness⁷² in a political economic structure and its capital institutions that ignore racial justice, restitution, reparation, and redistribution as the necessary means of attaining structural, political, and legal transformation. This suggests that BEE policies and legislation talk about racial oppression without structurally and politically dealing with the issues of racial justice. In consequence, its BEE remedies merely employ race for cultural recognition by highlighting that blacks suffer material inequality. However, this tends to displace the restructuring of political-economic structure as the remedy for injustice and the aim of political struggle. Thus, in practice and theory, culture, and political economy are always connected, suggesting that struggle for justice demands both cultural recognitions, and the restructuring of economic institutions and capitalist relations that reproduce oppression. However, this use of race disconnects it from capitalist reproduction and decision-making structures while depoliticising racial injustice as well as forestalling criticism of government by moving critique from its political-economic structure to the failure of implementation. The idea that BEE has failed by producing the black elite follows this trap of placing emphasis over outcomes at the expense of offering the sober critique of social, cultural, and economic institutions that produce the oppressions of blacks. The DA follows this route:

⁷² Politically, the use of the term 'black people' only emerged in South Africa in the 1960s as adherents of BCM appropriated the term as a political instrument of 'reversing the white definition of black people' and 'a unifying tool to combat political oppression of those who are not white' (More, 2017a:49). These distinctive ethnic groups concomitantly suffered colonial and apartheid oppression. However, Indians and Coloureds received preferential treatments as compared to Africans. This created racial and ethnic stratification in hierarchical forms which positioned Africans at the bottom, demonstrating why they remain the poorest group. Treating these distinctive groups, which contain elements of multiplicity and heterogeneity as a monolithic unity, or self-enclosed whole, in the form of 'black people' conceals these relations.

crucially, we have always said that we aim to achieve a society in which race is not a determinant of opportunity. We have argued that empowerment policies need to become less race-focused over time, as the policies begin to do their work in redressing the legacy of apartheid. The only reason the ANC government⁷³ has had to focus ever-increasingly on narrow racial categorisation, is because their empowerment policy has failed so dismally. We believe that it is possible to design an empowerment framework that will deliver equality of opportunity for all South Africans over time (DA MPs James Selfe and Gwen Ngwenya, 2018).

BBBEE in the Mining Sector

This section shows how BEE evolved from its macro space (the national strategy that comes through the Report, the Strategy, and BBBEE Acts) to the micro space, which is defined and guided by the MPRDA, the Mining Charter and the SLP Guidelines. Taking this analytical approach has three important benefits: (1) it highlights the depth of private influence over the ANC government by highlighting the presence of the discursive traditions of the Report, (2) it shows how BEE loses its racial signification and historical context as it evolves, and (3) it demonstrates how the Report guides the sectoral legislation. Discursively, the latter is emphasised by how the Charter appropriates the anti-colonialism and anti-apartheid discourses to justify the implementation of BEE in the mining sector while depending on the discourses of redistribution and depoliticised empowerment. As the document shows,

the history of South Africa, which resulted in blacks, mining communities and women largely being excluded from participating in the mainstream of the economy, and the formal mining industry's stated intention to adopt a proactive strategy of change to foster and encourage [BEE] and transformation at the tiers of ownership, management, skills development, employment equity, procurement and rural development (RSA, 2010).

Through the application of stake alignment, mining corporations also appropriate the same anti-apartheid and anti-colonial discourses to justify this implementation:

the social and economic transformation of South Africa, in parallel, of our country and our Company, remains crucial if the injustices of the past are to be redressed... we made good progress in transforming our workplace. Some 38% of top management positions at Amplats are now occupied by historically disadvantaged South Africans

⁷³ The DA adds: 'South Africa 'desperately needs a radically different approach to redress and inclusion. Over two decades of political freedom have not resulted in adequate improvement in the socio-economic prospects of the majority of South Africans. If we wish to create an economically inclusive and non-racial South Africa, we must address inequalities of opportunity to complement our hard-won political freedoms. Currently, we are failing to overcome our past; poor governance, corruption, and race-based policies have enabled elite enrichment and the disintegration of the state at the expense of broad-based prosperity. Since people do not move from one racial category to another once empowered, current policies enable them to benefit in perpetuity' (DA, 2020:04).

[HDSAs], 13 % of whom are women. Our efforts to encourage women to work in the industry are gaining traction, with 12.7% of the total workforce now consisting of women (Anglo-American, 2012:08).

ARM is committed to non-discrimination. We support the principles of **transformation** as a means to redress historical inequality, facilitate broader social development and to give all South Africans a stake in the country's mineral wealth (ARM, 2015:63).

Notwithstanding these challenges, social development and the addressing of the **historical imbalances of the past** continue to be a high priority on the South African transformation agenda and have been at the heart of the committee's activities (Anglo American, 2012:18).

By ideologically using history this way, the government and mining corporations symbolically suggests that BEE seeks to transform the structural legacies of apartheid and colonialism considering that the mining sector has been branded as 'the blueprint for grand apartheid' by TRC. However, this merely appropriates this history to justify the implementation of BEE while effectively placing structural limitations on the nature of 'change' or 'transformation', as shown by the phrase, 'transformation at the tiers'. The perverse use of history emerged from the Report, and demonstrates how the private sector set the BEE agenda in South Africa, including its visions and principles in the mining sector. As the Report states,

[BEE indicators] would be incorporated as Industry Empowerment Charters. These Industry Empowerment Charters could define targets for black participation and the mechanisms for achieving that participation⁷⁴. They could also specify monitoring and evaluation (M&E) mechanisms (BEE Commission, 2001:37).

In consequence, as well as demonstrating corporate influence over the government, the Charter is aimed at

transforming⁷⁵ [mining] industries so as to assist in, provide for, initiate, facilitate or benefit from the: Ownership participation⁷⁶ in existing or future mining, prospecting, exploration and beneficiation operations; Participation in or control of management of such operations; Development of management, scientific, engineering or other skills of HDSA (RSA, 2010).

⁷⁴ This description also depends on overlexicalisation which functions to 'gives a sense of over-persuasion and is normally evidence that something is problematic or of ideological contention' (Machin & Mayr, 2012: 37).

⁷⁵ The use of the undefined concept of 'transformation' ideologically function to achieve the purpose of this symbolic association when considered alongside the historical contextualisation of BEE. In this context, the concept of transformation relates to the notion of 'change' in its broader sense, or what the government calls 'substantial change', or 'meaningful change'. These terms are ahistorical this description recontextualises the depoliticised discourses of empowerment, which focus on empowerment without autonomy, and the discourse of redistribution, which focuses on the distribution of goods and benefits.

⁷⁶ The concept of 'ownership participation' recontextualises the discourse of redistribution that relates to access to material goods, such as wealth and social positions. It does not address issues of decision-making and institutional structures and corporate cultures, as well as sociohistorical structures that determine ownership patterns. This discourse of redistribution places more emphasis on the material goods and things rather than the processes and structures that define and conceive distributive patterns.

Here, the Report and the Charter implicitly introduce the discourse of managerialism that encourages the managerialisation of BEE, the treatment of BEE as an auditing and technocratic entity that should be incorporated into managerial spaces, as well as reducing economic participation and transformation to numbers and targets through the *charter* rather than the restructuring of mining capitalism. However, the use of the undefined concept of 'transformation' ideologically function to associate BEE with the restructuring of this capitalism when considered alongside the historical contextualisation of BEE. For this reason, BEE has now become synonymous with transformation and empowerment in South Africa. The historical contextualisation of BEE ideologically coordinates the marriage between the policy and the two concepts. In this context, the concept of transformation relates to the notion of 'change' in its broader sense, or what the government calls 'substantial change', or 'meaningful change'. However, these terms are ambiguously ahistorical. In this context, these BEE remedies leave intact cultural norms and economic structure of mining capitalism that generated and entrenched racial inequality during the *mineral revolution* of the 1880s.

Building on the BEE frameworks, visions, and logics of the Report, the ANC government recontextualises the discourses of managerialism which historically originated from the private sector. As the Charter and the Guidelines later stated manifestly intertextually building on the Report:

every mining company must report its level of compliance with the Mining Charter annually, as provided for by Section 28(2)(c) of the MPRDA. The Department shall monitor and evaluate, taking into account the impact of material constraints which may result in not achieving set targets (RSA, 2010).

The holder of a mining right or mining permit, or the manager of any processing plant operating separately from a mine must submit to the Director General an annual report detailing the extent of the holders compliance with the provisions of section 2(d) and (f), the charter contemplated in section 100 and the [SLP] on the compliance with the [SLP] (DMR, 2010:05).

Let me thank the Presidential Advisory Council on BEE for the important role they have played since 2009 in monitoring and reviewing progress on the implementation of B-BBEE and for providing solid advice on amendments to the Codes of Good Practice. The Advisory Council provide guidance and overall monitoring on the state of B-BBEE performance in the economy with a view of making policy recommendations to address challenges in the implementation of this transformation policy (Zuma, 2013).

These descriptions depend on manifest intertextuality to recontextualise the discourse of managerialism that contradicts and undermines how the government sought to associate

BEE with the transformation of historical, structural, and power inequities by promoting its assimilation into the existing corporate structures and legal frameworks. The recontextualisation of managerialism moves BEE to the managerial spaces in which BEE would compete with auditing and technocratic processes. Socioculturally, this demonstrates how the government leads the process of decontextualising and depoliticising BEE before it enters corporate spaces through the introduction of managerialism.

The contradiction of the discourses of managerialism and BEE in the mining sector

Mining corporations adopts this hegemonic discourse of managerialism⁷⁷ and managerial practices as introduced by the government through the Report and the Charter, as well as the Guidelines in the form of manifest intertextuality. In response to these government discourses which frame the concepts of *transformation* and *empowerment* according to the practice of *scoreboards* and *code of good practice*, these corporations mix the discourses of managerialism and sustainable development in their treatment of BEE as a managerial concept that must be incorporated into mining capitalism and corporate cultures, such as, auditing processes. Anglo American Platinum implicitly constructs its managerial activities as addressing historical and structural injustices by appropriating the discourses of colonialism and apartheid. ARM, Gold Fields, and Exxaro Resources employs *doublespeak* and overlexicalisation of the term ‘transformation’⁷⁸ to achieve the same purpose, and thus to frame BEE as more than just surface allocations of social goods. As the extract shows:

transformation is one of ARM's core values and it actively strives to make a **meaningful contribution to transformation** in the South African mining industry. ARM has [SLP], [CSI], [LED] and enterprise development budgets in place as well as **transformation** plans and projects. Improved compliance monitoring of our SLPs has been introduced (ARM, 2013:149).

In the same fashion as the government, especially through the Charter and SLP Guidelines, mining corporations frame BEE as a managerial concept and explicitly refer to BEE as undefined and decontextualised modes of transformation. This framing of BEE ideologically dehistoricises and depoliticises the policy while at the same time contributing to the expansion of corporate power by emphasising the notion of symbolic compliance. As part of managerialising BEE, these corporations have established the Social, Ethics and Transformation (SET) Committees, which are also called Transformation Units, to maintain managerial rationality, authority, and discretion over the incorporation of BEE into managerial structures. This ideologically turns BEE into a tick-box process and a technical entity as well as an auditing issue. As the annual reports read,

⁷⁷ This discourse of managerialism interdiscursively draws on the discourse of accounting that emphasises numbers, graphs and tables to enable the corporation to build defensive rhetoric. This discursive practice intertextually conforms with the dictates of the Report, the Charter and the *Guidelines*. These documents provide corporations with the template for framing its discourse of managerialism through the practice of constitutive intertextuality.

⁷⁸ But their mode of transformation remains limited to the allocation of material goods and the incorporation and the integration of BEE into the existing corporate structures and systems while ideologically using the concept of transformation in vague forms.

ARM's transformation is managed through the [SET]⁷⁹ and is integrated into our strategy and business processes. Line management at each South African operation implement transformation plans that address the specific transformation challenges facing their operations. We measure our transformation progress against the ... Charter of the dti and the mining industry's Mining Charter. Our transformation action plans have been developed to deliver on the commitments made in our [SLPs]. Compliance with the requirements of the Mining Charter and dti CoGP are managed as part of the relevant business function to which they most closely relate (ARM, 2014:118).

[The Committee] also facilitates transformation and empowerment within the organisation, acts in an advisory role and considers, encourages and supports management in terms of all transformation issue as defined by Mining Charter, the Employment Equity Act and BBBEE (Anglo American, 2012:20).

[The role of the committee is] to assist the board in facilitating and supporting the development of transformation objectives, ensuring the corporate culture is supportive of the approach and monitoring and reporting actual performance against transformation objectives' (Exxaro Resources, 2017:120).

Sociostructurally, this represents the ideological managerial logic that relate to the work of processes of managerialism and the *objective constraints* they impose on corporations. Recontextualising BEE this way helps maintain the status quo by limiting the impact of the programme while symbolically painting mining corporations as transforming themselves structurally and politically. Managerialist ideologically functions to maintain corporate and managerial power while ideologically promoting the symbolic appearance of compliance. Politically, and institutionally, the ideology of managerialism promotes corporate interests by enabling businesses to employ strategies of symbolic reforms while depending on mechanisms of structural exclusion. These managerial practices depoliticise social processes, such as transformation, empowerment, and employment, by turning them into manageable units that can be counted and manipulated into numbers and graphs to measure the compliance status and performance of a corporation. As one corporation indicates,

The amended codes of good practice have been promulgated after being revised to five elements with more stringent targets. Exxaro has analysed its anticipated performance against the new codes and is putting measures in place to improve on elements where we are not performing well at present. Under current economic conditions,

⁷⁹ The Social and Ethics Committee monitors and reviews the Company's approach to transformation while the Employment Equity and Skills Development Committee is responsible for transformation in the workforce. Transformation action plans are in place that deliver on the commitments made in our [SLPs] (ARM, 2015:63).

we expect that the target of the ownership element under net value will not be met. We are also focusing on enterprise and supplier development (ESD) which has new compliance requirements. We have also fallen short of the skills development target as the amended codes have removed all mandatory skills training. We will work towards reaching the targets as soon as possible. A challenge in the amended codes is the target set for people with disabilities at 2% of the workforce (Exxaro Resources, 2015:52).

This description emphasises that the implementation of such codes of good practice also depend on the existence of larger structural problems, such as disability, economic conditions, and educational inequality, which may be beyond personal and corporate responsibilities. As the corporations fail to meet these targets because of these material conditions, they may be criticised for 'contributing to the slow pace of economic transformation' (Busisiwe Ngwenya, 2017). However, the managerialisation of BEE through these codes of good practice that promote the culture of compliance, disconnects the policy from political contestation that is necessary for the advancement of any form of cultural and structural transformation. Managerialising BEE effectively turned the policy into a micro entity that must compete with other corporate, auditing, and technocratic processes. This contradicts and renders problematic how the government and corporations associate BEE with structural transformation. Nonetheless, Anglo American insists that 'the addressing of the historical imbalances of the past continue to be a high priority on the South African transformation agenda and have been at the heart of the committee's activities' (Anglo American, 2012:18) to suggest that managerial ideology, with its *depoliticising mechanisms*, may address historical and structural inequalities.

Transformation and empowerment through the markets and neoliberalism

Another contradiction emerges from how the government constructs the markets as the means of achieving its vision of transformation⁸⁰ and an organising tool for redistribution and deracialisation. It also highlights the neoliberal externalisation of its agenda of distributive deracialisation to the [international] markets that may ideologically depoliticise and dehistoricise BEE, as well as expanding corporate power and restricting the application of the historical discourses of blackness and race. Sociostructurally, the markets promote ahistoricity and tends to reproduce historical inequalities rather than dealing with them. In addition, this neoliberal approach represents *stake inoculation* in which the government

⁸⁰ Although the government explicitly uses the term, 'transformation', it is vaguely defined and relates to deracialisation and distribution. This process recontextualises the depoliticised discourses of empowerment and redistribution. Such also ignores the reorganisation of institutional and structural practices that relate to the legacies of apartheid and colonialism. Concomitantly, this allows the government to externalise its political responsibility to the markets and society.

denies its stake of intervening in the implementation of BEE in the mining sector to address political broader calls for the nationalisation of mines. As the extract shows:

it is government's stated policy that whilst playing a facilitating role in the transformation of the ownership profile of the mining industry it will allow the market to play a key role in achieving this end and it is not the government's intention to nationalise⁸¹ the mining industry. The key objectives of the [MPDRA] and that of the Charter will be realised only when South Africa's mining industry succeeds in the international market place where it must seek a large part of its investment and where it overwhelmingly sells its product and when the socio-economic challenges facing the industry are addressed in a significant and meaningful way (RSA, 2010).

This highlights, as noted previously, that the government recognises the global constraints of its economic reforms and highlights issues of structural and institutional inertia that may cumulatively constrain and block its political possibilities, given its over-dependence on foreign investment. However, this dependence on the unprotected free market suggests that financialised redistribution mechanism of BEE may produce poor redistributive outcomes which may lead to the collapse and fragility of SMME and market-based BEE schemes and transactions trying to make an entry into the markets. Evidence also suggests that 'listed mining companies use financial markets to support their speculation in mining assets. Consequently, financial funds are channelled into few productive activities' (Karwowski, 2015:09). As two corporations highlight these challenges:

In addition, negative market conditions meant a rapid decline in Exxaro's share price during 2015. This, in turn, required granting financial assistance to our BEE shareholder consortium, Main Street 333 to remedy a default of its debt covenants to avoid risking Exxaro's BEE status. This matter was debated extensively by both the committee and an independent sub-committee of the board. While we acknowledge that some shareholders viewed this intervention negatively, Exxaro regarded providing this loan (on commercial, arm's-length terms) as the most appropriate risk-mitigating course of action to protect our BEE status and confirm that the company, without difficulty, passed the solvency and liquidity test when this decision was made. The impact of the reduction in the Exxaro share price (R214 peak in 2012 to R44 in 2015) on our BEE partner's (Main Street 333) debt covenant requirements, which threatened our BEE status. As noted in the board review, minority shareholders responded negatively to the financial assistance provided to Main Street 333 to maintain our BEE status (Exxaro Resources, 2015:28).

Clearly, we must not waiver in continuing to transform the sector to make it truly representative of the South African population, upskilling

⁸¹ Zuma told the business and diplomatic community in Cape Town that 'Nationalisation is not the ANC or government policy... Our policy is a mixed economy. There are no mixed signals. Nationalisation is not our policy. It is very clear.'

and educating our workforce and host communities and providing business opportunities to emerging entrepreneurs and companies. But true transformation will take time and cannot come at the expense of investors, who have fled the sector over the past few years amid poor returns on their capital. Now that the gold price has fallen significantly, many mining operators are particularly sensitive to additional government imposts and/or fiscal and regulatory uncertainty. Indeed, investment in growth and development is already shrinking as a result of current market conditions (Gold Fields, 2014: 27 - 47).

We will keep monitoring the global outlook, particularly the performance of iron ore commodity prices, and will be considering the future of this investment in the context of Anglo American plc's intention to dispose of its controlling interest in KIO, as well as the impending [BEE] (project Pangolin) unwind in November 2016, after which we no longer have a legal obligation to empower SIOC (Exxaro Resources, 2016:72).

Despite these inherent fragilities and volatility that come with the market-based remedies, the way the ANC government placed its faith on the global markets was well received by mining corporations, and has been seen as an attempt to please the markets. As the two corporations emphasise the nature of these battles:

the resolution taken by the [ANC] that wholesale mine nationalisation is not a reasonable or sustainable option for South Africa is welcomed. Nationalisation has now been firmly ruled out by the [ANC] as an option for the mining industry. Nationalisation would not have solved the economic or transformational challenges South Africa faces, but would instead have had a negative impact on the country's economy and the ability to create jobs. The ANC's decision will create greater certainty among investors and will once again encourage investment in the mining sector' (Anglo-American, 2012:26).

State intervention in the mining sector that goes beyond taxation in seeking greater participation and value from the sector. This may include mandatory beneficiation, full or partial resource nationalisation or export levies that could impact on financial performance in the sector and may discourage investors/stakeholders from investing in the industry (Exxaro Resources, 2012:41).

Thus, this is because mining corporations employ different political strategies, such as, lobbying and the courts as well as the manipulation of the financial markets through leaking sensitive policy documents to the media to encourage deregulation and limit how the government could exercise its state power. Because of these ideological, legal, and political battles that have led to the deterioration of relations between the state and big business in mining, the government ends up adopting policies that limit the idea of structural

transformation to tokenism and symbols while at the same time harming its economic interests and increasing poverty. As one government policy document highlights,

Current BEE provisions have, however, in many instances failed to ensure a broad-based approach, instead imposing significant costs on the economy without supporting employment creation or growth. The present BEE model remains excessively focused on transactions that involve existing assets and benefit a relatively small number of individuals (RSA, 2010, *New Growth Path*).

However, other political actors, such as the ANC Youth League and the National Union of Metalworkers, regarded the Mining Charter and BEE, as well as their vision and principles of 'transformation' and 'empowerment' in the mining sector as representing the preservation of the status quo of mining capitalism which was built on the exploitation of Africans. They saw the ANC as deviating from its own 52nd national conference resolutions in 2007 in which the ruling party declared:

Our vision of economic transformation takes as its starting point the Freedom Charter's clarion call that the people shall share in the country's wealth. This is to ensure that the use of natural resources of which the state is the custodian **of** on behalf of the people, including our minerals, water, marine resources in a manner that promotes the sustainability and development of local communities and also realises the economic and social needs of the whole nation. **The changes we seek will not emerge spontaneously from the 'invisible hand' of the market.** People acting collectively in the spirit of human solidarity must shape the patterns of economic development. In this process the state must play a central and strategic role, by directly investing in underdeveloped areas and directing private sector investment (ANC, 2007).

These political dynamics, as well as how the ANC changed its course, represent the usurpation of political decision-making power by corporations as well as how market forces tend to render democratic processes hollow. It also represents what Bond (2004/2014) calls the strategy of 'talking left' while 'walking right' which involve the ANC adopting a left-wing political and Africanist posture while implementing neoliberal and market-oriented remedies since 1994. The rhetoric not only ideologically masked the growing government corruption but also disguised the state's adoption of neoliberalism. This rhetoric was more aggressive under Mbeki who was a staunch critic of neoliberalism on public platforms. As Mbeki (2002) notes, 'if we were to follow the prescriptions of neo-liberal market ideology, we would abandon the masses of our people to permanent poverty and underdevelopment'. However, this merely functioned to find ways of legitimising the overall premises of capitalist globalisation, as well as to silence the Tripartite Alliance: the COSATU and the SACP who have been seen as pushing the ANC to the left. His policies through GEAR encouraged 'rapid financial and trade liberalisation, massive tax cuts for the wealthy and big corporates, privatisation, fiscal austerity, monetarism, and other indicators of domestic neoliberalism' (Bond, 2006:194). In the context of this Charter and the MPDRA, the ANC faced pressure from the ANC Youth League under the leadership of Malema, who is now the President of the EFF, that supported calls for the nationalisation of mines:

The MPRDA should be amended to reclaim all prospecting and mining rights given to private corporations and then reissue them based on the following conditions: the state-owned mining company should have a minimum of 60% of ownership and control of all mining operations; not less than 50% of minerals extracted should be locally beneficiated and industrialised; all mining activities should be accompanied by thorough social-labour plans and community development strategies, developed in consultation with stakeholders (Floyd Shivambu, the expelled spokesperson of the ANC Youth League and the now Deputy President of the EFF, 2010).

BBBEE and the reframing of Race in the mining sector

This section is connected to the one titled: 'Race, BBBEE, and Distribution' on page 117. The Report, the Strategy, and the BBBEE construct race as a tool for ordering distribution. However, this changes once BEE moves from the macro level to the micro level of the mining sector. The MPRDA and the Charter have broadened and redefined the concept of who counts as black people and the scope of BEE by using terms, such as Historically Disadvantaged South Africans (HDSAs), and 'all South Africans'. The Charter defines HDSAs as

citizens, the category of persons or community, disadvantaged by unfair discrimination before the constitution of the Republic of South Africa...came into operation which should be representative of the demographics of the country (RSA, 2010).

Firstly, categorising or rather defining black people through the concept of 'historically disadvantaged' cover female white South Africans if we recontextualise the discourse of gender in this context. This is supported by how Anglo American Platinum deracialises BEE by explicitly defining HDSAs as 'Black, Coloured, Indian male and female and white female' (Anglo American, 2010: xii). These corporations favour the phrase, HDSAs over the concept of black people. This description recontextualises the discourse of non-racialism, and *Rainbowism*, as reflected in the key phrases, such as 'BEING COMMITTED to eradicating all forms of discriminatory practices' (MPRDA, 2002) and 'to promote equitable access to the nation's mineral resources to all the people of South Africa' (RSA, 2010). This is emphasised by one of the aims of the Charter's socioeconomic strategy of broad-based socio-economic empowerment⁸² (BBSEE) which involves

⁸² Ideologically, this emphasis ignores political issues of organisation of production, decisionmaking, the division of labour, and cultural practices, as well as both economic and cultural sources of oppressions. Furthermore, the concept of 'broad-based' represents a complex form of *ontological gerrymandering* (Woolgar & Pawluch, 1985) that relates to how the government promises symbolic broad-based empowerment while substantially ignoring and concealing political and institutional issues that may conceive and determine such empowerment, as well as promising 'sustainable transformation'.

redressing the results of past or present discrimination based on race, sex and disability of historically disadvantaged persons⁸³ in the minerals and petroleum industry, related industries and in the value chain of such industries (RSA, 2010).

The broadening and redefinition of the notion of 'black people' ideologically dehistoricise, decontextualise, and deracialise BEE. The universal formulation of 'all the people', may seem to promote the idea of inclusivity. The phrases, 'all forms of unfair discrimination' and 'to give all South Africans' displace the racial elements of BEE by using the concept of inclusivity that may lead to the exclusion of the marginalised. This formulation is supported by how ARM employs the concept of 'all South Africans' through the practice of manifest intertextuality to frame its approach to transformation:

ARM has a zero-tolerance approach to all forms of unfair discrimination. We support the principle of transformation as an effective way to redress historical inequality, facilitate broader social development⁸⁴ and give all South Africans a stake in the country's mineral wealth (ARM, 2017: 66).

This formulation also contradicts how the ANC understands the mission of the Tripartite Alliance which involve 'implementing the programme of liberating Africans in particular and black people in general, from political and economic bondage. It is to improve the quality of life of all South Africans, especially the poor' (Zuma, 2009). This contradictory formulation may lead to the exclusion of Africans, especially youth and females, by failing to militate against it while symbolically constructing BEE as aiming to achieve broad-based empowerment in its political sense. The replacement of the term 'black people' with 'all the people', as well as the concept of HDSA, dislocates the historical discourses of blackness. Furthermore, treating these distinctive groups, such as white females, Chinese, Coloureds, Indians, and Africans, as a monolithic unity, or self-enclosed whole, in the form of HDSAs suppresses their heterogeneity and differences which is defined by their cultures, gender, age, geography, and class. This fusion runs the risk of reproducing and entrenching unequal structural relations, as well as distributive inequality by subtly expanding the racial objective of BEE. The hierarchy in the family of this blackness is reflected by their varying levels of their poverty. Writing almost two decades ago, Cheru (2001: 567) indicated that poverty⁸⁵ 'is

⁸³ This denies black people, especially Africans, their historical differences which relate to how they suffered multiple oppressions.

⁸⁴ This relates to how the Charter omitted the concept of black people while at the same time recontextualising the discourse of sustainable development and non-racialism.

⁸⁵ In 2010, almost 55 per cent of this population group were considered poor according to the upper bound line, whilst 28 per cent of coloureds were considered poor at that line. In addition, the data show that in 2010, of the just more than 23 million South Africans who were poor according to the R577 a month poverty line, more than 94 per cent, or almost 22 million individuals, resided in African-headed households (Bhorat et al.2014).

not confined to any one racial group, but it is heavily concentrated among black people: 61% of 'Africans' and 38% of 'Coloureds' are poor, compared with 5% of 'Indians' and 1% of Whites. In particular, African individuals 'still account for the majority of the poor in the country, irrespective of the choice of poverty line' (Bhorat et al., 2014:06).

