UNIVERSITY OF CAPE TOWN

FACULTY OF COMMERCE

RONDEBOSCH, CAPE TOWN, SOUTH AFRICA

B-BBEE and its impact on the South African Construction Industry

The Strategic Response of Four Large South African Construction Companies to Transformation Targets placed by the Establishment of Broad-Based Black Economic Empowerment (B-BBEE) Policy. Examining from 1994-2014.

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February 2016

A dissertation submitted in *partial fulfillment* of the requirements for the award of a Master of Commerce in Economic Development

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Acknowledgements

Firstly, I would like to acknowledge that it is through Christ that I can do all things.

I would like to thank my parents for their continuous support throughout my academic career. A special appreciation goes to my siblings, Nozipho and Njabulo Mpanza for keeping me sane, fed and motivated during the writing process. I am equally grateful for all my close friends and the SAWIP family, whose contribution to my life during the turbulences of 2015, kept me enthused and optimistic. The completion of this dissertation would not be possible without the dedication, patience and support of my supervisor, Professor Brian Levy. Your integrity has inspired me.

I dedicate this paper to the memory of my late sister Gugulethu 'Minky' Mpanza.

Table of Contents

List of figures

List of Tables

Abbreviations

Table 1: List of Abbreviations

ANC	African National Congress
BEE	Black Economic Empowerment
B-BBEE	Broad-Based Black Economic Empowerment
BEPs	Built Environment Professionals
CIDB	Construction Industry Development Board
CEO	Chief Executive Officer
CFO	Chief Financial Officer
COSATU	Congress of South African Trade Unions
COPE	Congress of the People
CSC	Construction Sector Charter
CSCC	Construction Sector Charter Council
EME	Exempted Micro Enterprises
DBSA	Development Bank of Southern Africa
DIRCO	Department of International Relations and Cooperation
DTI	Department of Trade and Industry
DPE	Department of Public Enterprise
DPW	Department of Public Works
EE	Employment Equity
GEAR	Growth, Employment and Reconstruction
IDC	Industrial Development Corporation
IEC	Independent Electoral Commission
JSE	Johannesburg Stock Exchange
M&R	Murray & Roberts

NAFCOC	National Federated Chamber of Commerce
NEF	National Empowerment Fund
NERSA	National Energy Regulator of South Africa
NHFC	National Housing Finance Corporation
NP	National Party
NRF	National Research Foundation
PDI	Previously Disadvantaged Individual
PPP	Public Private Partnerships
QSEs	Qualifying Small Enterprises
SABC	South African Broadcasting Corporation
SAP	Structural Adjustment Programme
TBCSA	Tourism Business Council of South Africa

Clarification on English language usage*:*

British English is employed throughout the dissertation, except when quoting directly from a source written in American style English.

Formatting:

Quotation marks are used to identify direct quotations.

Chapter 1: Introduction and Overview

1.1 Introduction

Black Economic Empowerment (BEE) is perhaps one of the most contentious policies endorsed by the ANC-led South African government. With far-reaching objectives, the policy is seen as an important concept in discussions about South Africa's development and public policy discourse. Central to these goals is the advancement and increased participation of black people in the economy, as highlighted in the Broad-Based Black Empowerment (B-BBEE) Act of 2003. The later inclusion of the term 'broad-based' in the initiative was a means to emphasise that BEE was non-elitist, but rather aimed at the establishment of broader socio-economic justice and transformation. The South African government has therefore argued that the promotion of B-BBEE in the workplace is a vehicle to implement transformative changes that would result in the advancement of several black people (Public Works, 2006).

However as an instrument that seeks to effect change in the South African social and economic landscape, its definition and interpretation remain slippery, subsequently resulting in a lack of clarity on the effectiveness of its application in the private sector. Prompted by the numerous anecdotal presentations that seek to create a better understanding of BEE in South Africa, I found it necessary to conduct a study that would inform one of how this public policy instrument is implemented, as well as how it has impacted the strategic approach of a segment of the private sector.

This dissertation thus seeks to critically investigate, examine and describe how four large South African construction companies[1] have responded to and engaged with Black Economic Empowerment. Using these companies as a case study, namely, Murray & Roberts, WBHO, Group Five and Basil Read, the paper will highlight the extent to which BEE implementation has been effective in so far as meeting its objectives as articulated in the scorecard. The scorecard used is embedded in the Construction Sector Broad-Based Black Economic Empowerment Charter (CSC). Moreover, the study discusses the strategic changes undergone by each of the firms over a twenty year period (1994-2014) in their efforts to comply with the policy, while remaining profitable and sustainable. Additionally, through an evaluation of these corporate strategies and various growth paths, the paper aims to articulate the approaches employed by each company in the face of a reformed

[1] The words 'company/companies', 'firm/firms', 'business/businesses', 'enterprise/enterprises' are used interchangeably throughout the paper.

political environment, assessing the common tendencies displayed in the industry. The paper consequently seeks to fill in the gaps in literature with regards to the strategies that large companies in the construction industry have gradually adapted in order to continue operating in a democratic South Africa. Thus, through its investigations, it addresses how and why; (1) industry designed and adapted its corporate strategies to fit the institutional arrangements of BEE, (2), how the industry has responded and implemented BEE, and (3) how the industry has influenced the policy.

1.2 Problem Statement and Research Question

This research paper seeks to discuss the manner in which four of South Africa's large construction companies have responded to BEE policy though highlighting the changes in their corporate strategies as well as their engagement with the construction sector scorecard. Moreover, it describes the B-BBEE policy in detail and how it was applied to the construction industry. In doing so, the paper will answer the following question: *How have four large South African construction companies strategically responded to transformation targets placed by the establishment of BEE policy? Examine from 1994-2014.*

By interrogating this question, this paper hopes to show that BEE policy is a dominant feature in the strategic landscape of these companies, due to the high proportion of public sector clients in the construction industry.

1.3 Significance of Study

The construction sector is especially useful in examining the effectiveness of BEE implementation. This is mainly because of the high volume of business that flows from government to industry (with the government's need for a functional construction industry to meet reconstruction/infrastructure goals) that necessitates a committed relationship between the two parties. Moreover, construction creates an economic ripple effect and aids socio-economic development. With infrastructural development along with the empowerment and advancement of the previously disadvantaged being a high priority for the ANC-led government, the relationship between the state and big players in the industry has important implications for the overall growth path of the sector. Public works in areas such as housing delivery, transportation systems, hospitals and stadia have a direct impact on development. The erection of office buildings, factories, malls and hotels further illustrates that construction serves a critical link to skills development, job creation and service delivery while simultaneously showing that private sector construction is also another major contributor towards development.

Hence, in light of the prominent economic position that the construction industry holds in South Africa, a clear understanding of the companies' response to BEE and why they have chosen various paths is essential in attaining a better understanding of how large corporates have interacted with BEE/B-BBEE policy along with its scorecard.

Moreover, the study aims to add value to the limited body of knowledge that deals with the impacts and effects that BEE policy has had on predominantly white, large South African companies who seek to continue operating in the domestic market.

1.4 Research Methodology

The broader drive of this dissertation is to determine business-state arrangements in South Africa and whether these are working to the benefit of a transformed makeup of South Africa's corporate sector. Taking such an analysis a level lower, the focus is then on the construction sector. The aim remains to determine that indeed the industry has been highly responsive to BEE pressures, taking the implementation of BEE policy seriously through adjusting their corporate strategies accordingly.

Research has included multiple types of sources that are of a qualitative nature, to support this industry-level hypothesis. Firstly, through a literature review, a contextual perspective of BEE policy and the construction industry is discussed. Using quantitative data and various reports from the companies, the corporate strategies during the evaluated period were investigated.

The research methodology was largely through a desktop-based study, which included data from publically available information. Primary data has consisted of the annual reports over the period 1994 to 2014 for all the firms, as well as information from numerous media releases, websites, journal articles as well as publicised articles.

An analytical template was constructed to organise the data in a clear, concise and systematic manner. The template merely divided the data into six sections that would become the sections of this paper. A series of charts, tables and figures were constructed from the analytical template and were thus useful for the discussion.

1.5 Chapter Outline

The chapters are set out as follows;

Through a literature review format, chapter two begins by providing an overview of BEE policy in South Africa. This is followed by a historical outline of the South African construction industry as well as an examination of the key bodies in the sector in chapter three.

Chapter four focuses on the key features of the construction sector B-BBEE charter and scorecard. The chapter discusses some of the individuals who shaped the charter and thus dictated how industry engages with empowerment and transformation.

Chapter five examines the trends of BEE policy implementation within the four leading firms. This chapter begins the empirical analysis of the paper by firstly discussing the history of each the four major players that are the case study for this paper. It further discusses the early BEE transactions as well as the inclusion of black elites onto company boards as steps taken to implement BEE by the firms. Moreover, this chapter analyses the scores obtained by each firm in their efforts to comply with the sector charter.

The sixth chapter discusses the corporate strategies and performances of the firms over three time periods in seeking to understand *why* strategies were set and altered according to the anticipated programmes promised to be rolled out by the state. The quest here is to investigate whether a key component of these companies' BEE strategy has been an incorporation of transformation as a business imperative and not merely as a compliance requirement, largely because of their continued dependence on public sector contracting.

The last chapter includes recommendations on the ways forward for the companies and predictions on how the relationship between these private sector players and the state through BEE policy will unfold over the years. Additionally, the chapter concludes and summarizes the paper.

Chapter 2: The history and evolution of Black Economic Empowerment (BEE) in South Africa

2.1 Introduction and Chapter Outline

This chapter aims to give the background and motivation of Black Economic Empowerment (BEE) policy in South Africa, particularly contextualizing it in light of South Africa's oppressive apartheid history and detailing its relevance in South Africa. The section then describes two approaches to BEE as documented by Gqubule (2006), namely the minimalist and maximalist approach, which aid in the attempt to clearly define BEE. The chapter seeks to give a detailed review of BEE, its history and the drivers that eventually led to the dismantling of BEE towards the development of a grander framework, known as the Broad-Based Black Economic Empowerment (B-BBEE) Act. This chapter is shaped around synthesising literature on BEE/B-BBEE locating the policies within the wider narrative of South Africa's development trajectory that sees this policy framework as a bridge between business and state.

2.2 An Overview of the Historical Context leading to BEE

South Africa remains one of the very few countries in the globe to exit a period of discrimination, turmoil and violent segregation without the extreme use of force, violence or even the outbreak of a civil war. It is a nation characterised by the triumph of the human spirit through Ubuntu and a transition process that was able to facilitate a stable state. Part of the discussions in 1994 were questions around how a black majority that faced discrimination against under colonialism, slavery and apartheid rule would be integrated into the mainstream economy and become active participants in it. Attempting to rectify the centuries of oppression would undoubtedly be a long process. Hence, it was (and remains) necessary for policies aimed at doing so to be effective, efficient and impactful.

Although these past injustices are perhaps the most obvious and prevalent factors contributing to initiating transformative policies in a democratic South Africa, political economy considerations, as well as economic inefficiencies, are also worthy to be noted. As argued by Acemoglu, Gelb and Robinson (2007) basic economic theory suggests that there are potentially big productivity benefits gained from overcoming the misallocation of human and physical capital. The logic behind such an assertion is the understanding that apartheid left behind a mismatch between the distribution of ownership of assets and the abilities of those that can use them after liberation (Acemoglu et al, 2007). The significance of empowering black people in all spheres of South Africa therefore lies in the fact that the systematically designed oppressive vehicle that was apartheid aimed to ensure that the drivers and beneficiaries of wealth, progress and success in South Africa would never be black. One ought to, therefore, comprehend that all government work pre-1994 successfully worked together in bringing about discriminatory public policies that were used to achieve the goal of economically uplifting the white minority while purposefully oppressing the black majority. Such policies include:

- Preferential access to public sector procurement as well as other government favours to Afrikaner-owned businesses
- Labour legislation that restricted skilled blue-collar employment to white workers
- An unequal education system that systematically attempted to prepare black youth for the unskilled labour market

Based on this understanding one can argue on both positive and normative grounds that the redistribution of assets and affirmative action are socially efficient policies.

There have been significant steps taken towards transformation in democratic South Africa over the past 21 years; however the country remains characterised by racially based income disparities and severe social service inequalities. Not only is this unjust, but it acts as barriers that prevent South Africa from achieving its full economic potential. Moreover, the centuries of political, legal, economic and social disempowerment has made it complex and overwhelming to find best practice methods that could apply to the South African case. This then implies that although South African could “borrow” from similar cases across the globe - particularly the newly decolonised successes - its processes would be fundamentally different as it pursued a more racially inclusive way forward where the oppressed would work with the former ‘enemy’ in rebuilding a new society. Dealing with the legacy of apartheid consequently required direct intervention in the distribution of assets and opportunities that would unlock doors that were closed to the black majority.

The negotiated settlement essentially secured the ANC political power, while simultaneously accepting the principles of a market economy. This largely resulted in significant compromises for the advancement of blacks and thus the role of the private sector became pivotal in the plight of equality and justice. From as early as the mid-1980s, before the beginning of any transition process, 'big business' had begun looking for accommodation within the ANC through a series of meetings in Lusaka and Geneva (Southall, 2006). By the early 1990s, with negotiations in place the ANC had 'warmed-up' to adopting more market-friendly macroeconomic policies in response to not only the global context[2], but also accepting the idea that the use of state power to assert for black ownership and control in the private sector was in line with its theory of National Democratic Revolution (NDR) and thus, its decolonising principles (Tangri and Southall, 2008). Therefore by 1996, the ANC had shifted from its 1994 election manifesto placard and people driven Reconstruction and Development Programme (RDP) to the Growth, Employment and Redistribution policy (GEAR) that became its strategic framework in 1996 (Randall, 1996; Habib and Padayachee, 2006; Ponte, Roberts and van Sittert, 2007). GEAR entangled with it a push for 'big business' to increase the number of black managers and board members, rapidly making room for black capitalists in their ownership structures as well as expanding black-owned businesses.

Hence, prior to 1997, the economic empowerment of blacks was an informal post-apartheid project that saw large white corporations and conglomerates unbundle and dispose their non-core assets, selling these to a handful of upcoming black elites, usually those with some political clout (Randall, 1996; Southall, 2006; Tangri and Southall, 2008).

2.3 The Creation of Black Empowerment Policy

For clarity and understanding, it is useful to divide the timeline of the BEE trajectory into two types; first, is the private sector led, unguided and sporadic initiatives of the late 1980s and early 1990s. Second are the government led initiatives of the formalization and institutionalization of the concept through public policy and institutional mechanisms such as the establishment of the Black Economic Empowerment Commission in 1997.

The first strand of BEE was marked by collective and individual tactics characterized by, first (the collective tactic) black- owned finance through *stokvels* (rotating savings and investment in existing and new assets). Secondly was the (individual tactic) transfer of some assets from white business to the very small group of established black entrepreneurs (Gelb, 2004). The acknowledgement of black business development agencies such as, Nafcoc (National Federated Chamber of Commerce), Fabcos (Foundation for African Business and Consumer Services), Nasasa (National Stokvel Association of South Africa) and Business Challenge is

[2] The Soviet Union had collapsed in 1990, which resulted in a fundamental change in the international landscape as the world moved towards capitalist economics.

made under the first tactic as they also played a crucial role in the definition of BEE in its inchoate stages (Mabeta, 1991). This “first phase of black empowerment’” as Southall (2006) has articulated, saw board appointments and share transfers being conducted at some of the country’s biggest enterprises, one such deal leading to the establishment of the country’s first black company listed on the JSE in 1995[3]. Consequently, one finds that across all sectors the structure of the first phase of BEE were deals involving white companies selling portions of their unissued equity to a few pre-identified black purchasers [4] (Acemoglu et al, 2007). In most cases this equity was issued at below the market price depending on the firm’s structure and equity availability. This gave rise to controversies that considered the entire process as a form of fronting.

The first type of BEE can be viewed as a “bottom-up” tactic where the goal of black economic empowerment was taken as to assist and accelerate the appearance of a *non-racial representative government* in South Africa. According to Browning (1989) the commonly accepted theme was that if black people, both as a collective and individuals could become more prosperous, that very fact would enable the process of political change to take place more quickly. Engdahl and Hauki (2001) argue that in the late 1980s and early 1990s, white business regarded black economic empowerment as a mechanism to create a black middle class with interests in the economy. The idea behind this was that by partly re-arranging the racial composition of the ownership structure, this would assist in ensuring a market economy and political stability.

What one can infer from this is that a few sectors of capital had concluded that apartheid no longer made economic sense and was no longer good for business, particularly with regards to the new prospects brought by the international economy. As argued by Browning (1989) Black economic empowerment, in this first type, “could be viewed as having a ‘trickle up’ effect, transforming government from below upwards”. After 1994, this tactic developed into a means of appeasing the new government. The response from corporate South Africa, when the ANC came into power, was the appointment of black non-executive directors and selling businesses to black empowerment groups (Engdahl and Hauki, 2001; Tangri and Southall, 2008). Furthermore, financial institutions provided funding through ‘Special Purpose Vehicles’ (SPVs), enabling black people without capital to go into business as well as aiding black business in purchasing shares in white companies.

[33] Led by Dr Nthato Motlana, the New Africa Investment Ltd (NAIL) became the first black company to be listed on the JSE. The Industrial Development Corporation (IDC) facilitated the R137 million acquisition by these back investors of a 10% stake in Metropolitan Life, from Sanlam.

[4] This is an assertion to be tackled in the deep company analysis later in the paper.

The second part of the timeline indicates the second type of BEE trickled from the “top down”. Its tenure is marked by the formalization and institutionalization of the BEE concept through, among other things, the enactment of the B-BBEE Act of 2003 as well as its provisions such as the Codes of Good Practice and the Empowerment Charters (DTI, 2004). The period from 1997-2003 is integral to the making of BEE policy, as negotiations were held and sector charters established. Detailed in the timeline below are the key ‘events’ that led to the promulgation of the B-BBEE Act.

Figure 1: BEE Timeline

YEAR	EVENT
1997	BMF meeting in Stellenbosch establishes the BEE Commission
1998	- BEECom was formally introduced under the Black Business Council umbrella - Capture of black emerging elites by white capital
1999	Thabo Mbeki furthers the ideals of an African Renaissance and emphasizes the making of a black bourgeoisie/ black capitalist class[5]
2000	The BEECom releases its initial findings and recommendations [6]
2001	BEECom releases its final report, recommending greater government intervention in the empowerment process
2002	-State begins forcing the pace of empowerment[7] -Speedy process of empowerment begins to alienate established white business[8]

[5] In a speech to the Black Management Forum in November 1999, Mbeki makes the call for a “‘black bourgeoisie whose presence within our economy ... will be part of the process of the deracialisation of the economy”. He further adds that this will “promote the interests of the disadvantaged black majority through job creation and skills development.” (Tangri and Southall, 2008)

[6] This initial report emphasises the importance of both ownership and control in the entire empowerment discourse

[7] Acting on the pressures from black business about the slow movement of black empowerment , government is made to take up a position in the advancement of black empowerment

[8] “Established white business grew alarmed about the possibility of greater government intervention in the world of capital. In May 2001, the mainly white South African Chamber of Business (SACOB) even questioned the wisdom of empowerment legislation saying the markets would not tolerate it.” (Tangri and Southall, 2008)

2002	-Leak of the draft mining charter causes havoc in the stock market[9] -Truce was reached when Mbeki administration commits to drawing up a Transformation Charter that would set BEE benchmarks, timeframes and procedures
2003	-BEE Strategy document was released in March -Agreement among stakeholders that BEE be more broad-based – not just about ownership quotas and the transfer of corporate assets to wealthy black elite
2004	B-BBEE Act was promulgated in April, in line with 2003 policy document Public Works Minister, Stella Sigcau launches the construction sector charter initiative[10]
2005	A committee for the establishment of the Codes of Good Practice on BEE is assembled and headed up Philisiwe Buthelezi

The birth of this era is marked by a desire by a group of emerging black elites to formalise better and avoid fronting in empowerment practises. The idea of Black Economic Empowerment was therefore first conceptualised in a Black Management Forum (BMF) meeting held in Stellenbosch in 1997. The meeting, which took place from 14-15 November 1997, initially gave rise to what was then named the BEE Commission (BEECom) with the view that black people should direct and take charge of a new vision for their economic empowerment, a process that, until then, had been conceptualised, controlled and driven by the private sector, as previously mentioned. Following the meeting, the BEECom was formally established in May 1998 under the auspices of the Black Business Council (BBC), an umbrella body representing 11 black business organisations. The BEECom stated that its aim was to facilitate the capital of black people into business, by creating state policies that would directly serve this goal. Together with its first chairperson, Cyril Ramaphosa[11], the commission pledged and dedicated itself to the transformation of the private sector, particularly in majorly white dominated industries.