The dehistoricization, decontextualisation, and deracialisation of BEE also emerge through the omission of the term 'black' in the broad-based strategy⁸⁶ of the Charter that demonstrates the broadening and the expansion of BEE. Mining corporations have continued the paths of the MPDRA, the Charter, and the *Guidelines* that reframe and dehistoricise the discourse of race and the scope of BEE by favouring the idea of 'Broad-based Socioeconomic Empowerment'⁸⁷ (BBSEE) rather than 'Broad-based Black Socioeconomic Empowerment' (BBBSEE). This construction of race corresponds with how the DA justifies the rejection of BEE and the use of race in South Africa:

Nonracialism is the rejection of race⁸⁸ as a way to categorise and treat people, particularly in legislation. The assumption that one's "race" represents people who think, feel, or have the same experience of shared events, based on their physical appearance, is false. However, while there is a scientific consensus that "race" itself does not exist - racialism and racism do exist and have a profound and damaging impact on the lives of individuals and society. They are abhorrent and detestable. A great deal of harm was caused, and continues to be caused, on the basis of false beliefs in racial difference. Social groups based on cultural, religious, political and linguistic factors do exist. However, people who identify with each other on this basis should not be squeezed into narrow racial boxes inherited from our segregated past (Ngwenya, 2018, Politicsweb).

This description corresponds with the discourses of post-racialism, racial eliminativism, and colour-blindness in South Africa that advance the idea that the oppression of Blacks ended with the instalment of liberal democracy. It relates to Mandela's concepts of non-racialism which focused on the symbolic atmospherics of reconciliation which reinforced white supremacy and its apartheid economy. In this context, the universal formulation of 'all South Africans' runs the risk of ignoring race as a political-economic differentiation, exerting the status quo and continuing historical forms of economic domination and marginalization. In consequence, this advances abstract and ahistorical conceptions of justice that ignores the lived-experience of blacks, mainly Africans, who continue to suffer from injustice.

⁸⁶ The notion of broad-based strategy, as shown above as BBSEE, symbolically suggest that the government proposes broader political and structural reforms. However, this does not deal with social rules and relations. This concept of 'broad-based' itself is vague. Firstly, as it is seen through the BBBEE Acts as well, recontextualises the depoliticised discourses of empowerment and redistribution. This places emphasis on reaching a larger number of black people through distributive measures.

⁸⁷ 'We manage transformation and measure our progress against the Broad-Based Socio-Economic Charter of the dti and the Mining Charter (ARM, 2015:63).

⁸⁸ In his resignation letter as the Mayor of Johannesburg, Herman Mashaba noted, 'I cannot reconcile myself with a group of people who believe that race is irrelevant in the discussion of inequality and poverty in South Africa in 2019. I cannot reconcile myself with people who do not see that South Africa is more unequal today than it was in 1994.'

The Mining Charter, SLP Guidelines and the discourse of Sustainable development

The broadening of the concept of political blackness which refers to black people as African, Coloured, Indian, and the Chinese as well as the notion of HDSAs which tends to cover white females also takes place within the corporate discourse of sustainable development.⁸⁹ The government employs this ahistorical discourses to frame its vision of 'transformation' and 'empowerment' which focuses on neoliberal practices, such as CSR, the surface allocation of benefits and the externalisation of political responsibility. The combination of these issues, as well as the discourses of neoliberalism and managerialism, jointly disconnects BEE from any form of ideological contestations. In preparing the ground for the depoliticisation of BEE, the government envisions 'to facilitate sustainable transformation, growth and development of the mining industry', and 'to make provision for equitable access to and sustainable development of the nation's mineral and petroleum resources' (RSA, 2002), 'taking into account the impact of material constraints which may result in not achieving set targets' (RSA, 2010). The concepts of *sustainable transformation* and *material constraint* moves the idea of *empowerment* and *transformation* from *what the government needs to do* to *what the government can do*, given the unpredictable and constraining context of the global economy and commodity markets that define the existence and operations of mining corporations. This recontextualisation of *sustainable transformation* is intertextually connected to the Reports and BBBEE Acts that defined BEE as seeking to 'achieve sustainable development and prosperity' (RSA, 2003; BEE Commission, 2001:01).

Politically, the discourse of sustainable development affirms the neoliberal orthodoxy of constructing corporations as the neutral architecture of local, national, and global development, casting mining corporations as outdoing the narrow politics of national governments which are often portrayed as corrupt. In this context, this discourse interdiscursively gravitates towards the discourse of managerialism that encourages corporations to report their work of sustainable development while incorporating this vision of transformation into corporate structures and interests. As the Charter as well as mining corporations show,

every mining company must implement elements of sustainable development commitments included in the 'Stakeholders' Declaration on Strategy for the sustainable growth and meaningful transformation of South Africa's Mining Industry of 30 June 2010 and in compliance with all relevant legislation (RSA, 2010).

⁸⁹ Both the MPRDA and the Charter defines sustainable development as the 'integration of social, economic and environmental factors into planning, implementation, and decision-making [to] ensure that mineral and petroleum resources development serve present and future generations' (RSA, 2002). The terms, 'present and future', intertextually reframes the historical context of BEE as reflected in the Report, the Strategy, and the BBBEE Acts.

transformation in terms of the Mining Charter covers many broader aspects of sustainable development. This section indicates where each of the Mining Charter's **transformation** considerations is addressed in this report (ARM, 2014:118).

Gold Fields, through its membership of the South African Chamber of Mines, is an active participant in the Mining Industry Growth, Development and Employment Task Team (MIGDETT). The MIGDETT is a vehicle used by the South African Department of Mineral Resources, companies and trade unions to promote sustainable growth and meaningful transformation of the mining sector (Gold Fields, 2012:101).

The vehicle of MIGDETT demonstrates that these parties depend on the processes of interest-group pluralism⁹⁰ which seeks to represent political interests of different people and organisations. These processes tend to limit issues of justice and politics to distribution at the expense of engaging issues of the capitalist organization of production, public and private decision making structures and power. In addition, the government uses the term 'meaningful' to suggest that BEE symbolically relates to large-scale, structural, and political transformation since this mode of undefined transformation operates alongside the hegemonic, ideological, and historical contextualisation of BEE. This idea of meaningful transformation also tends to contradict the fundamental principle of the MPDRA which intends to achieve sustainable transformation that must take account of both local and global material constraints. However, it merely recontextualises the discourse of sustainable development which promote corporate interests and the expansion of corporate power by supporting the neoliberal orthodoxy of a business-led development. As the following extracts illustrate:

Mining companies must conduct an assessment to determine the developmental needs in collaboration with mining communities and identify projects within the needs analysis for their contribution to community development (RSA, 2010).

The primary objective of mine community development is to meaningfully contribute towards community development, both in terms of size and impact, in keeping with the principles of the social license to operate. The Mine or Production Operation must consult and co-operate in the formulation and review of the Integrated Development Plan (IDPs) of the mine communities (DMR, 2010:17).

Given the history of mining corporations in setting the tone for the racist exploitation of Africans that also promoted land dispossession, this seems to be an important moral and

⁹⁰ 'Through its welfare orientation it constructs citizens as client-consumers, discouraging their active participation in public life' (Young, 1990:66).

economic intervention to ensure a fair distribution of resources and benefits. However, while this seems to push corporations to contribute to community development beyond CSR, these actions remained shaped by the political context of mining capitalism. This capitalism continues to present *objective constraints* for both corporations and mining-affected communities considering that BEE ignores the restructuring of the political economy while narrowly recognising that blacks remained economically marginalised. In consequence, this discourse of sustainable development interdiscursively moves to the discourse of neoliberalism that represents how the government has externalised political responsibility of community development to the markets to promote the neoliberal orthodoxy of business-led development. This is supported by corporate views that depend on the discursive practices of *detail* and *narrative* that uses amount of money to justify that corporations are heavily engaged in sustainable development, *economic transformation*, and *sustainable transformation*:

the objective is to ensure real sustainable development and growth in communities. An important element in Exxaro's approach is generating new non-mining economic opportunities in identified local communities, particularly for local BEE companies and SMEs owned by disadvantaged groups. Our role is to ensure measures are in place to support the establishment and growth of SMEs and to develop effective links with funded, accredited training and development institutions (Exxaro Resources, 2012:191).

the Company's sustainable development philosophy⁹¹ is underpinned by the realisation that there is a need to turn mineral wealth into sustainable economic growth and development. Through its business endeavours, ARM seeks to act as a catalyst for local, national, regional, and international development, to make a lasting and important social, economic and environmental contribution to the developing regions in which ARM operates (ARM, 2016:166).

the transformation of a mineral (or a combination of minerals) into a product of higher value that can either be consumed locally or exported has become one of the major drivers in advancing the empowerment of historically disadvantaged communities in South Africa. It also presents opportunities for the development of new entrepreneurs in downstream and sidestream industries. Our business has been collaborating with government in investing in market development and beneficiation since 2009 (Anglo American, 2014:41).

⁹¹ The ARM Broad-Based Economic Empowerment Trust (BBEE Trust) 'supports provincial Rural Upliftment Trusts across South Africa. It focuses on welfare, community development and antipoverty initiatives with an emphasis on education. The Trust distributed R5.9 million to beneficiaries in F2014, a 13% decrease on F2013 (R6.8 million). ARM established the BBEE Trust and the Rural Upliftment Trusts in 2005' (ARM, 2014:138).

How the Charter and the *Guidelines* also expect mining companies to conduct socioeconomic analysis of the local economy and subsequently develop 'empowerment programmes' that suit the needs of these communities may lead to the exertion of corporate bureaucracy and power. Politically, considering that the national government adopts a non-interventionist approach to monitoring mining community projects, this process may reproduce the status quo. In consequence, giving mining corporations this responsibility in a capitalist environment compounds and creates problems in their host communities while strengthening their corporate power through ideologically legitimising their CSR practices as structurally transformative rather than ameliorative. As the *government view emphasises*,

the company must, however, apply fair selection criteria in this regard. The plan must conform to the skills development plan and should focus on building capacity in various skills and careers for employees and mine communities reflective of demographics as defined in the Mining Charter (DMR, 2010:10 - 12).

Furthermore, through the application of *stake transcendence*, mining corporations recontextualise the discourse of sustainable development to emphasise that their activities are not connected to corporate interests alone. This aligns the corporations with the national development goals of the government by representing the capitalist practices of CSR as politically transformative and empowering to mining-affected communities. However, this approach focuses on the future of mining-affected communities by focusing on capital accumulation and the surface allocation of social goods while concealing historical and structural problems such as land dispossession, degradation, and evictions. As the extract shows:

the future of our business is linked with the future of our local communities in the areas in which we operate. Investing in their wellbeing is an investment in the sustainability of our business. The question, therefore, is not whether we should invest, but rather, what is the best form of investment? We strive to invest in our communities in a way that creates sustained social and economic benefit both during and beyond the life of a mine (Anglo American, 2015:37).

transformation directly impacts our ability to create financial capital in the long term. If we do not develop our employees, the human and intellectual capital we have to operate decreases. Failure to address transformation in our workforce and to contribute to improving the lives in the communities around us would lead to labour and social unrest, and production disruptions. Not demonstrating our commitment to transformation would damage the Company's reputation, reduce the social and relationship capital we have built up with government, our customers and suppliers, and ultimately result in the Group being marginalised in the industry (ARM, 2014:118).

Despite this *stake transcendence*, mining corporations tend to distance themselves from the responsibility of business-led development as well as calling for limited state intervention in their business activities which they regard as discouraging investment. They emphasise that community problems are large scale structural and cannot be addressed by the individual CSR activities of mining corporations, calling for the creation of partnership in the mining sector. As the extracts show,

we live and work in a complex operating environment, with many negative issues related to both our industry and to our country. Our current context is one of the significant community discontents with its roots in these legacies. They include migrant labour, widespread poverty and joblessness, poor local service delivery and unsatisfactory living conditions, deficiencies in education, and skills development which, in turn, limit career opportunities. There is also industrial relations unrest and violence in our sector. Increasingly, communities and local and national governments have expectations of increased economic delivery, substantially outside of the realm and reach of mining companies such as: job creations, and security, housing and accommodation, healthcare and infrastructure development (Anglo American, 2013:99).

despite our substantial commitments to community welfare, however, we firmly believe that a great deal more can be accomplished. The most affective fulcrum for achieving better outcomes...is greater collaboration between mining companies on development issues in similar operating regions (Exxaro Resources, 2012:08).

This demonstrates that the corporations are concerned with the welfare of the community, or what they call *transformation*, to the point of calling for 'greater collaboration between mining companies.' However, while they symbolically accept this role of business-led development, they also reject it if the political context does not suit its corporate goals. In this context, this rejection comes in the form of stake confession that strategically recognises the existing problems while implicitly stating that mining corporations cannot be expected to solve them. However, despite this, mining corporations symbolically co-opt the Integrated Development Plan (IDP) of the local government to align themselves with the national development goals of the government through their SLPs. This form of stake alignment conforms with the tenets of the Charter and the *Guidelines* that instruct mining corporations to conduct a socioeconomic analysis to understand the developmental needs of their host communities. The needs include education and literacy, health, skills development, and infrastructure.

Conclusion

The Chapter identified the discourses of historicism, redistribution, managerialism, deracialisation, sustainable development, and neoliberalism, as well as the depoliticised discourse of empowerment as the hegemonic constructs of BEE. The Chapter demonstrates how the Report significantly influences the formation of the Strategy, the BBBEE Acts and the Mining Charter, highlighting the influence of the private sector over the ANC government through three major political processes of *policy formulation, legislation, and implementation*. This emphasises how the private sector mainly constructed the visions and principles of *empowerment* and *transformation* that ignored and preserved the structure of political economy by mainly focusing on the surface reallocation of benefits, income, and jobs. The Report also appropriates anti-colonial and anti-apartheid discourses to justify the creation of BEE while hegemonically proposing ahistorical, tokenistic, and market-based remedies. In consequence, both the government and mining corporations reduce the discourses of *empowerment* and *transformation* to participation, targets, and representation while appropriating anti-colonial and anti-apartheid discourses to justify the legislation and implementation of BEE. This tends to reduce the discourse of race to cultural recognition – that is, highlighting that blacks suffer oppression – while at the same time displacing the restructuring of political-economic structure as the remedy for injustice and the aim of political struggle.

Following the discursive traditions of the Report, their appropriation symbolically associates BEE with the transformation of historical, structural, and power inequities to give an impression that the policy intends to drive this form of transformation. For this reason, BEE has now become synonymous with the ideologically ambiguous concepts of transformation and empowerment as coordinated by this abuse of history. Even so, both the government and mining corporations adopt the discourses of managerialism that depoliticises BEE as well as contradicting how they seek to associate BEE with the transformation of historical, structural, and power inequities. How the government and mining corporations adopt ahistorical discourses of blackness, neoliberalism and sustainable development which expand the scope of BEE to cover white females worsen these *contradictions*. The next Chapter build on this analysis and focuses on interview data analysis.

CHAPTER FIVE: INTERVIEW DATA ANALYSIS AND SUMMARY OF THE FINDINGS

Introduction

This Chapter builds on the previous CDA Chapter by socially and politically contextualising some of its findings. It explores other issues that are central to BEE in the mining sector but could not be explained through CDA analysis and may be invisible in government and corporate documents. The Chapter relied on CDA analysis, repetitions, similarities and differences among the responses of interviewees to build these themes. This Chapter highlights the neoliberal notions of externalisation of responsibility, deracialisation vs re-racialisation of BEE, dehistoricisation, sustainable development and managerialism, as well as distribution as some of the major issues of BEE discourses and their social practices. For the latter, this Chapter relied on Young's (1990) critique of the distributive paradigm of justice. The critique clearly draws a distinction between issues of distribution and non-distribution. While distributive issues involve the re-allocation of material goods and benefits, non-distribution relates to decisionmaking structures, power and procedures, the social division of labour and cultures. These issues of non-distribution precede and conceive structural, institutional and cultural transformation. The Chapter also draws upon Bachrach and Baratz's (1970) concept of mobilisation of bias to engage some issues relating to decisionmaking and empowerment as constructed in BEE legislation.

Ferguson's (1994) two main arguments are also engaged in this analysis. Firstly, this relates to the idea that the embedded nature of structural and cultural processes may reframe the intentional plans of a social intervention, such as BEE, to achieve other political functions. Secondly, this touches upon the idea that the outcomes of social intervention may serve power in the most relational and decentred form, as well as the manner which was not imagined. This relates to the productive nature of social interventions in these structures, and how they become vehicles of power. This follows the logic that even though BEE may have failed to achieve its mandate of [re]distribution, and empowerment without autonomy, it may succeed in expanding, maintaining and establishing other forms of power relations, between mining corporations and different actors in mining-affected communities. It also contains some elements of structural effects. Lastly, the Chapter draws upon the concepts of social structures to highlight that BEE issues, effects, outcomes and practices have structural properties.

This semi-structured interview data helps complement CDA analysis by identifying the intentions of both mining corporations and the government despite their claims of objectively

contributing to the symbolic agendas of structural and political transformation as well as distribution. It sought to understand how mining officials and other actors understand and interpret BEE and this agenda (or the connection between the two concepts). This provides institutional contexts to the discourses and processes of (a)historicism, deracialisation, managerialism, sustainable development, neoliberalism, and redistribution as well as depoliticised discourses of empowerment. The interviewees⁹² did not explicitly use the terms that relate to the following themes. However, how they use their words and describe BEE provides links to them.

Political Responsibility and Neoliberalism

a) The Externalisation of Responsibility

This theme relates to the actions of the government concerning its BEE agenda in the mining sector, as well as how it affects mining-affected communities. It shows a further disconnection between BEE and the symbolic agendas of structural and political transformation. The government is expected to empower and develop communities, as well as ensuring that mining corporations comply with the law and meet their BEE obligations. Building on discourses and social practices that emerged in the Charter, this theme demonstrates that the government has indeed externalised its political responsibility through the introduction of BEE. As we have seen in the previous Chapter, the Charter has encouraged the private sector to contribute to economic development by instructing mining corporations to 'conduct an assessment to determine the developmental needs in collaboration with mining communities and identify projects within the needs analysis for their contribution to community development' (RSA, 2010). The previous Chapter, through the analysis of the Report, the Charter, and the BBBEE Acts, as well as their discourses of sustainable development, demonstrates how the government promotes the neoliberal orthodoxy of business-led development.

The Chapter, through the themes of sustainable development, also demonstrates how mining corporations strategically but partially accept this orthodoxy when it suits their corporate interests as well as to dehistoricise and decontextualise BEE. However, it has not dealt with the intention of the government. This theme explains the intentions of the government. It explicates how the government through the Department of Mineral Resources (DMR) understands its role and responsibility, and that of mining corporations. This theme

⁹² The interviewees have been anonymised throughout the chapter.

shows that the government has completely externalised its political responsibility through the introduction of BEE and the SLP. This has led to the reproduction of the structure of neoliberalism which relates to how the government provides tax incentives for mining corporations contributing to community development as part of attracting foreign investment. It confirms and extends the findings of the previous Chapter under its analysis of the Report and the Charter. In giving the official government position, one interviewee notes:

there is no obligation for the government to monitor how mining corporations implement BEE and the SLP because the law is the law. Its intention is very clear. We believe that mining corporations are going to do the right thing. We do not police the processes and the implementation of the SLP. We allow the mining corporations to do their work and present the information to the department (Regulator and Provincial Government Official, 11A, Department of Mineral Resources).

The official constructs a neoliberal view of the state that depends on the self-regulation of mining corporations and managerial processes that limit the involvement of government only to managerial practices (as highlighted on page 115). This practice demonstrates the disconnection between BEE and the agenda of structural and political transformation. It offers insights on how the process may maintain the oppression of mining-affected communities because of the limited state intervention and the capitalist nature of mining corporations which privilege corporate interests over community needs. Corporate interviewees also understand this perspective as the official position of the government. They emphasised that the government lacks the institutional capacity to achieve the objectives of BEE. Perhaps surprisingly, these interviewees unanimously call for the government to do more to hold mining corporations accountable. As one of the corporate interviewees notes,

DMR is supposed to come and monitor the implementation of the SLP and BEE. But unfortunately, we have not seen them, in our case, for the past three years. They have not come to specifically monitor community projects. They should come to verify. We think the government is busy. They do not have full capacity to monitor community projects... they trust mining corporations to do the right thing (Corporate and Mining Official, 1A).

This description reveals the social context that informs the corporate discourses of managerialism and sustainable development. These discourses show how the government expects mining corporations to deal with the managerial process of reporting, compliance, self-regulation and socioeconomic development. It also reveals that the government does not deal with political issues, such as regulatory intervention, the reorganisation of cultural practices, decisionmaking structures, and procedures that govern structural relations

between corporations and mining-affected communities in the mining sector even though both the government and corporations vaguely name their practices as *transformation*.

By dealing with these issues this way, the government has externalised its political responsibility. It ignores the complex political issues that govern and maintain structural relations between mining corporations and mining-affected communities. This represents the work of larger structural processes that relates to the structural nature of neoliberalism as a global phenomenon. Neoliberal governments tend to use economic policies that push their political responsibility onto the wider society. The externalisation of responsibility is one feature of their governance system, as well as the notion of multinational corporations as proponents of development. The government morally justified this neoliberal orthodoxy as part of justifying the creation of BEE through its historical contextualisation and the discourses of colonialism and apartheid. The outcomes of this process maintain historical and structural relations between mining-affected communities and mining corporations by leaving these corporations in more powerful positions.

By its structural design and productive nature, the externalisation of responsibility has also pushed mining corporations to a new political space of service delivery. This increases the chance of expanding the exercise of corporate power. NGOs and community interviewees share the sentiments of corporate interviewees. However, they note that institutionally and culturally, mining corporations have not been designed to undertake the responsibility of developing communities beyond their CSR practices. These interviewees, including corporate interviewees, regard the political responsibility of developing communities as the role of the government rather than mining corporations; these entities already pay royalties and corporate tax, as well as contributing to CSR. In consequence, they see the government as adopting a neoliberal managerialist approach and depending on the self-regulation style of governance of mining corporations. These practices tend to reproduce the status quo and the oppression of mining-affected communities considering their structural constraints and their limited access to resources. Both NGOs and community interviewees believe that the government should institutionally capacitate mining-affected communities to ensure that they directly take part in decision-making processes and can understand their own needs. NGO and community officials agree with the views of the corporate officials as follows:

the notions of development have been devolved to companies who do not premise their operations on how best to benefit communities. I do not think that empowerment or development should be left to companies. It should be the government's role. It should begin with recognising the capacity of community members. This comes back to the responsibilities and the obligations given to companies through [interventions] such as the SLP and BEE as part of a mining permit

or a mining licence (NGO Official, 4A: Mining, Community and Environmental affairs).

The government is supposed to play a vital role in the empowerment of communities hosting mines. Unfortunately, the only department that is responsible for these things is the DMR. They do not have the manpower. They need to follow up on what the mines are saying they are going to do and be strict on issuing licenses and check if they are clearly complying or implementing their SLPs (Community Activist, 14A: former mining official and now government spokesperson).

NGOs interviewees also identifies the culture of the revolving door as worsening these problems by having the same political officials moving between jobs as legislators and regulators, on one hand, and employees and shareholders of mining corporations, on the other. As the Charter showed, the government expects the private sector, especially mining corporations, to undertake this political responsibility beyond CSR (see page 115). The government attempts to externalise its political responsibility both at the level of policy and implementation to undertake its call for the private sector to contribute to the development of mining-affected communities. This process effectively allows mining corporations to decide their scope of BEE and their own concept of development according to their corporate needs. Its political outcomes are twofold: (1) it conceals structural and historical problems between mining corporations and mining-affected communities, and (2) it pushes the political responsibility of regulating compliance and corporate actions to the hands of mining corporations. The outcomes of this not only show the absence of the connection between BEE and the transformation of historical, structural and power inequities, but also reproduce the status quo. It also tends to expand corporate power through the introduction and recreation of corporate bureaucracy and paternalism that inherently result from the neoliberal orthodoxy of business-led development. Furthermore, this enables mining corporations to occupy the province of community development as theirs when it suits their needs (such as aligning themselves with the national development goals of the government).

This theme shows that the political responsibility of regulation and distribution now belong to the hands of mining corporations and their managerial spaces in the mining-affected communities. This tends to legitimise the actions of mining corporations and their symbolic compliance as well as that of government. It also conceals the existing structural relations between mining-affected communities and mining corporations, which may prevent these communities from participating in decisionmaking processes as the key beneficiaries of BEE distribution. The interviewees unanimously indicate that the government should institutionally capacitate communities to understand their own needs, as well as to participate in decisionmaking procedures. However, the theme shows that this is not happening. Instead, the actions of the government have created more problems and reproduce corporate

domination. Surprisingly, even government officials share this view along with corporate, NGO and community interviewees. One government official captures this issue as follows:

it is a kind of less-directed environment. It is a loose-end environment because no one carries the responsibility, to say, I will engage the communities. The government spoke about this somewhere. The MPDRA says you have to consult and develop communities, but the same Act does not educate communities about their rights and privileges. So, the government does not carry the responsibility. Mining companies have been told to consult but they are not being told who the community is (Provincial Government Official, 8A: Sector Development and Mining).

This official is critical of the government, but he does not represent the official position of DMR which oversees the mining sector. Corporations claim to contribute to the agenda of *transformation* of the mining-affected communities through this process by linking their actions with historical injustices. Government officials, as well as officials of NGOs, community leaders and the policy consultant indicate that mining corporations have limited their role to undertaking short-term CSR projects. These projects help maintain their symbolic compliance despite defining their role as 'transformative' and contributing to 'social economic development'. The outcome of this practice tends to the oppression of mining-affected communities.

Interviewees were divided over the causes of this problem and issues of non-compliance or symbolic compliance. Corporate interviewees, as well as government official 8A and 14A, regard government policies and legislation as coherently strong but lacking enforcement and monitoring. Meanwhile, government officials 6A, and 8A as well as the policy consultant (16A) have largely identified the legislation as one of the political sources of the oppression of the mining-affected communities. It was surprising that even government officials who work with mining-affected communities acknowledge that the legislation causes problems. As one government official states:

there is no clear regulation and legislation on how mining corporations should engage communities and undertake its social and BEE obligations. There is no any legal framework of stakeholder engagement between mining corporations, communities, municipalities and traditional authorities. If there is no legislative framework for consultation, we can then conclude there is no meaningful consultation and community empowerment that are done by mining corporations (Local Government Official, 6A: Local Economic Development (LED) and Mining).

In terms of non-distribution, this relates to legal and political procedures that precede and control what mining corporations call community 'empowerment' and the distribution of social

goods and benefits. However, corporate respondents do not regard this process as a major problem. Rather, as also noted by Corporate interviewee 1A, they consider monitoring and regulations, which are geared towards distribution, managerialism, and its outcomes, as undermining 'community development'. As one corporate official emphasises:

while the government makes fantastic policies, there is a lack of monitoring and evaluation to understand the extent to which those policies are being implemented in the mining sector. But also, what are the penalties that get to be applied in the case of noncompliance? (Corporate and Mining Official, 2B).

In this case, while some of the government officials, together with NGO and community officials, regard the legal framework that precedes and controls BEE as politically weak, corporate interviewees tend to see monitoring and compliance as the major issues. These interviewees believe that compliance is weak because the government lack institutional capacity to regulate the sector. The former relates to the social process, and cultures of corporations, while the latter relates to the outcomes of BEE and distribution. Because of this, it can be noted that this entails the work of sociostructural processes rather than issues of symbolic compliance and non-compliance that shape the outcomes of BEE processes and distribution. Because of the politically weak legal framework, mining capitalism and managerialism as highlighted, interviewees agree that mining corporations are struggling to meet their BEE obligations.

Issues of non-compliance tend to contradict the tenets of their discourses of sustainable development and their claims of contributing to their symbolic agenda of structural and political transformation. Equally, the work of sociostructural processes constrains or enables mining corporations to reframe social problems to suit their corporate interests while concealing institutional practices of oppression. This is captured in the following extract from a corporate interviewee:

you still see a big disjunction between what the mining corporations drive as community development initiatives and the actual challenges that the communities are experiencing. That is simply because, within the South African context, I do not think, 'sustainable transformative communication' and [development] have fully matured. The profession itself, both from the professionals within and across the industry, still lacks an understanding of what our goal and role should be in terms of having a positive impact we desire (Corporate and Mining Official, 1A).

In the previous Chapter (see page 128), one corporation indicates that: ‘increasingly, communities and local and national governments have expectations of increased economic delivery, substantially outside of the realm and reach of mining companies’ (Anglo American, 2013:99). Despite this admission and contradiction, these structural processes and the notion of business-led development continue to authenticate the actions of both the government and mining corporations while reproducing distributive inequality and expanding corporate power. This is because of the position of mining corporations, and the position of mining-affected communities in these structural processes. Thus, the position of mining corporations provides them with access to different resources and political organisation, capital and mobilisation. However, the position of mining-affected communities tends to present structural constraints because they have been neglected by the neoliberal governance system that pushed its responsibility to mining corporations and communities. As a result of these injustices, the minimal activities of mining corporations that promote symbolic compliance and window dressing help them maintain their social license to operate.

b) The Blurring of Political and Corporate Responsibility

The notion of the externalisation of responsibility relates to the sub-theme of the blurring of political and corporate responsibilities. The blurring of these responsibilities illustrates the outcomes of BEE processes and activities; it could not be established through CDA analysis. It comes as the direct result of externalisation. Firstly, it was hard to decide from the CDA findings how mining corporations understood their BEE obligations. Secondly, these corporations aligned themselves with the community social development agenda to empower communities beyond the lifespan of the mine. While interview findings make this clear, it highlights unexpected outcomes of the process which relate to the blurring of political and corporate responsibilities. This involves the fact that corporations feel that they are doing the work of the government. These corporate officials clarify this issue:

There is really no distinction in terms of what mines should and what the local government should do. I am not trying to shift blame here. It is because the mining corporations are dependent on them to get projects. They have priorities. And some of them have budget issues. They cannot really do everything that the people need. So, they give mining companies projects that are supposed to be done by them as government (Corporate and Mining Official, 1A).

If you look at how our [BEE] programme is structured, you would do what would typically be done by government (Corporate and Mining Official, 3C).

These views illustrate the intention of the government with regard to instructing mining corporations to undertake 'community development projects' as part of meeting the requirements of the mining rights. NGOs and community interviewees, as well as some government officials, agree with this corporate position. One NGO official sums up this as follows:

according to the views of many companies, the municipalities do not have their house in order and that the companies are doing the job for them (NGO Official, 4A: Mining, Community and Environmental affairs).

Considering that the mining corporations have not been historically, structurally and institutionally designed to undertake this political responsibility beyond CSR, these processes re-create structural problems. They also gravitate towards corporate interests and the expansion of corporate power rather than community interests. NGOs and community interviewees indicate that the political outcomes of this process are that the existing structural processes and corporate cultures limit both corporations and communities to distributive issues. This limitation predominantly focuses on the minimal allocation of social goods and benefits and tends to cover up structural and environmental issues. Furthermore, this theme reveals one unexpected trend that comes as the result of the blurring of political and corporate responsibility. This relates to how local governments and municipalities redirect SLP social goods and benefits for the mining-affected communities for other priorities. The misappropriation of these distributive issues deprives these communities of the most basic needs and contribute to their oppression. Surprisingly, it is also government and NGO officials that have identified this trend:

there is a greying of lines. The local municipalities have the responsibility to provide infrastructure [...] But because businesses come with a regulation which they must comply to contribute to BEE and community development, now the municipalities are using the money that was budgeted for infrastructure somewhere. They are now depending on mining companies (Provincial Government Official, 8A: Sector Development and Mining).

We are starting to see interesting shenanigans. Mining companies say that they gave the money of their SLP to the government to fund community programmes and build infrastructure. Where are those things? They are not built. Now, the money has disappeared, but companies say they have given it to the local municipality. The local municipality would use the money to pay for other bills. For instance, there are cases where they would use the money from the SLP to pay Eskom because they would argue that residents are not paying electricity (NGO Official, 5A: Mining, CSR and Environmental affairs).

This highlights a strong focus on distribution, which recreates distributive inequality, and demonstrates the political outcomes of the blurring of the responsibilities of corporations and

government. This blurring of responsibility represents the 'non-and counter-intentionality of structural production' (Ferguson, 1994). It demonstrates how the current social processes and relations may shape and condition social interventions, such as SLP, to become an instrument of power that was never intended. Rather than helping to channel the funds to the mining-affected communities, local governments use such funds to achieve other goals. As much as this relates to the 'non-and-counter-intentionality of structural production', interviewees also highlight issues of structural inertia that relates to how the current government's institutional capacity struggles to cater for the interests of many of its citizens. This contributes to the oppression of mining-affected communities while expanding corporate power through gift culture and economies between corporations and the government.

Respondents indicate that this power dynamic enables mining corporations to create these gift culture and economies. On the other hand, it enables communities to exercise their agency by challenging the government and mining corporations as the same entities when they demand services such as water, education, employment, and health. However, the political outcomes of these processes limit mining BEE activities largely to distributive issues rather than dealing with the institutional practices of state power, corporate cultures and structures.

Meanwhile, the political and unintended outcomes of this blurring shift power relations and serves as a productive force that mediates between sociostructural processes in two forms – that is, (1) how mine-affected communities now have legitimate expectations from mining corporations, as well as how they contest for opportunities among each other, and (2) how mining corporations use BEE to gain moral impetus, to create gift cultures and economies, and to maintain paternalism and to expand mining capitalism. It affects the corporate structures of mining business but does not necessarily transform them. Part of this involves pushing corporations into the political space of service delivery, as well as how communities tend to see mining corporations and the local government as equally the same.

Sustainable Development

a) Power, Business-led Development, and the 'Future'

This theme relates to how mining corporations draw upon practices of sustainable development to frame their modes of *transformation*, as it has been encouraged by the government through the MPDRA and the Charter. This also relates to the political outcomes

of the externalisation of responsibility as highlighted above. The outcomes have enabled mining corporations to use the discourse of sustainable development to justify their BEE activities. This discourse remains one of the most hegemonic constructs of BEE emerging from government discourse and running throughout corporate documents. As highlighted in the CDA analysis, the interview findings confirm that mining corporations frame their BEE activities according to the notions of sustainable development. This emphasises the neoliberal orthodoxy of business-led community development. By comparing the views of mining corporations with that of NGOs, community and other government officials who work with mining-affected communities, this theme shows that this enables mining corporations to conceal more non-distributive issues and social structures from the discourse and their activities.

When commenting on how they implement their BEE activities and develop SLPs, two corporate officials stated:

we consider the local economic development from the municipality's point of view. We go beyond the municipality because our impact is not only restricted to the municipality. We also look at the local economic development strategy of the province to understand the linkages of BEE to the local economic development plan of the municipality and to the provincial strategy (Corporate and Mining Official, 2B).

what would remain when this company is gone? You, sort of, work backwards, to say, we know the end and how do we make sure that when we exit, communities are able to operate or to live and continue with their business without the mine. This involves being able to stimulate economic activities that are not necessarily dependent on the mine. You ensure that when you leave these communities, they are empowered (Corporate and Mining Official, 3C).

The previous Chapter showed that mining corporations align their BEE activities with the symbolic political and structural transformation, through the concept of '*sustainable transformation*' which relates to the discursive practices of the Mining Charter. Meanwhile, these interview findings did not show any link to this mode of 'transformation'. Instead, corporate officials frame their BEE activities as preparing mining-affected communities for the future. The previous Chapter identified this pattern as well (see page 127). It relates to how corporations focus on the future of mining-affected communities and distribution rather than the current historical and structural problems, such as land dispossession and the exploitation of workers and environmental degradation, as well as representational crisis, which affect African communities. Equally, this theme focuses on distributive issues which the government and corporations vaguely treat as *empowerment* and *transformation* through

the recontextualisation of the depoliticised discourses of empowerment and redistribution. Government officials share the position of mining corporations but equally do not link the activities of mining corporations with any form of *transformation*. They see mining corporations as non-compliant, citing the weaknesses of regulatory and monitoring mechanisms as one of the political sources of this issue. As one government official, who works with mining-affected communities, states (but not representing the official position of the DMR):

BEE activities have to be done in a way of understanding that mining is finite [– that is] it is going to end someday. So, my belief is that you have got to be concerned with the life of these communities beyond the life of the mine. You are not only ticking the boxes, but you say while I am here, let me help: 'Let us work together to develop a life beyond what we found when we first came here'. But it is not happening (Provincial Government Official, 8A: Sector Development and Mining).

However, this view indicates elements of non-compliance and contradicts the actions of mining corporations. It suggests that the government shares the sentiments of mining corporations of striving 'to invest in our communities in a way that creates sustained social and economic benefit both during and beyond the life of a mine' (Anglo American, 2015:37) as one corporation document noted in the CDA analysis. However, it also shows that mining corporations fail to meet their social obligations even though they claim they do. This widens the gap between BEE and symbolic agendas of structural and political transformation that mining corporations have discursively co-opted. NGOs and community interviewees have identified this gap and indicate how mining corporations have co-opted BEE to further their corporate interests rather than politically and structurally transforming their institutional practices. They not only see mining corporations as non-compliant but also as strategically engaging in the mobilisation of bias (Bachrach & Baratz, 1970) to conceal non-distributive issues, historical and structural problems. This is captured by two interviewees who interact with mining-affected communities:

[Mining corporations promise] to create 200 jobs for the local community [for instance]. But they do not address the issues of training and Environmental Impact Assessment [EIA] (Community Activist, 12A: Mining Journalist and Community Leader).

There was a shift to that type of system from the previous system which was more geared towards CSR...So previously there was more of a responsibility ethos. We must account for the damage that has been done but that discourse almost changed with the notion of CSI. If the mine does really well, there will be a trickle down of employment and there will be a trickledown effect of whatever else. That notion of investment has actually done away with the responsibility aspect of accountability – the damages that have been

done directly. And companies are saying profit will eventually trickle down to the community but that never happens (NGO Official, 4A: Mining, Community and Environmental affairs).

This relates to how the government adopted the notion of patriotic capitalism that advanced the belief that the empowerment and the creation of the black elites would lead to the empowerment of broader communities. These descriptions of the actions and intentions of mining corporations show how mining corporations have co-opted and reframed BEE to advance their corporate interests. They show that rather than engaging in 'true transformation' or 'real transformation', they employ the concept of the *mobilisation of bias* to conceal more non-distributive issues and structural problems, especially that relate to environmental responsibility. While the government has not anticipated this trend, it demonstrates how mining corporations have weaponised BEE. This demonstrates the work of sociostructural processes rather than necessarily the issue of deliberate actions. In this context, these corporations employ the symbolic discourses of 'transformation' and 'empowerment' as an entry to the mining-affected communities. They use BEE discourses to persuade these communities and limit discussion to distribution. This helps mining corporations subtly suppress challenges to the status quo, such as the exploitation of mining-affected communities and their environment.

Promising to develop communities for the future this way as well as focusing on distribution gazes away from non-distributive issues, such as environmental issues and decisionmaking procedures. It also enables these corporations to claim an artificial, yet solid, connection with the symbolic agenda of structural and political transformation without altering their existing corporate cultures and norms of oppression and domination. Furthermore, the views of NGO and community officials demonstrate how mining corporations use BEE activities to expand corporate power and control communities through *the politics of promise*. This helps them contain dissent and activism as they seek to maintain their social license to operate rather than to contribute to 'community development' and 'transformation' as they claim. For government, community and NGO officials, environmental responsibility remains politically important to the transformation of structural relations between mining corporations and mining-affected communities. However, mining corporations employ BEE only to reframe their environmental responsibility by concealing structural and political issues, such as paternalism, environmental degradation and exploitation. They also call their distributive issues, or CSI as 'transformative', to promote them as large-scale, structural and political. As one of the NGO interviewees notes while refuting the position of mining corporations:

the logic is that mining companies are replacing their environmental damages with CSI. But the extent to which this has benefited

community has been extremely limited. And so, you see that the notion of responsibility and environmental damage also being done away with or not being fulfilled (NGO Official, 4A: Mining, Community and Environmental affairs).

These elements of mobilisation of bias [re]produce the corporate culture of oppression, and the larger structure of neoliberalism and mining capitalism which promises *empowerment* through the financial markets. These structures confer corporations with power to dominate local communities, especially because they come with the notion of self-regulation.

Nevertheless, how mining corporations adopt ahistorical and their future-looking approach by promising the trickle-down of wealth and empowerment through the markets enact and reproduce historical and structural relations. As highlighted above, this demonstrates another managerial logic of non-compliance that reflects corporate cultures of oppression and mining capitalism in which mining corporations use the moral authority of the SLP and BEE to make promises to their host communities without fulfilling them. Since communities have developed legitimate expectations – as part of the requirements of the SLP – mining corporations use the SLP as an instrument of power. This power enables them to maintain their social license to operate while minimising the impacts and costs of the SLP. It also thwarts the SLP and its intention of distribution and empowerment without autonomy and even shifts its symbolic transformation to the managerial space through the focus on the future rather than the current needs of the communities.

b) Managerialism, Symbolic Compliance, and Sustainable development

This theme relates to the discourse of managerialism and sustainable development and how mining corporations discursively appropriated them to frame their symbolic forms of structural and political transformation. However, what differentiates between CDA analysis and interview findings is that the latter provides evidence of non-compliance to contextualise the discourses of sustainable development and managerialism. It also shows the political sources of these discourses. They also reveal that the government has not encouraged any form of structural and political transformation even though mining corporations claim that their work contributes to this mode of transformation. Rather it expects mining corporations to engage in the distribution of benefits and material goods. The expectation on them to match their BEE activities with the developmental work of local governments has promoted the culture of symbolic compliance and managerialism rather than encouraging a fair distribution of material goods and benefits. This theme explains the two processes that spell out the compliance processes, which corporations should follow, as set out by the government. One government official captures the processes as follows:

The SLP has to be approved by the department. And the department must see that those issues [community needs] are covered in the document in consultation with the municipality and the community. The projects of the SLP must address people's needs and that of the relevant structures such as the local municipality. The government expects mining companies to be ethical in their actions and to do the right thing (Regulator and Provincial Government Official 11A, Department of Mineral Resources).

The description represents the political sources and legitimacy of symbolic compliance, as well as the discourses of managerialism and sustainable development. One of the government officials that interacts with mining corporations and mining-affected communities indicates how his local municipality follows the process to help mining corporations to comply with the requirements of the SLP and the Charter. As the official states:

We ensure that when mines develop their SLPs from the initial stage, they speak to our strategic development objectives as a municipality. We ensure that the SLPs are aligned with our integrated development plan, our local economic development plan and other strategic development plans of the municipality and of the provincial and national government. The SLPs aim to complement the development trajectory of the government. So, they are coming to ensure that their SLPs are aligned with our developmental plans (Local Government Official, 6A: LED and Mining).

Government, as well as corporate, interviewees indicate that mining corporations symbolically design their SLP and BEE activities according to this government requirement. In other words, once the DMR accepts the SLP, the development of communities will be a 'done deal' and mining corporations tend to assume their CSR and minimal distribution while using their managerial power, rationality and logic to limit the impact of BEE while taking credit for addressing the injustices of the past. However, they focus on minimal distribution, deracialisation, and managerial discourses rather than any form of institutional transformation. A corporate position is outlined by two officials who deal with how they comply with the government agenda as well as ensuring that their BEE activities match that of government:

We make sure that the company contributes towards the upliftment of communities. We develop plans, we implement, and we monitor and report about them. It really starts with engagement with different communities and government. So, it is not where we do small donations there and there, but it is more. We do construction of roads, build schools and clinics. So, you cannot just go and do it without having engaged with the government to make sure that whatever plans that you put in place are aligned with what the government is doing (Corporate and Mining Official, 3C).

When you look at the SLP and BEE, it is the responsibility of mining corporations ...to ensure how they can empower the

people within the radius of their operations. The typical example of this is that we talk about black people who are running their businesses. How can they be seen as the ones that benefit from the mining business? (Corporate and Mining Official, 2B).

This corporate view represents the position of mining corporations and match what has been outlined by the two government officials who explained what the government expects from mining corporations in two forms: addressing community needs and engagement.

Other officials indicate that corporations continue to focus on short-term CSR projects and have not practically tried to link their BEE with the government's developmental agenda. Community and NGO officials, as well as other government officials disagree with the idea that mining corporations align their BEE activities with the developmental work of the local government. They indicate that symbolically mining corporations comply with the process but practically, they fail. NGO and community's stance on how mining corporations align themselves with the work of government is presented as follows:

There are systems in place that technically should be there to benefit the communities that stand to be, or that are affected by mining operations, such as the SLP... but the extent to which those have benefited communities is almost non-existent. [The SLP] explains mining companies' obligation to develop the community that it occupies, or that it is hosted by. From what we have seen, as it stands today, it does not benefit the community. Those obligations are not met...What we have seen is a misalignment of what exists as development needs in the municipality in their own IDPs and what features in a companies' SLPs. That does not match (NGO Official, 4A: Mining, Community and Environmental affairs).

They were supposed to align those two elements – [IDP and the SLP] – because they are working towards the same goal of developing local communities. But then you will be surprised that the SLP and the IDP are not implemented and planned at the same time. IDPs are normally applied in July and the SLPs in December. There is no coordination process (Community Activist, 14A: Former mining official and now government spokesperson).

The views identify both issues of non-compliance and symbolic compliance. They also emphasise that the local government has not even managed to link its own development agenda with the needs of its citizens. As does the CDA analysis, this shows that the actions of mining corporations remained symbolic and represent managerial process of ticking boxes. It also shows the culture of reframing corporate interests to suit corporate needs. The interviewees indicate that these BEE practices and processes encourage symbolic compliance. Their outcomes reproduce the cultures of managerialism and mining capitalism

that come with the opaque mismatch between corporate rhetoric and compliance. This is reflected in the following views of a BEE beneficiary and an NGO official:

BEE is both a tick-box process and window dressing. You can look at the way procurement procedure happens. Communities are supposed to be given first option or preference when it comes to procurement for services. However, how can you provide services if you are not empowered. What I have seen is that most people are poor and uneducated in mining-affected communities (Investor and BEE beneficiary, 17A).

We studied the sustainability reports of Lonmin for the last ten years. We discovered that from year one up to the 10th year where we stopped, they kept on saying we are going to build 5000 houses for the workers. But they only build 10 showroom houses. And every year they kept on talking about building 5000 houses. Ten years down the line, they were still talking about 5000 houses, but they have only built 10 showroom houses (NGO Official, 5A: Mining, CSR and Environmental affairs).

This is not only the issue of non-compliance. It also represents the complex sociostructural processes of managerialism that enable mining corporations to limit the political costs and impacts of government policies and laws. This involves the work of the larger sociostructural processes of mining capitalism that govern the institutional practices of corporations, especially the extractive industries rather than the isolated actions of misconduct. Mining corporations draw upon institutional practices and the *objective* constraints, such as building compliance offices and transformation units, of managerialism to build this symbolic compliance while logically undermining anything that contradicts their political outlook and structural design. Because of this, they employ BEE activities for other political reasons that connect corporate interests with the work of government while minimally distributing social goods and benefits through old forms of CSR. The effects of this process strengthen the relationship between government and corporations while emphasising a symbolic focus on distribution that help construct symbolic compliance. For this reason, although this shows issues of non-compliance, it reflects the structural design of managerialism, neoliberalism and mining capitalism. Their logic thrives on symbolic compliance while demonstrating that the government and corporate stances are miles away from addressing historical and structural issues.

BEE, Race, and Being Local

The previous Chapter demonstrates that the government has deracialised BEE through the introduction of the MPDRA, the Mining Charter and the SLP Guidelines that disconnect BEE from the BEE Commission Report and the BBBEE Acts on page 121. It also demonstrates that mining corporations favour deracialised forms of BEE. As a result, these corporations disfavour talking about BEE as intending to benefit black people as a collective. The CDA

analysis shows that this deracialisation may have dehistoricised and depoliticised BEE by relying on symbolic inclusion while depending on material exclusion. However, this theme reveals that individual members of mining-affected communities resist the deracialisation of BEE. They employ BEE legislation and policy to amplify their own voices in the pursuit of their own interests.

This theme dwells on the experiences of mining officials as they are involved in how communities benefit from, and experience, the BEE processes. The theme demonstrates that how BEE legislation and policy have defined blacks as beneficiaries has given individual members of mining-affected communities the capacity to exercise power. This process has turned BEE into an instrument to further the political interests of individual members of mining-affected communities, including demanding basic services from mining corporations. The members use their BEE to challenge corporate power and corporate cultures of domination. However, this form of power remained limited to the concept of *empowerment without autonomy* and distribution rather than institutional practices. Therefore, how they exercise their power is limited to individual interests rather than structural and political processes that promote collective and public action. As two corporate interviews explain how BEE amplifies the agency of some individual members of mining-affected communities:

They believe that local [means] people who are close to the mine. If a person comes from Witbank [for instance] and the mine is here in Limpopo, that person, according to the community members, is not a local person. We had to come to a compromise with the locals that the mine will employ 90% from the area and then 10% can come from anywhere in South Africa. We call them 'local local' – the communities around this mine (Corporate and Mining Official, 1A).

The community says: 'There is nothing about us without us. That means even if you had a good project for the... community, you cannot just go straight there, start digging the ground and think that they will appreciate. You will have to do further engagements and make sure that you manage politics and people reach consensus (Corporate and Mining Official, 2B).

Mining corporations consider a local person as any HDSA rather than the concept of 'local local' which means predominantly African and residing next to the mine. However, according to these interviewees, these members use BEE to claim the meaning of being black and local. This extends beyond race to cover ethnic and tribal issues. According to Corporate interviewees, people who reside next to mining operations see themselves as the rightful and important beneficiaries of BEE than other black people from other communities or areas. This demonstrate the work of the 'non-and-counter-intentionality of structural production' (Ferguson, 1994). It relates to how [invisible] structures tend to shape social interventions and development projects until their outcome become unrecognisable transformation of the

original intention as well as tools of power (Ferguson, 1994). Just as the previous Chapter demonstrated, corporate officials prefer the concept of HDSA, as highlighted in the MPDRA, the Charter and the SLP Guidelines to limit the impact of BEE. As one official states:

[W]hen MPRDA, which regulates the contribution by mining companies to communities, was put forward, it was very clear: it said the state is the custodian of the mineral resources on behalf of all South Africans. And even if you go to the constitution, it tells you that you are a South African. The fact that you come from wherever and I come from somewhere does not mean you can access certain things and I cannot access them... we cannot disadvantage every other South African at the expense of the minority, which is the people around the mining area (Corporate and Mining Official, 3C).

This description demonstrates the ideological struggles that result from legislative contradictions relating to the meaning of black and therefore BEE beneficiaries. As previously stated, the government has reframed the concept of blackness in the MPDRA and the Charter. Mining corporations take advantage of this issue to conform to the deracialised version of BEE which is known as broad-based empowerment rather than broad-based black economic empowerment. This has implications on distribution. On the other hand, individual members of mining affected communities have sought to use their black and local identity to challenge mining corporations or to contest for material goods and social benefits among themselves.

In this context, BEE serves as a productive force that mediates power relations between the liberal concept of citizenship and tribal (and ethnic) citizenship. This represents ideological struggles relating to the politics of belonging and its fluidity, as well as how they affect their relations with mining corporations. It also represents ideological contentions over the concept of citizenship under the country's liberal democracy and constitutionalism which operate alongside the structures of traditional governance. Because the government has not politically specified the meaning of community, individual members of mining-affected communities have used the introduction of BEE to compete over the rights of belonging. This issue affects the activities of mining corporations and reveals the productive nature of BEE. This is reflected in the following extracts from one community leader and a corporate official:

You would have another structure in the community which is totally clueless about what is happening. They would just see a mining company erecting a board – saying they have renovated a school. These people would also try to get funds from the mining company under the pretext of representing the community (Community Activist, 12A: Mining Journalist and Community Leader).

We have people who cause conflicts in these communities to force mining corporations to give them something [resources and capital] ...we do have a structure that is recognised by the community that was endorsed by stakeholders, such as chiefs and the community.

However, you have people who have personal interests, and who feel that they need to get something from us. These are people who oppose the existing community structures that represent the 'interests' of the community (Corporate and Mining Official, 2B).

This potentially illustrates one of the ways of allocating 'good/legitimate' and 'bad/illegitimate' community members which might disadvantage social movements and political activism.

The latter might be delegitimised when they are reflecting community concern and acting as active citizens in an entirely legitimate way. Furthermore, although these individuals employ BEE processes to organise themselves, this does not help engineer any institutional and cultural change or alteration of structures of decisionmaking. Thus, this organisation, as well as their contestation for resources tend to divert attention away from the structural relations between communities and mining corporations. This reproduces the current exploitative relations that continue to marginalise communities.

How members of the mining-affected communities have tried to use BEE as a vehicle of power, as well as seeking to take part in decisionmaking processes demonstrates the productive nature of BEE. It also reveals the outcomes of the capitalist notion of interest-group competition that enables some groups to represent their interests at the expense of people who have limited resources. In this case, some people, who have been prevented from taking part in decision-making of the existing community 'structures' and 'forums', employ BEE to advance their own interests. However, such interests tend to be limited to distributive issues and factional tribal politics. Nonetheless, how these individual members of community interact with each other reflect the productive nature of BEE as well as the structural operations and the embedded nature of the capitalist notion of interest-group competition. This Chapter expands on this issue in the theme under 'Community Forums and Social Conflicts'.

BEE has shifted ideological struggles from the political terrain of government regulation and oversight to the hands of ordinary community members who seek to exercise their power. It helps shift power relations from mining-affected communities versus mining corporations to communities versus communities. It highlights another form of ideological struggles and contestation over resources. Even so, the way power relations unfold in this space remained restricted to distributive issues. Respondents indicate that these ideological struggles serve individual interests rather than collective public action, as well as engineering institutional and structural organisation and cultural shift. They also indicate how traditional leaders form elite partnerships with mining corporations at the expense of the larger interests of the community and its people. These issues have been captured by community officials who worked with both mining corporations and communities:

Kings and Chiefs have their own interests and the communities have their own interests. It is unfortunate that our communities have a way of requesting or demanding services from the mines. They wait until such a time when they are really fed up, and then go and block the roads. They also threaten mining corporations. That is the only time we hear about their problems and discontent (Community Activist, 14A: Former mining official and now government spokesperson).

Many companies are complicit in this. They have exploited BEE and are using traditional leaders – most of them who do not understand what they are getting themselves into. In Sekhukhune, there have been cases where the homes of traditional leaders have been attacked. In Ga- Mapela, the traditional authority is on the run because they are doing business with Anglo American Platinum (Community Activist, 12A: Mining Journalist and Community leader).

Community and corporate officials tend to see personal interests as the driving force behind the way BEE has been used. However, government officials (not representing the official position of the government) see the way BEE has been used as the outcomes of the weak legal framework. The legislation has not clarified the meaning of community and completely gives mining corporation the freedom to define BEE beneficiaries and their communities. This is because the government has externalised its political responsibility of community development to mining corporations. As the two government officials state:

how BEE legislation has been designed has opened a loophole, causing frustrations. Communities are fighting their own traditional leaders. Africans are fighting on their own because of a gap created by the law. I think traditional leaders are also capitalising on a legal gap to enrich themselves. No one clarified how this should be controlled and how it is going to be transmitted (Provincial Government Official 8A, Sector Development and Mining).

Our role [daily] – 80% of what we do – is [the] facilitation of engagements. We do fire extinguishing between mining companies and impacted communities. This is because of the gap that we have been saying must be addressed and it can only be addressed if they legislative regime is changed because the national government cannot really regulate mining companies or communities at the local level because they belong to local government (Local Government Official, 6A: LED and Mining).

Although mining officials blame community members for using BEE to claim their citizenship rights, community, NGO and government officials share a different view. Mining corporations tend to define communities in their own terms, just like how individual members of the community define race and BEE beneficiaries. Respondents indicate that these corporations employ the concept of divide and conquer, and other material practices, to take advantage of legislative, gaps, tensions and power struggles between community members as part of exercising their authority and power. This is captured by two community and government officials:

I think that mining corporations do not know what a community is. Because sometimes they confuse community with these elite people. They think they are the community. You would have a king who oversees a village. And ordinary residents cannot go directly to the mine and say: 'I want this to be implemented in the village.' They would have to speak to the king first. In most cases, the kings, indunas, and chiefs, as well as the big businesspeople in that village, are the ones who are more influential than ordinary people in BEE activities (Community Activist, 14A: Former mining official and now government spokesperson).

They [mining companies] consult traditional authorities as the community or its representatives. The other interprets the community as the local government (the municipality). When you go to the local host community, who is the community normally become the traditional leader. And that is the way it opens a loophole that creates the frustrations today (Provincial Government Official, 6A: Sector Development and Mining).

Let us go back to defining what is a community. There is a place on your way to Burgersfort called Ga-Mampa. There is an operating mine, but the majority of people never attended a single meeting with the mining company to learn about what is it that the company wants to do in the community. It turned out that the mining company consulted with a traditional authority which gave its consent. The authority was given some monetary compensation (Community Activist, 12A: mining journalist and community leader).