The Commission also called for" greater government intervention to give impetus to economic empowerment" (Ponte, Roberts and Sittert, 2007; Tangri and Southall, 2008).

[9] The government's empowerment proposal for the mining sector, which was leaked on 19 July 2002 provoked a major fall in the JSE (Tangri and Southall, 2008). R56 billion was wiped off the value of South Africa's mining stocks as "international investors reacted adversely to the draft charter's statement that black ownership in the mining sector should amount to 51%" (Joffe, 2005; Ponte, Roberts and Sittert, 2007).

[10] Discussed in detail in chapter 4.

[11] Cyril Ramaphosa a former trade unionist, turned business mogul. He is currently the Deputy President of the Republic of South Africa.

Thus, in 2001, there was a demand from black business to government that they take greater steps towards transformation while white capital argues that the markets would be unable to tolerate any empowerment legislation. As illustrated in the timeline, it is in 2002 - following the havoc caused by the leaked draft mining charter on the financial market – that government decides to revisit issues about empowerment, subsequently committing itself to lead the development of a BEE strategy. Government vowed to work alongside big business to come to "mutually acceptable solutions" (Tangri and Southall, 2008). After lengthy consultation with the DTI and private sector stakeholders came the release of the official BEE strategy document in 2003, which was followed by the legislation of the B-BBEE Act.Following the enactment of the Act came the emergence of non-governmental agencies aimed at verifying and evaluating B-BBEE credentials of companies.

2.4 The Approaches to and Narratives for BEE

Gqubule (2006) argues that two dominant approaches subsequently emerged over the forming years of BEE. The two strands of BEE discussed above are to be understood along the lines of the minimalist versus the maximalist approach to economic empowerment. The first is the minimalist approach that equates BEE to the development of a patriotic bourgeoisie of black managers and entrepreneurs. In brief, the minimalist approach as defined by Edigheji (1999) is one which "emphasises a proportional representation of previously marginalised groups of people in the public and private sector". It seeks to alter the racial composition of privileges and exploitations to create a new circuit of racial capital accumulation. A minimalist approach tends to promote the empowerment of a few black individuals and the disempowerment of the majority of the black population who do not have access to the new circuit of racial accumulation (Adam, Slabbert and Moodley, 1997).

On the other hand is the maximalist approach which is said to be all encompassing of a greater deal of factors as it aims to promote democratisation and transformation of institutions, as opposed to the mere inclusion of a few individuals from the formerly oppressed demographics into ownership and managerial positions (Edigheji, 1999). The approach is said to be about improving the position of black people, in particular, women, through measures that ensure a more equitable overall distribution of assets and income. This broader national empowerment strategy is one that includes broad-based redistributive strategies such as land reform, job creation, rural development, urban renewal, poverty alleviation, black women empowerment, skills and educational training as well as the reprioritisation of government services. From these approaches, come three narratives that better describe BEE, with the first two being of core focus in this dissertation.

2.4.1 The First Narrative

The first narrative focuses BEE discourse and practice on the career mobility/advancement of black managerial, professional and business ranks, comprising of a group of small, new elites and is largely in alignment with a minimalist approach. This narrative also encompasses seeing BEE in terms of the creation of a black business class, where black people can acquire share certificates in previously white companies or secure government tenders and an equity stake in government initiated business through licensing and privatisation (Gqubule, 2006). As argued by Edigheji (1999), perhaps the biggest limitation of this first narrative is that it restricts the black majority to become spectators of fellow minority blacks, who have succeeded in their communities and are thus to be admired and celebrated. The success of these black individuals or companies is to give a psychological boost to the black community, inspiring and motivating them to engage in "productive socio-economic activities" dispelling the impression that success in business is a purely white phenomenon (Gqubule, 2006 and Butler, 2007).

During the years leading up to the legislation of B-BBEE in 2003, it is precisely in the manner described above that corporate South Africa responded and approached the transformation agenda. From 1998, there is an insurgence of large companies from across all dominant sectors as they rush to capture South Africa's emerging black capitalist elites with political clout (Randall, 1996; Edigheji, 2000; Chabane, Goldstein and Roberts, 2006; Tangri and Southall, 2007). This period is known for the marriage of white partners who brought with them monetary capital and aspiring black capitals who delivered political capital. Individuals such as Saki Macozoma who took up a seat on the board of Murray & Roberts are among those noted as the main beneficiaries of this period. With this came a lot of scrutinies as analysis pointed out that BEE was an elitist club. The state saw a need therefore to re-evaluate the pursuit of black empowerment such to ensure that it is one that is inclusive of a much wider mandate to have a further-reaching impact.

2.4.2 The Second Narrative

The second narrative states that there is a broader cause to BEE as envisaged by the later development of the B-BBEE Act in 2003.

Seeing the controversy and that the first BEE related strategies lacked in depth and specific reform areas, the need arose at the beginning of the new millennium to review and revise these strategies with the hope to create a more formalised, broader-reaching framework. The B-BBEE Act (No 53 of 2003)[12] created a legislative framework for the promotion of BEE (Government Gazette, 2009). The Act was to embody some of the objectives of reformation mentioned in the initial BEECom, however, more precisely, the Act and BEE as a whole were to be (and perhaps remain) a key element in the new political order. This broader-based empowerment strategy was set to streamline black empowerment and do so through grouping the core factors into seven elements, namely; ownership, management, employment equity, skills development, preferential procurement, enterprise development as well as corporate social investment/socio-economic development initiatives. These elements were eventually developed into a scorecard, which is used as a tool to monitor and evaluate the performance of various stakeholders in achieving set targets. The driving force behind these is that by meeting any or a combination of these objectives, companies (regardless of the industry which they operate) have the opportunity to promote empowerment. Broad-based BEE is therefore designed to move corporate South Africa to be involved and active it the transformation agenda, by thoroughly addressing these seven elements. Change from the seemingly elitist, non-reformation, narrow BEE mandate was largely driven by vibrant discourse among major stakeholders including the ANC and black business owners[13] (Ponte, Roberts and Sittert, 2007).

2.4.3 The Third Narrative

The third narrative involves structural changes in economic arrangements that go well beyond anything BEE can address on its own. These would include strategies that are aimed at structural changes such as a move to a more labour-intensive economy that can absorb the numerous amount of unskilled workforce in the country (Iheduru, 2004). This narrative emphasises the need for rapid factor accumulation, for poverty eradication and ultimately the achievement of full employment for South Africans, specifically, black South Africans. This narrative is to be closely associated with Gqubule’s assertion on the maximalist approach. Similarly, in a report conducted by Ernst & Young (2012) it is pointed out that the rationale for BEE is to ensure that all who were previously denied access should

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12 This is the Act currently in use, regulating all BEE frameworks. The entire Act is available on: https://www.thedti.gov.za/economic_empowerment/bee.jsp

13 Moreover the state realised that the broader-based version would be a key mechanism in the support for more stable business-state relationships in South Africa.

now be helped to regain their dignity and become full participants in the economy of South Africa. Moreover, depending on the ideological position of the state, this would also include discussions around the abandonment of market-basic economic organization, however the debate of the third narrative falls outside the scope of this dissertation, as it discusses a range of complex issues, with some that are peripheral to the B-BBEE discussion.

2.5 The Arising Complexity of Defining B-BBEE

The years 1998-2003 are arguably the most pivotal in the making of BEE into an actual, realisable policy. As a result, there was a substantial amount of detail to clarify before the legislation of what later became known as the Broad-Based Black Economic Empowerment (B-BBEE) Act of 2003 as has been highlighted and discussed earlier in the chapter through the use of a timeline. Firstly, there was a necessity during those years to clearly define BEE before framing it into any framework. What one finds after the description of the three existing narratives is that over the years, BEE had come to mean different things to different factions. This first BEECom together with the ANC saw it as an integrated and coherent socio-economic process that would be located in the broader context of the country’s national transformation programme (Chabane, 2003; Iheduru, 2004; Acemoglu et al, 2007). Big business saw it as its way of acquiring political capital through opening access to ownership through equity while aspiring black capitals viewed it as the first step towards creating a black middle-class (Tangri and Southall, 2008). More broadly, society was led to believe that since the spatial dimension of apartheid policy created a deep-seated racial disadvantage by preventing asset accumulation and systematically undermined the human capital of black people through Bantu Education, BEE sought to be an empowerment initiative that was essential in redressing the centuries of economic disempowerment.

2.6 What then is B-BBEE?

The ANC government has been grappling with defining BEE as a distinct policy instrument that is geared to benefit the previously disadvantaged majority as a whole and not just the black elite. The formalization of B-BBEE was thus government’s effort to do away with narrow BEE and come up with a strategy to benefit the previously marginalized majority in its entirety.

> Moreover, according to the BEE Act “broad-based black economic empowerment” means the economic empowerment of all black people including women, workers,

youth, persons with disabilities and individuals living in rural areas through diverse but integrated socio-economic strategies (The Presidency, 2003). These strategies include, but are not limited to:

a) Increasing the number of black people that manage, own and control enterprises and productive assets;
b) Facilitating ownership and management of enterprises and productive assets by communities, workers, cooperatives and other collective enterprises;
c) Human resource and skills development
(The Presidency, 2003)

Subsequently, post the development of the Act in 2003, each sector was mandated to formulate its own transformation charter[14], with specificities that would be suitable for that particular sector and could be readily implemented. The negotiations among stakeholders in each industry were to lead to a more consolidated and 'balanced' B-BBEE scorecard that would broadly focus on transformation vis-à-vis ownership, management, skills and enterprise development. The broader based Codes and Sector Charters are not only aimed at encouraging and formalizing broad-based empowerment but also placed more emphasis on the inclusion and participation of women and new sector players. These actions are in tune with the second narrative discussed in the paper, which sees the BEE agenda as more than ownership and share equity.

Notably, the idea of BEE can be quite elusive as was discussed. There is no escaping the fact that both BEE and B-BBEE are indeed fundamentally 'class projects' and that an argument can be made that even B-BBEE will only go some reasonable distance towards creating an inclusive, equitable society. This argument is however not the focus of this dissertation. This study is aimed at assessing the extent to which BEE has been implemented in the private sector – specifically the construction industry as well as the performance of the sector thereof. It makes sense to contrast only the first two narratives as the paper focuses on the ways in which B-BBEE has gone beyond the initial BEE mandate to create a broader and deeper meaning. That is to say that the concentration of the paper is the ways in which it (B-BBEEE) seeks to produce a national bourgeoisie, in support of the emergence of a skilled middle class beyond BEE.

Furthermore, as legislation supersedes any other documentation, from this point onwards, this study is going to use the narrower definition of B-BBEE (originating from the Act) as the

[14] The charter is to be discussed in depth in chapter 4.

prime definition for all its purposes of investigation. That is, BEE is defined using the DTI definition (2003), while B-BBEE is defined regarding the Act of 2003. It follows that the BBBE discussed in this paper is significantly narrower than that proposed by Gqubule, Edigheji, Butler and Southall, but is indeed still broader than BEE.

2.7 The Components and Elements of B-BBEE

BEE was initially measured according to three pillars, namely; 1) ownership and control, 2) management and 3) community development. In order to fit into the idea of B-BBEE, these three components were further refined. The current seven key elements of B-BBEE are sub-areas of the three components. Additionally, the components together with the elements are focal points of the B-BBEE scorecards. On the next page is the illustration (DTI, 2004):

Table 2: B-BBEE Scorecard and its Elements

Pillars	Beneficiary	Elements
a) Direct Empowerment	Equity holders, executives and other owners and managers of economic resources	1. Ownership 2. Management Control
b) Human Resource Development	Employees and job seekers	3. Employment Equity 4. Skills Development
c) Indirect Empowerment	Suppliers, communities and other relevant stakeholders	5. Preferential Procurement 6. Enterprise Development 7. Residual/Socio-Economic Development

Source: DTI, 2012

To measure the impact of B-BBEE's policy objectives across various entities and sectors within the economy, the seven elements are able to provide a common basis for this. The elements are as follows as according to the DTI:

Table 3: The Seven Elements of the Generic B-BBEE Scorecard

Code	Element	Objective	Weighting	Compliance Targets
000	Conceptual Framework of B-BBEE	General Principles and Generic Scorecard		
100	Ownership	Measures effective **ownership** of enterprises by black people	**20 points**	25% +1
200	Management Control	Measures effective **control** of enterprises by black people	**10 points**	40-50%
300	Employment Equity	Measures initiatives intended to achieve **equity** in the workplace	**15 points**	43%-80%
400	Skills Development	Measures the extent that employers carry out initiatives designed to develop the **competencies** of black employees	**15 points**	3% of payroll
500	Preferential Procurement	Measures the extent that enterprises buy goods and services from **BEE compliant suppliers as well as black-owned entities**	**20 points**	70%
600	Enterprise Development	Measure the extent to which enterprises carry out initiatives contributing to **Enterprise Development**	**15 points**	3% (NPAT)
700	Socio-Economic Development	Measures the extent to which enterprises carry out initiatives contributing to socio-economic development	**5 points**	1% (NPAT)
Total Points			**100 points**	

Source: DTI, 2012

From the points accumulated from the scorecard, firms are able to ascertain their BEE status level, which are as follows:

Table 4: BEE Status Levels

BEE Status	Qualification	Procurement Recognition Level
Level One Contributor	≥ 100 points on the generic scorecard	135%
Level Two Contributor	≥ 85 but <100 points on the generic scorecard	125%
Level Three Contributor	≥ 75 but <85 points on the generic scorecard	110%
Level Four Contributor	≥ 65 but <75 points on the generic scorecard	100%
Level Five Contributor	≥ 55 but <65 points on the generic scorecard	80%
Level Six Contributor	≥ 45 but <55 points on the generic scorecard	60%
Level Seven Contributor	≥ 40 but <45 points on the generic scorecard	50%
Level Eight Contributor	≥ 30 but <40 points on the generic scorecard	10%
Non-compliant Contributor	<30 points on the generic scorecard	0%

Source: DTI, 2012

The third column in the table above is a multiple that is used to amplify the recognition received by procuring goods and services from a company that complies with BEE at a certain level. This is done to encourage procurement from BEE compliant companies. Moreover, as a component of the scorecard that is closely related to Enterprise Development (ED), it creates an incentive to use ED as a means to improve the recognized status of suppliers in “order to bolster the recognition regarding procurement in terms of BEE” (Jack, 2007).

This model allows achievements of B-BBEE to be carefully monitored. Additionally, the B-BBEE Act (2003) provides implementation instruments for B-BBEE. The implementation instruments are; the Codes of Good Practice, the B-BBEE Strategy, the Advisory Council, as well as the industry-specific Charters.

2.8 Critique and Controversies of B-BBEE Implementation

The implementation of B-BBEE has received a significant amount of negative appraisal from various fronts. It is widely argued that few relatively educated black, or more precisely, politically connected people, have benefited greatly from new opportunities as a result of democracy (Makgetla, 2004). It is often argued that outside the big parastatals, the restructuring of capital has done little to open new opportunities for black entrepreneurs.

According to Makgetla (2004), there has been a growing demand from the black upper class that government do more to help them penetrate big business. This is an interesting assertion considering that looking at the origins of BEE, as described in the first strand of BEE, comprised of private sector initiated processes with companies such as Sanlam that proactively spearheaded the process.

Pallo Jordan, former ANC Member of Parliament (MP) and Cabinet minister, once argued that the emerging black bourgeoisie is perceived as the prime hope for setting “a new agenda of corporate social and civil responsibility” (Edigheji, 1999). Others have labelled them the “patriotic bourgeoisie” (Edigheji, 1999) or “comrades in business’ as Southall (2006) alleged. Edigheji (1999) contends that for proponents of the minimalist BEE approach, the success of the black elite or black business would give a psychological boost to the black community, giving inspiration to all black people and dispel the illusion that commercial success is only a white phenomenon.

Adam Habib, current Vice Chancellor of the University of the Witwatersrand once made the assertion that, “the designers of the macroeconomic strategy had expected that all the rich people that would emerge would use that money to build factories and jobs; in fact, they have just accumulated more wealth for themselves” (Philp, 2004). Stober and Robinson also made a similar observation stating that, “companies have shown a preference for well-known names as they transform their make-up while not risking their value by taking on unknown partners with little business experience (Mail & Guardian, 2004). Southall (2006) makes the same point and further argues that following the more Africanist orientation adopted under the presidency of Thabo Mbeki in 1999; the government’s approach to BEE became increasingly focused and assertive. It is stated that the aim of this seemingly more coherent and targeted approach to BEE is the creation of a prosperous and prosperity making black capitalist class capable of working in close harmony with a “developmental state”[15] (Southall, 2004).

Thus despite an attempt by government to highlight its focus on ‘broad-based’ BEE with all the policy and institutional instruments, it is widely believed that the visibility and presence of a BEE minimalist approach continues unabated. This is the assertion that this paper aims to analyse and challenge through leaning on its use of four players in construction industry as case studies.

[15] The “bottom-up” and “top-down” approaches to BEE simply denote the origins of the empowerment processes, namely; bottom-up: from outside government and mainly led by the private sector, and top-down: formalized and led by government. The two approaches should not necessarily be interpreted as “narrow” versus “broad” BEE.

Chapter 3: The Evolution of South Africa's Construction Industry

3.1 Historical account of the South African Construction Sector

The literature of the South African construction industry indicates that the sector finds its roots in the migration of white capital and the settling of colonialists in the country (Master Builders South Africa, 2007). A great deal of these migrations took place in the 19th century due to the discovery of minerals in various parts of the country. In particular, the founding of Johannesburg in 1886 brought together individuals from all over the world in what was to become known as "the industrial and financial centre of South Africa" (Feinstein, 2005). Arguably a considerable of amount of 'building South Africa' as it currently stands took place in the post-war years. With the formalisation of apartheid in 1948, which saw the National Party (NP) ascend to power, came dramatic changes in the development path for the construction industry. A skills shortage had a massive impact on the domestic construction market, particularly post the World Wars as it became increasingly unsustainable to reserve construction jobs for white workers only, due to the volume of work available in the sector (Master Builders South Africa, 2007).

Encountering similar issues was the mining industry which together with the construction sector soon became instrumental in the development of the South African economy as both utilised cheap black labour. One thus finds that a historical account of one cannot be divorced from the other, as both industries have continually developed through rapid expansion and oligopolistic behaviour tactics which has resulted in few dominant players in the sectors.

Accompanying the introduction of apartheid was an accelerated growth of 'big business' in South Africa, as a few large companies, backed by massive state support begun to dominate in their industries. In the financial services it was Volkskas that dominated while Sanlam and Old Mutual thrived in the insurance market and Anglo American along with de Beers ruled in mining. The construction sector was no different, as various construction entities came together in the hope that growth in size would strengthen capability, increasing profitability. The mining industry – which is marked as the backbone of the South African economy - originally comprised of independent white diggers coming from various corners of the world in search of great fortunes in the diamond fields of Kimberley and the gold mines of Johannesburg during the late 1800s (Master Builders South Africa, 2007). With mining expansions growing rapidly at the beginning of the 20th century and the requirement for underground mining becoming eminent, authorities at the time opted to do away with laws that had previously restricted black labourers (Master Builders South Africa, 2007). As the mining industry grew, the construction sector followed closely behind, as demand for housing, schooling and other necessities increased. Moreover, the continuous upsurge of revenues generated from mining was able to provide means of establishing infrastructure, giving rise to a more sophisticated construction industry.

In the 1920s the construction sector grew to a great extent, becoming one of the largest contributors to South Africa's Gross Domestic Product (GDP). The decades to follow saw the formation of private construction companies as they took the lead and became instrumental in the proliferation of infrastructure development throughout the country, including power generation, mining and transportation systems. Thus, during the early years of the century, the industry was governed by mostly engineers setting up small businesses, often having to enter into joint ventures with other firms for large-scale infrastructure projects (Master Builders South Africa, 2007). Naturally the success of these firms in the industry was accelerated by huge public sector investment in the infrastructural development of South Africa by the National Party (NP) led apartheid government. Thus bolstered by construction, mining was an immensely lucrative industry that impacted surrounding mining towns, not just for the mines and the profiting entrepreneurs, but also for the expansion of those towns.