The Nexus of Traditional Leadership, Mining Corporations and the Community

This theme relates to other themes because it is connected to the outcomes of the government's externalisation of responsibility that enables mining corporations to dominate mining-affected communities. The traditional leadership and authorities feature in corporate discourses as democratically representing mining-affected communities, and the beneficiaries of the BEE activities. The practices of these actors in these structures remain concealed in the notion of 'host community' or community 'trusts' as defined by government and corporate documents. While corporate officials regard traditional governance systems as an important component of decision-making, other participants consider actors such as traditional leaders as corrupt, undemocratic and greedy. They see them as complicit in structural operations that help reframe the intention of BEE. This theme relates to the issues of the 'non-and-counter-intentionality of structural production' (Ferguson, 1994). It highlights how traditional governance system and mining capitalism maintain the oppression of mining-affected communities by preventing them from participating in BEE decision-making processes. These structural processes present constraints for these communities and transform BEE into an instrument that strengthens ties between mining corporations and

traditional authorities. In this context, BEE now serves other political activities of expanding and maintaining corporate power.

The research respondents do not talk explicitly about this form of structural production, but their discourse relates to this issue. When commenting on the role of the traditional systems of governance in the BEE processes, corporate officials affirm how mining corporations lead development and meet the needs of different actors in the community. They also depict themselves as representing the interests of mining-affected communities and those of traditional councils. As the two corporate officials state:

It is important from the cultural and traditional point of view that mining houses are actually bound to engage with the traditional authorities as the representatives of the community. However, it is important that the communities themselves also form structures that represent them aside from the normal traditional authorities. Unfortunately, every mining community has its own tribal and community politics. We as the company need to strike a balance and do what is sustainable (Corporate and Mining Official, 1A).

Local municipalities have got their own consultative processes through the IDP process and the traditional authority does something different [and] will gather at 'Kgorong'. Obviously, they know what they do not have and some of those things might not necessarily be in the IDP of those municipalities. So, you continuously have to strike that balance to make sure that there are initiatives that are supported through the IDP and those that we take from the traditional authority (Corporate and Mining Official, 3C).

These corporate views reflect the dimension of non-distributive issues of decisionmaking and participation. However, they demonstrate that the outcomes gravitate towards distribution and delivery of services. Just like managerial processes, this shows the structural operations of interest-group pluralism that depends on the competition of interests. It limits debates to distributive issues while concealing issues relating to the transformation of structural relations between mining corporations and mining-affected communities. The operations constrain BEE and demonstrate its disconnection from historical problems.

Corporate officials emphasise that they democratically work with the traditional authority to ensure that they 'deliver services' to the mining-affected communities. However, other participants, who interact with mining-affected communities, disagree with this corporate position. These critics see the structures of mining capitalism and traditional governance as turning BEE into a political tool that reproduces the oppression of mining-affected communities. In this context, BEE functions to suppress democratic and socioeconomic rights of communities while maintaining the social status of traditional leaders and mining corporations. The structures of mining capitalism and traditional governance conceive and shape BEE and its outcomes. This process contributes to the disconnection between BEE

and historical problems of race and injustice. These reframe the policy to advance their own agendas. This is captured by the views of one NGO official and one community leader:

We have seen tribal leaders saying yes to mining while members of the communities saying no. We see cases of community leaders being paid to give a different answer and signing on behalf of the community or for mining to proceed without the consent of the community (NGO Official, 4A: Mining, Community and Environmental affairs).

There is an ongoing problem with traditional leaders. They still see themselves as the voice of the community whereas communities now see their traditional leaders as people who should first consult with the community before deciding on their behalf. These are divisions that have given mining houses an opportunity to come into communities to mine, to make a profit and leave the people to fight amongst themselves. In most cases, mining companies go to the traditional authority and agree with their traditional authority. They pay a paltry sum of money and, in some cases, even give the traditional authority contracts (Community Activist 12A, Mining Journalist and Community Leader).

These mining corporations employ BEE as an entry point to the mining-affected communities to advance their corporate interests rather than developing these communities. This contradicts the corporate stance and demonstrates how the structure of traditional governance systems and mining capitalism undermine BEE processes while contributing to the oppression of mining-affected communities.

It is not only community leaders that disagree with the corporate stance. Even government officials who have worked with mining-affected communities disagree with the corporate stance. The unofficial position of the government that supports that of the NGOs and community stance is summarised as follows:

we noticed that some [mining companies] proceed to sign agreements with a traditional council instead of engaging the local people. In terms of our procedures, the community must elect trustees who will be looking after their trusts on their behalf but now the money is going somewhere else not benefiting those people. We are sitting with quite several cases... They (companies) truly want to satisfy the traditional leadership (Provincial Government Official, 9A, Department of Land Reform).

While this demonstrates issues of non-compliance, this problem is structural and institutional as well as cultural. It deals with the structural operations of decision-making and cultural processes that shape BEE and the SLP as well as the process of awarding mining rights and the renewal of mining rights. It also demonstrates the complex interactions of mining capitalism and traditional governance. Their structural and cultural operations transform BEE into something that performs other political activities beyond that of distributing social goods

and benefits. How mining corporations interact with traditional leaders represents the institutional logic and practice of both rampant mining capitalism and traditional governance and authority. It also highlights the institutional practices and norms of mining capitalism as well as its political interactions with the social structures of traditional authority and governance. These institutional conditions inform the implementation of BEE. For that reason, instead of helping with the transformation of corporate cultures and macro structures that structure relations between mining corporations and their stakeholders, the processes confer corporations with power. Meanwhile, they maintain the exclusion, the marginalisation and powerlessness of marginal and rural communities.

Politically, the social structure of traditional authority and governance and its political system thrive on the exploitation of rural communities. It also ideologically functions to maintain oppressive and capitalist relations between traditional leaders and their subjects.

Respondents indicate that the patriarchal processes and authoritarian systems of the social structure of traditional authority and governance source their political legitimacy from the structural operation of the current capitalist system that functions on gift economics and culture in South Africa. This culture enables the ANC government to offer the traditional councils and leadership money annually in implicit exchange for their loyalty and freedom, as well as to maintain their royalty. In consequence, these gift cultures and economies have strengthened the relationship between the ruling party and the traditional council, as well as mining corporations while continuing the oppression of marginal communities. Because of how the colonial and apartheid regimes strategically co-opted many of the traditional councils and authorities to oppress Africans for many years, this has established and entrenched structural relations between traditional leaders and their subjects.

This process takes place under the neoliberal notion of externalisation of responsibility in which the ANC government has pushed its political responsibility to mining corporations and its citizens. This allows the reproduction of corporate cultures that advance the interests of mining corporations and social structures that echo older forms of colonial and race-based oppression. Furthermore, the structure of traditional governance and authority is anchored in the notion of gift culture and economics which thrived on capitalist relations between the traditional leader and his subjects. It also functions on systemic authoritarian culture that enables the chief to rule over his subjects, empowering him to take decisions on behalf of his subjects (or the community). Thus, traditional leaders expect and receive gifts from people and other actors including mining corporations whenever they have engagement as part of their cultural norms and institutional practices.

This structure and its social processes enable mining corporations to draw on institutional practices and norms of corporate paternalism and mining capitalism to conform to the gift culture and economies. At the same time, these structural processes limit the impacts and costs of BEE as well as that of the system of traditional governance. How mining corporations strategically employ their economic resources and social capital co-opt the gift culture and economies to confine political issues to distributive element of BEE. This benefits individuals rather than mining-affected communities as a collective. In consequence, this expands corporate power and undermines the political autonomy of the traditional authority while reproducing the oppression of marginal and mining-affected communities. It represents the structural operations of rampant mining capitalism that exploit the existing political tensions between traditional leadership and their subjects rather than the deliberate actions of individual mining corporations.

These political tensions, as well as the ANC government's externalisation of responsibility that reflect an ideological struggle between traditional governance under tribal leadership and local government under the local municipalities shape the outcomes of BEE and the SLP. This ideological struggle demonstrates the confusion relating to the political legitimacy of traditional governance under current political and constitutional arrangements and the role of the local municipalities. Surprisingly, it is government officials who interact with mining corporations that capture the political tensions that shape BEE processes. The following extracts offer insights on how traditional governance system may shape BEE processes:

You have a King. He is sort of legalised by way of legislation to be consulted and to make decisions. You have your municipal who are to be the kingmakers. You have your political opponents who will say: 'we can fight in this area.' This environment is very weak. And it says we are less educated. The things we do: the disruptions we do is because we are less educated. Sekhukhune, for example, is less attractive for investment today because we are trying to fight for our rights (Provincial Government Official 8A: Sector Development and Mining).

People are still fighting for chieftaincy. You find that communities are divided themselves in the sense that the mines are left without knowing whom to consult because every time you consult the people say you have consulted the wrong Chief but who is the correct one? Even communities cannot define the right chief. Mining corporations try to engage rightfully but the confusion over land ownership and chieftaincy frustrates the process (Regulator and Provincial Government Official, 11A: Department of Mineral Resources).

These political tensions offer insights on the political contexts that govern BEE processes and distribution and represent the structural consequences of the neoliberal orthodoxy of the externalisation of responsibility and business-led development. This ideologically helps

restrict the issues of inequality and development to distributive issues while ignoring the transformation of structural, institutional and cultural processes.

Community Forums and Social Conflicts

Just like the two previous themes, this theme demonstrates that while BEE might have failed to encourage mining corporations to distribute material goods widely, as government, NGO and community officials showed, it has help shift power relations in the mining sector. However, this relates to the notion of *empowerment without autonomy* rather than the transformation of institutional practices. This theme also shows the productive nature of BEE and how these structures and forums form a critical part of decision-making processes in BEE processes. However, it does not feature in both government and corporate discourses.

Furthermore, this theme demonstrates that BEE policies and practices have given rise to the slew of community forums and structures. This relates to the previous theme, but they carry different political outcomes. The previous themes address issues of legislation and personal interests. However, this one deals with how mining-affected community mobilise BEE to create their lobby groups to cope with the political outcomes of the externalisation of responsibility. They create these community structures in order to try to take part in decision-making. Despite this, the theme reveals that mining-affected communities continue to experience structural constraints that come with the nature of their positions. Furthermore, this theme deals with how mining corporations employ BEE to undermine the community lobby groups. Two major issues emerge from the invention of these structures: (1) how members of communities compete amongst each other to access BEE opportunities from mining corporations and (2) how corporations institutionally apply their corporate cultural technologies and institutional practices of managerialism to discredit and undermine these structures in continuation of the domination of marginal communities.

Respondents indicate that these structures work alongside traditional structures of governance, or to oppose such structures, as well as to challenge corporate structures of domination. They also indicate that these structures and forums face democratic crises and weak systems of governance. As a result, they are plagued by representational crises and factionalism. Equally, respondents indicate that mining corporations have taken advantage of their divisions and institutional weaknesses to advance their corporate interests. Mining corporations undermine these structures and their community while at the same time portraying them as democratic and legitimate. They tend to see them as a critical part of their decision-making processes. This is captured in the following position of the corporate officials that interact with mining affected communities:

You would engage different communities and communities have structured themselves. For example, they would have community committees. It is community engagement. They are called different things: community engagement forums or committees. Then you would have the traditional authorities because we operate in areas that are rural and you have traditional leaders in those areas... So, it starts with us sitting with structures within the communities and identifying the needs of the community and reaching an agreement with the structures (Corporate and Mining Official, 3C).

We engage with community structures to identify community needs and problems. And I have seen success stories where both traditional structures of the communities within which mining houses function are also very well supported by structures formed by the same communities. They are not at loggerheads. They have strong different opinions that make you realise the importance and the extent to which people are committed to seeing their communities getting better (Corporate and Mining Official, 2B).

While these officials tend to see these structures as part of their democratic and decision-making processes, this reveals the mechanisms of the capitalist notion of interest-group pluralism. This limits discussion and conflict between these structures and mining corporations and BEE processes to the distribution of social goods and benefits.

These structures depend on empowerment without autonomy and individual interests. This consequently conceals issues of the organisation of production which relate to corporate cultures, institutional processes, and paternalism, as well as environmental issues. The outcome of this dependence illustrates the disconnection between BEE and any form of structural and political transformation. Furthermore, these structures prevent individual citizens who cannot form their own structures, or join the existing ones, from directly participating in decisionmaking. These constraints tend to conceal issues of both public and private decision-making structures and selfish interests. They keep many communities ignorant of the decisions made between community structures and traditional authorities and mining corporations. Since corporations have access to greater resources and organisation that come with affiliation with the Mining Council and their capitalist relationship with the government, these structural processes of capitalism provide avenues for the representation of their corporate and political interests.

Community officials disagree with the positions of mining officials that these community structures and forums represent the interests of the mining-affected communities. They indicate that mining corporations actively undermine these structures. Views from the mining policy consultant and community leader summarise this:

Mining companies take advantage of the people because the level of power dynamics is so different. The communities are very poorly organised according to undemocratic structures, including traditional councils. If you are not organised, you cannot have a proper effective response to any powerful mining company. Many companies take advantage of social fragments in communities to maintain their social license to operate and their power (Mining Policy Consultant and Analyst, 16A).

The communities themselves are divided. There will be four different structures and the mining corporation would not know which one is legitimate because they would be all fighting for this little piece of cake. ... mining corporations have also played a game of divide and rule in other communities to turn communities against one another (Community Activist 12A, Mining Journalist and Community Leader).

This shows that communities try to organise themselves to take part in decision-making processes. However, the structural operations of the work of corporate cultural technologies and mining capitalism tend to prevent them structurally. These structural processes and technologies inform how mining corporations relate with mining-affected communities. Meanwhile, these corporations also draw upon the corporate cultures of public relations to engineer social consensus symbolically, as it is emphasised by the discourse of sustainable development. They also materially employ their corporate cultural technologies to undermine any community formations and organisations that may damage their capitalist interests.

Furthermore, this emphasises systemic constraints that come with the position of marginal communities which involve their lack of institutional capacity and representational crisis. How these communities have limited institutional capacity –because of their social position engineered by the history of their tyrannical oppression – and the neoliberal government's externalisation of political responsibility reproduce the status quo. Meanwhile, because of their social positions, mining corporations can promote their corporate interests as well as to achieve other political goals. Furthermore, the government draws on neoliberal structures to inform its decisions and political choices that produce the structural conditions of marginal communities. Its actions institutionally inhibit and prevent communities from participating in decisionmaking processes and structures of power.

In this context, these corporate behaviours and actions tend to be systemic in the extractive industries because of how their business practices require aggressive forms of maintaining their social license to operate. Mining corporations have access to expand and exercise their corporate power while communities remained excluded from decision-making structures and benefiting from distribution. The social position of these corporations and their relationship with government structurally enable them to achieve their corporative interests. The structural consequences of these practices present constraints for marginal communities.

Therefore, rather than being issues of isolated corporate misconduct, these corporate actions are systemic and bear the architecture, framework, and logic of corporate cultures of managerialism and mining capitalism. Respondents indicate that the intention of mining corporations remains to shift stakeholder relations to their advantage to achieve corporate interests. This represents another form of reproducing corporate structures of oppression and mining capitalism. This is highlighted in the following statement by a corporate official justifying the actions of mining corporations:

There are areas where we sound biased towards a particular [community] structure and that is because as corporate professionals, we use the influence of others to maintain social relationships. Unfortunately, we have to do that if we see a successful or strong business case. We do not necessarily intend to divide people and their communities (Corporate and Mining Official, 2B).

BEE, Distribution and the Politically Connected Black Elite

Mining corporations define 'communities' as the beneficiaries of their BEE activities. They tend to define their distributive activities as the representative of structural and political transformation. The previous Chapter categorically demonstrates that the government and mining corporations employ the history of black people and historical injustices to associate BEE with this form of transformation. This theme demonstrates that the notion of 'broad-based empowerment' or BBBEE, as highlighted in the previous Chapter, which sought to widen 'distribution' according to the BEE Commission Report, the DTI, and the Charter, has not achieved its 'intended' outcome because BEE continues to benefit the [politically connected] black elite.

Research respondents confirm that BEE has benefited mostly politically connected black elite but cite different reasons why this is happening. Corporate and government officials link this to the lack of non-state intervention through regulation and monitoring. NGO, as well as the policy consultant, interviewees link this to structural and institutional issues. Their reasons relate to non-distributive issues. However, the focus on distribution rather than non-distribution by mining corporations tend to be one of the reasons that lead to this outcome. This is reflected by two corporate officials as they comment on their version of 'transformation' and the outcomes of BEE:

We have seen areas where individuals become holier than thou in terms of ownership. And you also find situations where communities are owning absolutely nothing whereas politically connected businesspeople have taken over stakes in mining companies and are messing up a lot of millions. I think those scenarios out there, but they cannot be in full existence without looking at the other places where you are seeing that communities are benefiting. Children are going to schools, roads are constructed, and clinics are built. It is important that as mining companies, we continuously engage in community transformative programmes (Corporate and Mining Official, 1A).

We are transforming communities because we have 26 percent stake of the company which is in the hands of black people. This 26 percent [is divided into three segments]. Employees [of] the organization own ten percent. The other ten percent is owned by a Community Trust which represents the five tribal authorities. The remaining 6 percent is owned by a BEE Consortium. Communities are already beneficiaries of the company's BEE scheme. Every year, there are dividends that are being paid to that Community Trust (Corporate and Mining Official, 2B).

The corporate views confirm the disconnection between BEE and historical problems that have been used to associate BEE with the transformation of historical, structural and power inequities. They demonstrate that mining corporations focus on distributions rather than engaging in this mode of transformation. This emphasises distribution and limits BEE to distributive issues. The distribution of stakes and the construction of infrastructure do not guarantee institutional change and the alteration of structural relations between mining-affected communities and mining corporations. Because of this process, BEE reproduces unfair distribution of social goods and benefits while concealing oppression and domination. It also provides the government and mining corporations with legitimacy. Because of this, and their focus on distribution, corporate officials see BEE as materially functioning. While corporate officials accept that BEE has benefited individuals, they indicate that it has played an important role in promoting 'transformation' without contextualising the concept. This is reflected in the following extract from a corporate official who is the manager of transformation:

BEE is one legislation and policy that has tried, regardless of what people are saying that it has benefited the elites, politicians and all that. It has tried because we are seeing transformation. For example, in this organization, you can look at procurement processes before this legislation. Our procurement was mostly Non-HDSA companies. Now more and more black companies are offering services to us (Corporate and Mining Official, 2B).

In this context, 'transformation' relates to deracialisation rather than the transformation of historical, structural and power inequities. Despite strongly linking BEE with 'transformation' this way, this emphasises that mining corporations consider transformation as (re)distribution. Nonetheless, corporate interviewees hold different views on this topic. Another corporate official indicates that even the racial composition of procurement has not changed while maintaining that this is not the official position of the corporation:

Procurement is still dominated by white-owned companies. Black-owned businesses are struggling to compete because they lack capacity. This is partly because communities have limited capacity to start businesses. We try to stimulate economic development and help SMEs in the communities but companies from [urban] areas are the ones that end up providing services to us (Corporate and Mining Official, 3C).

While these issues relate to the racial composition of procurement, as well as how BEE has failed to effect changes or not in this regard, they all focus on distribution. This relates to the corporations' attempt to widen distribution through procurement rather than the change of cultural practices and norms that precede and control distribution. The outcome of this process results in distributive inequality, such as the creation of the black elite, while

concealing issues of structural and institutional reforms that control such processes. NGO representatives and mining policy consultant separate BEE from 'transformation' while citing major economic, social, and social institutions as the main cause of distributive inequality. This position is summarised by the mining policy analyst and NGO official as follows:

I do not think empowerment and [institutional] transformation are related to BEE. The reason for that it has created many black capitalists that work on the same growth models as before. Those growth models will always have and have not or have not will be exploited for the haves to have more. That is exactly how the policies were set up historically and how their institutions have been built around. Anything that differs from the current economic system which has not reformed completely since democracy is going to be difficult and almost impossible to achieve (NGO Official, Mining, Community and Environmental affairs, 4A).

The idea is that if you create a policy that favours the previously disadvantaged, we will have an equaliser over time. It is not true. It has not worked. BEE has created a small black elite that did not understand that the wealth should not be going to themselves, but they should spread it towards other people in needier position. So, when they did BBBEE, they realised that BEE was not working. Now they put another BB, to say, we want it to be broader, larger and wider. Is there any link between BBBEE and practice? Very little. There is a huge gap. The reason is that they started with BEE and then moved to BBBEE. That means there is trouble. This thing is not working. There are few people who have cornered the market (Mining Policy Consultant and Analyst, 16A).

While corporate officials see their distributive BEE activities as 'transformative', NGO representatives and the mining policy consultant focus on non-distributive issues that precede BEE itself. In doing so, they separate BEE from 'empowerment' and 'transformation' effectively demonstrating that emphasising deracialisation and distribution has reproduced distributive inequality. This is because the focus has concealed the issues of the reorganisation of major social, cultural and economic institutions and practices of decisionmaking, as well as the transformation of institutional, structural, and cultural practices that govern distribution.

The previous Chapter (see pages 100) demonstrated that the logic behind adding the two Bs was supposedly to make BEE wider and to associate it with structural and political transformation. The interview findings confirm that the notion of the broad-based empowerment is not different from the original version: its cultural, structural and institutional structures that precede and conceive BEE have not changed. Corporate officials linked distributive inequality – the creation of the black elite – to the lack of state intervention and monitoring. However, NGO representatives and the policy consultant link this to institutional practices. The latter seems to agree with the government officials who surprisingly criticise

the government legislation while conceding that BEE has benefitted the politically connected black elite. This is captured by a local government official who regularly mediates conflicts between mining-affected communities and mining corporations:

If you do an analysis of the current impact of BEE, you would realise that it is more individually based. It empowers individuals. I think the legislative framework must be amended to ensure, especially in the mining space, that it is stretched to benefit communities. Even though it is called broad-based, it is still broad-based at the individual level (Local Government Official 6A, LED and Mining).

It can be deduced from these diverse issues that how BEE help create a black elite represent the operations of structural processes rather than the work of individual players such as politicians, mining corporations and the government itself. Thus, the structures of mining capitalism, neoliberalism, and the system of traditional governance, as well as corporate cultures and norms, undermine and reframe BEE. The existing social institutions and processes have not been designed to ensure a wider distribution of social goods and benefits. This represents the position of NGOs as well as community and government who argue that communities have been so oppressed and cannot understand BEE processes. This is captured by the NGOs representatives who evoke structural issues of power:

The idea of BEE is good. And I think it is meant to try and get the historically disadvantaged people to benefit but it does not necessarily translate to benefiting the primary beneficiaries that is targeted to. It benefits politicians. Secondly, even the nature of mining capitalism does not allow host communities to benefit in any form from where I am sitting. Mining by its nature today in South Africa is a business of winners and losers. Communities are the biggest losers. So generally, BEE is like selling your cake powder, believing that it is a cake. But it is just a cake powder (NGO Official, Mining, Community and Environmental affairs, 4A).

Empowerment is just a lip service on paper at the moment. What is empowerment? If I come to your village now where there is never being a mine and suddenly, I change everything. And then I build a creche and put a board says that: '*proudly sponsored by such and such a mine.*' Is that empowerment? Is empowerment training and providing a platform for people to develop new skills that will help them adapt to the changing times? (Community Activist, 12A: Mining Journalist and Community Leader).

These parties understand and conceptualise transformation and empowerment in three different ways: (1) mining companies embrace the notion of corporate philanthropism and distribution as a form of empowerment, and transformation (2) NGOs see participation in the decision-making process as empowerment and transformation, and (3) local government regards transformation as distribution.

Conclusion

This Chapter provided an array of themes that complemented the CDA analysis by focusing on the consequences and social practices of BEE government and corporate discourses. It illustrated both the connection and disconnection between these discourses and their social practices. This illustration unearthed different issues such as the intentions of both the government and mining corporations that remained invisible in discourse. These issues highlight stark contrasts between corporate rhetoric and the actions of mining corporations, as well as explaining the institutional contexts of the discourses of managerialism, sustainable development and neoliberalism. Furthermore, the Chapter showed how BEE remained limited to distribution while moving away from the current sociohistorical processes of the mining sector. More than this, it highlighted how these processes reframe the intention of BEE to expand corporate power in their structural sense. Throughout, the analysis demonstrated that BEE was co-opted to reproduce the existing structures because the government has not facilitated and initiated any form of institutional change. The next Chapter summarises this Chapter and the previous Chapter by discussing the most important findings alongside other studies.

CHAPTER SIX: DISCUSSION

Introduction

This study mainly concludes that BEE contains contradictory discourses that preserve historical, structural, and power inequities and resist change in institutional and historical practices from conception. The Chapter highlights how both the government and mining corporations historically contextualise BEE through the appropriation of anti-colonialism and anti-apartheid discourses to associate the policy with the transformation of these inequities. However, they conceal and ignore institutional practices that govern historical and structural relations in the mining sector. The historical contextualisation of BEE illustrates how the government and mining corporations have artfully appropriated the discourses of colonialism and apartheid to justify both the creation, the legalisation and implementation of BEE. This discursive practice has helped build an opaque yet inseparable connection between BEE and the transformation of the above-mentioned inequities. Consequently, this connection discursively gave a hegemonic impression that BEE sought to advance the transformation of historical, structural, and power inequities.

The historical contextualisation of BEE starts from the BEE Commission Report (henceforth, the Report) and consistently runs throughout both government and corporate discourses. This process reproduces the ideology of historicism and symbolically enables the government and corporations to construct BEE as large-scale, structural and political. In addition, the combination of historical [re]contextualisation of BEE, and the ambiguous use of the terms: *meaningful transformation*, and *economic transformation* as well as *empowerment* has enabled the government and mining corporations to construct their distributive, ahistorical, tokenistic, and neoliberal practices as transforming the above-mentioned inequities. This includes the surface allocation of goods, managerialism, sustainable development, deracialisation, and BBEE, as well as the externalisation of political responsibility and business-led development. However, these issues and practices intrinsically move away from historical, structural, and power inequities while at the same time preserving and expanding corporate power.

The Chapter highlights that both the government and mining corporations undermine their own historical contextualisation of BEE that emerge through the recontextualisation and appropriation of historical discourses of colonialism and apartheid. Thus, they adopt discourses of managerialism and sustainable development that clash with these historical discourses by favouring future-looking practices, approaches, and the CSR logic. This essentially contributes to the dehistoricisation and decontextualisation of BEE. In

consequence, the historical [re]contextualisation of BEE rhetorically fades away as both government and mining corporations adopt such discourses and their social practices. However, even in this context, corporations maintain that their discourses and practices of managerialism aim to address historical injustices despite their depoliticising and dehistoricising effects. They appropriate the discourses of colonialism and apartheid to construct their commercial and general corporate practices as contributing to the transformation of historical, structural and power inequities without undergoing any institutional change.

This illustrates the complex and clashing nature of BEE discourses, and how they contain irreconcilable discursive practices that separate the policy from any form of institutional change from conception. The contradictions highlight that BEE has become a site of ideological struggles that serve power, as well as maintaining and reproducing the current and historical social structures. Furthermore, the government and mining corporations deracialise BEE by reframing who counts as black. The notion of deracialisation of BEE illustrates the disconnection between its macro and micro levels. The findings show that individual members of mining-affected communities reject the deracialisation of BEE. Thus, they use their African and black identity as they engage in ideological struggles of tribal and identity politics to compete for material and distributive opportunities. This emanates from the consequences of neoliberal practices such as business-led development and the neoliberal notion of the externalisation of responsibility, among other reasons.

Throughout, the discussion illustrates how BEE remains limited to market-based, neoliberal and ahistorical as well as distributive issues and empowerment without autonomy while ignoring historical, structural and institutional practices and context. This notion of empowerment highlights that even though BEE provides some of its beneficiaries with agency, it is limited to distribution. The Chapter presents each finding and then discusses and theorises it in relation to the literature.

The BEE Commission Report and the Elite Origins of BEE

The thesis finds that BEE legislation and policies such as the BBBEE Acts, the BEE national strategy, the Mining Charter, and the SLP Guidelines originate from the Report. The documents have intertextual and discursive similarities and relations with the Report. This confirms that BEE originated outside of government. The Report explicitly recommended the creation of these policies and legislation, setting the national BEE agenda in South Africa.

The government, through the dti and Presidents Mbeki and Zuma, explicitly admits that the Report informed the creation of the BEE national strategy and the legislation.

This finding supports the argument that 'BEE has largely been driven by organisations outside of government' even though 'it is widely presented as an initiative of the ANC government' (Lindsay, 2015: ii). As Mbeki (2009: 67) agrees, economic oligarchs developed BEE 'to co-opt leaders of the black resistance movement by literally buying them off with what looked like a transfer of massive assets at no cost.' By historically tracing the evolution of BEE from the Report, this thesis builds on Mbeki (2009) and Lindsay (2015) by providing textual evidence to support their argument. This thesis argues that the textual influence of the Report over BEE legislation and policies problematises and depoliticises the policy and its intentions. It also accentuates the influence of the private sector over the government in the creation of BEE and its link to the transformation of historical, structural and power inequities. This influence suggests that the private sector would not have used BEE to call for the radical reorganisation of its own institutional and historical practices in a disruptive way. In neoliberal societies, such as, South Africa, corporations employ their managerial practices, rationality, and power to limit the impact of government laws and policies and work to lobby limit state intervention. They would rarely volunteer to transform their structures, politically. For this reason, the Report called for the creation of BEE legislation and policies in the manner which created the symbolic association between BEE and the transformation of the historical, structural, and power inequities while essentially limiting what constituted transformation.

This corresponds with the argument of Mbeki (2009:67) that the oligarchs who developed BEE saw the policy as 'small change' that would maintain their control over the private sector and the government. As a result, any political discourse 'about fundamental structural change in the economy has become limited to the discourse of [BEE], a discourse that supposedly promotes the development of a Black capitalist class' (Gibson, 2011:116). This thesis argues that BEE fundamentally limits what constituted structural and political change while giving an impression that BEE is leading such transformation in South Africa. This agrees with the argument that BEE 'is forwarding the idea that (some level of) redistribution is actually possible in a neoliberal economic policy setting, thus disenfranchising more radical options in policymaking' (Ponte et al., 2007: 936). This means that BEE discourses are constructed in the manner that ideologically functions to limit the transformation of historical, structural and power inequities in South Africa while symbolically associating BEE with the same mode of transformation. The Report represents the strategy of 'talking left' while 'walking right' (Bond, 2014:49) by radically attacking the injustices of apartheid while adopting ahistorical, distributive, and market-oriented remedies that preserve the overall

premises of apartheid capitalism . In consequence, the confession that the economy marginalised blacks tends to construct BEE in a manner that reduces suspicion about its questionable motives and origins.

BEE and its Historical [Re]contextualisation

The thesis finds that both the government and mining corporations contextualise BEE in the discourses of colonialism and apartheid. This discursive practice originated outside government discourses through the Report and found its way into the BBBEE Acts, the BEE National Strategy and the Mining Charter and serves as the guiding principles for the justification of BEE in political discourse in the ANC and the DA. This symbolically helps the government and mining corporations to construct the symbolic agendas of structural and political transformation. By historically and ideologically contextualising BEE this way, the government and mining corporations have built a symbolic link between BEE and the transformation of historical, structural and power inequities while focusing on distributive, ahistorical, and neoliberal remedies.

For the government and mining corporations, this contextualisation comes in two different yet related forms. First, the government sets the agenda by introducing the historical contextualisation of BEE while de-emphasising, ignoring, and omitting non-distributive issues and institutional rules that determine distributive patterns. However, this remained invisible because the government ambiguously employs the concepts of *transformation*, *economic transformation* and *broad-based empowerment* to associate the policy with the transformation of the above-mentioned inequities. The historical contextualisation also discursively supports this symbolic association. The government discursively acknowledges that apartheid and colonialism structurally constrained the lives of black people to justify the implementation and legislation of BEE. However, it discursively avoids calling for the institutional transformation of the same historical structures and their consequences. This discursive tradition follows the principles of the Report. Second, mining corporations adopt this discursive practice by associating their day-to-day business practices and distributive issues with the historical, structural, and power inequities without undergoing any institutional change. They use phrases, such as, 'real transformation', 'true transformation' and 'significant transformation' that promote *doublespeak*, to construct their actions as promoting large-scale, structural and political transformation. In short, the thesis reveals that both the government and mining corporations de-emphasise the transformation of institutional practices and rules from the start.

BEE Discourses, Historical, Structural and Power inequities

Previous studies have not discursively looked at BEE this way. They have focussed on BEE outcomes and have operated with the assumption that the policy aimed to promote the transformation of historical, structural, and power inequities. For instance, Bek et al. (2007:306) have argued that despite employment and BEE legislation that seeks to address class-based imbalances, and 'to tackle the racially delineated inequalities inherited from the previous regime' in the wine industry, 'enormous obstacles to transformation persist.' Bek et al. (2007) have looked at what they called 'empowerment' and 'transformation initiatives' to draw these conclusions. Du Toit et al. (2007) have agreed with Bek et al. (2007:306) and noted that 'if the BEE process, currently in-between phases two and three, reaches the 'fourth phase' without addressing the underlying structural, racial and power inequalities on which the South African wine industry is based, there will be little space left afterwards for meaningful action.' Du Toit et al. (2007:28) have identified wineries as key political actors that actively undermine and contain the 'transformation agenda' to preserve exploitative structures of power and side-line calls for change.

Hamann et al. (2008:01) have followed the same logic as Du Toit et al. (2007) and Bek et al. (2007) and have argued that 'BEE charters prejudice more fundamental socio-economic transformation in the interests of the established corporations.' Bek et al. (2007), Du Toit et al. (2007), and Hamann et al. (2008) have all operated with the thesis that BEE aimed to drive the transformation of historical, structural, and power inequalities. Just like the government and mining corporations, they have used the concept of transformation in the most undefined forms without naming its characteristics, conceptions and context. Bek et al. (2007) and Hamann et al. (2008) tend to talk about transformation and empowerment as things that can be delivered and possessed rather than as processes. This, together with their undefined forms of transformation, obscures the proposals of the government as well as what is expected from the private sector because their concept of transformation lacked institutional and political context.

The concepts of 'transformation', 'empowerment' and 'economic transformation' in the Strategy, the BBBEE Acts and the Charter, as well as the Report, hegemonically relate to deracialisation and distribution rather than the reorganisation and reconfiguration of historical, political, and institutional practices. How Bek et al. (2007), Du Toit et al. (2007), and Hamann et al. (2008) have employed the concept tends to extend BEE beyond how the government has constructed it. Similarly, Diale (2014:24) has followed the paths of Bek et al. (2007) and Du Toit et al. (2007) by looking at the outcomes of the Charter. He has concluded that how mining corporations treat the Charter paints 'a bleak picture on the responses by the mining industry at macro or on aggregate level to tackle post-colonial and

post-apartheid legacies.’ Following the logic of Diale (2014), Heyns and Mostert (2018:05) have argued that despite ‘legislative measures in place to address the legacies of the past, the mining areas have in recent years seen violent clashes.’

This thesis builds on the argument of Bek et al. (2007), Du Toit et al. (2007) and Hamann et al. (2008), as well as Diale (2014) and Heyns and Mostert (2018) that BEE has not transformed historical, structural and power inequities while relying on content analysis. However, this thesis is mindful of the fact that judging whether BEE aims to address the structural legacies of the past tends to produce deterministic results. Secondly, these legacies of the past are large-scale structural issues while BEE is disconnected from macroeconomic structures and policymaking from its conception (Acemoglu, et al. 2007; Lindsay, 2015; Shava, 2016).

By looking at the legislation and annual reports through Young’s (1990) concepts of distribution and non-distribution, which involve institutional context, the thesis provides a new dimension. It argues that BEE discourses ignore the transformation of historical, structural and power inequities from its conception. It also proposes distributive and neoliberal solutions that preserve and move away from historical and current institutional practices. This suggests that there was a disconnection between BEE and the transformation of these inequities from its discursive and rhetorical conception. However, how the government and mining corporations, as well as the Report, have appropriated anti-colonialism and anti-apartheid discourses to legitimise the implementation and legalisation of BEE through the historical contextualisation of the policy, came to be interpreted as suggesting that BEE aimed to transform these inequities in the private sector. This supports the argument of Gibson (2011:116) that ‘the ruling party continues to use the language of race and nation in its trumpeting of the free market, while at the same time it narrows race to a political phenomenon disconnected from capitalist reproduction.’

The appropriation of these discourses and their racial component, as a discursive practice, help build symbolic and opaque connections between BEE and the transformation of historical, structural, and power inequities. Both the government and mining corporations used phrases, such as ‘meaningful ownership’, and ‘meaningful participation’ to construct BEE as something large-scale, structural and political. However, they both ambiguously describe their practices and proposals as aiming to advance ‘transformation’ or ‘economic transformation’ without providing political and institutional context for these concepts. This functions to associate BEE with the transformation of the above-mentioned inequities without the proposal of the much-needed political work and intervention which relate to the restructuring and abolishment of the political economic structure.

Another explanation is possible. The thesis argues that this historical contextualisation heavily depends on the concept of 'stake confession' (Potter, 1996). Thus, the government and the Report, as well as corporations, strategically admit or confess that the South African economy and the private sector remain colonial in a way that reduces suspicion about more questionable motives of BEE that ignore and conceal colonial structures and power inequities in the post-1994 South African state. This supports the argument that confessing to a legitimate (i.e. socially acceptable) motive 'plays an important role in presenting reasonable and legitimate motives for action' (Whittle et al., 2014:619). In consequence, BEE forms part of tokenistic measures that legitimised the exploitative systems of this economy while helping forestall criticism of unequal relations of white power and the influence of private sector over government while reinforcing domination and oppression by blocking Blacks from politically envisioning more emancipatory institutions and practices.

Distributive Deracialisation

a) Distributive Deracialisation and Decisionmaking Structures

The thesis finds that both the government and mining corporations focus on *distributive deracialisation* of corporate structures and the workplace in the mining sector through financialised redistribution. The government constructs BEE as promoting 'meaningful ownership' and 'meaningful participation' while de-emphasising issues of structures of decisionmaking, cultures and institutional context of mining capitalism and the volatility of global financial markets. Distributive deracialisation relates to the distribution of shares and the appointment of black people in managerial positions.

Just like the concept of historical contextualisation of BEE, previous studies have focussed on the outcomes of BEE and its impact on decisionmaking structures in the private sector. This finding corresponds with the work of Murray (2000:184) that has found that black companies and managers that own stakes in white-owned companies 'typically have small black stakes, with a titular male black head operating within a majority white board whose members dominate decision-making.' Equally, Schneiderman (2009:08) has found that 'voting rights were circumscribed while black directorships may have involved no operational control over productive assets, giving rise to the phenomenon of BEE corporate fronts.' Murray (2000) and Schneiderman (2009) extend the analysis of empowerment beyond what has been rhetorically prescribed and constructed by the government in the legislation. They deal with institutional practices and issues of structure and the concept of empowerment in

its political sense, deviating from the core discursive tenets of BEE legislation that focus on empowerment without autonomy and that ignore social structures (Young, 1990).

By employing CDA, as well as Young's (1990) critique of the distributive paradigm of justice, the thesis expands these studies. It focuses on how both the government and mining corporations employ BEE discourses to frame the symbolic agendas of institutional transformation. The thesis argues that government and corporate as well as generally political discourses have avoided calling for the reorganisation of decisionmaking structures including corporate and legal structures that govern the private sector from their foundational stages. These discourses have limited their version of transformation and empowerment to BEE targets, indicators, scoreboards, representation and participation that preserve the existing historical and political economic structure. Both the government and mining corporations focus on *distributive deracialisation* that literally relates to the changing of racial composition of corporate structures, the allocation of goods, and positions. However, this omits non-distributive issues of political autonomy and decisionmaking structures that inherently produce distributive inequality from conception while disconnecting race from capitalist reproduction. In consequence, this conceals and preserves the historical and institutional rules and corporate structures and remains limited to distributive issues. This supports the argument that 'not all who make these decisions are wealthy or even privileged, but the decision-making structure operates to reproduce distributive inequality and the unjust constraints on people's lives' and that 'discussion of economic justice... de-emphasises the decision-making structures which are crucial determinants of economic relations' (1990:22-23).

Empowerment without autonomy and BEE

The thesis finds that the concept of *distributive deracialisation* focuses on the notion of empowerment without autonomy. This involves directly calling for the appointment of black managers, as well as encouraging black ownership of shares in the mining sector without the restructuring of decisionmaking structures and institutional practices. This process enables the actions of individuals at a micro level while at the same time constraining them at a large-scale structural level in the context of BEE and decisionmaking: it does not involve the reconfiguration of cultural practices, institutional rules and social relations. This corresponds with the argument of McEwan and Bek (2006:2022) that 'equating empowerment with economic empowerment threatens to reinforce structures of domination, rather than transforming them, while leaving power relations largely untouched [and] will continue to have apparently pre-determined and depoliticised outcomes.' Rather than merely producing depoliticised outcomes and threatening to accept structures of domination,

as McEwan and Bek (2006) have suggested, BEE discourses both politically and structurally ignore the reconfiguration of institutional practices, and social rules from their conception. This re-creates distributive inequality and provides conditions of enablement for a limited number of people because distributive measures are not designed for de-institutionalising practices. Thus, de-emphasising the existing institutional and historical practices suggests that BEE-appointed managers in the private sector, or white-owned entities, operate on historical and institutional practices that produced economic domination, as well as, racial insubordination in the first instance. This supports the argument that 'economic domination derives at least as much from the corporate and legal structures and procedures that give some persons the power to make decisions about investment, production, marketing, employment, interest rates, and wages that affect millions of other people' (Young, 1990:23). Furthermore, the main concern is not only whether black managers enjoy political autonomy or participate in decisionmaking as Murray (2000) and Schneiderman (2009) have questioned. However, the issue is how the existing corporate structures of decisionmaking, and social rules as well as *objective constraints, or practico-inertia* (Sartre, 1976), have been historically designed to recreate distributive inequality irrespective of who is taking decisions. They function to transfer energies from blacks to whites to produce unequal distributions, enabling a small group of white men to occupy managerial positions while constraining many black people. This suggests that even black managers are capable of taking decisions that promote the exclusion of other black people and maintain the current decisionmaking structures in the mining sector.

Another explanation is possible. Because these structures have been entrenched for centuries in the mining sector, they are inherently stubborn to change. For this reason, the thesis argues that this further widens the self-made connection between BEE and any form of institutional change considering that the construction of the policy and its practices de-emphasises central issues of decisionmaking and production and institutional practices. This supports the argument that 'institutional and social rules constitute another stubbornly objective and difficult-to-change aspect of structural processes. Some are legal rules, enforced by state action enacted by public officials. Many others are more implicit rules that people follow through habit, or because they feel constrained to do so by others or because they perceive advantage to themselves by doing so' (Young, 2011:55). This maintains economic domination of blacks, particularly Africans, and continues their racial insubordination while maintaining white managers and owners in powerful positions. This supports the argument of McEwan and Bek (2006:1030) who have questioned 'whether empowerment is possible within a neo-liberal economic context.'

BEE as a tool for expanding corporate power

Furthermore, rather than merely re-producing distributive inequality and maintaining [economic] domination of blacks by white managers and owners, BEE also becomes a tool of expanding corporate power by legitimising the existing corporate decisionmaking structures. The appointment of black people on corporate boards and managerial positions symbolically gives an impression that corporations are transforming their structures and corporate cultures while they maintain and reproduce them. This practice also depoliticises issues of racial insubordination, the lack of political autonomy among black executives, and the domination of white males in senior positions at a large-scale structural level while legitimising, preserving, and expanding the existing corporate power.

This supports the argument of Ferguson (1994:21) that unsuccessful attempts to engineer an economic transformation 'become legible in another perspective as unintended yet instrumental elements in a resultant constellation. [This has] 'the effect of expanding the exercise of a particular sort of ... power' while depoliticising the structural problem they claim to address. In this context, BEE becomes an instrument for reinforcing and expanding the exercise of corporate power that accidentally takes [deracialisation] as its point of entry-launching an intervention. However, it does not have critical 'effect on [deracialisation] but does in fact have other concrete effects' (Ferguson, 1994:272). This argument supports the work of Murray (2000: 184). The author has argued that 'BEE measures have been adopted by individual companies to combat an all-white management image, to improve a corporation's black distribution network, to gain control of black workers pension funds, to place responsibility for enforcing large-scale redundancies or crack-downs on worker militancy on black managers and to improve social stability generally' (ibid cited in McEwan & Bek, 2006: 1024).

b) Deracialisation as a neoliberal construct

The thesis further finds that the government prescribes its mode of deracialisation, which is loosely described as 'transformation', but leaves corporations to decide their own ways of implementation. In doing so, the government uses the concept of *distributive deracialisation* to construct and advance a neoliberal agenda. The government recognises the need for the deracialisation of ownership patterns in the mining sector and the development of mining-affected communities. However, it externalises this deracialisation process to the markets and the sector. Mining corporations support this form of neoliberal practice because it does not disrupt their corporate practices and structures and limit opportunities for state-intervention to managerial practices and market logic.

This finding corresponds with the work of Kloppers and du Plessis (2008) that has argued that the BEE Charters do not clearly define the role of government in the BEE process and leave everything in the hands of the industry. Kloppers and du Plessis (2008:91) linked this to the fact that BEE legislation merely uses the language of social responsibility to 'bring about measures to achieve some of the CSR objectives' in the mining sector. As a result, 'some business leaders subsequently declared the final charter as being in the enlightened self-interest of mining companies' (Hamann et al., 2008:21).

By employing CDA, and drawing on Young's (1990) concepts, this thesis supports these studies by demonstrating how the government uses the Charter to externalise its 'deracialisation agenda' to the markets. It argues that by relying on neoliberal measures, which are ahistorical, the government decontextualises and dehistoricises BEE. It effectively disconnects the policy from the transformation of historical, structural and power inequities from conception by leaving deracialisation in the hands of volatile financial markets. This supports the argument of Ponte et al. (2007:950) that 'the combination of market and [system] management allows a full separation of economic policy from redistribution, while at the same time giving the illusion that government is heavily engaged in (and in control of) BEE.' As Herman (2014:1942) agrees, 'the inherent inequities of the market system limit [the capacity of BEE]'. Bowman (2019:239) supports Herman by arguing that 'the internationalisation of domestic big business [in the mining sector] and consequent exposure to international capital market sentiment have shaped and constrained the ability and inclination of the state to pursue radical redistributive measures.' The thesis further argues that the actions of the government undermines the 'need for interventions by the state to effect change in the economic order' (Lindsay, 2015: ii). This is because listed mining corporations use 'financial markets to support their speculation in mining assets' to increase capital accumulation rather than to increase their productive activities and the flow of external finance towards productive investment' (Karwowski, 2015:09). This also undermines the fact that 'one cannot expect the market to naturally remove the misallocation of resources left by Apartheid' (Acemoglu et al., 2007:11).

Other explanations are possible. Structurally, BEE becomes an extension of the government's neoliberal agenda. The government acts with the institutional rules and practices of neoliberalism which depend on market logic. These practices and rules open 'some possibilities for [its] present and future action and foreclosing others, or at least making them difficult' (Young, 2011:54; Young, 2003). In this context, the rules constrain the government and foreclose its ability to intervene in the implementation of BEE and deracialisation. As structures are produced in action (Young, 2011), the government uses BEE to reproduce neoliberalism because of its *objective constraints*.

BEE vs BBBEE

The thesis finds that the government symbolically broadened and expanded the scope of BEE through the introduction of broad-based black economic empowerment (BBBEE). However, it ignores institutional practices and context despite its hegemonic historical contextualisation. This thesis further reveals that the government and the BEE Commission symbolically constructed BBBEE as large-scale, structural and political, and as a solution to the phase one of BEE, which supposedly limited the policy 'to a set of transactions transferring corporate assets from white to black ownership' (DTI, 2003:15; BEE Commission, 2001:02). The concept of BBBEE originates from the private sector through the Report which also guided the creation of the BBBEE Acts and the Mining Charter, as well as the broadening of 'the scope of empowerment' (BEE Commission, 2001:02).

Previous studies have focused on the outcomes of BBBEE – as the current national strategy of BEE – to measure its outcomes in comparison with the phase one of BEE, which is associated with the creation of the black elite. McEwan and Bek (2006:1030) have argued that 'trying to effect broad-based empowerment within the context of unprotected free market globalisation [a neo-liberal economic context] is difficult (some would say impossible).' McEwan and Bek (2006) have impressively argued that neoliberalism may not allow broad-based empowerment. They consider BBBEE as relating to empowerment in the structural and political sense. McEwan and Bek (2006) are not alone in using BBBEE and empowerment interchangeably, as well as suggesting some marriage between BEE and the transformation of historical, structural and power inequities. Herman (2014) has looked at how BBBEE aimed to combat structural inequality and studied its outcomes. She has argued that 'while B-BBEE may not, in reality, be broad-based its manifestations are contributing to challenging racist structures and normalising changing attitudes' (Herman, 2014:01).

While this argument has highlighted the limitation of BBBEE in practice, it associates the phrase, 'broad-based' with structural reforms. As the author concludes, 'to be transformative, empowerment needs to be embedded within South Africa as a multiscalar, multidimensional dialogue and, while recognising the continuation of structural constraints, positions the local as the critical scale at which to initiate broader social change' (Herman, 2014:01). Herman (2014), as well as McEwan and Bek (2006), has heavily depended on semistructured interviews to draw these conclusions. Herman acknowledges the existence of structural constraints in the wine sector but proposes ahistorical measures that may not address these constraints. This reflects the political problem of transformation lexicons. Thus, the concepts of 'broader social change' just like the concept of 'meaningful action' (Du Toit et al., 2007) demonstrate problems relating to what constitutes 'transformation' and what measures

should be taken in South Africa. It also suggests a serious problem of studying the distributive outcomes of BEE but making judgements on structural processes.

The work of Heyns and Mostert (2018) follows the logic of McEwan and Bek (2006) and Herman (2014). It has argued that 'it must still be determined whether the broad-based nature of empowerment has ... resulted in benefits, not only for an elite few but also for a broader spectrum of society, specifically rural communities' (Heyns & Mostert, 2018:20). Heyns and Mostert (2018) have focussed on how the Mining Charter(s) depended on the neoliberal paradigm of development to define development and poverty. McEwan and Bek (2006), Herman (2014) and Heyns and Mostert (2018) have used the concept of empowerment with BBBEE interchangeably while ignoring how the government specifically constructed the notions of empowerment in the context of BEE legislation and policy documents. They have also separated the concept of empowerment from BBBEE, thereby theoretically, structurally and politically judging the policy on what it should be rather than what it is.

By looking at BBBEE according to Young's (1990) concepts of distribution and non-distribution through CDA as well as the concepts of social structures, this thesis builds on these studies by bringing a new dimension. It demonstrates how the Report, the government and mining corporations discursively construct BBBEE in distributive terms and wider reach in the form of geography and numbers while symbolically constructing the concept as large-scale, structural and political. The thesis argues that despite being constructed and championed as 'broad-based', which symbolically suggests something large-scale, structural and political, its construction ignores and de-emphasises the reorganisation of institutional and historical practices. In doing so, its construction focuses on numbers, targets, space, and geography from conception. This approach places more emphasis on reaching a larger number of black people through distributive measures, such as the surface allocation of shares, through measures such as NEF and Black Industrialists Scheme, which emphasise the concept of empowerment without autonomy. Nonetheless, the thesis argues that the government and mining corporations construct BBBEE in a way that symbolically associates the policy with the reorganisation of historical, structural, and power inequities. The combination of the concept of 'broad-based empowerment' and the historical contextualisation of BEE symbolically constructs the policy as advancing the transformation of these inequities.

The thesis further argues that by emphasising distribution and wider reach without dealing with institutional and historical practices, both the government and mining corporations conceal and maintain the status quo and domination. In consequence, trying to determine

whether BBBEE may benefit wider communities, as Heyns and Mostert (2018) have recommended, while ignoring the configurations of decisionmaking structures and social rules would produce deterministic results. These structures, as well as the existing major political and social institutions of mining capitalism and neoapartheid, conceive distributive patterns and structure possibilities of distribution.

Politically Connected Black Elites, BBE, and BBBEE

The thesis confirms that BEE benefits politically connected black elite in the mining sector. It has identified the structure of mining capitalism, the markets, and historical and colonial models of growth, as well as the legal framework as the major causes of this inequality. This may also be the political consequences of privileging distribution over the transformation of institutional practices and capitalist relations that determine, conceive, and precede distributive patterns. The outcomes of ignoring and dealing with social structures, and institutional practices of the private sector tend to lead to the creation of distributive inequality. Both the government and mining corporations predominantly limit BEE to distribution, the allocation of social goods and benefits. Mining corporations discursively treat this as contributing to their symbolic transformation of large-scale structures through the symbolic concepts of ‘true transformation’ and ‘real transformation’.

This finding overlaps with the previous finding. It reflects the work of Heyns and Mostert (2018:32) who have conducted a legal content analysis and found that ‘the beneficiaries of mine community development and empowerment [as constructed by the Mining Charters] remain misrepresented and misconfigured, causing that only some receive the actual benefits of development.’ The authors consider BEE and empowerment as the same thing by loosely using the term, ‘empowerment’ and have accepted BEE as a vehicle for transformation as we have seen. While these authors impressively argue how the neoliberal paradigm of development caused this problem, they have not provided evidence to support their content analysis. As noted previously, Herman (2014) has speculated that BBBEE may not be broad-based, calling for ‘empowerment to be embedded within South Africa as a multiscalar, multidimensional dialogue’ (Herman, 2014:01). As already highlighted above, Herman (2014) and Heyns and Mostert (2018) employ BEE, transformation, and empowerment interchangeably, suggesting some sort of symbiosis.

Herman (2014) and Heyns and Mostert (2018) have highlighted that BBBEE may not be ‘broad-based’ or benefit all its beneficiaries. Thus, it has not addressed power inequities in practice. However, other studies, such as, Du Toit et al. (2007), Tangri and Southall (2008),

Mbeki (2009), Manning and Jenness (2014), Kassner (2015), and Shava (2016) have argued that BEE has benefited the politically connected black elite. These studies associate this result primarily with corruption, fronting, and the culture of patronage and rent-seeking (Tangri & Southall, 2008; Schneiderman, 2009; Mbeki, 2009; Manning & Jenness, 2014; Kassner, 2015; Shava, 2016) as well as the lack of inclusive and wider stakeholder consultation (Heese, 2003).

While Mbeki is critical of BEE as a policy, he has proceeded to make judgements on its outcomes and has concluded that BEE has 'become both the core black ideology of the black political elite and, simultaneously, the driving material and enrichment agenda' (2009:61). As Kassner (2015:106) agrees, 'BEE deals now effectively necessitate political connections more than business skills, perpetuating a government-led de facto system of patronage rather than an equal opportunity meritocracy' in the mining sector. Southall (2007) has identified the same pattern in the mining sector. Du Toit et al (2007) have found that small number of black elites in the wine sector formed alliance with white-owned corporations to undermine the 'transformation agenda'. According to Manning and Jenness (2014), this issue has given the policy negative perception and promoted the culture of rent-seeking. These studies have focussed on what BEE has become rather than its process of becoming.

By employing CDA, as well as drawing on interview data, this thesis builds on these studies to provide a new interpretation. It demonstrates how the government and mining corporations ignore the reconfiguration of institutional practices and social structures, such as mining capitalism, neoliberalism, colonial structures and models of growth as the major precursors of distributive inequality. In this context, how the government and mining corporations have omitted these practices and social structures in their discourses, and social practices while privileging distribution contributes to the re-creation of this distributive inequality. This is because the distribution of material goods and empowerment without autonomy are not designed to end historical, structural, and power inequities. The thesis confirms the argument of Young (1990:53) that corporate structures and cultures, as well as mining capitalism, consists in 'social processes that bring about a transfer of energies from one group to another to produce unequal distributions, and in the way in which social institutions enable a few to accumulate while they constrain many more.'

The thesis further confirms the argument that the distribution of goods cannot eliminate the exploitative nature of mining capitalism and corporate cultures that determines distributive patterns. This is because 'as long as institutionalized practices and structural relations remain unaltered, the process of transfer will re-create an unequal distribution of benefits'

(Young, 1990:53). Because of this, the transformation of sectors, such as mining, where there are structural oppressions, 'requires reorganisation of institutions and practices of decision-making, alteration of the division of labour, and similar measures of institutional, structural, and cultural change' (Young, 1990:53). This demonstrates that corruption and patronage may not necessarily be the major creators of the black elite. As Gibson (2011:118) agrees, 'corruption and patronage are not simply a consequence of BEE; rather BEE is a consequence of a limited transition [and the work of major social institutions that] 'allow' a minority of the Black population to feed off state resources, the logic of which is of patronage, corruption, and exploitation.'

Other explanations are possible. The recreation of the politically connected black elite reflects the outcomes of the non-and-counter-intentionality of structural production (Ferguson, 1994). This highlights how unacknowledged structures of mining capitalism and corporate cultures in the legislation reframe social and economic interventions, such as BEE, into 'only a baroque and unrecognizable transformation of the original intention' (Ferguson, 1994:17). The thesis confirms the argument that their 'unintended outcomes which turn out to be intelligible not only as the unforeseen effects of an intended intervention, but also as the unlikely instruments of an unplotted strategy' (Ferguson, 1994:20).