By the 1950s, three of some of the biggest construction companies that exist today were dominating the industry. Namely, these were Concor, which was formed in 1948, Barrow Construction, which at the time involved in the building of Witwatersrand University, Basil Read as well as Roberts Construction. Arguably, the oldest of the firms in the industry is Murray & Roberts and has rightly been labelled "the granddaddy of the construction industry in South Africa" (Masters Builders South Africa, 2007). The amalgamation between Roberts Construction and Murray & Stewart in 1967 to form Murray & Roberts Construction is what enlarged these two – already large companies – to become industry giants, sustaining this stature for decades to come[16]. It is therefore later in the 20th century, that the sector begun to comprise mainly of large firms such as Murray & Roberts who had tightened their relationships with the state through strong political ties with the governing Afrikaners. Moreover, such firms, including the likes of Basil Read and Concor managed to acquire

[16] Highlights of the Murray & Roberts story are detailed in Chapter 5.

smaller start-up companies, diversifying their interests and increasing their service offering (Masters Builders South Africa, 2007).

The late 1960s and early 1970s were boom periods in South Africa as urban construction grew rapidly (van Graan, 1993). Moreover, heavy construction, whose fate was tied to government infrastructure roll-outs and the mining industry's capital expenditure, was also thriving, requiring the capability of well-resourced construction companies able to meet the demands of both their private and public sector clients. Since years of capital controls made it difficult for South African companies to invest abroad, this then also resulted in increased vertical and horizontal integration by these South African firms. This translated into businesses that were largely interested in becoming larger. Perhaps the most pivotal illustration of this was in the mid-1970s when a merger between five construction firms was approved, marking the establishment of Group Five, which was to become an industry giant in years to come.

Besides the high level of success achieved by Group Five even during its early days, other leading companies in the 1970s, leading up to the 1980s include Goldstein Building (GBT)[17], WBHO, Murray & Roberts, Concor, Basil Read as well as Tiber Bonvec Construction.

From a policy chronicle, legislation affecting the construction industry from the 1950s right up to the 1980s reinforced the fundamental intentions of apartheid, limiting black participation to the domain of unskilled artisans and cheap labour (Sigcau, 2000). This was achieved not only through the Bantu Education Act of 1953 but also through the Native Building Workers Act of 1951. Job reservation was further reinforced by the Industrial Conciliation Act of 1956. As articulated by Sigcau (2000) "These instruments of policy shaped the entire industry to the benefit of white artisans, contractors, professionals and materials suppliers". Consequently, the black sector faced a range of hurdles, including the inability to access markets, training and finance, with all these contributing to a vicious circle.

3.2 Towards Democracy: Evolution of the Industry in the 1990s

As the decade of the eighties drew to a close, major political developments had taken place in South Africa that would significantly alter the relationships between business and government. Ian Robinson, executive director of Building Industries Federation South Africa (BIFSA) in 1991 wrote a review on the state of the industry, in which he remarked that, "the industry was gripped by the most severe recession since the Second World War with

[17] The firm was later incorporated into Group Five.

workers leaving the industry in droves and creating a critical skills shortage." (Master Builders South Africa, 2007). He however added that there were signs of sustainable growth that were achievable under a new political scenario. There was thus a sense of euphoria about prospects in the industry leading up to South Africa's 1994 democratic elections as those in the industry were optimistic about the future.

Real signs of growth seemingly prevailed for the construction industry in 1994 as the ANC-led government embarked upon its Reconstruction and Development Plan. The plan came at the most opportune moment for the industry as it had been battered by a shortage of work, where non-residential building activity had dropped by over 22% in 1993, while investment in housing had fallen by 3% (Master Builders South Africa, 2007). Just over 230 companies has been liquidated between 1990 and 1994 due to a severe drop of over 40% in investment in building. Government's announcement to take on a mass housing project that would see over 100 000 houses built in 1995 and the improvement of infrastructure across the country was a challenge well-received by players in the industry.

To further cement its planning, in 1995 government saw it fit to initiate a '*Captains of the Industry*' initiative in the hope of bringing together major industry stakeholders to discuss ways of bringing the industry towards some regulation and moderation (Sigcau, 2000). The decades of apartheid meant that there was a disproportionate distribution of infrastructural resources that were accessible to black people, resulting in massive backlogs of basic services to a majority of citizens. The meeting addressed the partnership roles of government and industry, with the view that this collaboration would give impetus to the shaping of a comprehensive policy framework.

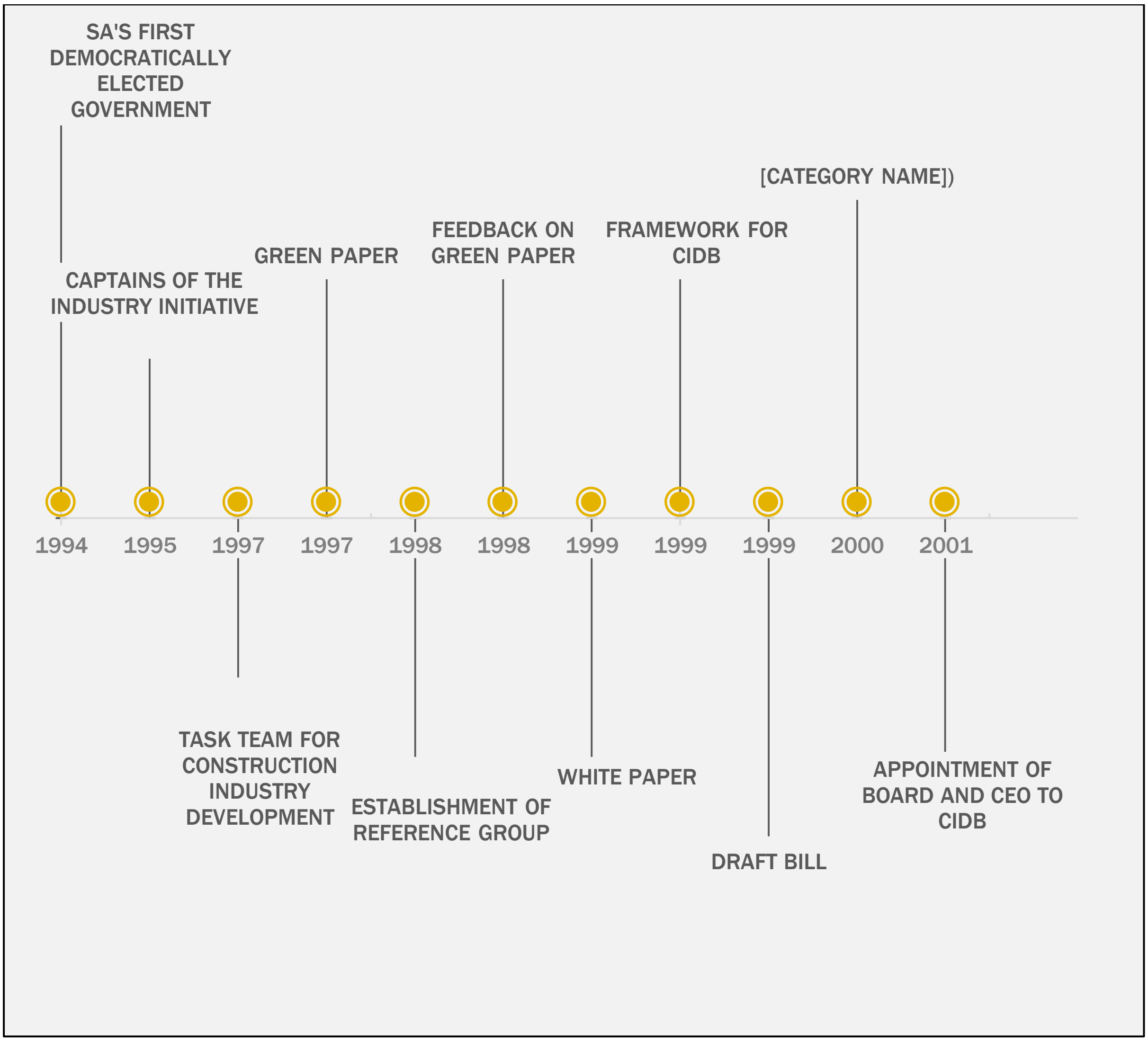
The industry thus had to evolve in the 1990s from one that served a predominately white society, developing areas, cities and towns for the betterment and convenience of white South Africans towards a more innovate and inclusive sector. Government resources through the RDP were channelled towards building homes and developing infrastructure that would address the challenges faced by the country's black majority.

For the purpose of this study, in order to understand the current structure of the industry, it is vital to examine and delve into a deeper discussion about the body which began from these debates and that currently governs the sector.

3.3 The Present Structure of the Construction Industry

As previously alluded to, before the establishment of the Construction Industry Development Board (CIDB), the organisational structure of the industry was such that firms had no legitimate regulating authority and was an industry that excluded any black owned or managed companies from competing for any large scale (private or public sector) projects. Below is a timeline detailing the key developmental milestones towards bringing the state and private sector together, followed by a discussion on the current structure of the industry.

Figure 2: Sector Milestones



Following the “Captains of Industry Initiative” an inter-ministerial task team was established in 1997 to develop proposals and content that would result in a green paper. The motivation for the Green Paper arose out of a shared interest among various stakeholders to have a framework that would monitor the strategic role towards social development and economic growth that the construction sector could play[18]. With such a broad mandate, it became the duty of the task team[19] to engage intensively with industry stakeholders in refining what was to be the construction sector's development policy and framework. In 1998 after numerous rigorous debates, feedback from the Green Paper was received by the task team with the general feedback pointing towards the necessity of a body that would better integrate the construction industry as well as align the sector's vision and objectives with national interest (Department of Public Works, 1999)[20].

The White Paper tabulated in 1999 was thus a result of a very broad public policy making process, putting together the greatest concerns of the industry from data gathered from the Green Paper and the debates that followed it. At the time, the RDP was South Africa's national developmental framework, thus, the spirit of the White Paper encapsulated the values of the RDP. The White Paper also made clear the vision and objectives for the industry, paving the way for the formation of the Construction Industry Development Board (CIDB).

The CIDB Act 38 of 2000[21] established the CIDB "in order to implement an integrated strategy for the reconstruction growth and development of the construction industry" (Centre for Competition, Regulation and Economic Development, 2014). Other regulatory requirements that seek to broadly police and monitor the industry, ensuring that it keeps up with a national agenda, include B-BBEE. Besides the B-BBEE Act, there are also the Joint Building Contract Committee (JBCC) contractual rules, the Competition Act no. 89 of 1998, as amended (the Competition Act), the Employment Equity Act, as well as the Constitution of the Republic of South Africa.

3.4 The Foundation of the CIDB

Emanating from the White Paper *Creating an Enabling Environment for Reconstruction, Growth and Development in the Construction Industry*, the CIDB Act set the agenda for the promotion of industrial growth and development to be spearheaded through a partnership between the private and public sectors. In 2001, the CIDB was founded, with the

[18] Cabinet support had already been obtained in 1996 to develop a construction sector policy, with the Department of Public Works mandated to lead this initiative. The South African constitution had not been adapted at the time, prolonging any processes for government policy formation.

[19] The task team was drawn from both industry and government and supported by the Public Works Secretariat.

[20] Feedback was received from more than 20 organisations and individuals.

[21] A draft bill was first put before cabinet in 1999 and later approved.

appointment of a board chaired by Brian Bruce[22] and Spencer Hodgson as its first CEO[23]. The table below describes a few of the building blocks that lead to the founding and establishment of the CIDB, picking up on details excluded from the previous timeline.

Table 5: The CIDB Timeline

Statutory Building Blocks for the Establishment of the CIDB	
Appointment of the CIDB Board	April 2001
Approval by Ministers of Public Works and Finance of the Remuneration System for top management	August 2001
CEO Appointed	December 2001
CIDB is listed as a Schedule 3A public entity enabling transfer of funds from the Department of Public Works (DPW)	December 2001
First transfer of funds by DPW based on a Summary Business Plan for 2001	December 2001
Approval by Ministers of Public Works and Finance of the Remuneration System for the envisaged CIDB staff establishment, enabling the staff recruitment plan	January 2002
Development of the 2002/03 Business Plan for Submission to the Minister of Public Works	March 2002
Preparations to establish and convene the Stakeholder Forum	March 2002

Source: CIDB Annual Report 2001/2002

3.5 Mandate and Objectives of the CIDB

According to its website, the CIDB sees its role as “to provide leadership to stakeholders and to stimulate sustainable growth, reform and improvement of the construction sector for effective delivery and the industry’s enhanced role in country’s

22 Brian Bruce was at the CEO at Murray & Roberts at the time.

23 Spencer Hodgson was seconded to Wits University by M&R to assist in their major expansion programme

economy" (CIDB, 2015). The CIDB is a form of government agency with a board that is made up of both private and public sector individuals appointed by the Minster of Public Works and reports to that particular Minster. Additionally, this organisation is mandated to provide strategic leadership that is necessary for a transformed and enabling environment. As previously mentioned, this organ is mandated by the CIDB Act that stipulates the work to be served by the board. According to the CIDB the criteria for selecting those board members is based on one's individual knowledge and expertise of the construction industry. These board members assume a non-executive role, relying on the executive capacity of the organisation to implement the CIDB mandate and its desired objectives (CIDB, 2015).

The objectives of the CIDB are expansive and aimed at both promoting the growth and development of the sector as well as providing a regulatory framework within which the sector should operate. These objectives, amongst others, are as follows (CIDB Act, 2000):

- Promote the contribution of the construction industry in meeting national construction demand and in advancing (i) national, social and economic development objectives, (ii) industry, performance, efficiency and competitiveness, and (iii) improved value to clients.
- Provide strategic leadership to construction industry stakeholders to stimulate sustainable growth, reform and improvement of the construction sector.
- Promote best practice through the development and implementation of appropriate programmes and measures aimed at best practice and improved performance of public and private sector clients, contractors and other participants in the construction delivery process.
- Promote, establish or endorse uniform standards and ethical standards that regulate the actions, practices and procedures of parties engaged in construction contracts.
- Promote sustainable growth of the construction industry and the participation of the emerging sector therein.
- Promote appropriate research on any matter related to the construction industry and its development.

Moreover, contractors that are not registered with the Board are not allowed to undertake, carry out or complete any construction works for the public sector (Department of Public Works, 2006).

To further streamline the structure of the industry, the CIDB instituted other mechanisms to organise the various enterprises operating in the industry. One such mechanism is that under the establishment of the CIDB, the industry has been divided into these four subgroups:

- General building construction
- Industrial construction
- Commercial building
- Heavy civil construction

The South African construction sector is therefore one that is rather complex and multi-faceted. However one finds that there are firms that conduct operations across all subgroups. Moreover, the various firms operating in the industry have been divided by the board into grades.

3.6 Grading of Firms

The CIDB established 20 standard grading systems ranging from grade 1 to grade 9. There are various factors used to determine the grading, such as the contractor's annual turnover, the company's track record and size of its completed contracts. Below is a table illustrating the nine grades with the maximum value that a contractor that falls into that grade is permitted to tender for. As one will notice, there is no maximum value for grade 9 contractors. Additionally, there is a category for 'potential emerging contractors' who are allowed to bid for tenders that are usually restricted to contractors that are graded one category higher. Construction jobs in bulk power services, road works and mining surface earthworks are dominated by the large construction companies while medium-sized enterprises generally conduct projects pertaining to sanitation and bulk water infrastructure.

Table 6: CIDB Firm Grading

Grade	Tender Value less than or equal to R/ Upper limit of tender value range	Best Annual Turnover (R) (50% of Upper Limit of tender value range)	Largest Contact (R) (22,5% of Upper limit of Tender value range. 20% for Grade 2)	Available Capital (R) (10% of Upper limit of Tender value range. 5% for Grade 3 & 4)
1	200 000	-	-	-
2	650 000	-	130 000	-
3	2 000 000	1 000 000	450 000	100 000
4	4 000 000	2 000 000	900 000	200 000
5	6 500 000	3 250 000	1 500 000	650 000
6	13 000 000	6 500 000	3 000 000	1 300 000
7	40 000 000	20 000 000	9 000 000	4 000 000
8	130 000 000	65 000 000	30 000 000	13 000 000
9	no limit	200 000 000	90 000 000	40 000 000

Source: CIDB, 2013

The value of a tender that a firm can bid for is based on factors such as its annual turnover, value of projects undertaken and available working capital, as depicted in the table above. The system is thus able to regulate the extent to which firms can participate in bids for public sector work. There are also provisions in regulations that allow firms to enter into joint ventures, with the possibility that they could receive a higher grade and bid for certain projects. For instance, if there is to be a large project with a value of over R130 million (grade 9), the provision stipulates that a joint venture of three grade 8 firms could compete with the other grade 9 firms (CIDB, 2013).

3.7 Number of registered firms

There are numerous construction firms that are registered with the CIDB, as per the CIDB Act requirement. A majority of these firms are concentrated in the lower CIDB grades. For a firm to be registered as a grade 1 contractor, they need not have any turnover, nor have worked on a project or even be working on one (Centre for Competition Regulation and Economic Development, 2014). A bulk of the professional work is accounted for by grade 5 to 9 contractors. Therefore, it is activities within this category that provide a better indication of the well-being of the sector, according to the CIDB. This is worthy to note as this paper uses four level 9 contractors as its case study of the relations between the sector and black empowerment. Moreover, most of the work of the construction industry is in the general building and civil engineering sub-categories, both categories in which the chosen cases are operational in. The table below illustrates the number of contractors who entered, exited or are currently active in the grades 5 to 9 category between 2009 and 2014.

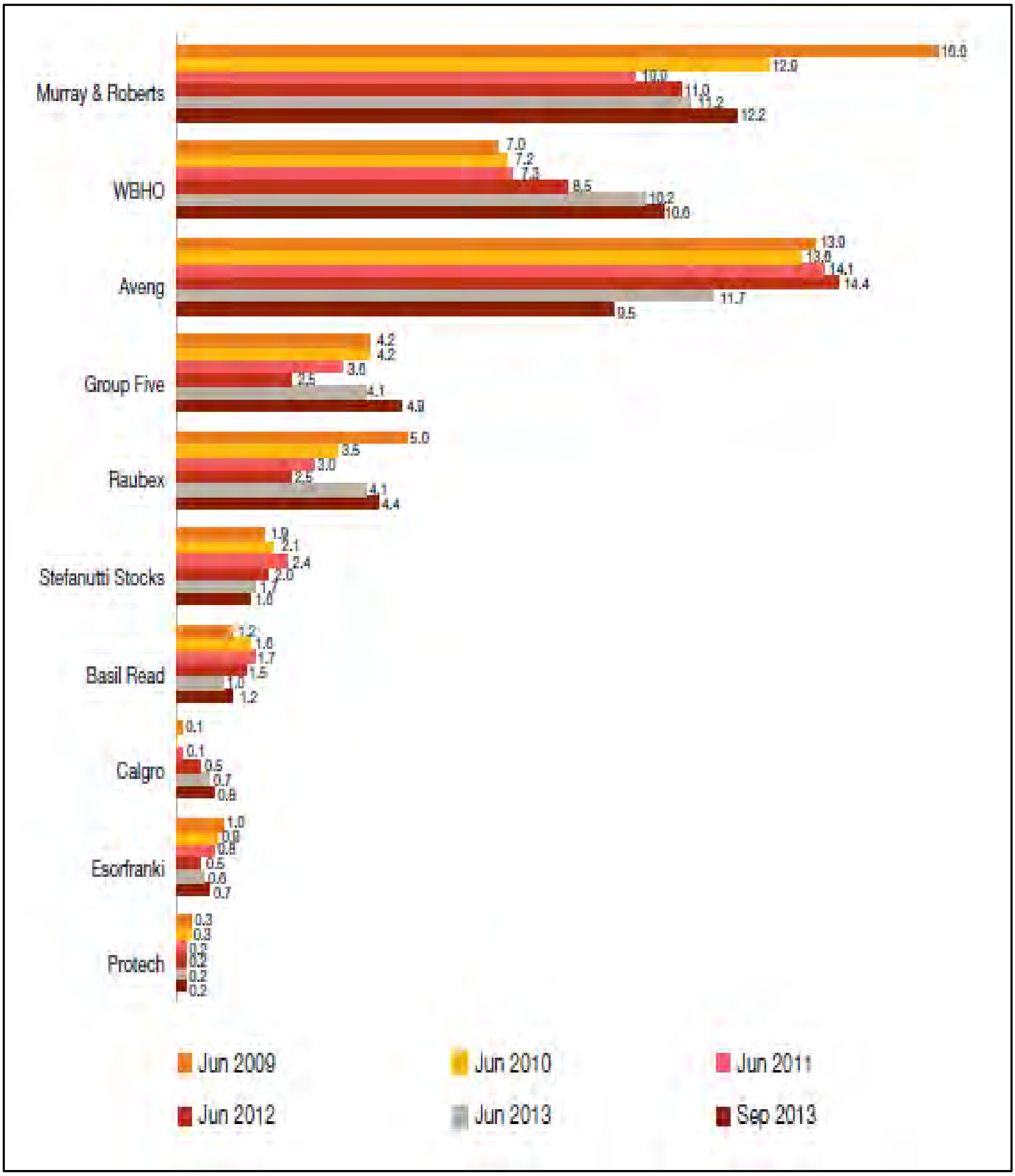
Table 7: CIDB Registered Contractors (grades 5-9) 2009-2014

	Grade 5	Grade 6	Grade 7	Grade 8	Grade 9
General Building					
New Entrants	266	348	142	44	26
Exits	157	179	71	28	12
Current	432	613	309	112	54
Civil Engineering					
New Entrants	305	378	162	47	23
Exits	177	219	82	25	15
Current	465	718	353	129	67

Source: CIDB, 2014

The table reveals that there are a number of firms that are active in these categories between grade 5 to 7, with the number lowering for grades 8-9, however with over 100 registered grade 9 level firms. Likewise, there are a number of firms that have exited the sector, for various reasons such as downgrading, liquidation, merging or voluntary exit. With grade 9 being the highest that a contractor can achieve and with a thresholding starting at R130 million, it is only these firms that can bid for large infrastructure projects. However in practice, of the 67 'currently active' registered civil engineering firms, it is approximately 10 that have the capabilities to undertake large civil engineering projects such as the construction of highways, stadiums, power stations and the like (Centre for Competition Regulation and Economic Development, 2014). To better reflect this, graphically illustrated below are the top 10 construction companies by market capitalisation.

Figure 3: Market Capitalization for Top Ten South African Construction Companies (R' Billions)



(Source: PWC, 2014)

Since market capitalisation shows "the organic growth or regression, merger and acquisition activities and market expectations about the future" (PWC, 2014), it is a good enough indicator when one is determining the key players in the industry. Leading the firms is indeed

Murray & Roberts which is the oldest construction firm in South Africa. These companies have led some of the biggest construction projects in the country, ranging from road works, electrification and buildings.

3.8 Chapter Summary

The framework developed by the CIDB is one that is telling of the current structure of the industry. Before the formation of the board, the industry was unregulated, thus, the CIDB was not only an evolutionary addition to the industry but also brought with it the force to have part of its mandate focused on transformation in the industry. Part of the ethos to establish such a structural framework under which the sector would operate was to propel the inclusion of black business that would be able to develop with the guidance that the CIDB can provide. The South African construction industry does, however, remain dominated by a few large firms (grade 9) that are at best able to compete with the worlds' best. Unfortunately, the bottom end of the market is dominated by many unsophisticated and inexperienced contractors; this has inevitably resulted in the failure and closure of many firms.

To understand the next chapter, it is essential to point out that the CIDB, particularly its board directors and executive staff had an important role to play in the development of the industry's transformation charter as will be discussed. The establishment of this board is a vital stepping stone in a discussion about addressing transformation in the industry.

Chapter 4: Where B-BBEE and the Construction Industry meet: The Construction Industry Transformation Charter

4.1 Introduction

Subsequent to the establishment of the B-BBEE Act, each sector was mandated to formulate its own transformation charter, with specificities that would be suitable for that particular industry and could be readily implemented. The negotiations among stakeholders in each industry were to lead to a more consolidated and 'balanced' B-BBEE charter and scorecard that would broadly focus on transformation vis-à-vis the seven elements. Additionally, one finds that the broader based codes and sector charters are not only aimed at encouraging and formalizing broad-based empowerment but also placed more emphasis on the inclusion and participation of women and new sector players.

Consequently, in this chapter I evaluate and discuss the meeting of these two components, through the negotiation, formulation, promulgation and implementation of the Construction Sector Broad-Based Black Economic Empowerment Charter. This charter was first published in the Government Gazette in February 2007, together with the DTI's Code of Good Practice and became legally binding from May 2009. It has thus only been operational for under seven years, however, a discussion of the details of the process that initiated the charter is one worthy of having as various challenges and controversies arose during the drafting of the Construction Sector B-BBEE Charter. It was no doubt as a result of the numerous stakeholders whose consultation was integral to the formation of a sectoral charter. The following discussion gives insight into the challenges faced regarding the monitoring arrangements that were associated with efforts towards implementing the charter. It also makes note of a few individuals and organisations involved in the drafting of the charter. Thus, before delving into the details embedded within the charter and evaluating the performance of the four enterprises, it is perhaps useful to discuss the manner in which the charter came about.

4.2 The Negotiation in the setting of the Construction Sector B-BBEE Charter

The charter initiative was launched in October 2004 by Stella Sigcau, who was then Minister of Public Works (Parliamentary Monitoring Group, 2005). All stakeholders from the construction sector were invited to participate in the process, which was to commence in July 2005. An Integrated Management Committee (IMC) which was to oversee the entire process was established and would include major trade unions, women's groups and business associations (Parliamentary Monitoring Group, 2005). The IMC was thus responsible for forming technical committees that would provide research that would inform proposals for the charter. Ultimately, the drafting of the charter comprised of a cluster of board members from the then newly formed CIDB and comprised of 16 other parties. Namely, they were; the National Department of Public Works, African Builders Association, The Association of South African Quantity Surveyors, Electrical Contractors Association South Africa, Master Builders of South Africa, National Association of Black Contractors and Allied Traders, National Federation of the Building Industry, The South African Association of Consulting Engineers, South African Black Technical and Allied Careers Organization, South African Federation for Civil Engineering Contractors, South African Institute of Architects, Southern African Institute of Steel Construction, South African Women in Construction, Women for Housing, National Union of Mineworkers (NUM), and Building Construction & Allied Workers Union as well as members from the various firms operating in the industry (Department of Public Works, 2006).

To better streamline the organisational process of finalizing a charter, a steering portfolio committee of the Charter Working Group was created in 2005 and was made up of individuals - some from these organisations - who would take the lead on the entire process. The steering portfolio committee, which was co-chaired by James Ngobeni and Mike Wylie[24] thus took responsibility for the development of the charter, a process that took just over six years to finalise.

Part of the disagreements on the weightings of the scorecard and the objectives of the charter that stalled the entire process centred on the timeframes set for the realization of specific targets (Mashigo, 2005). Since the drafting of the charter had to bring together such a broad range of major stakeholders, including labour unions, large corporate firms, various

[24] Interestingly, there are a few individuals who formed part of this steering portfolio committee, who later assumed dominant positions in the big construction companies discussed later in this paper. James Ngobeni later becomes a board member for WBHO, while Mike Wylie was the chairperson of the WBHO board. Appendix A illustrates some of the influential shapers of the charter, who also held or hold board positions in one of these top companies.

industry councils and government, the process was almost bound to be prolonged by differing imperatives. Unions and some government agencies pushed for narrower timeframes, while larger industry players, argued that wider timeframes would result in a more sustainable improvement. According to James Ngcobo, another area of contention was with regards to the acquisition of a stake in the sector by organized labour. Although there was an agreement in principle with organized labour that they would have an interest in the industry, the format under which this would take place took longer to agree on, with labour demanding at least a 10% stake at the beginning of the drafting process (Mashigo, 2005). Ngcobo (Mashigo, 2005) however insists that it was not around the spirit and core objectives of the charter that there were disagreements among stakeholders. He suggested that since the charter was to apply to all that operated in the industry, and simultaneously needed the 'buy-in' of all the main industry participants, its negotiations took place in arguably good faith, with participants often willing to come to some compromises.

Additionally, it was decided that the same team that was responsible for the Construction Charter would also drive the Property Sector Transformation Charter since both were seen to be moving in a similar direction (Parliamentary Monitoring Group, 2005). Since both these charters were to be finalized simultaneously, this added work and commitment to the committee. Further, it was essential that the construction Charter aligned with the Codes of Good Practice, for it to be implemented in the sector. As there was a lag in the establishment of the codes, this further delayed the finalization of the construction charter. Thus six years and six versions later, it was in 2009 that the Construction Sector B-BBEE Charter was finally born.

4.3 Outline of the Charter

Accordingly, the primary objective of the charter is to not only provide the industry with a framework to address B-BBEE, but also to "enhance and increase the productivity of the sector to meet world best practice" (Department of Public Works, 2006). With a list of more than ten aims including; the promotion of employment equity, the adherence to principles of non-racialism and non-sexism, the enhancement of entrepreneurial development with sustainable growth for SMEs in the sector as well as the improvement of the capacity of the public sector to deliver and promote greater partnerships with government in development initiatives, the charter seeks to lay the groundwork for its visionary targets that are imperative to transformation.

Constituted as a shared approach among all stakeholders, it "lays the basis for the development of a Code of Good Practice for the Construction Sector, as envisioned in the B-BBEE Act" (Department of Public Works, 2006), while simultaneously attempting to address the rapidly changing economic climate that is more celebratory of innovation than engaged with issues of equality and redistribution. Moreover, the charter charges companies to develop capabilities and capacities that are necessary to facilitate the achievement of set targets. Additionally, government support plays a critical role in the facilitation of this growth, including the monitoring and evaluation of the progress of an enterprise towards B-BBEE.

4.4 Components of the Scorecard

Embedded within the charter is the scorecard. As an undeniably significant component of B-BBEE in the construction sector, the scorecard is regarded as the main tool for setting transformation standards against which individual enterprises are measured. It commits government, industry and labour to planning mechanisms that enable businesses to achieve their B-BBEE targets (Fauconnier and Mathur-Helm, 2008). Moreover, the scorecard seeks to act as the custodian of black advancement in the workplace, seeing to it that there are pre-determined targets that players in the industry ought to achieve.

According to the charter, the scorecard "provides an objective and broad-based set of measurement indicators for purposes of measuring B-BBEE progress in and between construction enterprises, in different sub-sectors and in the construction sector as a whole" (Department of Public Works, 2006). The scorecard, including all its elements and inputs pertain to the South African operations of enterprises.
There are four components that make up the scorecard, namely;

1. Elements: These are derived from the B-BBEE Act as well as the codes of good practice which are issued in terms of the Act
2. Targets: These are the quantifiable measurement of transformational initiatives.
3. Weightings: This is the number on the scorecard against which an enterprise's performance in terms of a particular target is measured
4. Indicators: The area of measurement pertaining to an element of B-BBEE

(Department of Public Works, 2006).

4.5 The Scorecard

Illustrated below is the detailed scorecard by each element, its subcategory, weighting and target for enterprises operating in the construction sector. The charter, as well as its scorecard, applies to all companies that are involved in the creation, expansion, and/or maintenance of fixed assets related to residential or non-residential buildings, infrastructure, or any other form of construction works in South Africa, irrespective of their size/grade.

Table 8: The detailed Construction Sector B-BBEE Scorecard, Ownership element

Ownership (25 points)			
Sub Category	**Detail**	**Weighting**	**Target (%)**
Voting Rights	Voting rights in the hands of black people	4	30
	Voting rights in the hands of black women	2	10
Economic Interest	Economic interest to which black people are entitled	5	30
	Economic interest to which black women are entitled	2	10
	Economic interests to which black broad based and/or black designated groups, specifically employees are entitled	5	10
Realization points	Ownership fulfillment	1	No restrictions
	Net equity value	6	30

Source: Department of Public Works, 2006

In comparison to the generic scorecard, the ownership element of this scorecard has been dismantled into three subcategories, each detailing various other objectives that are to be met by a further 'breakdown' of goals, taken from the overall target. One such target is 'economic interest, which refers to the entitlement of black people to dividends, capital gains and rights held by shareholders (Department of Public Works, 2006). Furthermore, although the points weighting for ownership remain at 25[25] (like the generic scorecard), the manner in which those 25 points are achievable has been explicitly specified by the drafters of this charter. Additionally, when signing the charter, enterprises in the construction sector

[25] The targets are 25% and the weighting is 25 points.

committed to achieving all these targets by December 2013 (with a few exceptions set to be fulfilled by 2010), a commitment yet to be fulfilled.

Table 9: The detailed Construction Sector B-BBEE Scorecard, Management element

Management Control (10 points)			
Sub Category	**Detail**	**Weighting**	**Target (%)**
Board	Members of the board who are black people as a % of the board	3.5	40
	Members of the board who are black women as a % of the board	1.5	20
Executive Management	Executive Management who are black people as a % of Executive Management	3.5	25/40
	Executive Management who are black women as a % of Executive Management	1.5	10/ 16

Source: Department of Public Works, 2006

In so far as management control is concerned, the commitments made in the charter were that by December 2010, 25/40% of black people would be at the executive level while by December 2013, 10/16% black women would be at executive management level. The advancement of black women, in particular, was seen as a critical objective in the charter, especially at the board and executive management level, hence the singling out of this particular demographic.

Table 10: The detailed Construction Sector B-BBEE Scorecard, Employment Equity element

Employment Equity (10 points)[26]			
Sub Category	**Detail**	**Weighting**	**Target (%)**
Senior Management	Black Senior Management as % of total senior management	2	25/40
	Black women in Senior Management as % of total senior management	1,5	10/16
Middle Management	Black middle management as % of total mid-management	2	30/40
	Black women in middle management as % of total mid-management	1.5	12/16
Junior Management	Black junior management as a % of total junior management	2	65
	Black women junior management as a % of total junior management	1	27
BEPs - All Management	Black people at all management levels	6	30/40
	Black women at all management levels	4	12/16

Source: Department of Public Works, 2006

The racial and gender representivity in the sector are "symptomatic of apartheid discriminatory policies", (Department of Public Works, 2006). The EE aspect of the scorecard consequently commits signatories to the charter to promote non-racialism and gender sensitivity in the workplaces as well as enhance cultural diversity. These values are also embedded in the Employment Equity Act. The scorecard has also been designed such that enterprises in the sector are required to submit their employment equity plans and certificates of compliance together with their annual B-BBEE reports. Accordingly, the failure to comply with the statutory and administrative requirements of the Act results in a zero score for employment equity on the scorecard. This means that companies must, at least, met the requirements of the EE Act as the EE provisions in the charter are over and above those stipulated in the EE Act.

[26] Under the Amended Codes of Good Practice released in 2013 and which came into effect on 1st May 2015, management control and employment equity have been consolidated into one element. Although with substantially the same indicators, the new combined element is worth 19 points (Levenstein, 2014).

Table 11: The detailed Construction Sector B-BBEE Scorecard, Skills Development element

Skills Development (15 points)[27]			
Sub Category	**Detail**	**Weighting**	**Target (%)**
Training Costs	Direct training cost as a % of payroll per annum	2	1.5
	% of total skills development spent on black people	2	70
	% of spend on black people spent on black women	1	25
	% of spend on black people spent on black management	1	25
	% of spend on black management spend on black women management	0,5	20
Learnerships	Learnerships as a % of employees	1	2.5
	Black learnership positions as % of total Learnerships	1.5	70
	Black women learnership positions as % of total Learnerships	1	35
	Learnership for Black designated groups as % of total Learnerships	1	30
Bursaries	Bursary expenditure on black students, as a % of payroll	2	0,3

[27] Under the Amended Codes of Good Practice, Skills Development has increased from 15 points to 25 points (Levenstein, 2014).

Skills Development (15 points)[27]			
Sub Category	**Detail**	**Weighting**	**Target (%)**
Mentorship	Implementation of an approved and verified mentorship programme	2	Yes

Source: Department of Public Works, 2006

These targets were set under the affirmation that the construction sector consists of a large low-skilled labour force and a limited number of highly skilled professionals. Adequately investing in skills development was set to also be compliant with the Skills Development Act. Enterprises are therefore required to include proof of submission of their workplace skills plan and implementation report in their annual B-BBEE report. Exactly as is with employment equity, non-compliance with the requirements of the Act results in a zero score for skills development on the scorecard.

Beyond the efforts addressed in the scorecard, the sector aims to embark on four additional tasks as means to comprehensively address skills development. Briefly, these are;

1. Promote the various career opportunities available in the sector as well as provide guidance on the access to these opportunities through training
2. Interact more actively with the relevant SETAs and tertiary institutions to foster appropriate skills transfer, as well as facilitate the accreditation of various workplace skills training initiatives
3. Use workplace training, career path development and effective succession planning as a means to increase the level of retention
4. With assistance from the CSCC, develop a mechanism to certify in-house training and recognise the prior learning and development of employees where the enterprise is not a certified training provider.
   (Department of Public Works, 2006)

Table 12: The detailed Construction Sector B-BBEE Scorecard, Procurement and Enterprise Development element

Preferential Procurement (20 points)			
Sub Category	**Detail**	**Weighting**	**Target (%)**
	Total weighted procurement on B-BBEE-accredited companies (measured as per the table in the charter) as a % of procurement	20	70
Enterprise Development (15 points)[28]			
	Input	5 (5)	Yes/No
	Total Turnover Ratio	5 (2.5)	5
	Output	5 (2.5)	Annual GDP Growth
Residual (5 points)			
	CSI as a percentage of payroll	5	0,25

Source: Department of Public Works, 2006

The procurement target was a commitment by enterprises to achieve a weighted target of procurement spent from B-BBEE suppliers of 70% by December 2013 (Department of Public Works, 2006). Preferential Procurement refers to the utilization of black owned suppliers, service providers or other previously disadvantaged contractors in the supply chain of these enterprises. Essentially, Preferential Procurement measures the subcontracting arrangements made by the construction companies in the industry with B-BBEE compliance companies. Entities are thus encouraged to procure from other companies that have a good B-BBEE contribution level based on the scores they have obtained on their scorecards. Therefore, it is not only that in order for a subcontractor to be considered B-BBEE complaint, it must be owned, managed and controlled by black people, but that it must also have an

[28] According to the Amended Codes of Good Practice, Preferential Procurement and Enterprise Development have been combined into one element. The new element known as Enterprise and Supplier Development (E and SD) is worth 44 points (Levenstein, 2014).

overall good contribution level as per its B-BBEE scorecard. In addition to the target set for procurement, signatories of the Charter agreed to the following commitments:

1. The implementation of mechanisms to counter fronting and the abuse of targeting arrangements
2. To develop and implement targeted procurement policies. This would include promoting accessibility of tendering opportunities and early payment cycles
3. Promote compliance to B-BBEE among suppliers regarding their relevant sector charters and
4. Enhance the benefits to local communities and attempt to target appropriate procurement from local enterprises, specifically micro and small enterprises with black ownership exceeding 50%

(Department of Public Works, 2006)

Moreover, due to its importance preferential procurement has specificities that are generic and applicable to all, irrespective of industry.

Table 13: Preferential Procurement Scorecard

Criteria	Weighting Points	Compliance Targets	
		0-5 Years	6-10 Years
B-BBEE Procurement Spend from all suppliers based on the B-BBEE Procurement Recognition Level as a percentage of Total Measured Procurement Spend	12	50%	70%
B-BBEE Procurement Spend from Qualifying Small Enterprises or Exempted Micro-Enterprises based on the applicable B-BBEE Procurement Recognition Level as a percentage of Total Procurement Spend	3	10%	15%
B-BBEE Procurement Spend from any of the following Suppliers as a percentage of Total Measured Procurement Spend			
Suppliers that are 50% black owned; and	3	9%	12%
Suppliers that are 30% black women owned	2	6%	8%

Source: Department of Trade and Industry, 2007

In addition, the procurement from suppliers of goods and services are to be measured against the table matrix in Chapter 2[29].

The enterprise development element is made up of three indicators. One such indicator, the total turnover ratio means that enterprises in the sector ought to aim to “target a percentage of their total annual turnover of the developing organisation as a percentage of total annual turnover of the established organisation of 5% by Dec 2013” (Department of Public Works, 2006). This target is yet to be met. Additionally, some organisations have set up supplier or service provider development initiatives, which would include guiding, mentoring, coaching, tendering, tender advice and in some cases, direct investment into SMME’s in their efforts to develop enterprises. Also, there are numerous other enterprise development programmes such as management and labour skills transfer, procurement skills transfer as well as legal compliance skills transfer (Department of Public Works, 2006).

Corporate Social Investment (CSI) is the only category in the residual element. Numerous sector specific projects including, (i) the promotion of and support for the development of women in the sector, (ii) an establishment of a Construction Advice Centre and (iii) education and training to increase the participation of black people in the sector. CSI projects are therefore largely comprised of various forms of education, training, guidance, development support initiatives and development programmes.