Consequently, the complex operations of social institutions, such as mining capitalism, neocolonialism and neapartheid as well as corporate and legal structures, procedures, and their *objective constraints*, that determine economic relations (Young, 2011) reframe the character of BEE to expand corporate power. In this context, BEE becomes constellations of control that become powerful for being 'subjectless' to expand corporate power (Ferguson, 1994:19). It legitimises the actions of both the government and mining corporations to preserve the current neoliberal system and corporate interests while discursively giving an impression that the policy provides something materially credible. This confirms the conclusion that its result 'may be no part of the planners' intentions – indeed, it almost never is but resultant systems have an intelligibility of their own' (Ferguson, 1994:272). This supports Malikane and Ndletyana (2006) who have argued that BEE maintains the survival and dominance of 'white capitalist class' and 'the defence of property rights.' Mbeki (2009: 61 & 67) agrees, politically connected BEE beneficiaries became 'strong allies of the economic oligarchy that is, ironically, the caretaker of South Africa's industrialisation' and are agents of white capital, hand in glove with the state.'

BEE resources, distributive inequality and dysfunctional local governance

The thesis finds that the notion of distributive inequality is not limited to the creation of a black elite. How the local municipalities appropriate SLP resources and funds, which should benefit mining-affected communities, to fund other government initiatives illustrates another form of maldistribution. However, BEE studies have not previously described this result. Once again, this reflects the non-and-counter-intentionality of structural production (Ferguson, 1994) which relates to how the existing structural problems in local municipalities interfere with BEE practices and continue the marginalisation of mining-affected communities.

This confirms the argument that 'whatever interests may be at work, and whatever they may think they are doing, they can only operate through a complex set of social and cultural structures so deeply embedded and so ill-perceived that the outcome may be only a baroque and unrecognizable transformation of the original intention' (Ferguson, 1994:17). The thesis argues that the complex set of social and cultural structures of the local governance and issues of financial irregular expenditure reframes the intention of BEE and the SLP, serving other political activities of compensating for the maladministration of local municipalities. Auditor-General Kimi Makwetu's 2018 report indicates, irregular expenditure in the country's municipalities has increased from R16.2 billion to R28.3 billion, up by 75% (SABC, 2018). Meanwhile, the Department of Cooperative Governance and Traditional Affairs (Cogta) has placed 24 municipalities under administration since 2016. While 96 municipalities across the country owe the electric utility Eskom overdue bills that amount to R27.8-billion, Makwetu states that municipalities in Limpopo, North West, and Free State have not received a single clean audit (SABC, 2018). The thesis argues that BEE tends to strengthen the relationship between mining corporations and the local government because of these financial troubles.

Dehistoricisation of BEE

Managerialism and BEE

The thesis confirms that both the government and mining corporations actively treat BEE as a managerial concept. The managerialisation of BEE originated from the Report which set the agenda for BEE legislation and implementation and ordered the creation of BEE Charters and scoreboards. These Charters further emphasised the treatment of BEE as a technocratic entity that should form part of the corporate, managerial auditing, and processes. By managerialising BEE, the government and mining corporations contradict their initial historical contextualisation of the policy that symbolically associated it with the

transformation of historical, structural and power inequalities. This dehistoricises BEE and effectively separates the policy from political struggles from its conception. However, instead of indicating that BEE forms part of their managerial practices, corporations artfully claim that their undefined and ideological concept of transformation form part of these processes to construct their symbolic agendas of structural and political transformation. By strategically, albeit loosely, using the term 'transformation' in the context of managerialism, these corporations symbolically link their corporate and managerial practices with the transformation of historical, structural, and power inequities to maximise the symbolic appearance of compliance.

These findings are contrary to previous studies that have treated the managerialisation of BEE as an equivalent of the managerialisation of the transformation of these inequities. For instance, Makgoba (2019:19) has argued that mining corporations construct 'BEE as a managerial concept in response to the government's call for transformation' and that this 'construction serves to depoliticise BEE'. This work blames corporations for undermining 'transformation efforts' by treating BEE as a technocratic concept that must be incorporated into corporate structures and practices. However, the concept of 'transformation' in this case remained undefined and vague, lacking both historical and political context. (McEwan and Bek (2006), Bek et al. (2007), Hamann et al. (2008) and Heyns and Mostert (2018) also write about transformation in the most undefined and decontextualised forms).

Equally, Du Toit et al. have argued that 'the codification of BEE criteria in complex technical scorecards further removes the terms of transformation from political struggle and contestation' and reduces transformation to a marketing exercise (2007:30). Just like Makgoba (2019), Du Toit et al. (2007) leave their mode of transformation vague, equally lacking both historical and political context, in the ways that both the government and mining corporations have employed the concept. This demonstrates a tendency to use BEE and transformation interchangeably. The work of Ponte et al. (2007:935) shares the views of Du Toit et al. (2007) and Makgoba (2019) and has argued that 'in corporate management circles, BEE is portrayed in fairly depoliticized and technical ways.' The arguments of Du Toit et al. (2007), Ponte et al. (2007) and Makgoba (2019) suggest that BEE was political before it entered the managerial space and that corporate entities deliberately treat it this way to avoid institutionally transforming themselves and their sector. Du Toit et al. (2007) and Makgoba (2019) have explicitly operated with the thesis that BEE sought to lead the transformation of the above-mentioned inequities and have concluded that how wineries and mining corporations managerialised BEE depoliticises and undermines this transformation. Equally blaming the private sector, Manning and Jenness (2014: 319) have

observed that 'analysts bemoan the 'tick-box' mentality that has become prevalent in many companies, with the emergence of a strong compliance culture... The government remains concerned that companies treat B-BBEE as largely a compliance issue.'

By looking at how both the government and mining corporations used BEE discourses to construct the symbolic agendas of structural and political transformation, this thesis disputes the idea of treating the managerialisation of BEE as an equivalent of the depoliticisation of the transformation of the above-mentioned inequities. The thesis argues that there was a disconnection between BEE and these inequities from its conception, contrary to what Du Toit et al. (2007) and Makgoba (2019) have suggested. The thesis further argues that how the government adopted the discourse of managerialism from the Report depoliticised BEE before it even entered the corporate arena and thereby effectively dehistoricising its interests. In other words, BEE is not political in the broader sense of the term that relates to 'institutional organization, public action, social practices and habits, and cultural meanings insofar as they are potentially subject to collective evaluation and decisionmaking' (Young, 1990:9). For that reason, it is surprising that the 'government remains concerned that companies treat BBBEE as largely a compliance issue', as Manning and Jenness (2014:319) have observed, while the same government has introduced and adopted managerialism and the culture of compliance in the BEE legislation from the start. The government has essentially set the agenda for the managerialisation of BEE in South Africa, which encourages the culture of ticking boxes and performativity by outsourcing the policy and its principles from the private sector.

How the government introduced managerial practices demonstrates that BEE contained contradictory discourses that disconnected the policy from politics and history from its conception. For that reason, this thesis argues that the dehistoricisation and depoliticisation of BEE does not relate to the depoliticisation of the transformation of historical, structural, and power inequities by the private sector. Rather it reveals that mining corporations, as well as the private sector, simply accept and reify the discourse and practices of managerialism from the government, as prescribed in the Charter and the Guidelines. This is because they do not disrupt their corporate cultures and structures. They did not introduce managerial practices from scratch to undermine BEE and the undefined concept of transformation as Du Toit et al (2007) and Makgoba (2019) have suggested. By its intrinsic nature, managerialism ideologically functions to limit the impact and the costs of government laws and policies (Edelman & Talesh, 2011). Nonetheless, as government laws and legislation become 'progressively institutionalized in organizational fields [through managerial practices, they are] simultaneously transformed by the very organizational institutions that [they are] designed to control' (Edelman, 2005:337). Therefore, introducing its discourse while at the

same time ignoring historical and institutional rules disconnect BEE from political contestations. More than this, it promotes corporate interests by symbolically associating corporate actions with something large-scale, structural and political such as the transformation of historical injustices while essentially preserving and reproducing them.

Managerialism and Objective Constraints

The thesis finds that mining corporations have established social and ethics committees that aim to 'fast-track, manage, monitor, and integrate' 'transformation' into their structures and cultures rather than structurally and politically transform them. It is important to emphasise that the term, 'transformation,' in this context is synonymous with BEE. These corporations have overlexicalised the term to associate their managerial processes with historical and structural injustices. This hegemonic way of linking the transformation of historical, structural, and power inequities with the work of private entities started in the Report. The Report highlights how corporations reflect colonial and apartheid structural relations. However, it prescribed managerial and neoliberal practices as the solutions, such as, the Charter, BEE scoreboards, and codes.

How mining corporations have associated managerial practices with the transformation of these inequities perverts its politics and disruptive nature by reframing, decontextualising and misrepresenting their discourses, processes and procedures. Furthermore, this discursive practice gives an impression that these corporations have accepted the political responsibility of changing their own institutional practices, corporate structures, cultures, social practices and habits to contribute to the large-scale, structural and political transformation. However, they only symbolically associate themselves with this mode of transformation and its discourses without undergoing any institutional shift while politically employing BEE discourses to conceal them. The fundamental purpose of these actions is to dispel criticisms that their corporate rhetoric 'is worlds away from the complex reality of navigating relations surrounding extractive industry operations' (Sawyer & Gomez, 2008:27).

This construction and framing of managerialism have not been previously described in the literature. However, it is broadly consistent with that of Du Toit et al. (2007), Ponte et al. (2007), Manning and Jenness (2014) and Makgoba (2019) who have noted how the private sector managerialised BEE. By employing CDA, this thesis builds on these studies. Although the work of Edelman and Talesh (2011) does not deal with BEE, it is worth considering here. This thesis confirms the argument of Edelman and Talesh (2011:109, citing Edelman, 1990) that corporations structurally respond to new charters and legal frameworks by 'creating new offices and developing written rules, procedures and policies

[to] achieve legal legitimacy while simultaneously limiting law's impact on managerial power.' As Edelman (1992:1531) agrees, 'organizations respond initially by elaborating their formal structures to create visible symbols of compliance. As organizations construct and institutionalize forms of compliance with laws, they mediate the impact of those laws on society.' Therefore, by creating symbolic structures, or what they call 'transformation committees', mining corporations co-opt the powerful language of compliance to position themselves to maximise the symbolic appearance of compliance. This is because the 'politics of compliance contributes to the consolidation of the power of standard-setting actors by facilitating the devolution of risk, uncertainty, and responsibility' (De Neve, 2016: 106). Furthermore, this 'language and performance of corporate virtue go beyond rhetoric to endow corporations not with ethics, but with a [new] source of power [concerning] new social and political problems' (Dolan & Rajak, 2016: 21).

This thesis further argues that even though the managerialism of BEE separates the policy from history and politics, as well as structural reforms, it has allowed corporations to authenticate their work. Mining corporations employ BEE to construct their corporate activities as transforming historical, structural and power inequities in South Africa to promote the symbolic appearance of compliance while essentially containing BEE's impacts. Upon deconstructing the relationship between non-distribution and distribution through CDA, this thesis demonstrates that their managerial processes and practices aim to promote the symbolic appearance of compliance, as well as to build *defensive rhetoric* (Potter, 1996). Once again, this discursively gives an impression that corporations are doing something more institutionally transformative while they use managerial logic and rationality to contain BEE, as well as weaponising it.

More than this, BEE enables corporations to achieve stake transcendence without doing anything large-scale, structural, political, and disruptive. In this context, because of the non-and-counter-intentionality of structural production (Ferguson, 1994), BEE has become a political tool that legitimises corporate actions because of its historical contextualisation. At the same time, it depoliticises institutional, political, and structural transformation in South Africa. Once again, these outcomes confirm the argument that what 'appear as mere "side effects" of an unsuccessful attempt to engineer an economic transformation become legible in another perspective as unintended yet instrumental elements in a resultant constellation. [This] has the effect of expanding the exercise of a particular sort of ... power while simultaneously exerting a powerful depoliticizing effect' (Ferguson, 1994:21). In consequence, this thesis argues that BEE helps corporations to perform 'extremely sensitive political operations involving the entrenchment and expansion of [managerial]...power almost invisibly, under cover of a [symbolic] neutral, technical mission'

(Ferguson, 1994:256) of transforming historical, structural and power inequities. The thesis further supports Ferguson's (1994:256) view that 'the 'instrument-effect' ...is two-fold: alongside the institutional effect of expanding bureaucratic [and institutional] power is the conceptual or ideological effect of depoliticizing both [the policy] and the state.'

The Reproduction of Managerialism and Objective Constraints

Other explanations are possible. The thesis argues that how mining corporations and the government treat BEE as a managerial concept represents the reproduction of the structure of managerialism. In particular, mining corporations act with the knowledge of institutional practices, such as the establishment of new offices, rules and committees to promote the symbolic appearance of compliance. These are managerial practices that govern corporate entities by structuring their possibilities for actions such they 'can take them up and take advantage of them' (Young, 2011:55). In this context, the structure of managerialism both constrains or enables mining corporations to focus on the creation of the symbolic appearance of compliance while materially containing the political costs and impacts of government laws and policies, such as BEE. It also functions to help corporations maintain managerial rationality, authority, and discretion. This not only authenticates corporate interests but also co-opts the productive nature of BEE to reproduce managerialism. As they reproduce the structures of managerialism through their action, drawing on their *objective constraints*, corporations employ rhetoric and discourse to maximise the appearance of compliance and to create symbolic structures that 'institutionalise managerialized notions of what constitutes compliance' (Edelman & Talesh 2011:112; Makgoba, 2019).

Deracialising BEE

The thesis finds that the government deracialises BEE through the introduction of the 2010 Mining Charter and SLP Guidelines. Mining corporations explicitly follow the path of government by adopting the principles of these two government documents. This highlights the disconnect between macro elements of BEE (the Report, the BEE National Strategy, and the BBBEE Acts) and its micro elements (the MPDRA, the Charter, SLP Guidelines and corporate reports). The Charter and the Guidelines, as well as mining corporations, omit the term, 'black', in the broad-based black economic empowerment (BBBEE) strategy to expand the scope of BEE and its beneficiaries. This expansion can also be seen through the introduction of the term, 'historically disadvantaged South Africans' (HDSAs), which has expanded the beneficiaries of BEE to cover white female and Chinese South Africans. Anglo This reframes the meaning of the concept of black people under the pretext of promoting the

idea of inclusivity. This inclusivity can be associated with the idea of broad-based socio-economic empowerment (BBSEE) as reflected in the Mining Charter. Furthermore, the inclusivity may lead to the exclusion of Africans and coloureds, decontextualising BEE. The government may have introduced the idea of HDSAs as one of the forms of managing stakes to disassociate BEE from black nationalism and promote its ideas of non-racialism and the mythologies of *Rainbowism*.

These results reflect those of Toit et al. (2007) and Herman (2014) who have discovered that wineries adopted an ahistorical and dislocated form of blackness. Toit et al. (2007) have argued that wineries have adopted ahistorical view of blackness and misuse racial terms of BEE to undermine the 'transformation agenda'. According to Toit et al. (2007), these political actors do this to marginalise fundamental structural issues as well as their relations of power. Herman (2014) agrees with Toit et al. (2007). She has argued that 'latent paternalism, entrenched interests, and a 'dislocated blackness' maintain a complex racial politics that shapes both power relations and the opportunities for transformation within the industry' (Herman, 2014:1). For Toit et al. (2007) and Herman (2014), how the wine industry adopts the dislocated and ahistorical forms of blackness undermines the undefined mode of 'transformation'.

However, by looking at how the government and mining corporations employ BEE discourses to construct the symbolic agenda of structural and political transformation through Young's (1990) critique of the distributive paradigm of justice, this thesis brings a new dimension. The thesis argues that rather than undermining this agenda, the government and mining corporations have merely expanded and reframed the scope of BEE beneficiaries to cover groups such as white female and Chinese South Africans. They have reframed and expanded who counts as black. This reproduces distributive inequality: the oppressed would now have to compete with groups, such as white females, under the pretext of 'sustainable transformation'. This adds to the fact that the government has not proposed measures of the transformation of historical and institutional practices in the legislation. Because of this, both the government and mining corporations limit BEE to distribution and empowerment without autonomy. This distribution and this mode of empowerment remain shaped by the existing sociohistorical structures. For that reason, the thesis argues that by deracialising BEE this way decontextualises and dilutes the policy's racial and historical component. This component previously connected it with the discourses of colonialism and apartheid and the oppression of black people that justified the creation and the practices of BEE. Politically, this demonstrates that the ANC uses 'the language of

race and nation in its trumpeting of the free market, while at the same time it narrows race to a political phenomenon disconnected from capitalist reproduction' (Gibson, 2011:116).

The Disconnection Between the BBEEE Acts and the Charter

The thesis reveals that the government uses the MPDRA to inform the principles and the practices of the Charter instead of the BBBEE Acts. This choice has discursively loosened the connection between BEE, and its historical context, as well as historical discourses of race. The MPDRA and the Charter, as well as mining corporations, accentuate the discourse of non-racialism and non-discrimination and claim to address the outcomes of both past and present practices of discrimination through BEE discourses rather than historical injustices. This discursively reframes the historical components of BEE by strategically replacing 'black people' with the concept of 'HDSAs' and 'all South Africans' to disconnect the policy from the transformation of historical, structural and power inequities.

BEE literature has not described this finding before. This corresponds with the argument that the ANC government 'pursued several important goals at the same time, sometimes emphasising equity and redistribution of wealth, and sometimes advocating rapid economic growth and corporate investment. These goals have been difficult to reconcile with each other' (Tangri & Southall, 2008:699). In this context, the government tries to advance the important goal of inclusivity by contradicting and diluting the racial and historical component of BEE. Another explanation is possible. The disconnection between BEE and the BBBEE Acts may have emerged from the process of designing the BEE Charters. This process 'relies on collaborative negotiation and hard-ball bargaining' between the sector and the government (Hamann et al., 2008: 21) which depoliticise and conceal political sources of oppression. It also moves away from structural problems from what needs to be done to what can we do by relying on competitions among the interests of corporations, the government, and other stakeholders (Hamann et al., 2008). The outcomes of these practices fail to capture the distinction between the assertion of selfish interests and normative claims to justice (Young, 1990).

BEE and Sustainable Development

(a)The Discourse of Sustainable Development

The thesis finds that the government and mining corporations promote and construct BEE practices and activities as part of the discourse of sustainable development. This discourse also encourages private companies to play a leading role in economic development, and

policy formulation. Both government and corporate documents talk about 'sustainable transformation' and 'sustainable development' to construct BEE as something large-scale structural while essentially decontextualising the policy and foreclosing its connection with historical injustices. Firstly, this ahistorical discourse contradicts the historical contextualisation of BEE in these documents. Secondly, this enables mining corporations to treat BEE as a neutral economic problem, which is aligned with global justice, and which is not limited to the distribution of goods in black communities.

Despite its ahistorical nature, corporations employ the principles of this discourse to construct their work as contributing to addressing historical injustices. They also employ the discursive strategy of stake transcendence to construct their CSI and their business activities as inseparable from the lives of the mining-affected communities. However, they use the same discourse to conceal their environmental responsibility and deflect attention from their harmful business practices.

This result has not been described by the BEE literature in a discursive sense, but Ramlall's (2012) work is worth considering. Ramlall (2012) has argued that this genre of the discourse of sustainable development encourages mining corporations to fix their historical sins of institutionalising apartheid and colonialism during the *mineral revolutions* of 1880s. Ramlall (2012) echoes with the view of Heyns and Mostert (2018:21) that the Mining Charter aims to 'ensure that the economic benefits resulting from mining are shared with those affected by the history and activities of the industry, such as mining communities.' However, this notion has been challenged by Rajak (2016a:37) who has argued that this discourse has 'effected a seamless shift from calls to "do no harm" to an expression of corporations as active agents of global improvement.' As Haalboom (2012: 977) agrees, this discourse also enables mining corporations to prioritise 'particular components of the environment over more holistic concerns of indigenous groups, and to exclude certain types of knowledge about the interaction of local peoples with their environment.'

This thesis argues that framing BEE as a part of the discourse of sustainable development demonstrates there was a disconnection between the policy and historical inequities from conception. Rather than encouraging the transformation of these inequities, this discourse and its social practices preserve the current exploitative corporate structures and expand corporate power. In this context, BEE allows mining corporations to claim some authenticity when they construct themselves as agents of national and global economic development. They favour this discourse because it originated from the mining sector and does not disrupt their corporate structures. It also seamlessly transforms, absorbs, and dehistoricises BEE in the manner which portrays corporations as merely following the government's commands.

This corresponds with the work of Coronado and Fallon (2010:670) who have argued that this ‘involves the construction of a corporate commitment to social and environmental causes in ways that contribute to an expanded market presence, if not actually, masking contradictory corporate behaviour.’ These issues further disconnect BEE from any form of institutional practices and its initial historical [re]contextualisation. However, this has not stopped mining corporations from appropriating the discourses of colonialism and apartheid to construct the discourses of sustainable development, as well as their commercial and distributive activities, as contributing to large-scale, structural change, even in contradictory forms.

(b)The neoliberal orthodoxy of business-led development and sustainable development

The thesis finds that both the government and mining corporations use BEE discourses to promote the idea of corporations developing mining-affected communities beyond the life of mining activities. It reveals that mining corporations accept the notion of business-led development as framed by the government in the Charter because it does not disrupt their corporate structures. However, they discursively accept it when it suits their needs and dismiss it when it does not.

This construction of BEE illustrates one of the contradictions that comes with the historical contextualisation of BEE while depending on neoliberal and ahistorical solutions that ignore institutional problems. The government employs the social practices of business-led development to instruct mining corporations to align their BEE activities with the IDPs of local municipalities. However, instead of doing this, mining corporations focus on short-term projects and corporate philanthropy that suppress communities from mobilising their resources to challenge the corporation. In turn, they take credit for contributing to the development of communities and associating themselves with the national development goals of the government.

BEE literature has not described this issue before. However, although the work of Kirsch (2014) does not deal with BEE, it is worth considering here. The result confirms the conclusion that ‘the industry has promoted the view that mining contributes to sustainable development through the creation of economic opportunities that extend beyond the life of the project, although the definition of sustainability employed in these claims completely elides the concept’s original reference to the environment’ (Kirsch, 2014:21). For corporations, this framing of BEE symbolically authenticates the already existing corporate practices of demonstrating the symbolic commitment to developing mining-affected

communities beyond the life of mining operations. This also thwarts BEE and turns it into a tool for expanding corporate power.

Furthermore, this corresponds with the view that 'the company's vision of SD [sustainable development] becomes a hegemonic vehicle through which its authority over the social, environmental and economic order is authenticated' (Rajak, 2006: 194). The thesis argues that by adopting the same version of corporate framing and approach, the government inadvertently conceals, supports and legitimises corporate misconduct by helping normalise (and naturalise) this corporate discourse of sustainable development. Thus, it ideologically helps the industry to continue with the perversion of the original concept of sustainable development, as Kirsch (2014) has observed. More than this, the government and corporate documents regard this concept of sustainable development as something neutral while the industry applied it as part of modes of 'corporate social technologies' (Rogers, 2012) to neutralise its critics and environmental activists.

By looking at BEE discourses, as well as their political consequences, the thesis argues that these BEE discourses depoliticise the relationship between mining corporations and mining-affected communities. This supports the conclusion of Rajak (2016a:39) that the notion of business-led development casts the corporation 'as a neutral party transcending the parochial politics of national governments.' The thesis further argues that by contextualising BEE in this space, both the government and mining corporations jointly support its decontextualisation. This further allows the industry an opportunity to authenticate their perversion of sustainable development.

This means that the construction of BEE as the genre of sustainable development worsens problems in the mining sector by subtly promoting corporate interests. In the end, BEE ideologically functions to support the symbolic concept of sustainable mining by associating mining corporations with the transformation of historical injustices. It does so by helping them reframe their political, social, and environmental responsibility through interdiscursive practices. It provides corporations with the leeway to promote themselves as agents of development under the support of government policy and BEE discourses. In doing so, BEE discourses join the movement that 'projects corporations not only as self-disciplining moral actors, but as leaders in a new orthodoxy of business-led development which promises empowerment through "the market"' (Rajak, 2016a: 29). This form of empowerment enables mining corporations to control mining-affected communities to maintain a social license to operate.

(c) Controlling Communities by BEE Promises and Mobilisation of Bias

The thesis finds that BEE discourses authoritatively allow mining corporations to make distributive promises to mining-affected communities without completely honouring them. These discourses also legitimately allow these communities and their individual members to expect mining corporations to fulfil these promises. In this context, BEE encourages people's commitments to its processes by promising them something credibly material. These processes and discourses enable corporations to focus on less political issues such as job creation and the trickle-down of profit to the mining-affected communities while suppressing issues of environmental degradation, decision-making, and cultural relations, usually in the beginning of mining operations.

BEE studies have not described this result before. Although the work of Kirsch (2014) does not deal with BEE, it is worth considering. The result supports the conclusion that mining-affected communities 'find themselves caught betwixt and between old and new lives when environmental damage compromises subsistence production and the limited economic benefits they receive do not allow them to achieve their aspirations for modernity' (Kirsch, 2014:07). By looking at the discursive and political consequences, the thesis builds on Kirsch (2014). It argues that BEE promises enable corporations to adopt the *mobilisation of bias* (Bachrach & Baratz, 1970) that ideologically functions to limit debates to distribution. They focus on the minimal allocation of material goods while containing, depoliticising and concealing issues that require institutional, structural and cultural reforms such as issues of environmental degradation and decisionmaking.

In other words, this helps corporations to contain challenges to the status quo by using BEE promises to limit discourses, conversations, and engagements to distribution. This confirms the argument that 'potential issues are kept out of politics, whether through the operation of social forces and institutional practices or through individuals' decisions' (Lukes, 1974:28). This results in non-decision-making — 'a decision that results in suppression or thwarting of a latent or manifest challenge to the values or interests of the decision-maker' (Bachrach & Baratz, 1970: 44). More than this, BEE enables corporations to employ BEE promises to control mining-affected communities, by keeping them waiting for basic services such as water, health, and infrastructure while they continue business as usual.

(d) CSR and BEE

The thesis confirms that the government and mining corporations treat short-term CSR activities as part of their 'transformation' initiatives. They leave the term, 'transformation,' undefined and vague to associate BEE with something large-scale structural. This decontextualised form of transformation has given mining corporations the leeway to artfully name their CSR activities as addressing the structural legacies of apartheid and colonialism.

Furthermore, the undefined nature of the government's concept of transformation has also enabled corporations to employ BEE to authenticate their commercial activities as 'transformation'.

These findings broadly support other studies in this area linking BEE with CSR. For instance, Ramlall (2012) believes that the private sector generally treats its implementation of BEE policies as CSR. Mueller-Hirth (2015:51) notes that BEE policies force the private sector to 'adopt socially responsible policies that are more advanced than those in many of the richer economies' and thus set up mining corporations for failure. While Akinsomi et al. (2016) indicate that corporations that implement BEE policies are regarded as being socially responsible, Wolmarans and Sartorius (2009) indicate that corporations consider the selling of their shares to black entrepreneurs, businesses, and workers as CSR. Wolmarans and Sartorius (2009), Ramlall (2012), Mueller-Hirth (2015:51) and Akinsomi et al. (2016) have not explicitly treated CSR as transformation in the vague sense. It is Mersham and Skinner (2016:110) who have taken this route by noting that the 'South African Government's prescriptive stance on transformation and BEE has thrust the reconsideration of CSR onto every corporate agenda in South Africa.'

By employing CDA, as well as drawing on interview data, this thesis builds on Mersham and Skinner (2016) by demonstrating how the government and mining corporations employ distributive issues to construct a symbolic view of institutional transformation. How Mersham and Skinner (2016) have ambiguously used the concept of transformation without providing any institutional context relates to how the government and corporations employed it to construct their symbolic agenda of institutional transformation. For this reason, the thesis argues that rather than promoting any sort of institutional transformation, corporations employ BEE to associate their CSR activities with the transformation of historical, structural, and power inequities. In this context, BEE performs the political function that involves the expansion of power invisibly under the cover of symbolic transformation (Ferguson, 1994:256). Thus, by authenticating how mining corporations associate themselves with structural and political transformation, BEE expands corporate power by associating these actors with moral purpose. This is because 'claims to moral purpose have enormous power in their ability to naturalise authority' (Ferguson, 1998: 5). In this context, these corporations have co-opted the government's weak rhetoric of framing distribution as 'transformation' and the historical contextualisation of BEE which symbolically associate the policy with structural and political reforms.