4.6 Monitoring the Scorecard: Construction Sector Charter Council

Progress towards transformation and empowerment within the construction sector are measured and marked by the sector’s compliance with the Charter and its scorecard. Another external body known as the Construction Sector Charter Council (CSCC) was established as a result of the institutionalisation of the Charter in 2007 and was tasked with the responsibility to be the vanguard of measuring compliance with the Charter. What distinguishes this body from the CIDB is that its role is to oversee and monitor the progress of transformation and empowerment in the construction sector, and it is made up of industry voluntary associations which represent established and emerging construction industry businesses, labour organizations and the Department of Public Works (CSCC, 2014). Moreover, the CSCC has the regulatory responsibility to report to the DPW, the DTI and the

[29] Refer to table 3 in Chapter 2.

B-BBEE Advisory Council on an annual basis on the state of transformation and empowerment.

The CSCC, therefore, has no regulatory authority over the industry, but merely oversees and measures the level of enterprise compliance to the Charter and scorecard.

Moreover, the CSCC relies on data obtained from the CIDB to conduct its evaluations and highlight the general trends in the industry (CSCC, 2014). The CSCC also relies substantially on the submission of an annually independently audited report from an accredited verification agency that each enterprise is instructed to submit to the council. These reports which are to be made publicly accessible must contain the enterprise's scorecard and an account of progress in achieving the qualitative undertakings outlined in the charter.

4.7 Chapter Summary

This chapter began by looking at the negotiation and establishment of the Construction Sector B-BBEE Charter in great detail and subsequently examined the sector scorecard. Hence, the focus of this chapter was to detail how the sector charter emerged, as well as describe its elements and indicators. The remainder of the paper seeks to test the validity of the statement that the construction industry has substantially transformed and that B-BBEE has been successfully implemented, by particularly focusing on four large enterprises within the industry. Moreover, having gone through a discussion of; (i) what B-BBEE is comprised of, (ii) the development of organisations such as the CIDB to further grow the sector and (iii) the charter and its scorecard, one finds that through a demonstration of a case, there would be a better indication as to how these elements have come together and their impact thereof.

Chapter 5: The Implementation of B-BBEE by four leading South African construction firms

5.1 Introduction and Research Methodology

BEE policies and eventually the B-BBEE scorecards are one way that the ANC government has engaged the private sector in an effort to push them to reform. With the dismantling of apartheid, three segments became available for corporate construction South African companies; (i) the South African private sector (ii) South African public sector through procurement and (iii) regional and international business. They now had the option to participate in the global and local arena, with the lifting of sanctions and the liberalization of markets. It has thus been widely asserted that the manner in which the private sector has engaged with BEE/B-BBEE policy in South Africa has been insufficient in addressing its core purpose. It, however, remains to be shown that indeed the private sector, but more specifically the construction industry has been unresponsive in their corporate strategies and unaffected in their growth by BEE policy as is often claimed.

Hence, the responses that four leading construction companies have had to transformation policy would assist in determining the sector's engagement with black empowerment. The gathered evidence can act as a springboard towards better understanding the overall rules of engagement that the industry has had with B-BBEE and transformation in South Africa.

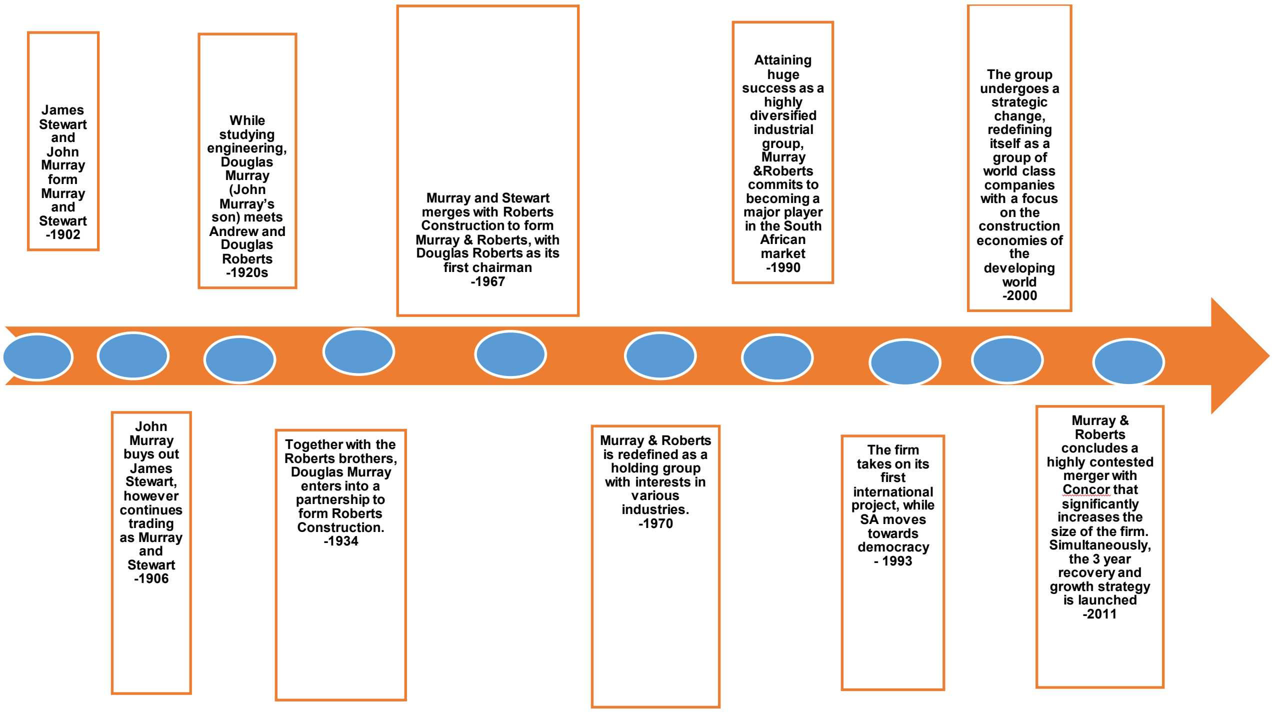
The two subsequent chapters discuss and analyse in great detail the implementation of B-BBEE by four leading South African construction firms. This chapter tracks and describes the processes that each company followed in their progression towards compliance with the scorecard. This includes a detailing of black executives from each firm, as well as company scores vis-à-vis the targets set in the construction sector B-BBEE charter.

This chapter primarily deals with the manner in which the companies addressed issues about transformation during the early years of democracy, tracking the movements up till their implementation of B-BBEE. With the use of timelines, this chapter begins by illustrating an outline of the main developments of each firm since its inception, which spans over three decades for all the firms. Accompanying these timelines are tables that describe some key factors about the firms. This then sets the tone for a discussion on how various steps were taken by each company (from the period 1994-2014), towards compliance with B-BBEE and other transformation imperatives. The following chapter (chapter 6) will explore how the business strategies of the four firms evolved (in part as a response to B-BBEE) – and how this affected performance over time.

5.2 An Overview of the key milestones from the Four Construction Companies

5.2.1 Murray & Roberts

Figure 4: Murray & Roberts Timeline



Source: Murray & Roberts Annual Report, 1994-2014

Table 14: Murray & Roberts Overview

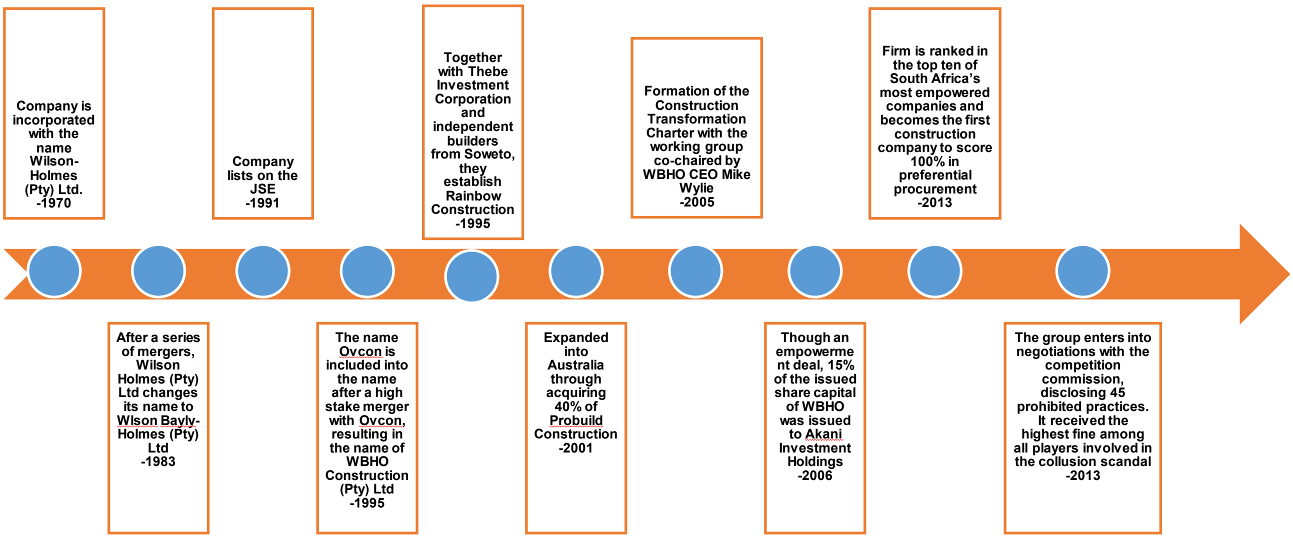
Synopsis	Geographic Footprint	Staff Compliment	Annual Revenue
Murray & Roberts is an investment holding company with interests in the construction & engineering, underground mining development, construction materials and related fabrication sectors.	• Southern Africa, • Middle East • Australasia • North America • South America • Southeast Asia	33 281	R34,754.9m ♦ Southern Africa: R14,224.0m (2013)

Source: Gauteng Growth Development Agency, 2015

Evolving from a family business to a JSE listed company in 1951, Murray & Roberts Construction is said to be one of the largest players in the construction sectors of Africa, the Middle East as well as East Asia. Murray & Roberts as a group was formally established in 1967 through a merger between Murray & Stewart with Roberts Construction. Douglas Roberts was the founding chairperson of the group. In 1970, the firm began diversifying into other industries including mining, redefining itself as a holding company. The 1980s saw the firm activities in the field of process engineering, project management and design continue to develop, thus remaining a highly diversified industrial group.

5.2.2 WBHO

Figure 5: WBHO Timeline



Source: WBHO Annual Reports, 1994-2014

Table 15: WBHO Overview

Synopsis	Geographic Footprint	Staff Compliment	Annual Revenue
WBHO operates as a holding company of a number of subsidiary companies principally engaged in building construction, civil engineering and roads and earthworks activities.	•South Africa • Southern Africa • Australia	11 916	R23,773.5m ♦ South Africa: R8,736.0m (2013)

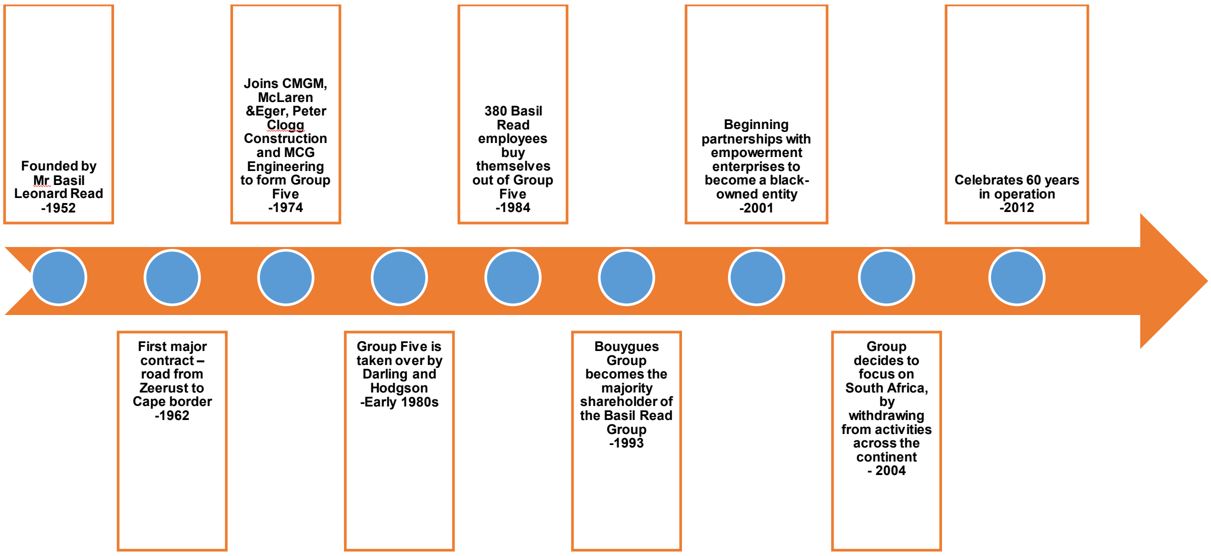
Source: Gauteng Growth Development Agency, 2015

With its origin in the 1970s, WBHO Construction is principally involved in Design and Construction; Civil Engineering and Roads and Earthworks. It is a company that has undergone a series of mergers, the most significant of which occurred in 1995 with Ovcon and resulted in the name WBHO Construction (Pty) Ltd. In that same year (1995), WBHO was one of the first firms to take an active step towards transformation through its empowerment company, Rainbow Construction. This put WBHO ahead of the pack with regards to engaging with black business, a strategy that would prove useful for all firms.

As illustrated in the timeline above, in 2001, WBHO entered the Australian market by acquiring 40% of ProBuild Constructions, a leading mid-range building contractor in Melbourne, Australia. This expansion has contributed significantly to the group's revenue stream, particularly during its most trying years after 2010. The firm has however been able to widen its service offering, seeking a competitive edge as the 'one stop contractor' it markets itself to be.

5.2.3 Basil Read

Figure 6: Basil Read Timeline



Source: Basil Read Annual Reports, 1994-2014

Table 16: Basil Read Overview

Synopsis	Geographic Footprint	Staff Compliment	Annual Revenue
Involved in construction, mining, development and engineering, specialising in civil engineering, road construction, building, mixed integrated housing developments, property development, bitumen distribution, opencast mining, blasting operations and engineering design, procurement and construction management.	• South Africa, • Sub-Saharan Africa • South America • Australia	7 592	R6,834.1m (2012)

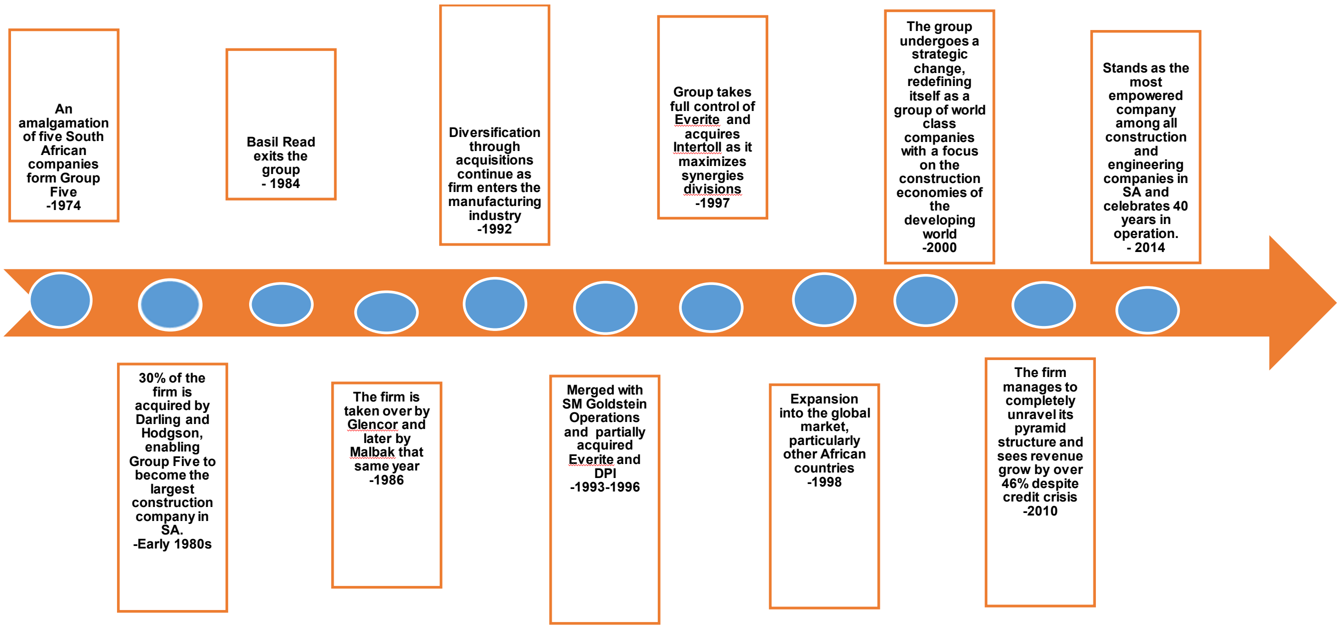
Source: Gauteng Growth Development Agency, 2015

Perhaps what is most striking about the Basil Read story is its brief interaction with Group Five. When Basil Read employees took part in a plan to “reclaim” their independence soon after Darling and Hodgeson had restructured construction related activities at Group Five, it was an announcement that rocked the industry, attracting considerable media attention (Basil Read, 2015). Their desire to preserve their identity is what motivated the directors of Basil Read to buy themselves out from Group Five and three years later; the company was able to present its first report as a publically listed company.

One, therefore, looks at the evolving story of Basil Read, through a better understanding of the complex nature that the group has progressed internally, while in the midst of political changes taking place in SA at the time. What makes the story more compelling is how the two firms intertwine for a time, yet both remain giants in the industry.

5.2.4 Group Five

Figure 7: Group Five Timeline



Source: Group Five Annual Reports, 1994-2014

Table 17: Group Five Overview

Synopsis	Geographic Footprint	Staff Compliment	Annual Revenue
The largest cluster in the Group Five group of companies and is involved in heavy construction.	• Southern Africa • Sub-Saharan Africa • Poland • Hungary	11 997	R8,403.7m (Construction Segment) ♦ Building & Housing: R3,331.8m ♦ Civil Engineering: R3,354.2m ♦ Projects: R1,717.7m (2012)

Source: Gauteng Growth Development Agency, 2015

Although Group Five is the 'youngest' firm and perhaps the least 'family oriented' among this group of companies, it has managed to attain great success in the industry as discussed in the timeline and overview above.

5.3 The First Two Phases of BEE Implementation

5.3.1 Introduction

As one might have noticed in the milestones of each company as detailed above, it was through a series of mergers and acquisition[30] that took place in the late 1980s and into the early 1990s that these firms had begun establishing themselves as industry giants. Their core growth strategies at the time were partially motivated by the fears of uncertainty about their futures in South Africa with the emergence of a new governing elite. By setting themselves up as 'the builders of a new South Africa', they could showcase themselves as indispensable, efficient and capable of being relevant in a new dispensation, as will be discussed.

Although largely similar, their strategies had slight differing characteristics, most notably in their moves in the late 1990s, to how they have gone about addressing each of the elements of the sector scorecard. These are aspects that the detailed step-by-step discussion further seeks to address.

For a logical flow in the discussion, in the following two chapters, I distinguish between three phases of empowerment over the last two decades. These phases act as navigators, steering the discussion of each firm, starting with Murray & Roberts.

The first phase (1994-2000) saw empowerment characterised by ownership deals taking place[31] "while legislation (not specifically referred to as empowerment legislation) was enacted to address issues of employment equity, labour rights and skills development", without the presence of an over-arching framework or legislation (Ponte, Roberts and van Sittert, 2007). Additionally, this phase saw the appointment of black individuals onto board membership positions. The issue facing empowerment deals during this period were the sustainability of the funding mechanism used in the deals, as most black people did not have sufficient capital or collateral to offer.

During the second phase (2001-2009) the B-BBEE Act, along with the Codes of Good Practice (which were mandated by the Act) came to completion, thus began their enforcement and implementation. As previously discussed, to accompany this formalised legislative framework and its associated codes; councils and committees for certain key

30 Refer to Appendix C for large mergers and acquisitions conducted by the firms

3131 The landmark that marked this first wave is a BEE deal where Sanlam via Sankorp sold its controlling interest in Metropolitan Life (Metlife) to the Black shareholders of Metlife Investment Holdings (Methold), a consortium formed by prominent Black businesspeople and community leaders. The consortium eventually became New Africa Investments Limited (Nail). In time, Nail grew into one of the largest Black-owned publicly traded companies. By the end of 1998, it has a market capitalization of approximately R6 billion.

industries were set up to draft specific empowerment charters that would be the basic for which an industry approached and measured transformation. For the construction sector, the Construction Sector B-BBEE Charter was enacted and finalised in 2009, ready for implementation in 2010. This phase is thus characterised by the formalisation of B-BBEE, with businesses finding ways to address the generic scorecard requirements.

The on-going third phase (since 2010) sees the commencement of the implementation of these specific industry charters, in particular, the construction sector charter. As an analysis of the third phase, I compare results of the firms' achievements vis-à-vis the sector scorecard.

For this paper, the evaluation of the third phase spans from 2010-2014.

Taking all the above into consideration, the following analysis shows that as with the change in political, social and economic times, corporate strategies within the firms changed accordingly, although there are differences in the strategies employed by each firm as they respond to B-BBEE.

5.3.2 Murray & Robert's First and Second Phase

Murray & Robert's First Phase (1994-2000)

As the second biggest construction firm in South Africa, Murray & Roberts has been operational within the domestic market for over 100 years. The dawn of democracy came with a great deal of uncertainty for big business across the country, and those operating in the construction sector were no exception. This sense of anxiety and uncertainty is expressed in the 1996 Murray & Roberts annual report where former group chairperson Dave Brink states, " Life has changed in South Africa and will change a lot more in the near future. Whether it gets worse or better will depend on the extent to which we are prepared to engage the process of building something better. As yet, insufficient South Africans are engaged constructively in improving life for themselves and their communities, and until the vast majority of us are doing that, we cannot become a winning nation." (Murray & Roberts Annual Report, 1996).

It was with this thinking that the firm embarked on what it labeled its "Transitions and Renewals Theme" as its planned approach for a better footing in the industry. This plan which was set in motion in 1996, included the objective of achieving revenues from offshore activities worth 20% of total turnover by 1998. Under the leadership of then CEO, Graham Hardy, the group was determined to strategically engage as best it could with the new government to meet infrastructural demand, but was also equally interested in diversifying its business territory beyond South Africa's borders. Strategic expansion focused on Africa, the Middle East and to a lesser extent Australasia and the Pacific Rim (Murray & Roberts Annual Report, 1998). This was also to strategically minimize any risk that would be brought about by the 1999 national elections that would see the retirement of President Nelson Mandela, who was revered greatly. Large companies feared that his retirement would unsettle the domestic market, thus one finds that aggressive expansion offshore took place at a rapid pace back then.

In so far as engaging with empowerment or any internal transformation, Murray & Roberts seems to have been thoroughly disengaged during those five years. The only hint of some discussion around transformation objectives is their stated commitment to support “capacity building within South African society with particular emphasis on education and teacher training”, without any clarity on how they had planned to go about ensuring this (Murray & Roberts Annual Report, 1998). Additionally, the appointment of Brigalia Bam as the first black female non-executive director in 1998 was a vague sign of some reform in its governing structures.

Murray & Roberts Second Phase (2000-2009)

At the turn of the century major changes began to take place at the group, as black empowerment becomes a topical subject across the country and the private sector is pressured by government to participate more formally and broadly. Two significant strategic moves are made by the firm to address this issue, namely, the appointment of black executives and a BEE transaction in 2005.

As a conspicuous starting move, the firm appoints highly politically connected black individuals as independent non-executive directors to its board. The two most noticeable of these from the case of Murray & Roberts are Saki Macozoma and Eddie Funde, assuming board positions in 2001 and 2000, respectively.

Saki Macozoma, former non-executive director at Murray & Roberts, spent five years on Robben Island alongside Nelson Mandela for his activities in anti-apartheid movements. Arguably one of South Africa’s richest black men, Saki Macozoma is a name is well known in high-ranking business and political networks throughout the country. He holds stakes in industries such as construction, the financial services and insurance. With interests in public companies such as Liberty and Standard Bank, Macozoma’s net worth is said to stretch beyond $70 million. Macozoma along with Imogen Mkhize[32] were part of a task team that set up the Broad-Based BEE measurement criteria between 2001 and 2003 while both served on the board of Murray & Roberts. Macozoma's rise to business came when he emerged as one of the defenders of the ANC's change in economic policy from the nationalisation policies that they advocated for, for over 30 years, in favour of more conservative economics. Although government at the time was hesitant to ideologically justify its 'new economics', Macozoma stood as one of the few that was unapologetic about the South Africa's capitalist path and was often cited as saying that "creating a black bourgeoisie necessarily creates economic equality, and that is a normal consequence of capitalism" (Ventures Africa, 2012). With such a mind-set, Macozoma was undoubtedly an asset to any firm operating in a predominantly white industry and was set on establishing itself in an entirely new operational space.

One the other hand there is former Eskom director Sonwabo "Eddie" Funde, who joined the Murray & Roberts's board in the year 2000. As an ex-political exile, serving 20 years in ANC organisational structures, Funde was Chief Representative for the ANC in Australia and the Pacific, as well as head of the commission assigned to reshape the ANC Youth League. Additionally, he was close friends with Max Sisulu, the former Speaker of the National Assembly, serving under President Zuma's first term of presidency. Funde served on the board of Murray & Roberts during its most triumphant period (2000-2008) with its expansion into Australia, its win of various tenders for the building of FIFA 2010 World Cup infrastructure, as well as its win of the tender to construct the Medupi and Kusile power stations for Eskom. During this period, he was also serving as a member of the board of directors of Eskom Holdings Limited.

Below is a table tabulating all other black executives to have served on the board of Murray & Roberts over the last two decades.

Table 18: Murray & Roberts Black Executives

Name	Position in Executive	Years served	Other business interest and board memberships	Political Affiliation
Saki Macozoma	Non-executive Director	2001-2006	Liberty Holdings, Volkswagen, Standard Bank, Stanlib, Transnet, Safika Holdings.	ANC
Imogen Nonhlanhla Mkhize	Non-executive Director	2005-2010	Nedbank, Barclays, Anglo American, Sasol, Mondi	Not Disclosed

32 Mkhize also sat on the board of M&R as an independent non-executive director from 2005-2010

Name	Position in Executive	Years served	Other business interest and board memberships	Political Affiliation
Brigalia Ntombemhlophe Bam	Non-executive Director	1997-2004	ABSA, Independent Electoral Commission (IEC), Women's Development Foundation.	ANC
Sonwabo "Eddie" Funde	Non-executive Director	2000-2008	Eskom Holdings Limited, SABC, Independent Development Trust (IDT)	ANC
Dr Namane Magau	Non-executive Director	2004-2012	Thebe Investment, Simmer and Jack Mines Limited, Merrill Lynch South Africa Limited, National Research Foundation (NRF), SABC, Business & Development Solutions Pty Ltd, Advisory Board UCT Business School, Santam Limited	Undisclosed
Sibusiso Patrick Sibisi	Non-executive Director	2007-2012	Former President and CEO Council for Scientific and Industrial Research. Chairman of Denel and a director of Liberty Life	Undisclosed
Malose Phillip Chaba	*First black executive director*	*2009-2011*	*Eskom, Angle Alpha, AECI and Karabo Engineering*	*Undisclosed*
Mahlape Sello	Non-executive chairman	2013-present (started off as a non-executive director in 2009)	South African Law Reform Commission	Undisclosed
Nomalizo Langa-Royds	Non-executive Director	2013-present	PPC Limited, Nthake Consulting, African Bank Investments Ltd	Undisclosed
Thenjiwe Chikane	Non-executive Diector	2012	Nedbank Group, Nedbank Limited, Datacentrix Holdings, Telkom and the Institute of Directors and a trustee of AfricaRice.	Undisclosed

Source: Murray & Roberts Annual Reports: 1994-2014

The table above illustrates that of the ten black executives to have served on the board of Murray & Roberts, 6 of them were appointed during this period, and only one individual has been named as an executive director. Also quite interesting to note is that most individuals on this board appear to be closely aligned with South Africa's ruling party, the ANC.

The second move during this period was the conclusion of a B-BBEE transaction in September 2005. Murray & Roberts announced an R494-million investment extending its BEE partnerships to a broad base of staff and community organisations. According to its then CEO, Brian Bruce the objective of the empowerment strategy was to achieve greater than 25% broad-based, direct black ownership in Murray & Roberts by 2010 (Ryan and Lambert, 2006). The initiative saw 10% of Murray & Roberts Holdings shareholding transferred to four trusts and resulted in 9.4% direct black ownership. Moreover, the investment was said to be an "investment in the Murray & Roberts business strategy" (Ryan and Lambert, 2006).

The first trust was a general staff trust that received approximately 4.9-million shares to the value of about R74-million with a minimum expected dividend payment of about R2-million a year based on the current dividend per share. The second, a black employee benefits trust was structured the same as the first with the exception that it received approximately 6,6-million shares valued at about R99-million, while the third, a community trust received approximately 11,6-million shares, valued at about R173-million, with a minimum expected dividend payment of about R5-million a year. With a women empowerment focus, the beneficiaries of the community trust were selected from broad-based black women's groupings. The fourth trust, funded by Murray & Roberts through an interest free loan was a black executive trust that received approximately 9.9-million shares valued at about R148-million. Its beneficiaries were to be black top, senior and middle management as per the definitions of the Employee Equity Act. With its objective being to enable Murray & Roberts to attract and preserve top-skilled staff, this particular trust was a form of an employee incentive scheme.

5.3.3 WBHO's First and Second Phase

WBHO first phase (1994-2000)

WBHO is arguably the first of the four firms to embark on a journey towards including transformation imperatives as part of its objectives. In 1995, together with Thebe Investment Corporation[33] and various independent builders from Soweto, Wilson Bailey Homes - as it

[33] Thebe Investment Corporation is a black-owned South African investment company that manages assets worth over R6 billion. Integral to its establishment is Vusi Khanyile, who left the ANC to become Thebe's first CEO, a position he still maintains. Thebe's sole shareholder at the time was the Batho Batho Trust, which included original Trustees Nelson

was known at the time - established Rainbow Construction. Within eight years of operation, this empowerment company was recognized as the leading black empowerment construction company in the country (Leads2Business, n.d). During its first few years, WBHO partnered with Rainbow Construction on a few projects of national importance, however by 1998 the firm had begun to tender for contracts independently, proving able to secure big contracts[34] (Leads2Business, n.d). The partnership between WBHO and Rainbow Construction has proven to be significantly beneficial to both parties, especially since they were conducted through the use of Public-Private Partnerships (PPPs). One such project was the building of the headquarters for the DTI, which saw the collaboration of WBHO, Rainbow Construction and three other entities, namely, Rebserve/Propnet Facilities Management joint venture, Atterbury/Parkdev Property Development joint venture, and Zwelinzima Holdings (eProp Commercial Property News, 2004). Such a contract placed WBHO on higher ground during a time when government infrastructural projects were scarce.

Rainbow Construction thus became the vehicle through which WBHO was able to simultaneously address empowerment targets without 'jeopardizing' shareholder wants and intelligently secure some major public and public sector projects. Moreover, by partnering with Rainbow Construction, it was able to reach numerous domestic goals without carrying all the risk, allowing it to focus on its international expansion aspirations. As arguably its only significant step towards addressing empowerment and transformation during this period, it is one that is illustrative of WBHO'S forward thinking ability, in that it was able to establish relationships with black empowerment ventures much sooner than it had become actual state policy.

WBHO's Second Phase (2001-2009)

Relations between WBHO and Rainbow Construction continued into this period, with the two companies working together on projects such as the refurbishment of the South African Reserve Bank headquarters in Pretoria (WBHO Annual Report, 2002). Perhaps the most notable development in this period was the finalisation of its BEE transaction in September 2006.

Mandela (Chairman), Walter Sisulu, Reverend Beyers Naudé and Enos Mabuza. Their current investment portfolio spans tourism, mining resources, infrastructure, renewable energy, financial services and healthcare.

34 Rainbow Construction predominately operates in the Gauteng province and has managed to secure a number of high-profile contracts through the use of PPPs. Among them was a 50-50 joint venture with WBHO to construct the constitutional court, and another was a contract to build the Freedom Park Monument at Salvokop, outside Pretoria, also with WBHO, as was the contract to construct a casino for Emerald Safari Resorts on the Vaal.

This “Black Empowerment Equity Initiative” (WBHO Annual Report, 2006) saw WBHO issue 15% of its share capital to Akani Investment Holdings, a BEE consortium. Akani was made up of three individuals, namely, James Ngobeni, Nonhlanhla Mjoli-Mncube and Savannah Maziya, who were all named the first independent black non-executive directors of WBHO in 2007. WBHO CEO, Mike Wylie and Ngobeni were at the time also joint chairpersons of the committee that was tasked to establish and develop the sector’s empowerment charter. Additionally, deputy chairwoman of the CIDB at the time was Mjoli-Mncube, while Maziya sat on its board. All the individuals presently remain on the company board as independent non-executive directors. Tabulated below are black executives at WBHO over the last two decades.

Table 19: WBHO Black Executives

Name	Position in Executive	Years served	Other business interest and board memberships	Political Affiliation
James Ngobeni	2006-present	9	Sycom Property Fund Managers Limited, Matingi and Associates, MAMOET Southern Africa (Pty) Limited, Rand Airport (Germiston), Matingi & Associates CC and The Green Building Council SA	Undisclosed
Nonhlanhla Mjoli-Mncube	2006-present	9	Tongaat Hulett Limited, Capitec Bank Holdings Limited, Poineer Food Group Limited, Founder of Women for Housing	Undisclosed
Nonhlanhla Savannah Maziya	2006-present	9	Bunengi Holdings, African Broadcast Network, Rainbow Construction, Gold One International Limited	Undisclosed
Nomgando Nomalungelo Angelina Matyumza	2009-present	6	Hulamin Limited, Cadiz Holdings Limited	Undisclosed

Source: WBHO Annual Reports: 1994-2014

What sets WBHO apart is that its directorate is without any clear political affiliation. Instead, all its black board executives have some prior experience in the industry through their educational backgrounds and working experience. Their empowerment transaction thus ushered in the first black individuals on the company board, and secondly, resulted in an operation that enabled black people to become company shareholders, with 2 000 000 shares belonging to the new black partners and another 4 500 000 shares placed in a WBHO Broad-Based Share Initiative Trust.

5.3.4 Group Five's First and Second Phase

Group Five first phase (1994-2000)

After trolling media outlets, annual reports and academic sources one finds little evidence that Group Five was ever involved in substantial transformation and empowerment initiatives at the start of this era. There was, however, a great deal of mentions in their media statements and reports in 1996 of 'affirmative action' and 'empowerment', under the ideals that the firm would have liked to pursue (Group Five Annual Report, 1996). Tangible action was yet to be taken. In 1998, the firm began working with empowerment partners for water supply projects in the Northern Cape and Eastern Cape Provinces, which supported smaller contractors in those provinces. Moreover, Group Five began to establish joint venture partnerships with historically disadvantaged entrepreneurs.

In 1999 Umthubi Construction was established, a black construction partnership company that Group Five has 80% shareholding over (Group Five Annual Report, 1999). Noticeably, the firm seemed more concerned with ensuring its adherence to new legislation such as the Employment Equity Act, as well other health and safety requirements.

Group Five's Second Phase (2001-2009)

Much like the other firms, Group Five also picked up on its empowerment and transformation initiatives at the turn of the 21st century. Moving rather rapidly, it initiated a deal which would result in over a quarter of their shares belonging to black partners.

As one of the industry leaders as far as ownership empowerment deals were concerned, one milestone of Group Five is their conclusion of a BBEE transaction that resulted in 26.1% of its enlarged share capital being made available to black South Africans in September 2005. One element of the transaction was a broad-based employee scheme for all employees. However 90% were black. It was a once off issue of shares with no vesting period. The second element was a black manager's scheme that constituted 1.94% of share capital and would benefit black managers in senior roles. These shares were issued to black managers annually and are held in a share trust. Of the 26.1%, the largest beneficiaries and final element of the transaction were iLima consortium and the Mvelaphanda Group Limited.

As a consortium of two broad-based empowerment entities, the presence of iLima and Mvelaphanda would result in Group Five having a direct black ownership of 26.1% with immediate voting and economic rights (Mokopanele, 2005). Moreover in an announcement made by an economic empowerment rating agency, Empowerdex, the transaction would have given Group Five a score of more than 80% for the ownership component in the scorecard (Mokopanele, 2005).

Simultaneously during this period, the firm gained a total of 11 black executives (both executive and non-executive), three of which were executive directors, thus working on the day-to-day activities of the business at the most senior level. What one finds rather unique about the black board members to have served on the board of Group Five is that some of them are non-South African. More specifically, three black independent non-executive directors have come from neighboring countries, namely, Zimbabwe, Kenya and Zambia, while the current company secretary is from Swaziland. This inclusivity and integration were a feature in the firm's overall strategy to rapidly expand into the region as it sought to begin to better capture gains in these markets during this time[35].

Below is a comprehensive list of all black directors to have served on the board of Group Five since 1994.

Table 20: Group Five Black Executives

Name	Position in Executive	Years Served	Other business interest and board memberships	Political Affiliation
George Negota	Non-executive director	1999-2002	Chairperson of Ilizwi Industrial Holdings, Phalaborwa Mining Company, Khuthele Projects (Pty) Ltd, AdCorp Holdings Ltd.	Allegedly ANC
Rufus Maruma	Non-executive director	2002-2007	Chair at EnviroServ Holdings Ltd, Stewart Scott International, Bohlweki Environmental and the Bakwena Concession Company. Manager at Eskom	ANC
Kalaa Mpinga (Zimbabwean national)	Non-executive director	2002-present	Anglo American Company, Mwana Africa, LTA Limited, African Business Round Table.	Undisclosed

35 Further details on firm strategies are discussed in the next chapter (chapter 6).

Name	Position in Executive	Years Served	Other business interest and board memberships	Political Affiliation
Vusi Mavimbela	Non-executive director	2006	Mvelapanda Holdings Pty Ltd, iLima-Mvela consortium	ANC
Philisiwe (nee Buthelezi) Mthethwa	Chairperson	2009-present (Joined as a non-executive in 2007)	National Empowerment Fund, Sanlam Life Insurance Limited, Industrial Development Corporation (IDC)	ANC*36
Mandla Gantsho	Non-executive director	2006	Sasol, Nova Capital Africa, Impala Platinum Holdings, African Development Bank, iLima-Mvela consortium	Undisclosed
Nosisa Kekana	Company Secretary	2006-2009	Basil Read, MTN, iLima Group	Undisclosed
Lindiwe Bakoro	Non-executive director	2009-2013	PetroSA, Woolworths, Sea Harvest and Hyundai Automotive South Africa.	Undisclosed
Zolani Mtshotshisa	Non-executive director	2009	Amhold (Pty) Ltd; Chair: Biz Africa (270) (Pty) Ltd; CEO: Saccawu Investment Holdings (Pty) Ltd, Mvelaphanda Group, TFMC and Royal Sechaba	Assumed ANC
Junaid Allie	*Executive Director*	*2009*	*Undisclosed*	*Undisclosed*
Nonqaba Katamzi (Swati national)	*Company Secretary*	*2009-present*	*Sekunjalo Investments Limited*	*Undisclosed*
Themba Mosia	*Executive Director*	*2011-present*	*Intertoll*	*Undisclosed*
Babalwa Ngonyama	non-executive director	2014-present	Safika Holdings (pty) Ltd, Nedbank Group, Barloworld Ltd, Impala Platinum Holdings Ltd, Clover Industries, Times Media Group Limited	Undisclosed
Justin Chinyanta (Zambian national)	non-executive director	2014-present	Founder and chairperson Loita Group	Undisclosed
Vincent Rague (Kenyan National)	non-executive director	2014-present	Co-founder and chairperson of Catalyst Principal Partners	Undisclosed

Source: Group Five Annual Reports: 1994-2014

[36] Mthethwa is married to South African politician and ANC member, Nkosinathi "Nathi" Mthethwa. He currently serves as the South African Minister of Arts and Culture.

Within less than five years of its finalization, the BEE transaction deal between Group Five and iLama collapsed in 2009. According to then CEO Mike Upton, “iLima had not fulfilled certain conditions and had breached certain terms to which the original deal was subject” (Mpofu, 2009). Nonetheless even in its absence, the group managed to retain its overall level 2 B-BBEE certification, due to the performance of other elements. In an attempt to mitigate any loses suffered as a result of the unwinding of the transaction, Group Five ensured that the value of the shares would be recouped by having iLima return the shares to Group Five with no financial effect on the year’s earnings (Mpofu, 2009). Moreover, the reversal of that transaction did not impact on Group Five's other BEE transactions involving Mvelaphanda or the Group Five BEE management and staff schemes.