BEE and Neoliberal Practices

(a) The Externalisation of Political Responsibility

The thesis finds that the government employs BEE and the SLP to externalise the political responsibility of socioeconomic community development to mining corporations. The government has left this responsibility to corporations and expect them to lead the development of the communities from scratch as one of the key requirements of obtaining and maintaining licences. Mining corporations externalise some aspect of this responsibility to the wider society to minimise costs and accumulate capital. They selectively embrace this responsibility as part of their CSR practices to legitimise their discourse of sustainable development and corporate actions. They also symbolically consider this responsibility as their corporate obligation to address historical injustices through interdiscursive practices. However, this practice separates BEE from its historical context, just like managerial practices and discourses. It also turns the policy into a corporate and technical initiative, detached from race, politics, and history.

In this context, BEE institutionally competes with other corporate priorities and pushes the corporations to the political spaces of service delivery which expands its CSR role and challenges its commercial focus. The government also expects mining corporations to regulate their own activities and plan, as well as implement, the development of mining-affected communities as a new form of government. Although this process remained symbolic, it is more complex than the concept of business-led development which enables mining corporations to define themselves as part of proponents of national and global development. This involves the government asking mining corporations to develop mining-affected communities by providing basic needs such as road infrastructure development, health services, water, business and enterprise development, job creation, education facilities, and sports.

BEE studies have not previously described this result. However, this result relates to the conclusion of Ponte et al. (2007: 935) who have argued that BEE 'is developing a system so complex that it implicitly legitimizes 'outsourcing' of its management from government to the private (auditing) sector, thus reinforcing a further weakening of the state'. By employing CDA, as well as drawing on interview data, to understand how the government and corporations employ BEE discourses, as well as engaging their consequences, this thesis builds on Ponte et al. (2007). It argues that rather than creating the culture of 'outsourcing' of previously political and now managerialised functions, the government uses BEE as the tool to externalise its political responsibility of corporate regulation, and community development to the private sector and wider society. This thesis argues that this does not only show the

further weakening of the state. It also demonstrates the disconnection between BEE and the agendas of structural and political transformation. It highlights the contradictions of BEE discourses which depend on ahistorical and historical constructs at the same time. The thesis further argues that the government and mining corporations employ BEE as a precursor to advance and reproduce neoliberalism which involves outsourcing its regulatory and monitory responsibility to mining corporations through managerial processes. This corresponds with the argument that development projects, such as BEE, 'are not a machine for eliminating poverty that is incidentally involved with the [corporate] bureaucracy; [they are machines] for reinforcing and expanding the exercise of ... power, which incidentally takes 'poverty' as its point of entry-launching an intervention that may have no effect on the poverty but does, in fact, have other concrete effects' (Ferguson, 1994:272).

(b) The Reproduction of Neoliberalism

The thesis further argues that how the government uses BEE to externalise its responsibility to the society and how corporations follow suit bears the mark of large-scale structural problems. It represents the reproduction of neoliberalism. Both the government and mining corporations act with the knowledge of existing neoliberal and institutional rules which serve as *objective constraints* to their actions (Young, 2011). As structures are [re]produced in action (Giddens, 1979; Young, 2011), mining corporations and the government draw on the institutional rules of neoliberalism to undertake their political responsibility of dealing with mining-affected communities. This neoliberal practice involves giving corporations rooms to self-regulate and to govern mining-affected communities as a new form of government. This represents the 'self-regulatory nature of the neoliberal mode of social and environmental governance' (Reed, 2002 cited in Haalboom, 2012: 970).

While these institutional rules enable mining corporations to achieve their goals by conferring them with power, they present structural constraints for black people because of their positions. This confirms the argument of Kirsch (2014:16) that neoliberal economic policies 'lead the state to transfer many of its regulatory responsibilities to corporations and markets. Yet the failure of market-based policies and corporations to address these concerns—or, in many cases, to even acknowledge their existence—reproduces the status quo.' Both the government and mining corporations describe environmental damages of the mining sector as the 'unintended consequences' (Anglo American, 2010: xii, RSA, 2010) as a sign of ignoring the structural nature of environmental problems. This could be attributed to the fact that 'to minimize costs and accumulate capital, numerous extractive industries companies have blatantly disregarded environmental regulations, at times, with the active complicity of

host country governments' (Maconachie & Hilson, 2013:353). As Kirsch (2014:17) has agreed, this 'allows corporations to continue externalizing the costs of production onto society and the environment, despite making widely publicized claims about the social benefits of their activities.' This is associated with the growing power of multinational corporations that threatens 'democratic governance in situations where the global mobility and rights that corporations have acquired are not matched by systems of regulation to govern their activities' (Garvey & Newell, 2005:390).

(c) Corporations as Quasi-Governments and Political Responsibility

The thesis finds that mining corporations act as quasi-governments in mining-affected communities as they selectively accept the political responsibility of community development. The outcomes of this neoliberal practice blur the political and institutional lines between corporations and local governments as mining-affected communities treat these institutions as the same, especially when they demand the delivery of services. BEE literature has not described this result. Although the work of Rajak (2006) does not deal with BEE, it is worth considering. This result corresponds with the argument that 'the appeal to the concept of responsibility—and the agenda of care it implies—supports the role of [TNCs] as dominant institutions of governmentality' (Rajak, 2006: 194). This supports the argument that corporations develop 'discursive regimes' by unilaterally determining and controlling the nature and structure of their relationship with the local communities (Coronado & Fallon, 2010).

In this context, BEE beneficiaries of this moral agenda become citizens under the leadership of the corporation and are subjected to 'its notions of responsibility, and recipients of its paternalistic concerns' (Rajak, 2006: 194). By looking at the consequences of BEE discourses, this thesis builds on Rajak (2006). The thesis argues that instead of advancing the political responsibility of socioeconomic development of mining-affected communities, this agenda of care and morality depoliticises corporate interests. In addition, it expands corporate power under the technical mission of addressing historical injustices, transforming, and 'empowering' communities. Moreover, it expands the exertion of corporate power, as the policy performs other political activities beyond distribution: it maintains the oppression of mining-affected communities because of the government's limited intervention and mining capitalism.

This confirms the conclusion that 'in pursuit of ... responsibility, mining corporations operating in SA ... are demonstrating a significant commitment to the national goals of transformation and empowerment... This notion of responsibility serves to empower the

corporation, rather than the supposed subjects of their empowerment and development initiatives' (Rajak, 2006:199). This can be attributed to the fact that states, development and community projects are 'not simply a technical issue of know-how, resource availability, 'win-win' situations or even greater environmental awareness on the part of key decision-makers.' Rather 'they are political processes involving power struggles between different actors and stakeholders' (Utting, 2002:277).

BEE, empowerment without autonomy and local citizenship

The thesis finds that BEE fosters ideological and power struggles among non-elite and elite members of mining-affected communities. This has intensified tribal political tensions that demonstrate ideological tensions between the notion of tribal citizenship, which depends on traditional governance system and national citizenship and identity. In this context, BEE has enabled these members to enact and employ their local and tribal citizenship and black identity to amplify their voices as the rightful BEE beneficiaries as part of contesting for distributive benefits from mining corporations, as well as to challenge corporate power. It has also enabled these individual members of mining-affected communities to have legitimate expectations from mining corporations, as well as to hold them accountable if they fail to fulfil their BEE obligations. Although these issues might have created tensions of identity politics, they confide ideological and power struggles to distributive issues. They ignore issues relating to issues of the organisation of production, public and private decisionmaking structures which relate to mining capitalism, corporate cultures, and structures, as well as the traditional governance structure that govern the mining industry. This moves away from institutional rules, practices, and social relations which have the potential to lead political and structural transformation.

BEE literature has not described these findings and focuses on BEE outcomes. For example, Heyns and Mostert (2018) have found that the rhetoric of development in the Mining Charter has worsened the relations between mining corporations and mining-affected communities. These authors link the violent conflicts between mining corporations and communities to the effectiveness or weaknesses of the current legislation and policy, as well as its rhetoric of development. However, their work tends to make this judgment based on textual and legal analysis which does not analytically consider social processes that contextualise the political sources of these conflicts. Furthermore, the findings correspond with the conclusion of Ponte et al. (2007: 935) that BEE 'is moving the debate from a political terrain, where redistribution is, in theory, possible, to a managerial terrain, where discussions are technical and set within the limits of codification, measurement intervals and systemic

performance'. Ponte et al. (2007) suggest that BEE depoliticises and limits (re)distribution through managerial processes without explaining how this process takes place.

By employing CDA, as well as drawing on interview data which offer insights on social processes of BEE, this thesis expands these studies. It argues that instead of simply moving debates from the political terrain, to managerial spaces, BEE promises symbolically limit engagement and conversation to distribution because of the 'non-and-counter-intentionality of structural production' (Ferguson, 1994:21). As BEE enters into the unacknowledged structures of tribal citizenships and ethnicity, as a productive force and a vehicle of empowerment without autonomy, it takes a life of its own while expanding corporate power and nominally supporting the distribution of material goods and benefits. In consequence, the policy enables individual local people to expand and reproduce tribal domination to control how other people can access BEE goods and benefits.

However, while BEE has intensified identity politics in this context, as well as worsening the relations between mining corporations and mining-affected communities as Heyns and Mostert (2018) have observed, it exerts a powerful depoliticising effect of confiding contestation to distributive issues. This helps conceal and maintain oppressive corporate cultures, paternalism, decisionmaking structures and issues of production, such as environmental degradation. As much as communities clash with mining corporations, they also clash among themselves while focusing on access to material goods rather than institutional changes. These clashes also challenge the validity of business-led development and the discourse of sustainable development which revolve around how mining corporations construct themselves as agents of development. The nature of their clashes highlights one of the ways in which BEE is limited to contestations over distributive issues while concealing political issues.

The thesis further argues that although both the government and mining corporations tried to deracialise and expand the scope of BEE beneficiaries, black people who live in mining areas consider themselves as the rightful beneficiaries rather than black people who live in other areas. The government might have anticipated this issue when it decided to link the Charter with the MPDRA, which introduced the concept of HDSA rather than with the BBBEE Acts that explicitly define black people as BEE beneficiaries. Although the Charter and mining corporations have dislocated the notions of blackness, it has not succeeded in stopping black people who live next to mining areas to claim both their black and local identities as a mobilising tool to access BEE opportunities. This has ideologically inspired identity politics. In this context, local individuals who are affected by mining activities use their black and local identity as a tool to frame their claims from mining corporations and the

government to exert group and individual uniqueness and belonging to gain power and recognition.

Community Forums and BEE

The thesis finds that BEE has given rise to the slew of community forums and structures. These entities remain absent from both government and corporate discourses and are treated as part of 'the community', 'our community' and 'community trusts'. This comes as the outcomes of the government's choice of neoliberal policies, especially how it has externalised the political responsibility of socioeconomic development to mining corporations. These structures also relate to ethnic identity politics and how individual members of mining-affected communities enact their identities as BEE beneficiaries. Thus, by virtue of externalising its political responsibility, the government has pushed the implementation of BEE to the hands of mining corporations and mining-affected communities and individuals.

In response to this issue, these communities and individual members have established forums and structures to enter into BEE negotiations with mining corporations and take part in decisionmaking, as well as to deal with their representational crisis. These forums and structures experience structural constraints and democratic crisis which relate to political representation. They also tend to marginalise individuals who hold different views, such as, opposing mining, and limit debates to distributive issues while avoiding issues that involve the political. Meanwhile, mining corporations have also applied the strategy of divide and conquer, as well as corporate cultural technologies (Rogers, 2012), to undermine these structures and forums.

BEE literature has not previously described these results. Although this happens in a different context, these findings relate to the work of Iheduru (2008) who has argued that BEE has given rise to a slew of verification agencies, which specialise in standardising BEE scores and compliance. This verification process demonstrates how the government depends on managerial processes which treat BEE as a technocratic concept. These events have similar characteristics and result from the government's neoliberal policies which allow it to externalise and outsource some of its political responsibility to and from the private sector and wider society. This has made the lives of mining-affected communities more precarious, as corporations 'operate in contexts where political and legal institutions are weak, corrupt, or not trusted and where there are marked imbalances in political, economic, and cultural power' (Kemp et al., 2011:93).

By looking at the consequences of BEE discourses, this thesis argues that by giving rise to community-based lobby groups that seek to represent mining-affected communities, BEE tends to 'serve power, but in a different way than any of the "powerful" actors imagined' (Ferguson, 1994:19). Thus, the government might not have anticipated how these communities may use BEE to organise themselves as well as to relate with the government and mining corporations, clashing among themselves in the process. BEE provides members of mining-affected communities with the notion of empowerment without autonomy (Young, 1990). However, this form of empowerment remained constrained by the existing decisionmaking structures and mining capitalism and remains limited to how best to distribute and share material goods. This can be attributed to the idea that 'politically marginalised communities often lack the support of governments, which instead pander to more powerful coalitions and constituencies that may well have an interest in protecting a corporation' (Garvey & Newell, 2005:399).

Furthermore, the thesis argues that the notion of empowerment without autonomy and mining capitalism, as well as the government's neoliberal practices structurally enable mining corporations to undermine these community-based lobby groups because of their social position. Mining corporations draw on the institutional practices of mining capitalism, which define their objective constraints, to employ cultural technologies to undermine these forums and structures. In this context, mining capitalism enables and structures the actions of mining corporations in a manner that allows them to take advantage of community-based lobby groups and their factional battles. Meanwhile, the outcomes of this structural process preserve their corporate interests while aligning themselves with groups that are favourable to their commercial interests. This confirms the argument that 'other powers are, however, structurally determined: that is, they depend on the position that the actor in question occupies in prevailing social structures... What social structures do, then, is to give agents powers of a certain kind' (Callinicos, 2004: xx). This supports the argument that mining corporations interfere with the work of NGOs that sought to represent the interests of the community (Farrell et al., 2012), indicating that such 'spaces of engagement are always mediated by relationships of power between actors and by the modes of influence that participants exercise' (Maconachie and Hilson, 2013: 353).

Tribal Leadership, Community, Corporations and BEE

The thesis finds that traditional and tribal leaders, as well as the structure of tribal governance, are some of the critical and powerful components of BEE decision-making processes in the mining sector. Neither government nor corporate discourses have acknowledged these as major issues. They conceal the tribal leadership, its cultural power

and its social institutions in how they homogenously define mining-affected communities. Because of this, mining corporations employ BEE to co-opt these leaders into social relations and gift partnerships which contribute to the oppression of mining-affected communities. Meanwhile, they discursively treat tribal leaders as democratic actors and partners in development in their corporate discourse. This thesis highlights this issue as one of the outcomes and weaknesses of the legal and policy framework in the mining sector. This policy allows the government to externalise its political responsibility without providing a communication and development plan. Furthermore, they also use BEE to form partnerships with this group. This practice consequentially limits the policy to distribution. This becomes possible because tribal governance structure is itself anchored on the concept of gift culture and economies and has created structural and historical relations between tribal leaders and marginal communities.

BEE studies have not previously described this result. Although the work of Wilson (2015) does not deal with BEE, it is worth considering here. How mining corporations work with traditional leadership and authorities enables them to 'reap considerable benefits at the expense of the entire community' (Wilson, 2015:3) by reducing decision-making processes to 'symbolic participation' (Kapelus, 2002 in Sydow, 2016:221). This supports the argument that their relations suggest that marginalised people have actively participated in decision-making and have benefited considerably from [community] projects, while they have been essentially prevented from taking part in the same process (Wilson, 2015:03).

By looking at the consequences of corporate and government BEE discourses through CDA and interviews, the thesis builds on these studies. This thesis argues that how BEE ignores institutional practices, such as structures of tribal governance, and mining capitalism has re-created gift cultures between mining corporations and tribal leaders. Because of this, mining corporations draw on *objective constraints* of these structures to use BEE and their economic power to co-opt traditional leaders into some social bonds. These actions 'objectively' contribute to the oppression of mining-affected communities because of the constraining nature of their positions and practico-inertia (Sartre, 1976). In this context, BEE becomes a gift that mining corporations use to control tribal authorities to advance their corporate interests and enrol them into social relations. This supports the argument that 'gifts ...contain inescapable elements of power and morality which create a social bond between giver and receiver as the expectation of reciprocity inherent in the gift leaves the receiver in a position of indebtedness, vulnerable to the whims of the donor, so empowering the giver, while weakening the recipient' (Rajak, 2006: 195). In consequence, BEE 'performs the crucial cohesive function of building links, and avoiding conflict, acting as a form of

consensus building' between mining corporations and tribal leaders (Rajak, 2006: 195). However, this consensus strains the relationship between mining-affected communities and corporations and limits BEE to immediate issues of distribution that conceals sources of oppression.

This confirms the argument that development projects and social intervention such as BEE may end up serving power in the manner which was not imagined because of the non-and-counter-intentionality of structural production (Ferguson, 1994:21). Thus, mining corporations act with the knowledge of institutional rules of mining capitalism while tribal leaders follow the authoritarian rules of tribal governance that ideologically functions on gift cultures and economies. This supports the view that 'challenges inherent in the mining royalty's system are socio-historical and political in their structural framing' (Corruption Watch, 2019:05). These processes of structural production jointly reframe the intention of BEE to strengthen the relationship between mining corporations and tribal leaders in the form of gift culture and economies that produce patronage systems. For this reason, BEE gifts then legitimise the activities of the mining corporations (Rajak, 2006) and allow 'them to claim a certain authenticity: we are of and for the people' (Stirrat & Henkel, 1997: 75) while essentially dividing them by working closely with tribal leaders.

Conclusion

This Chapter discussed how the government and mining corporations jointly employ BEE to construct the symbolic agendas of structural and political transformation. This shows that BEE discourses contain contradictory discourses and social practices from conception and predominantly focus on distributive issues. Both actors contextualise BEE historically within the discourses of colonialism and apartheid to associate the policy with these agendas. However, instead of proposing and adopting solutions that would address historical, structural, and power inequities, the government and mining corporations focus on distribution, ahistorical, market-based, and neoliberal reforms. By historically contextualising BEE, as well as, its activities, and practices, the government and corporations have built an artificial and opaque link between the policy and the transformation of historical, structural and power inequities. For this reason, BEE has now become synonymous with transformation and empowerment. The historical contextualisation of BEE ideologically coordinates the marriage between the policy and the two concepts. However, this marriage breaks away as the government and corporations introduce and adopt the discourses of managerialism and sustainable development, as well as neoliberal practices that reproduce the status quo and support corporate interests. These major discourses and practices

dehistoricise BEE. They treat BEE as something technical and neutral that erode its initial symbolic connection with historical, structural, and power inequities that come with its hegemonic historical contextualisation. Despite being inherently contradictory, mining corporations construct their managerial practices as helping address historical injustices. This represents one of the ways in which the ideology of historicism and BEE have been employed to authenticate the actions of mining corporations to expand corporate power.

CHAPTER SEVEN: CONCLUSION

This chapter summarises the study and the main conclusion and locates its place in scholarship. It offers some recommendations for future studies and explains its limitations. As the previous Chapter devoted its enterprise to a detailed discussion of the key findings and the main conclusions, this Chapter provides a summary of the findings. It also emphasises how the study makes a scholarly contribution, which may extend into a large research programme in the area of BEE, policymaking, and political discourse. The conclusions contribute to live debates, answer the research questions and achieve the aim of the study.

The thesis sought to address the following questions: How do the ANC government and mining corporations jointly use BEE to construct the symbolic agendas of structural and political transformations in South Africa? What are the political and discursive consequences? Since its inception in the 1990s, BEE has been hegemonically associated with the transformation of historical, structural and power inequities – the structural legacies of colonialism and apartheid. This association effectively casts BEE as a politically and structurally transformative instrument. However, the institutional, ideological and discursive process through which BEE earned this political status remains unclear. Even so, many studies proceeded to examine its outcomes and impacts in different sectors on this ticket. It later became a matter of demonstrating how BEE has failed to address, or alleviate, these legacies in different sectors of the economy.

Using the historical, structural, and power inequities – the structural legacies of colonialism and apartheid – as a starting point to measure the outcomes and impacts of BEE tends to produce deterministic findings. It also presents analytical, theoretical and practical limitations, and tends to judge BEE on what it should be rather than what it is, structurally, politically, and discursively. Because of this, this thesis set out to examine how the government and mining corporations jointly employed BEE discourses to construct symbolic agendas of structural and political transformation in South Africa, and the discursive and political consequences of this.

To address this, this thesis employed Fairclough's (1992a/1995a) three-dimensional framework of CDA and interviews to examine BEE government and corporate discourses, as well as their social practices. The combination of these methods provided a balance for the analysis of discourses, their social processes, practices, and context in the manner which unearthed the intentions of both the government and corporations. More importantly, this addressed how these symbolic agendas are constructed to maintain and manage political

interests by presenting the actions of these actors as contributing to institutional change and how they consequentially contained contradictions. Applying CDA and interviews also provided an avenue to understand the evolutions of BEE, especially how it changed and moved from texts to social practices, connecting rhetoric with action and intention, as well as critiquing the consequences of these agendas. The thesis grounded its socio-political conceptual approach to the social practices in Young's (1990) critique of the distributive paradigm of justice that makes a distinction between distributive and non-distributive issues. This approach, together with the application of the constructionist ideas of Potter (1996), helped make BEE constructs, discourses, and social practices, as well as how they establish and maintain power, more visible.

By approaching these issues this way, the study shifted the focus from the outcomes of BEE to issues of conception and creation which relate to the examination and the naming of BEE practices, processes, goods, and rules according to distribution and non-distribution, as well as their institutional practices and context. By explicitly focusing on these issues of naming in their constructionist terms, social practices and context, the thesis made judgments about the scope and the nature of BEE concerning the transformation of historical, structural and power inequities. This also helped identify hegemonic and contradictory discourses, as well as rhetorical choices, of BEE to highlight how the government and mining corporations employed their discursive practices to associate BEE with the transformation of the above-mentioned inequities.

The findings show that BEE legislation and policies originate from the private sector through the BEE Commission Report which recommended the creation of the BBEE Acts, BEE Charters, and the BEE national strategy. This Report introduced the historical contextualisation of BEE which the government and mining corporations later adopted as one of their hegemonic constructs of BEE to justify the creation, the legislation and implementation of BEE through *stake confession*. This discursive process symbolically consolidated the opaque relationship between the policy and the transformation of historical, structural, and power inequities despite omitting institutional practices in its construction.

Both the government and mining corporations deviate from the historical contextualisation of BEE by constructing BEE as a managerial concept, and a genre of the discourses of sustainable development. These discursive choices also emanate from the Report and equally form part of hegemonic discourses, constructions, contradictions, and social practices of BEE government and corporate discourses. These discourses and practices politically function to dehistoricise and decontextualise BEE. However, despite their depoliticising and dehistoricising effects, mining corporations symbolically construct their

managerial practices and CSR activities as addressing historical and structural injustices of colonialism and apartheid. They associate their corporate interests and day-to-day business activities with the transformation of the above-mentioned inequities without undergoing any institutional change.

This highlights the discursive and rhetorical deterioration of BEE. Most important, it is connected to how the government and corporations advance the neoliberal concepts, such as business-led development, *distributive deracialisation* and the externalisation of corporate and political responsibilities. The concepts involve the minimal allocation of goods, income, and wealth in mining-affected communities and disfavour institutional change. Furthermore, the concepts of business-led development and *distributive deracialisation*, which relates to the appointment of black managers, equally emanate from the Report. Ironically, the government and mining corporations deracialise BEE through the adoption of dislocated forms of blackness which cover white female and Chinese South Africans. This practice expands the scope of BEE distribution and disconnects the policy from the transformation of historical, structural and power inequities in the mining sector.

This thesis mainly argues that BEE ignores historical and institutional practices governing the corporate sector and contain irreconcilable discourses which disconnect the policy from the transformation of the above-mentioned inequities from its conception. Discovering these things requires one to take a step back and look at the institutional constructive processes of BEE before making any assumption about its intentions. First, this required us to examine how the government employs language-in-action in their policy documents to achieve its political interests and manage its stakes rather than taking BEE at its word. Second, this required us to understand how corporations responded to the government's constructions of BEE to understand their similarities, ambiguities, and inconsistencies as the policy discursively evolved. This double analytic approach catered for the latter as well as both offensive and defensive rhetoric and provided an avenue to understand the evolution (and deterioration) of BEE. This study of government policy documents and legislation, as well as annual reports, and corporate discourses intended to make these contributions.

BEE and Historical [Re]contextualisation

The thesis concludes that the government has artfully appropriated the discourses of colonialism and apartheid to justify the creation of BEE rather than to encourage any form of institutional change. It strategically acknowledges that structures of apartheid and colonialism have systemically excluded black people from the mainstream economy and the private sector. However, instead of proposing structural solutions that may lead to structural,

cultural and institutional reforms, the government proposes deracialisation and distributive solutions which are based on ahistorical, neoliberal and market-based principles. The government has also used BEE to justify the neoliberal practices of externalising its political responsibility to the mining sector. These measures inherently reproduce distributive inequality and maintain the status quo. Most important, the discursive practice of the historical contextualisation of BEE symbolically help construct BEE as aiming to advance the transformation of historical, structural, and power inequities while focusing on distribution. The government recontextualised the historical contextualisation of BEE from the Report and introduce this in the BEE National Strategy, the BBEE Acts and the Mining Charter.

By historically contextualising BEE, as well as, its activities, and practices, the two actors have built an artificial and opaque link between the policy and this mode of transformation. This connection remained buried in the opaque nexus of discourse, ideology, and power. For this reason, BEE has now politically become synonymous with the concepts of 'transformation' and 'empowerment' without the consideration of its constructions and discourses. The historical contextualisation of BEE ideologically coordinates the connection between the policy and the two concepts in their political and structural sense. Ironically, BEE is predominately limited to distribution, the allocation of goods, and jobs, and the notion of empowerment without autonomy which resist institutional change.

Distributive Deraacialisation

Both the government and mining corporations construct *distributive deracialisation* of corporate structures, which relates to the changing of racial compositions of management and ownership structures, as symbolically advancing institutional, cultural and structural change. However, deracialisation ignores institutional practices and decisionmaking structures, as well as the social divisions of labour and culture while focusing on distribution and empowerment without autonomy. Within the logic of capitalism, linking BEE to ownership promotes the idea of political autonomy and confers one with decisionmaking power. However, BEE emphasises the notion of empowerment without autonomy while symbolically concealing it with ambiguous concepts such as 'meaningful ownership', 'meaningful participation', 'broad-base empowerment' and the overlexicalisation of the concept of transformation. These ambiguous concepts symbolically construct BEE as largescale, structural, and political while focusing on micro issues. Their ideological ambiguity gives corporations the substantial latitude to define their scope of compliance. It also gives rise to practices of ontological gerrymandering (Woolgar & Pawluch, 1985) and mobilisation of bias (Bachrach & Baratz, 1970) which limit their mode of participation and ownership to apolitical issues. In this context, the policy overlooks non-capitalist ways of

looking at decisionmaking structures and power. Furthermore, by focusing on distribution while ignoring the reorganisation of decisionmaking structures, the deracialisation of managerial and corporate ownership structures only re-create distributive inequality, such as the creation of politically connected BEE elite and the status quo (i.e., the domination of whites in the private sector). It also reproduces historical racial insubordination of black people in the workplaces while maintaining and legitimising sociohistorical structures of domination.

Mining corporations construct their business practices, such as the deracialisation of the corporate structures, and the allocation of managerial positions and jobs as symbolically leading largescale, structural and political transformation. They construct these distributive activities as addressing the legacies of colonialism and apartheid without undertaking any measures that may lead to cultural, structural, and institutional change. This shows that these corporations have taken advantage of how the government has historically contextualised BEE to construct the symbolic notions of structural and political transformation. In doing so, BEE ends up contributing to the expansion of corporate power by authenticating and legitimising the existing corporate structures of decisionmaking as inclusive, multiracial, and transformed.

Managerialising BEE

The construction of BEE as leading the symbolic agendas of structural and political transformation, as well as its historical contextualisation, fades away as both the government and mining corporations adopt the ahistorical discourses of managerialism. This hegemonic discourse and its social practices inherently yet ideologically function to dehistoricise BEE and contradict its historical contextualisation. The government recontextualised this discourse from the Report and incorporated it into the MPDRA, the Charter and the SLP Guidelines to prescribe approaches to compliance. This depoliticises and decontextualises BEE before it enters into corporate spaces and structures. Mining corporations actively follow this discourse and its social practices because they do not disrupt their current corporate structures and institutional practices and frameworks. Furthermore, the discourse focusses on the incorporation of BEE into the existing corporate structures, and institutional practices rather than their reconfiguration and reorganisation. It also turns BEE into a technical and neutral concept by eroding its historical context while at same time symbolically converting historical and structural problems into something measurable.