5.3.5 Basil Read’s First and Second Phase

Basil Read first phase (1994-2000)

The transition into a new, democratic South Africa came less than ten years after Basil Read had bought itself out of Group Five. Having broken away from Group Five in mid-1984, Basil Read managed to revive itself rather quickly, rapidly competing with leaders in the industry and soon becoming an industry giant as well. Of the 380 Basil Read employees who were involved in the buyout, 125 of those were black staff members, a move that would prove to be strategically genius. Due to the involvement of black employees in this transaction, Basil Read was able to leverage off this status as a diverse, integrated firm as the country went to democracy. In its 1996 annual report, company CEO Géard Perceau remarked, “We see empowerment not only as a means of addressing past inequalities but also as an integral part of enhancing the overall capacity and competitiveness of the industry” (Basil Read Annual Report, 1996).

As a course of action, Basil Read began with a literacy initiative that introduced numeracy and literacy classes to disadvantaged employees. Additionally, the firm spent over R2 million on the up-skilling and training of its workers to various positions, including equipping some employees with business administration qualifications. Thus, during this period, the firm engaged with and addressed what it conceptualized at the time as ‘affirmative action’ through investments in the education, training and development of employees. Much like Group Five, no recorded attempts towards changes in management and ownership are documented.

Basil Read Second Phase (2001-2009)

It was only in 2002 that Basil Read welcomed the first black non-executive director on its board, although she only served on the board for a year before later serving on the board of Stefanutti Stocks, a large competitor of Basil Read in the industry. Although not directly dealing with the elements of the scorecard and BEE for some years, nor having any involvement in the drafting of the B-BBEE Act or CSC, these were their first step towards serious engagement with high level empowerment.

The most substantial contribution towards an empowerment objective taken by Basil Read was in 2005. The BEE transaction conducted was not only colossal in that it would result in the company becoming the first truly black owned large and listed construction company, but it also meant the Basil Read would no longer have a foreign owned holding company. As a majority shareholder in Basil Read for almost 20 years, Bouyues Travaux Publics SA[37] had control over the business, often electing Frenchmen to the most senior position in the firm, including that of CEO. Therefore through a Bouygues' sale of 51.9% of Basil Read shares to a consortium of Amabubesi Investments and Metallon Ventures Proprietary Limited, Basil Read became a largely black owned JSE listed construction company. The deal was struck at a price of 82cents a share, with a loan of 12% per annum to buy the shares (Mail and Gaurdian, 2006). Metallon further sold its share in the market and to black shareholders including Amabubesi, Bulelani Ngcuka and Khaya Ngqula in May 2006. By 2006, Basil Read had a 41% black shareholding.

Having sealed the deal with Amabubesi and Metallon, Basil Read welcomed seven black directors on its board between 2006 and 2007. This resulted in a board composition of 75% black individuals, one of whom was a black female. The table below illustrates all black executives to have served on the board of Basil Read over the last two decades.

Table 21: Basil Read Black Executives

Name	Position in Executive	Years Served	Other business interest and board memberships	Political Affiliation
Nomhle Canca	Non-executive Director	2002-2003	CEO of One Stone Capital, non-executive director at Stefanutti Stocks Holdings Ltd, Primedia	Undisclosed
Bulelani Ngcuka	Non-executive Chairman	2005-2009	City Lodge Hotels Limited, Amabubesi Investments, Vuwa Holdings, Former Chief Whip of the ANC	ANC and later Congress of the People (COPE)

37 Bouygues Travaux Publics SA bought 25% of Basil Read in 1993, increasing shareholding to 70% by 2002.

Name	Position in Executive	Years Served	Other business interest and board memberships	Political Affiliation
Lungisa Dyosi	Non-executive Director	2006-2010	Strategic and legal adviser to the National Director of Public Prosecutions, Amabubesi Investments (Pty) Ltd, co-founder: Vuwa Investments (Pty) Limited	ANC
Noimkgubela Maliza	Non-executive Director	2005-2008	Metallon Group, South African Consulate in New York City. Currently executive director of Volkswagen South Africa, Rhodes University Foundation, Eastern Cape Development Corporation	Undisclosed
Sango Siviwe Ntsaluba	Non-executive Director	2006-present	Founding member of Sizwe Ntsaluba, Amabubesi Investments and Neotel, serves on the boards of; National Energy Regulator of South Africa (NERSA) and National Housing Finance Corporation (NHFC).	ANC
Andile Reve	Non-executive Director	2006	Rennies Group, IDC, Metallon Group	
Sindile Peteni	Non-executive Chairman	2009-2014 (started off as non-executive director in 2006)	Founding member and director of Thebe Investment Corporation. Active member of the ANC, assisting with executive management and fundraising.	ANC
Thabiso Alexander Tlelai	Non-executive Director	2007-present	Director of Thebe Investment Corporation, CEO at the Don Group, Chairman of the Tourism Business Council of South Africa (TBCSA)	ANC
Ntombekaya Yvonne September	Non-executive Director	2007-2011	Founder Pamwe Consulting, holds directorships in Maluleke Luthuli and Associates	Undisclosed
Given Refilwe Sibiya	Non-executive Director	2009-2012	SizweNtsaluba VSP, director of Xabiso Chartered Accountants	Undisclosed
Kgomotso Bontle Sekgobela	*Executive director: business development*	*2009-2012*		*Undisclosed*

Name	Position in Executive	Years Served	Other business interest and board memberships	Political Affiliation
Webster Mfebe	*Executive Director: stakeholder relations*	*2009*	*SABC, Minister in the Free State Province government, former Member of Parliament*	*Undisclosed*
Nopasika Vuyelwa Lila	Non-executive Director	2012-2014	CFO; Eskom Pension and Provident Fund, audit committee of the Department of International Relations and Cooperation (DIRCO)	Undisclosed
Paul Cambo Baloyi	Non-executive Director	2012-present (Currently serves as the Independent non-executive director and chairman)	Development Bank of Southern Africa (DBSA), former managing director of Nedbank Africa	Undisclosed
Andrew Conway Gaorekwe Molusi	Non-executive Director	2013-present	Chairperson of the SIOC Community Development Trust, chief executive officer of Kabo Capital, former group chief executive officer of Johnnic Communications Limited (Johncom), serves as director on the boards of African Media and Entertainment Limited (Chairman), Caxton and CTP Publishers and Printers Limited and Continental Coal Limited	Undisclosed
Andiswa Ndoni	*Company Secretary*	*2013*	*Attorney of the High Court of South Africa.*	*Undisclosed*
Khathutshelo Mapasa	*Executive Officer: mining*	*2014*	*De Beers group*	*Undisclosed*

Source: Basil Read Annual Reports: 1994-2014

Interestingly, of all four firms, Basil Read has had the largest number of black executives on its board as well as the most female representation at the executive level.

5.4 An Analysis of Board Membership Composition

One finds that from these observations there is something more to be said about the caliber of black individuals who assume roles on these company boards. Since the early 1990s, South Africa's 'black capitalists' have been heavily criticized and the trend remains so today. They have been perceived as lacking of independence and risen to 'expedient structures' so as to be used as tools for the old establishment. Some have gone so far as accusing them of seeking membership in previously 'white boys clubs', as well as falling squarely into the syndrome of 'white faces, black masks' (Randall, 1996). According to this argument, the result has been that these black capitalists are not genuine capitalists at all but instead have surrounded themselves with white consultants and advisors who run the companies, while senior black managers are hired for their compliance and corporate brochures to improve company image and public relations. These stereotypes are often levelled at black capitalists everywhere else in Africa. Randall (1996) writes that "in the place of self-standing, viable capitalist class, an unproductive group of pseudo-capitalists have emerged, dependent on political connections and rent-seeking activities for their survival".

In this paper one can identify two 'types' of aspiring black capital elites from the tables above.

1. ***Former activists***

    - In this category, we find those who hold the so-called 'political standing in the community'. These were perhaps the most sought after individuals in the first years of South Africa's democracy, as it included those with 'Robben Island' credentials. In these top construction companies, much like all other big businesses throughout the country, it is not difficult to find good illustrations of this, such as Saki Macozoma and Bulelani Nguka[38]. One concludes that most

[38] Bulelani Ngcuka, former chairman of Basil Read till 2009 obtained his LLB degree through UNISA while in prison for his political involvements during the apartheid struggle. Before his involvement in the private sector, Ngcuka who is married to Phumzile Mlambo-Ngcuka was Chief Whip of the ANC from 1994-1997 and was later elected to the position of permanent Deputy Chair of the National Council of Provinces (NPO). Ngcuka is arguably well- known for his role in spearheading the criminal charges against Jacob Zuma as the head of South Africa's National Directorate of Public Prosecutions which saw the eventual removal of Zuma as South Africa's deputy president.

former activists had neither the capital nor received the financial or technical training while fewer had the opportunity to learn hard-core business skills. Both Macozoma and Ngcuka have 'struggle credentials', but, more importantly, the political leverage to assist any business, in any industry to be part of the correct network that allows for it to do business with the government.

2. ***Educated exiles***

- Feasibly the second most prominent individuals would be from this group made up of returned exiles, who although might not be as well connected as the Islanders, are often educated with solid knowledge on business or even have backgrounds in working in business. This group also includes those that benefitted from overseas educational opportunities through bursaries made available to black youth, particularly after the Soweto uprisings in June 1976. Even though only a handful managed to study technical or purely commercial subjects, while others took short diplomas, their external education distinguished them from their peers who had been in Bantu education schools (Browning, 1989, Randall, 1996 and Chabane et al, 2006). This distinction made them attractive candidates for empowerment endeavours of white business. One such individual is Dr, Namane Magau – former non-executive director at Murray & Roberts and Vusi Mavimbela, former non-executive director of Group Five[39]. There is also Philisiwe Mthethwa[40], who is the current chairperson of the Group Five board of directors.

Contrary to the standard narrative there is a third "type" of black capitalist that has emerged over the last two decades within the South African private sector. Shortly after the Soweto uprising came the development of the Sullivan code - a set of principals set up by African-

[39] Magau benefited from an educational exchange in the U.S during the apartheid era. Dr Magau was educated at Harvard University and is currently the founder and CEO of Business & Development Solutions Pty Ltd. Vusi Mavimbela is the current Director General in The Presidency. Mavimbela was appointed as a non-executive director at Group Five in 2006, while employed as an executive Director at Mvelapanda Holdings Pty Ltd. Having left the country in 1976 to join the ANC in exile, Mavimbela was able to obtain diplomas in Moscow during his time abroad. He remained highly involved in the political arena upon his return to South Africa, rising to political advisor in the office of Deputy President, Thabo Mbeki, before he turned his eye to business. He is therefore a both a political heavyweight and educated exile.

[40] Philisiwe Mthethwa (nee Buthelezi), the chairperson of Group Five is yet another example. Mthethwa, the current CEO of the National Empowerment Fund holds a MSC in Economics from the University of Paris, Sorbonne and an MBA from the UK. Mthethwa has climbed high up the corporate ranks, with numerous accolades such as Africa's Business Woman of the year in 2011 to mention but one. It is interesting to note that in 2008 by bringing in Mthethwa, a black female as its board chairperson, Group Five as was able to increase black board representation to 50%.

American preacher and civil rights leader Rev Leon Sullivan, which aimed to apply economic pressure on South Africa in protest of the apartheid system. The principals set out to ensure that American companies with operations in South Africa promoted racial equality in all employment practises (Randall, 1996). The principals were in direct conflict with South African policies of racial segregation, with the code strongly emphasising the promotion of black people into management and supervisory positions. However with growing international pressure towards the end of the 1980s, companies reluctantly began to pursue 'black advancement' and 'equal opportunity', enabling some blacks to enter into white corporate managerial structures in large South African. Given the dearth of formal technical and financial training among black people at the time, the tendency was to offer them non-operational 'soft' positions in human resources, marketing and public relations (Randall, 1996).

From the data depicted in tables 13 to 16 one finds that of the ten black directors to have sat on the board of Murray & Roberts over the twenty year period, only one of them was an executive director. Similarly, Group Five has had two black executive directors over the same period, while the other 11 black directors to occupy spaces on its board have been in none-executive positions. Basil Read, on the other hand, has had three black executive directors and 13 non-executive directors over the twenty year period while WBHO is yet to have a black executive director.

Interestingly, in evaluating each of the examined companies, one finds that no black individuals have evolved from within these firms to obtain positions on the board. Rather, how most people from previously disadvantaged backgrounds have made it onto these boards or executive committees as directors is due to their involvement in either a BEE ownership/shareholding transaction or heads of subsidiaries belonging to the groups. Edwin Mashishi, currently the only black executive committee member at WBHO is the CEO of Edwin Construction Pty Ltd, a subsidiary of the group. Mandla Gantsho's appointment as non-executive director at Group Five in 2007 was a result of the group's ownership deal in 2005 according to the company's 2007 annual report.

Elia Louw Nel, current CEO of WBHO has been with the firm since 1987 and has held his current position since 2008. Mike Lomas, former CEO of Group Five joined the firm in 1978, rising to eventually become its CEO, while Henry Laas, current CEO of Murray & Roberts has worked within its management structure for over 14 years. The evolution of black ownership and black management has not come from the development and progress of blacks from within the firm while the opposite is true for white people. A majority of their most senior positions, including departmental heads, are held by individuals who have gained their workplace experience from that particular firm. In the most senior decision making positions neither CEO nor CFO/Financial Director have ever been black. It is worth emphasising therefore that the industry remains dominated by white (mostly Afrikaans speaking) males, both at a managerial level as well as at the ownership structures. What is clear is that it was easier for these firms to link themselves up with the appropriate ‘black’ empowerment groups, though the sale of equity or including them at board level during these two phases.

5.5 The Third Phase (2001-2014)

5.5.1 Challenges in Methodology

In determining the targets obtained by each firm, one finds that there were three challenges and limitations in the methodology followed by the two subsequent chapters, namely;

1. **Information gathering**

The biggest challenge at the outset was the absence of reliable data on the industry state of empowerment; however the scorecards of each enterprise offer enough information.

2. **Absence of reliable data**

This was further compounded by the reluctance in the availability of information by verification agencies citing confidentiality clauses with their clients (the construction companies).

3. **Insufficient data in the scorecard**

Instead of detailed scorecards outlining the detail of scores per elements of the CSC, enterprises largely release B-BBEE certificates that merely indicate the B-BBEE level contribution of the measured entities and the rating of each element. One, therefore, relies greatly on the attempts by industry bodies to publish data as well as the media for these scorecards. However following an interview with the Basil Read transformation and employment equity manager, I was able to obtain the detailed scorecards[41] from Basil Read, which aids in understanding which areas a company may be lagging in. Data obtained from these reports has been incorporated into this study.

5.5.2 B-BBEE Score Comparison

The finalization of the CSC resulted in a systematic change in how major players in this sector viewed empowerment. Ownership and management changes, procurement requirements, enterprise development and skills development initiatives, adherence to employment equity and arbitrary CSI programmes were to be brought together and accounted for under one scorecard that was specifically designed for the industry. A trend

[41] formerly known as the BBBEE Assessment Report

begins to emerge, seen through the changes in the annual reporting style as well as the core values of each of the firms. The annual reports and company progress statements released in the media exude a new nascent set of principles as employment equity, affirmative action, transformation and diversity become frequent in the language of reporting. The core values of each enterprise begin to include phrases such as;

1) "The formation of partnerships with persons and companies from previously disadvantaged sectors of our society" (WBHO Annual Report, 2003),
2) Core focus areas have become the pursuit of "black economic empowerment" and accelerated progress in targeted employment equity levels (Group Five Annual Report, 2003) and
3) "Enhancing diversity within the workplace" (Murray & Roberts Annual Report, 2002).

The seriousness with which government was taking the transformation project was becoming too formidable a force to ignore. Although B-BBEE was, and remains a voluntary directive for enterprises, for those whose primary revenue stream flows from government tendering processes, refusing to adhere to it would have a ghastly impact on enterprise performance. Any construction company that is to do business with the state is, therefore 'compelled' to ensure that its house is in order, by carefully adhering to the set targets. Hence, the corporate strategies adapted during this time are cautiously tailored to ensure that transformation is a highly-ranked priority for the assurance of continued business between the public and private sector. Characterizing this time period is a strong sense of focus on meeting the objectives as set out in the charter. Below is an examination of how the four firms have fared against one another and the targets of the scorecard. The first measurement phase as stipulated by the charter was set to take place between 2009 and 2013, fitting within the timeframe perimeters of this paper. This was thus a crucial period in laying down the proper foundation for the effective implementation of the framework.

Table 22: Black ownership percentage by firm and year (30% weighting target according to CSC)

Year	2010	2011	2012	2013	2014
Murray & Roberts	31,26	32,4	31,7	31,72	45,47
WBHO	26,66	22,44	34,98	40,85	48,73
Group Five	19,55	17,1	21.35	24,8	37,69
Basil Read	22,81	21,37	28,53	53	50,32

Sources: B-BBEE Scorecards of Murray & Roberts, WBHO, Group Five and Basil Read (2010-2014)

Table 23: Black Female Ownership percentage by firm and year (10% weighting target according to CSC)

Year	2011	2012	2013	2014
Murray & Roberts	2,63	2,99	14,39	14,47
WBHO	11,43	11,15	12,36	14,93
Group Five	3,35	4,29	8,98	11,6
Basil Read	2,51	19,31	18,26	11,37

Sources: B-BBEE Scorecards of Murray & Roberts, WBHO, Group Five and Basil Read (2010-2014)

For the ownership element, I have used the actual black ownership percentage of each firm and not the point allocation. A total percentage of 25% and above for ownership means that the company is fully compliant while a black female ownership percentage of 10% and above also means that the firm is fully compliant. For the remainder of the elements, only the actual points are reported.

Murray & Roberts and WBHO have over the years participated in large black empowerment deals, with the hopes of obtaining larger black ownership in their enterprises. Gradually, the magnitude of black shareholders within the two companies has increased exponentially with both companies having over 40% of their ownership in black hands in 2014. Explaining the 'high' black ownership of 48.73% in 2014 for WBHO is partly by default as a result of the WBHO institutional investors who hold WBHO stock (Ujuh, 2013). The B-BBEE deal between the firm and Akani Investment Holdings in 2006 explains the other part, where approximately 15% of their shares were transferred to this consortium.

On the other hand is Murray & Roberts whose tremendous growth in black ownership in 2014 is explained by the allocation of 648 000 shares to the Letsema Vulindlela Black Executives Trust or the Vulindlela Trust". The Trust aims to give black executives the opportunity to become shareholders in the firm, as "an attraction and retention incentive" (Murray & Roberts Annual Report, 2013). Beneficiaries of the trust are not only black citizens of South Africa but must also be employed on a permanent basis within the group as either top, middle or junior managers. On the scorecard, these black managers thus not only contributing to the ownership element but are also counted when calculating the score for employment equity.

After the failure of the iLama BEE transaction in 2009, Group Five sought to find suitable alternative partners. In 2012, a new BEE scheme was made with newly-formed entities, namely, the Black Professionals Staff Trust and the Izakhiwo Imfundo Trust who acquired 11.6% worth of shares from Mvelaphanda that had also announced its intention to dispose of its shares (Group Five Annual Report, 2013). This dip in black ownership in 2011 is illustrated in the table above. Without the replacement of Mvelaphanda, Group Five would have been without black ownership credentials. Since a '*once empowered always empowered'* principle is not allowed according to the B-BBEE Codes of Good Practice, a loss of BEE credentials puts a firm at a disadvantage when attempting to bid for public sector work.

Basil Read concluded another B-BBEE agreement worth R521 million with Sishen Iron Ore Company Community Development Trust Investment Holdings (SOIC) in 2012. SOIC was established in 2006 during the unbundling of Kumba Resources into two companies; Kumba Iron Ore and empowered coal and heavy minerals company, Exxaro. The transaction resulted in SOIC effectively holding 25.1% of the company and moving it up from a level three B-BBEE contributor to a level two. The deal boosted Basil Read to its current status of 53% black ownership, doubling its black ownership level over the five year period. There has however been a decline in female ownership within the firm from 19.31% in 2013 to 11.37% in 2015, a 7.94% decrease. That stated, when comparing the 2012 black female ownership percentages to the 2014 percentage figure, one can observe that indeed for three of the firms, this representation has increased by more than 8% over the period, illustrating significant progress.