Despite being inherently contradictory, and because of how the government historically contextualised BEE, mining corporations construct their managerial practices as helping address historical injustices. This represents the artful appropriation of the discourses of

colonialism and apartheid to legitimise the managerial actions of mining corporations. It symbolically frames these corporations as actively changing their own institutional, cultural, and structural practices while they effectively use their managerial rationality, power, and logic to limit the impacts of BEE. Therefore, instead of merely dehistoricising and decontextualising BEE, managerial practices reframe BEE to expand the exertion of corporate and managerial power by creating the symbolic appearance of compliance. This legitimises the existing corporate structures because of the 'non-and-counter-intentionality of structural production' (Ferguson, 1994:21) while at the same time depoliticising the existing structural problems such as racial insubordination in the private sector. How the government prescribes the ahistorical discourse of managerialism and its practices from the start, and its predominant focus on distribution, contradict their own constructs of symbolic agendas of structural and political transformation. By extension, this disconnects BEE from the transformation of historical, structural and power inequities. Scholarly, this disputes how Du Toit et al. (2007) tend to consider the managerialisation of BEE as an equivalent of the managerialisation and depoliticisation of the transformation of these inequities.

The Discourse of Sustainable Development

Both the government and mining corporations adopt the neoliberal discourse of sustainable development and social practices to construct their BEE practices. This corporate discourse promotes corporate interests and forms part of the corporate cultural technologies which the mining industry employs to defend their discursive territories and preserve their domination. It also functions to depoliticise political issues of environmental degradation and rehabilitation. Just like the discourse of managerialism, this discourse contributes to the dehistoricisation of BEE, as well as contradicting its historical contextualisation. Furthermore, this ahistorical discourse promotes the orthodoxy of business-led development that constructs mining corporations as self-disciplining moral actors who should drive 'empowerment' through the market (Rajak, 2016a: 29). Its social practices ignore issues of decisionmaking and focus on distribution while concealing issues of environmental degradation from the beginning while positioning corporations as apolitical moral actors. Furthermore, mining corporations embrace the discourse of sustainable development because it preserves their corporate cultures and encourages and reifies their ameliorative logic of CSR which focuses on distribution.

Moreover, this inherently favours managerial logic of mining corporations while disfavours institutional change because the discourse originated from the mining industry and focuses on CSI. In this context, BEE has given mining corporations some form of credibility when they discursively occupy the role of government and promote the idea of developing mining-

affected communities beyond the life of mining activities. They co-opt the discourse to accept the notion of business-led development when it suits their corporate needs while dismissing it when it does not. This discourse and its social practices enable mining corporations to engage in the mobilisation of bias by limiting historical and structural issues, such as, empowerment and environmental degradation, to distribution. These corporations also make promises to communities through the practices of the notion of business-led development and the concept of trickle-down of wealth while concealing environmental issues from featuring in the decisionmaking processes. This allows corporations to focus on CSI, the minimal allocation of material goods, and to suppress challenges to the status quo by containing, depoliticising, and concealing more political issues that require institutional, structural and cultural reforms.

Deracialising BEE

The government and mining corporations deracialise BEE by adopting ahistorical discourses of blackness. This dehistoricises BEE and highlights its racial deterioration as the policy evolves from the macro-level (the Report, the BEE National Strategy, and the BBBEE Acts, to the micro-level (the MPDRA, the Mining Charter, the SLP Guidelines and corporate documents). Instead of legally linking the Charter with the BBBEE Acts, the government has linked it with the MPDRA which introduced the notion of HDSAs, and the ahistorical forms of non-racialism and non-discrimination. This reframes the scope of BEE beneficiaries to cover white females and Chinese South Africans and symbolically purports to promote the idea of inclusivity. The political outcomes of this practice reproduce exclusion and distributive inequality.

The notion of inclusivity can be associated with the strategy of Broad-based Socioeconomic Empowerment (BBSEE) which has omitted the term, black, to deracialise BEE. This deracialisation contradicts the historical contextualisation of BEE, as seen in the Report, the BBBEE Acts and the Charter, which coordinates the marriage between BEE and the transformation of historical, structural, and power inequities. By extension, this contradiction demonstrates the disconnection between BEE and the transformation of these inequities. Most important, this deracialises BEE through homogenisation and neutralises colonialism and apartheid as a powerful reason to still care about race in South Africa. This homogenisation denies the differences between BEE beneficiaries and runs the risk of reproducing historical structural relations between these groups. Du Toit et al. (2007) and Herman (2014) tend to assume that how wineries adopt the ahistorical concept of blackness entails the deracialisation of these inequities and exploitation, as well as transformation. However, the thesis argues that the deracialisation of BEE does not entail the deracialisation

of these inequities since the policy has avoided and resisted addressing and dealing with issues of decisionmaking structures and power as well as institutional and historical practices from its conception.

The Findings of this Thesis are a Contribution to Knowledge

This thesis contributes to scholarship by illustrating, and providing textual evidence on, how BEE has always maintained a discursive stance against the transformation of historical, structural, and power inequities. It concludes that BEE contains contradictory discourses, such as managerialism, neoliberalism and sustainable development which hegemonically resist institutional change from its conception. The way both the government and corporations have artfully appropriated the discourses of apartheid and colonialism to justify the creation of BEE and its practices, as well as how their texts contained irreconcilable discourses, answers the research question and achieves the aim of the study. This discursive practice, as well as the ambiguous use of the concept of 'economic transformation', 'control of economic activities', 'meaningful participation', 'meaningful ownership', 'transformation' and 'empowerment', has created an opaque connection between BEE and these inequities and symbolically created the impression that BEE intended to advance their transformation. However, this thesis highlights that both BEE government and corporate discourses ignore, conceal, and preserve socio-historical and institutional practices. They also contradict the historical contextualisation of BEE and their own notions of symbolic agendas of structural and political transformation.

It was not surprising to discover that BEE has not addressed historical, structural and power inequities, as this is what the scholarly literature and theoretical framework had suggested. The discovery was in the 'how' the government and mining corporations constructed the symbolic agendas of structural and political transformation as well as how the recontextualisation and the appropriation of the discourse of colonialism and apartheid played a central role. Another equally important discovery is how mining corporations took advantage of the weaknesses of the government's rhetoric. These weaknesses discursively yet powerfully enabled these entities to construct these symbolic agendas without undergoing any form of structural, cultural and institutional change.

Discovering how the government and mining corporations have symbolically constructed the connection between BEE and the transformation of the above-mentioned inequities required the reading and re-reading of BEE legislation and policy documents. It was when the study examined the annual reports of the five mining corporations that it became clear that BEE had been employed to construct the symbolic agendas of structural and political changes. This identified processes and discursive practices which the government and corporations

employed to coordinate the connection as well as looking at the proposed solutions to the historical and structural problems through the concepts of distribution and non-distribution as well as their institutional context.

Implications

The thesis undermines the long-standing view that BEE aimed to transform historical, structural, and power inequities in South Africa. The connection between BEE and the institutional change of these inequities tends to give people hope that the policy may deliver something credibly material, as well as largescale, structural and political. However, this hope, as well as the policy itself, only serves to legitimise the current sociohistorical structures and institutional practices in the mining sector as well as macrostructures of neocolonialism and neoapartheid. More importantly, the illusion exempts the government and mining corporations from criticism while blocking communities from envisioning more emancipatory institutions, practices and social arrangements by encouraging their allegiances to the current BEE systems, such as compliance and managerial practices.

How mining corporations already construct BEE and its social practices as addressing historical injustices, even though the government has not called for this, demonstrates that changing the law and its rhetoric would not change their systemic behaviour. Therefore, the incorporation of the transformation of institutional practices in the legislation would not necessarily transform their behaviour. These corporations already politically understand the powerful nature of rhetorically drawing on colonial and apartheid discourses to legitimise their actions through the structures and the cultures of managerialism, neoliberalism, CSR, and sustainable development. As Young (1990:41) has pointed out, 'we cannot eliminate ... structural oppression by getting rid of the rulers or making some new laws, because oppressions are systematically reproduced in major economic, political, and cultural institutions.'

The model of interest-group pluralism, which guides the process of policy formulation in South Africa, conceals and depoliticises political and cultural sources of oppression and their institutional practices. It tends to limit public policy discussion to distribution and moves debates from what needs to be done to what can we do. This is one of the reasons that the government talks about 'sustainable transformation' which highlights the compromises of the outcomes of the interest-group pluralism. It limits the policy to the allocation of the surplus for individual and collective consumption 'rather than the more central question of the best way to control the process to realize social needs and the full potentialities of human beings' (Smith & Judd, 1984: 184).

The current corporate and legal structures governing the corporate and mining sector have reached the level of structural and institutional inertia and will undermine any law that contradicts their managerial logic and rationality. These inert material things and constraints corporations and the government leaders 'encounter bear marks of past praxis, but [they] experience this praxis passively, as having objective properties of [their] own, which may or may not correspond to our current projects and goals' (Young, 2011:54). Worse still, mining corporations are not historical and tend to privilege projects that do not disrupt their corporate structures. Because of this, changing laws would not necessarily promote the much needed institutional, structural and cultural change. We have already seen how both the government and corporations have perverted the language of affirmative action, race, and compliance to promote political and corporate interests.

The legal transition from apartheid to democracy did not lead to the restructuring of the economy in South Africa and became 'an elite project of capturing the state and the means of governance, in contrast to creating an expansive and inclusive democracy based in the activity of the mass movements' (Gibson, 2011:02). As Bond (2014:50) notes, 'the context is the continuity – not change – in various systems of South African super-exploitation, from the era of racial apartheid to the post-1994 class-apartheid era.' This means that 'we currently live under conditions of *de facto* apartheid or neo-apartheid/neo-colonialism in which the same macro-structure of 'imperialist white supremacist capitalist patriarchy' which defined colonial apartheid continues to operate' (Modiri, 2015:229). More (2019:266) calls these socioeconomic conditions of post-1994 'postapartheid apartheid South Africa' to emphasise the continuation of apartheid although under the ANC's liberal democratic government. This liberal government amplified 'rather than correct apartheid capitalism's main economic distortions' (Bond, 2000:24).

Although the producers of BEE symbolically constructed it as a new measure of *economic transformation*, it represents the continuation of this economic order. Thus, its visions and principles of *empowerment* and *transformation* maintain the sustainability of white social control while growing class disparities among blacks and the growth of a small black elite that promotes 'Western imperialist greed' (More, 2019). The decision-making structures of this oppressive economy operate to reproduce distributive inequality and the unjust constraints on the lives of blacks (Young, 1990:23). For these reasons, BEE forms part of tokenistic measures that legitimised the exploitative systems of this economy while helping forestall criticism of unequal relations of white power and the influence of private sector over government while reinforcing domination and oppression by blocking Blacks from politically envisioning more emancipatory institutions and practices. Thus, BEE 'also elides crucial questions about the power relations and ideological underpinnings that inform the particular

injustice being contested' (Modiri, 2015:240). For these reasons, BEE would not lead to any form of structural and political transformation in South Africa despite its famed discourse of 'substantive equality'. BEE's successes mainly depend on the restructuring of the economy, as well as the reorganisation of decision-making structures and power as well as the alteration of social divisions of labour.

However, despite these problems, BEE deals with crucial issues of distribution which provide the necessary reallocation of resources as well as culturally recognising the marginalisation of blacks, even though its distributive approaches would not lead to any change. Because of the existing institutional inertia, the development of mining-affected communities requires the involvement of the national treasury which should directly manage the movement of funds in mining-affected communities. This government department should conduct the financial audits of how much money corporations spend on SLP projects. It should also systematically use SLP funds to support black businesses to promote the culture of entrepreneurs among black people. These measures can operate alongside existing distributive and CSI measures by mining corporations which relate to infrastructure development in the areas of health, and education.

Alternatively, instead of distributing wealth and shares to individual black businesses, the government⁹³ should buy stakes in mining corporations and directly coordinate community development. They do not have to engage in the day-to-day running of the business. They should also develop business incubators that would help develop black businesses from scratch to engage in mining business away from the existing corporate structures. Black businesses require institutional capacity and support beyond the distribution of shares in line with the development needs of the country. This will allow these businesses to develop their own institutional practices under the support of the government. The mining business is not friendly for newcomers and requires the involvement of the state. Furthermore, the state should establish its own mining companies and get involved in the empowerment of mining-affected communities beyond distribution.

Corporations claim that they spend many millions of rand in developing mining-affected communities and employ this to augment their corporate rhetoric. And yet these communities remain among the poorest, and less undeveloped, and politically disempowered in South Africa. How the government has externalised its political responsibility for community development to these communities and corporations contribute to the mismanagement of these funds. This has created more problems that reproduce the

⁹³ BEE 'policies have incentivised the emerging black business elite to pursue individual rather than collective agendas with government' (Chibba & Luiz, 2011:310).

status quo and promote corporate misconducts and unethical behaviours among individual members of the community. Furthermore, it has placed the responsibility of community development and governance with non-government actors who do not have specialised skills and expertise. The government needs to develop specific plans for mining-affected communities and directly involve the departments of economic development, business enterprises, and public works to drive the development of these communities. In this context, the government should also get involved in the decisionmaking processes and should not leave communities to organise themselves through community structures and forums. These lobby-groups are not democratic and tend to promote corporate and narrow interests.

Suggestions for Future Work

BEE has given rise to community trusts which promote gift cultures and economies between mining corporations and traditional councils. This became one of the topical issues of the research, highlighting how BEE has pushed tribal leaders to the political spaces of community development in the most uncoordinated forms. Research participants have identified tribal authorities as another form of the black elite that benefits from mining at the expense of the mining-affected communities. This issue raises important questions about tribal citizenship, and indigenous rights, as well as land ownership, which structure and determine the implementation of BEE in this space. The study has not interviewed members of the traditional councils in South Africa to understand how they understand their role and governance in BEE processes. The importance of this group in BEE decisionmaking processes warrants further research.

How the government and mining corporations employ the language of history, as well as colonial and apartheid discourses, to justify policy formulations and implementation, maybe a microcosm of the abuse of power which tends to perpetuate inequality. Different people associate the post-1994 ANC governments with the dismantling of the structural consequences of colonialism and apartheid. However, others believe that 'while the laws of the country have changed considerably, the architecture, framework, and logic of colonialism-apartheid remains. It refuses to fade' (Modiri, 2015:225). There is a need to study how the legislation in different sectors compounds the legacy of colonialism and apartheid ideologically to draft positions that conceal cultural oppressions and advance corporate and political interests as well as maintaining the status quo.

How the government employed the concept of black people to define BEE beneficiaries (Africans, Indians, Coloureds, and Chinese) represents one of the artful ways in which the government uses the history and discourse of colonialism and apartheid to justify its political interests and choices. These distinctive ethnic groups concomitantly suffered colonial and

apartheid oppression. However, Indians and Coloureds received preferential treatments as compared to Africans. This enacted unequal structural relations between these groups. Treating these distinctive groups, which contain elements of heterogeneity as a monolithic unity conceals these relations. It also suppresses their differences which relate to their cultures, gender, age, geography, and class. Furthermore, this fusion runs the risk of reproducing unequal structural relations in BEE processes. This logic applies to how the government introduced the concept of HDSAs, which expanded the concept of black people to encapsulate white female South Africans, under the pretext of making BEE more 'broad-based' and sustainable. Further work is needed to understand how their structural and historical relations may shape the outcomes of BEE.

The annual reports of the corporations contain word-for-word repetitions. This suggests that corporations reproduce some aspects of annual reports. One of the NGO interviewees highlighted this issue when they reviewed the annual reports of one of the London-based mining corporations, Lonmin. This raises important questions about managerialism that warrants further research. One interviewee suggested that the government does not read annual reports to follow up on the actions of corporations. This allows mining corporations to repeat different elements of their corporate texts with impunity.

Limitations

This thesis has potential limitations. The study makes judgements about decisionmaking procedures. By drawing upon Young (1990), the thesis argues that decisionmaking structures and procedures function to reproduce distributive inequality. However, it has not examined these procedures in the three mining corporations and relied on discourse analysis. While the government and mining corporations de-emphasise these issues in their discourses, CDA has limitations in terms of dealing with silences. The study also depended on the outcomes of these decisionmaking through existing secondary data, such as the literature and government reports, to support the analysis. Future studies could be undertaken to gain an understanding of how corporations take decisions relating to BEE, as well as the attitude of their CEOs towards the policy. Furthermore, the study employs Fairclough's (1992) CDA but has not critically engaged linguistic strategies and has relied more on discursive and rhetorical strategies. While employing Fairclough's (2001) concepts on vocabulary helped highlight how words and phrases are connected to certain discourses, as well as how they function ideologically, engaging linguistic strategies at the textual levels could have strengthened the analysis. Future studies could be undertaken to study how corporations employ these strategies to build defensive rhetoric.

The use of CDA suggests 'that discourse analysts conduct research in solidarity and cooperation with dominated groups' (Van Dijk, 2001:353) and 'openly and explicitly position [themselves] on the side of dominated and oppressed groups and against dominating groups' (Fairclough, Mulderrig, & Wodak, 2007: 358). Thus, their 'theory formation, description, and explanation... are sociopolitically "situated," whether we like it or not' (Van Dijk, 2001:353). As such, I wrote this thesis as an African man who operated with the assumption that 'CDA sees itself not as a dispassionate and objective social science, but as engaged and committed; a form of intervention in social practice and social relationships' (Fairclough, Mulderrig & Wodak, 2007: 358). This suggests that I may be over-critical of the actions of government and corporations. However, to avoid this potential bias, I compared both government and corporate rhetoric, as well as conducting interviews, to ensure that the rigour of the study is not compromised.

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APPENDICES

List of Acronyms and Abbreviations

ANC – African National Congress
ARM – African Rainbow Minerals
B-BBEE/ BBBEE – Broad-Based Black Economic Empowerment
BBC – Black Business Council
BBSEE – Broad-based Socioeconomic Economic Empowerment
BEE – Black Economic Empowerment
CSI – Corporate Social Investment
CSR – Corporate Social Responsibility
DMR – Department of Mineral Resources
The dti – the Department of Trade and Industry
EDD – Department of Economic Development
HDSAs – Historical Disadvantaged South Africans
IDP – Integrated Development Plans
MPRDA – Mineral and Petroleum Resources Development Act
NDP – National Development Plan
NGP – New Growth Path
NPC – National Planning Commission
RSA – Republic of South Africa
SLP – Social and Labour Plan
SAWB – South African Wine and Brandy Company
NGO – Non-Governmental Organisation

Consent Form

TITLE OF STUDY

Constructing Symbolic Agendas with the Discourse of Black Economic Empowerment:
Structural and Political Change in South African Mining

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PURPOSE OF STUDY

You are being asked to take part in a research study. Before you decide to participate in this study, it is important that you understand why the research is being done and what it will involve. Please read the following information carefully. Please ask the researcher if there is anything that is not clear or if you need more information.

The purpose of this study is to understand BEE discourses, social processes and practices and their consequences in the South African mining sector.

STUDY PROCEDURES

This interview is going to last for 60-minutes and the data will be used to produce some part of my PhD thesis.

The interview session is going to be recorded using a cell phone.

RISKS

You may decline to answer any or all questions and you may terminate your involvement at any time if you choose.

CONFIDENTIALITY

Your responses to the interview questions will be anonymous. Every effort will be made by the researcher to preserve your confidentiality including the following:

- Assigning code names/numbers for participants that will be used on all research notes and documents
- Keeping notes, interview transcriptions, and any other identifying participant information in a locked file cabinet in the personal possession of the researcher.
- Participant data will be kept confidential except in cases where the researcher is legally obligated to report specific incidents. These incidents include, but may not be limited to, incidents of abuse and suicide risk.

VOLUNTARY PARTICIPATION

Your participation in this study is voluntary. It is up to you to decide whether or not to take part in this study. If you decide to take part in this study, you will be asked to sign a consent form. After you sign the consent form, you are still free to withdraw at any time and without giving a reason. Withdrawing from this study will not affect the relationship you have, if any, with the researcher. If you withdraw from the study before data collection is completed, your data will be returned to you or destroyed.

CONSENT

I have read, and I understand the provided information and have had the opportunity to ask questions. I understand that my participation is voluntary and that I am free to withdraw at any time, without giving a reason and without cost. I understand that I will be given a copy of this consent form. I voluntarily agree to take part in this study.

Participant's signature _____ Date _____
consent to participate in the study conducted by Metji Makgoba, School of Journalism, Media and Culture, Cardiff University with the supervision of Dr. Catherine Walsh.

Investigator's signature _____ Date _____

Interview Protocol and Guide

INTERVIEW DATE.....

TITLE OF STUDY

Constructing Symbolic Agendas with the Discourse of Black Economic Empowerment:
Structural and Political Change in South African Mining

PRINCIPAL INVESTIGATOR

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GUIDE

Welcome and thank you for your participation today. My name is Metji Makgoba, and I am a researcher at Cardiff University conducting interviews as part of completing my PhD thesis. This interview will be about 60-minutes and will include questioning regarding BEE processes, discourses, policies and programmes, as well as the activities of communities, government and mining corporations. I would like your permission to tape record this interview, so I may accurately document the information you convey.

If at any time during the interview you wish to discontinue the use of the recorder or the interview itself, please feel free to let me know. All your responses are confidential. Our responses will remain confidential and will be used to develop a better understanding of BEE practices and processes in the mining sector.

At this time, I would like to remind you of your written consent to participate in this study. You and I have both signed and dated each copy certifying that we agree to continue this interview. You will receive one copy and I will keep the other under lock and key separate from your reported responses. Thank you. Our participation in this interview is completely voluntary. If at any time you need to stop, take a break, or return a page, please let me know. You may also withdraw your participation at any time without consequence. Do you have any questions or concerns before we begin? Then with your permission we will begin in the interview.

GOVERNMENT

Part 1: Government and BEE policies

- a) How does the government define BEE in South African mining?
- b) Is BEE related to structural and political transformation?
- c) How does the government use the BEE policy in the mining sector?
- d) Do companies take part in what constitute BEE?

- e) How should companies design BEE programmes?
- f) How should BEE be enacted?
- g) How should empowerment be made real?
- h) How should empowerment communicated and what is it mean?
- i) Who experiences empowerment and what kind of empowerment?
- j) How does the government understand the role of mining companies in community relations, BEE processes, and the distribution of resources?
- k) How does government work with mining companies in dealing with issues of water and environment management?
- l) Should BEE be seen as CSR?

Part 2: BEE processes in mining sector

- a) How does the government take part in how companies design BEE focusing on community relations?
- b) Has the government ever intervened in the conflict between local communities and mining companies relating to BEE?
- c) Does the government receive corporate donations from mining companies? And why?
- d) Does the government (in)directly influence how corporations choose their BEE beneficiaries?
- e) What is the role of government, employees and local communities in the conception of BEE?
- f) How do government regulators describe and interpret firms' BEE impact on the community?

PART 3: Corporate-community relations

- a) How does the government perceive and understand the current corporate-community relations in Limpopo?
- b) How does the government officials understand and perceive the role of local communities and mining companies in BEE-driven community relations?
- c) How do government officials and regulators perceive the impacts of BEE activities?
- d) How do government officials understand their role in BEE-driven community relations relating to mining companies and local communities?

PART 4: CORPORATE MESSAGING

- a) What is your understanding of how the mining company practice BEE in the mining sector?
- b) What is your understanding of the mining company's BEE messaging?
- c) Have you ever taken part in how companies design BEE focusing on community relations?
- d) How does the mining company communicate with government regulators and BEE issues?
- e) What are the key themes of their messages?
- f) Who are they addressed to?

CORPORATIONS

TOPIC 1: BEE

- a) What is BEE?
- b) How is related to structural and political transformation?

- c) What are your experiences and views of community relations in the mining sector?
- d) Do you consider BEE a CSR practice?
- e) How do you design BEE?
- f) How BEE is enacted?
- g) How is empowerment made real?
- h) How is empowerment communicated and what is it mean?
- i) Who experiences empowerment and what kind of empowerment?
- j) Does your company have a BEE policy dealing with community relations? Why?
- k) What is the key aims of your BEE policy?
- l) Who gets involved in the drafting of such a policy?
- m) Do government, employees, NGOs, unions and local communities participate in the decision-making process of developing BEE activities? How?
- n) How are they involved and what is the level of their involvement?

TOPIC 2. GOVERNMENT POLICY AND BEE

- a) How do mining companies respond to government's BEE agenda?
- b) What is the role of government policy in your BEE agenda and practices?
- c) What is your perception of the role of government and BEE legislations?

Topic 3. BEE ENGAGEMENT

- a) Why does your company engage in BEE activities?
- b) How and why do you maintain or create community relations?
- c) In the context of community relations and development, how has your company practised BEE? Why?
- d) Who do you consult before developing these BEE programmes?
- e) Which stakeholders does the company target and prioritise when it develops their BEE activities and practices? And why?
- f) Who benefit from the companies' BEE activities?
- g) How do they practice BEE for such beneficiaries?
- h) How does this help the company to maintain its social license to operate?
- i) Has your company experienced conflicts or problems with government or local communities relating to BEE activities and community relations?

CORPORATE REPORTS

- a) Why and how does your company report about BEE activities?
- b) How do you produce your BEE reports? Why
- c) What are the main issues that you take into consideration?
- d) Does the way you talk and write BEE activities help you organise community relations in the mining sector?
- e) How do you represent the voices of their stakeholders? why?
- f) Who are the key audiences of your BEE reports?
- g) What are their key BEE messages?

COMMUNITY PERSPECTIVE: NGOS, UNIONS AND POLITICAL ORGANISATIONS

TOPIC 1: BEE PRACTICES AND COMMUNITY RELATIONS

- a) How do you work with mining companies?
- b) Have you ever partnered with a mining company on a BEE project?
- c) How do you work with communities hosting mining companies in relation to BEE or mining issues, especially environment and water management?
- d) Do you work together with mining companies in developing BEE activities and policies?
- e) How do you respond to the BEE community activities by mining companies? How does this shape your identities?
- f) What are your reasons for accepting or rejecting these community programmes?
- g) How do you perceive corporate-government relations in the mining sector?
- h) Do you receive donations from mining companies?

Topic 2: CORPORATE MESSAGING

- a) What is your understanding of how the mining company practice BEE in the mining sector?
- b) What is your understanding of the mining company's BEE-messaging and community relations, including water and environment management?
- c) Have you ever taken part in how companies design BEE focusing on community relations?
- d) How does the mining company communicate with government regulators and BEE issues?
- e) What are the key themes of their messages?
- f) Who are they addressed to?

COMMUNITY AND POLITICAL LEADERS

TOPIC 1: GOVERNMENT AND CORPORATIONS

- a) What is your understanding of the role of government in community relations in the Mining sector?
- b) What is your understanding of the role of local communities in how mining companies design and practise BEE?
- c) How do you understand and perceive corporate-government relations in the context of BEE?

TOPIC 2: CORPORATE MESSAGING

- a) What is your understanding of how the mining company practice CSR-BEE in the mining sector?
- b) What is your understanding of the mining company's CSR-messaging relating to BEE and community relations?
- c) Have you ever taken part in how companies design CSR-BEE focusing on community relations?

TOPIC 3: COMMUNITY DEVELOPMENT AND CONFLICT

- a) Have you ever intervened in the conflict between local communities and mining companies?
- b) Have you (in)directly influence how corporations choose their BEE-CSR beneficiaries? And how?
- c) What is your understanding of the government's water and environmental preservation relating to the issues of mining?

LIST OF INTERVIEWEES

1. Corporate and Mining Official A (1A)
2. Corporate and Mining Official B (2B)
3. Corporate and Mining Official C (3C)
4. NGO Official A: Mining, Community and Environmental Affairs (4A)
5. NGO Official B: Mining, CSR and Environmental Affairs (5B)
6. Local Government Official A: Local Economic Development and Mining (6A)
7. Local Government Official B: Local Economic Development, Mining (7B)
8. Provincial Government Official A: Sector Development and Mining (8A)
9. Provincial Government Official B: Department of Land Reform (9A)
10. Provincial Government Official C: Water and environmental affairs (10A)
11. Regulator and Provincial Government Official: Department of Mineral Resources (11A)
12. Community Activist A: Mining journalist and community leader (12A)
13. Community Activist B: Community Leader, Archbishop (13A)
14. Community Activist C: Former mining official and now government spokesperson (14A)
15. Community Activist D: Mining Lawyer (15A)
16. Scenario Planner, Mining Policy Consultant and Analyst (16A)
17. Investor and BEE beneficiary (17A)
18. BEE Beneficiary (18A)

Table 1

Table 2