Table 24: Management Control (10 points target according to CSC)

Year	2010	2011	2012	2013	2014
Murray & Roberts[42]	Non-compliant	1.52	0	Unavailable	Unavailable
WBHO	7,13	7,25	6,83	6,8	6,48
Group Five	6,97	6,62	8,7	5,76	4,42
Basil Read	Unavailable	6.1	7,31	6,6	6,62

Sources: B-BBEE Scorecards of Murray & Roberts, WBHO, Group Five and Basil Read (2010-2014)

None of the companies have met the targeted 10 points for black management control as set out in the charter, according to Table 24 above. As illustrated, WBHO comes the closest with a 2014 total score of 6.48 points, due to its continued relationship with Rainbow Construction as well as its maintenance of the three initial black partners, through its black empowerment initiative. The table also illustrates that the collapse of the deal between iLima- Mvela with Group Five has had a lasting impact as they remain the firm with the lowest score on this

[42]The Murray & Roberts scorecard for 2010 does not give scores for the remaining six elements, namely, management control, employment equity, preferential procurement, skills development, enterprise development and socio-economic development. The scorecard indicates the element level instead, which is to be understood using table 3 in chapter 2. For the years 2013-2014 reliable certificates from Murray & Roberts were unobtainable.

element. In fact, Group Five has seen a 2.55 points drop in black management control from 2010 to 2014. However the firm claims to be tackling this issue and seeks to implement changes to administer effective black management advancement schemes.

As previously articulated in the discussion about board versus executive management, one finds that there is a significant distinction between the two, in that there are fewer black individuals on the executive than those on the board. The numbers show that the companies have been more successful in attaining black equity (shown in the ownership scores) than they have in promoting black people into a position of management. The EE element is more illustrative of this point.

Table 25: Employment Equity (10 points weighting according to CSC)

Year	2010	2011	2012	2013	2014
Murray & Roberts	Level 8	2.36	3,79	Unavailable	Unavailable
WBHO	5,45	5,75	5,97	4,42	4,9
Group Five	5,91	9,22	5,67	4,17	3,96
Basil Read	Unavailable	4.12	6,13	6,12	4,04

Sources: B-BBEE Scorecards of Murray & Roberts, WBHO, Group Five and Basil Read (2010-2014)

It is under the employment equity element that one receives a better indication of the true effects of black empowerment initiatives, specifically the advancement of black people in the workplace. Arguably, true transformation is made evident by the results of employment equity. As illustrated above, all four companies score relatively low on this element. Although one is able to ascertain that all the firms have complied with the statutory and administrative requirements of the EE Act, (as failure to do so would have resulted in a zero score for employment equity on their scorecard) these low score are demonstrative of the fact that massive challenges remain operative in the attempts to advance blacks in any management positions.

Since the EE element essentially measures the advancement of black people in either junior, middle or senior management, what these scores indicate is that there has been devastatingly slow progress towards advancement over the five year period, despite the fact that the construction sector weights this element with lower points than the generic scorecard[43]. More precisely, one finds that that there has instead been a decline in the scores achieved by the firms between the years 2011 - 2014. Group Five for instance, having achieved a score of 9.22 in 2011, has had their score decline gradually by approximately 1.5 points over a three year period to 3.96 points in 2014. On the other hand,

[4343] The generic scorecard allocates a 15 points weighting to EE.

Murray & Roberts had barely met even half of the required points by 2012, while WBHO, which is noted as ‘one of the most transformed companies in the country’ still fell short of meeting half the required points by the end of 2014.

Using the Basil Read B-BBEE Assessment Report of 2014 as a further illustration[44], one finds that they are scoring the lowest (in terms of points) in the ‘middle management’ subcategory of employment equity. According to this report, black employees in the middle management category as a percentage of all employees was at 26.26% at Basil Read in 2014, scoring just over 1.2 points (BEE Verification Agency CC, 2014). This is well below their target of 75% black representation at this level of management and below the target of 40% that was set in the charter. Concerning black employees in the senior management category (excluding senior top and other top management) as a percentage of all such employees, Basil Read’s target is 60%, while their actual achievement is 25.09%, giving them 1.46 points as a contribution towards EE. Lastly, with regards to junior management, although they have 43.13% black people at this level, they still fall short of their targeted 80% and the commitment of achieving 65% of blacks at this level as stipulated in the charter.

This assessment report assists in dismantling the scores in an attempt to understand where the issues may lie. Although it is illustrative of the fact that Basil Read has failed in fulfilling not only its goals, but those agreed upon in the charter, its findings suggest that one of the central issues facing the industry is that there are barriers preventing the advancement of black people into management positions This then slowS the process for effective employment equity. The sector has vehemently argued that these barriers are attributable to greater socio-economic such as skills shortage - particularly the shortage of technically strong professionals - which has directly affected their ability to adequately address the advancement of black people into managerial positions.

Table 26: Skills Development (15 points weighting according to CSC)

Year	2010	2011	2012	2013	2014
Murray & Roberts	Non-compliant	12.31	12,25	Unavailable	Unavailable
WBHO	10,44	12,79	13,16	13.8	14.4
Group Five	12,8	14,41	14,66	14,42	14,73
Basil Read	Unavailable	13.56	13,27	12,71	13,94

Sources: B-BBEE Scorecards of Murray & Roberts, WBHO, Group Five and Basil Read (2010-2014)

There has been a solid overall improvement in the skills development component, with these firms coming very close to meeting the 15% target. Since this element measures how much has been invested in the growth and development of the previously disadvantaged, it is

[44] This report was obtained following an interview with Basil Read’s Transformation and Employment Equity Manager.

encouraging to see that the firms have led successful programmes. All four firms have seen an average annual point increase of approximately 0.8% as they endeavor to meet the goal. WBHO argued in their 2014 annual report that “genuine transformation takes time”, elaborating that for transformation to last, in needs adequate time to groom talented individuals to take up more senior positions (WBHO Annual Report, 2014). This is a sentiment shared across all four firms. All the firms have expanded their bursary and learnership programmes, specifically focusing on appealing to black women to take on the opportunities provided. The Basil Read assessment report indicates that 83.24% of the portion of skills development expenditure was spent on black employees in 2014, while Group Five is reported to have spent 90.22% of this expenditure on black employees, hence contributing to the score outcome.

Table 27: Preferential Procurement (20 points weighting according to CSC)

Year	2010	2011	2012	2013	2014
Murray & Roberts	Level 5	19.11	18,75	Unavailable	Unavailable
WBHO	20	19	20	20	19,36
Group Five	15,68	18,43	19.02	20	19,1
Basil Read	Unavailable	18,83	19,54	20	19,61

Sources: B-BBEE Scorecards of Murray & Roberts, WBHO, Group Five and Basil Read (2010-2014)

Perhaps the most inconsistently interpreted element of the scorecard is preferential procurement (Construction Sector Charter, 2006). With its aim being to encourage entities to “drive transformation throughout the economy by encouraging procurement only from suppliers that are compliant with the B-BBEE scorecard” (DTI, 2007), there have been unintended consequences due to the ambiguity of what counts in its measurement. The industry has tended to focus narrowly on equity ownership, which has resulted in some fronting activities as enterprises scramble to meet this compliance requirement. Simultaneously, one finds that industry has also noted that procurement is the most complex of the elements due to the lack of availability of suitable black contractors and suppliers in the sector. Moreover, there is a rather complex measurement tool that is used to measure procurement that has been widely contested, partially resulting in the falling away of preferential procurement in the amended codes that were initially released in 2013.

What one finds in the scorecards of these enterprises is that in 2013, all four firms were able to score full points for the preferential procurement element. What this implies is that firms are increasingly utilizing black-owned contractors to assist on various projects. Additionally, it suggests that these companies have assisted in the growth and development of some of these smaller enterprises, which has further improved their enterprise development scores. In reality, it is inconclusive whether or not these companies have indeed only worked with suppliers that are holistically compliant with the B-BBEE scorecard (generic or industry specific). What is known however is the seriousness in which the industry has taken this element of the scorecard as “a lower rating would impair the competitiveness of the organisation when bidding for state and municipal tenders, which are evaluated according to the Preferential Procurement Policy Framework Act (PPPFA)” (WBHO, 2013).

Table 28: Enterprise Development (15 points weighting according to CSC)

Year	2010	2011	2012	2013	2014
Murray & Roberts	Non-compliant	15	15	Unavailable	Unavailable
WBHO	12,53	15	13,62	15	15
Group Five	15	15	15	15	15
Basil Read	Unavailable	15	15	15	15

Sources: B-BBEE Scorecards of Murray & Roberts, WBHO, Group Five and Basil Read (2010-2014)

Table 29: Socio-Economic Development (5 points weighting according to CSC)

Year	2010	2011	2012	2013	2014
Murray & Roberts	Level 1	5	5	Unavailable	Unavailable
WBHO	5	5	5	5	5
Group Five	5	5	5	5	5
Basil Read	Unavailable	5	5	5	2,31

Sources: B-BBEE Scorecards of Murray & Roberts, WBHO, Group Five and Basil Read (2010-2014)

In addressing these three elements which are part of the indirect empowerment pillar, evidence suggests that the firms have had a significant impact on the growth of their suppliers, as well as strengthened the development of the communities they operate in.

Enterprise development, as well as CSI (part of the socio-economic development element), have been growing, and indeed, all four of the firms have been able to meet the set targets consistently for three consecutive years. As arguably the easiest of the elements to meet, CSI has been conducted by the enterprises even before the formalization of black empowerment policy. Primarily it involves contributing towards projects and registered development oriented NGO’s that benefit black people, particularly those in under-resourced areas.

Basil Read struggled to gain the required points in 2014 for the socio-economic development element. During that year, the social, ethics and transformation committee had mandated management to review the company CSI policy in the hope that a more focused and efficient strategy would be implemented. Thus, the internal redesign of CSI projects had an adverse impact on the 2014 B-BBEE scorecard (Basil Read Annual Report, 2014). Group Five won the "Best Sponsor of the Year" award at the 2014 Human Settlement Govan Mbeki Awards in recognition for one of their socio-economic development projects, Women's Build (Group Five, 2015). This Department of Human Settlements initiative entails the construction of residential units for vulnerable and marginalised groups, particularly women. As one of the numerous projects that have contributed to this element in their scorecard, it is a project that also overlaps with skills development as the women also participate in the construction work done.

Over the six-year period in which the charter has been operational, one finds that the B-BBEE status level of each firm has been gradually improving as illustrated in the table below.

Table 30: Firm B-BBEE Status Level

Year	WBHO	Group Five	Basil Read	Murray & Roberts
2010	3	3	4	4
2011	3	2	3	4
2012	3	2	2	3
2013	2	2	2	3
2014	2	2	2	2
2015[45]	2	2	2	2

Sources: B-BBEE Scorecards of Murray & Roberts, WBHO, Group Five and Basil Read (2010-2014)

Although all four firms have obtained a level 2 status for two consecutive years, it is Group Five that is leading the pack as the most transformed company in the industry according to the Mail & Guardian's list of South Africa's top ten most empowered companies (Mail & Guardian, 2013). With a total B-BBEE score of over 80/100, Group Five has performed well in junior and middle management, with the number of black members in those positions doubling within five years. Additionally, as previously discussed, the firm has invested substantially in general training programmes as well as supported the development of maths and science education. Closely behind Group Five is WBHO in the tenth position on the same national list (Mail & Guardian, 2013). Similarly, it has also invested in boosting maths and science skills, strengthening the pool of candidates from which to recruit. Moreover, WBHO has mentored and funded over 10 SME enterprises, broadening its base of companies that it can contract for work.

Following the empirical descriptions above, the section that follows aims to provide a comprehensive assessment – which encompasses all three phases - of the common themes

[45] The 2015 status level is obtained from company websites.

pertaining to B-BBEE and its implementation in the industry. The section concludes by summarising findings from a baseline report written by the CSCC, which gives some insight into the state of the sector with regards to transformation.

5.6 An Analysis of the Trends during all Three Phases

Across most industries, the first wave of BEE implementation focused largely on equity transfer, which led to an influx of BEE transactions that empowered a few elite. The construction industry however lagged behind greatly, only beginning to engage really in any genuine empowerment or transformation schemes during the second phase, as illustrated by the discussion on the four enterprises. Based on this study, the big players in the industry, therefore, seemed only to take the transformation agenda seriously after the formalization of the B-BBEE Act, which facilitated the reinforcement of black empowerment. Moreover, to steer away from being purely circumstantial in the analysis, one finds that it is useful to point out certain themes arising from the observations made. There is a pattern that one can identify from this discussion, in that there are some shortcomings that are common among the four firms during the three phases. Using the three pillars of B-BBEE, one can draw the following analysis:

5.6.1 Direct Empowerment

- During the first phase and early in the second phase, empowerment seems to have been too narrow and primarily focused on corporate ownership and control. A broader perspective was what was central in the construction charter, widening the focus and what could be viewed as 'empowerment'.
- During the first two phases, one finds that a limited number of people benefited from B-BBEE. Findings, as illustrated in tables 18-21, suggest that it was usually those with some political networks. For example, as its first steps towards genuinely addressing empowerment, Murray & Roberts pulled in some influential individuals such as Saki Macozoma. Therefore, the firm addressed only two elements of the transformation agenda, namely ownership and management control. One is, therefore, able to argue that the pursuit of diversifying their boards was mostly based on an individual's network reach and political capital, with some black executives holding director's position in a number of other companies.
- Despite the introduction of the charter with the scorecard, one still finds that most of these black shareholders are not taking part in the operations of the business, nor

steering its strategic path. Strategic decisions are maintained in the hands of white people, although blacks have come to occupy a position on the executive board.

- Through the deployment of prominent black females as chairs for the top executive[46], there is a sign that efforts are being made to advance blacks when it comes to direct empowerment.

5.6.2 Human Resource Development

Too little attention was paid to the transformation of corporations and the transferal of skills during the first two phases. Scores for employment equity and skills development have pointed out that none of the construction companies have been able to meet set targets under the human resource development pillar. EE remains a challenging element in this industry due to the failure to address adequately the culture of an untransformed sector. So although these companies are meeting set targets from the Act regarding recruitment, promotion, transfer, employee benefits, training and conditions of service, more changes in the traditional norms of doing business are needed for more substantial modifications to occur. Partially contributing to this is that there has been more emphasis placed on transferring control of major corporations to inexperienced black-owned companies or consortiums, with the old control structures remaining intact, largely influencing the low scores in these two elements.

5.6.3 Indirect Empowerment

All four firms are seen to be performing best under the elements pertaining to this pillar. With suppliers and communities as the main beneficiaries of preferential procurement, enterprise development and socio-economic development, the performances of the firms is indicative of the fact that they have been able to address some of the broader dimensions of B-BBEE beyond black ownership.

Lastly, one, therefore, finds that before the enactment of the B-BBEE Act and the sector charter, the government was the primary motivator for empowerment related investments, strongly encouraging companies to enter into equity relationships with black groups by specifying empowerment conditions for state contracts. During that phase, the government

[46]Group Five become the first company in the top five companies in the sector to have a black female chairperson, followed by Murray & Roberts

used its buying power to encourage commitments to training and empowerment. Its approach to empowerment was ad hoc and without a coherent strategic framework. This then led to increases in fronting tactics, rather than buy-in and proper implementation by the corporates. During the third phase, significant changes take place due to the establishment of an Act and sector charter that was able to articulate better what the state expected of industry and the precise actions that would be counted as ‘empowering’.

Additionally, one finds that the scorecard has been structured such that it is a combination of both ownership actions as well as ‘soft’ actions that qualify a firm to be B-BBEE compliant. In the most difficult elements, specifically those that pertain to the two pillars of human resource development and indirect empowerment one finds that scores are not only weighted low but that the four firms have scored poorly on these as well. With over five years since the charter agreement was rectified, the absence of momentous change, particularly for employment equity has put into question the commitment and dedication of the construction sector towards real transformation. Moreover, one might argue that it is under the ownership and management elements - as arguably the most visible and widely reported elements - that failures of the entire empowerment project lay. That stated one must acknowledge that ownership targets have the tendency to overshadow the necessity for transformation on a ‘real’ level as more resources have been invested in pursuing transformation at that level. This comes at the expense of neglecting other aspects of empowerment that have the potential to redress the imbalances created by an oppressive past.

It is worth mentioning that the overall conclusions to be drawn from this study are discussed in depth in chapter 7. Additionally, as will be shown in the remainder of the analysis, the conclusions reached in this paper are closely aligned to the findings of the CSCC on the state of transformation in the industry.[47]

5.7 Chapter Summary

Through systematically going through the various approaches employed by each firm as they sought to address black empowerment in post-apartheid South Africa, one can identify distinctive trends followed by the firms, particularly during the first two phases. What has however been particularly worrisome throughout the last twenty years, is that a majority of black board members hold independent, non-executive positions and are therefore not

[47] See Appendix D for the summary of the CSCC Report

involved in the day-to-day management of the companies. Hence, their role is to provide objective judgement, which is independent of management on issues facing the company. Although, a photographic illustration of the board members at each firm, shows that the composition is unequivocally diverse both regarding race and gender, thus somewhat reflecting the demographics of the South African society, the actual decision-making of the daily directive of the companies remains with middle-aged white males.

Nonetheless, what one finds at the end of the third phase specifically, is that evidence and analysis are partially in alignment with the initial hypothesis which expresses that the four large companies have been highly responsive to B-BBEE pressures, although they had not adequately addressed all elements. The next chapter will show that despite a collusion scandal that has strained relations between industry and state, there continues to be a drive by industry stakeholders to maintain commitments made in the charter, thus better supporting this initial hypothesis. Accordingly, this next chapter begins by discussing firm strategies and the manner in which these strategies are approached.

Chapter 6: The strategic reforms of the firms: An evaluation

6.1 Introduction

Having discussed in depth how the four firms approached and implemented empowerment initiatives over the three phases, it is evident that indeed it was necessary for the firms to alter their overall company strategies to continue to operate successfully. Moreover, before 1994, South African companies were confined to the domestic market due to economic and trade sanctions that were imposed by the international community. The South African economy was thus dominated by a few large companies who invested in one another, due to their inability to expand abroad (The Economist, 2006). Thus, the changes in the political arena which heralded black empowerment as a national goal also offered businesses the opportunity to remake themselves and begin competing on a bigger scale.

In this chapter, I describe the various strategic choices that the four firms have made in their efforts to evolve in light of the changes that have taken place in national policy. This chapter thus details how these companies have transformed and made distinctive strategic decisions, during different phases of the twenty year period (1994-2014).

6.2 An Overview of Dominant Firm Strategies

Changes in firm strategies are partially as a consequence of legislative and political changes in that particular context. As previously alluded to, the departure from the apartheid state to a democratic country caused anxiety among business owners in the most dominant South African sectors, due to the uncertainty of what a new dispensation would bring. As a first step to change in the early 1990s, the large conglomerates began to unbundle, selling off their non-core assets (The Economist, 2006). Specifically, six large conglomerates dominated the South African economy at the time, namely, SA Mutual, Liberty/Standard, Sanlam, Anglovaal, Anglo-American and Rembrandt/Volkskas (Southall, 2006). The vision to become global firms meant they had to transform themselves from their inward-looking strategic focus and hone in on particular markets.

Thus to compensate for their late arrival on the international scene, as well ensure their continuity in the changed South African landscape, South African businesses went on a shopping spree. SAB, now known as SABMiller, managed to acquire stakes in state-owned breweries in Eastern Europe, expand operations into six African countries mostly through acquisitions, move into China as well as acquire Miller, an American brewer all by the year 2002 (The Economist, 2006). Such activities of 'centralisation' which refers to mergers and acquisitions among firms have been rapidly on the rise since. These four companies in the construction industry were no different.

In post-apartheid South Africa, there has been a drastic increase in concentration[48] and centralisation tendencies across the sector, with numerous large mergers and acquisitions having taken place over the last twenty years. Cottle (2014) states that under apartheid, approximately 5% of construction companies accounted for 63% of the turnover in the industry. However, by 2011, it is approximated that 1.2% of construction companies accounted for 64% of total turnover in the industry. Moreover, he makes the assertion that in 1994, there were 23 industrial building and construction companies listed on the JSE, while by 2013 only 12 'heavy construction' companies remained on the domestic stock exchange, almost half of the 1994 figure (Cottle, 2014). The changes are as a result of some bankruptcies in the sector as well as growth in a number of mergers and acquisitions.

Centralisation has however been more a means to grow the size of the enterprises, expanding their reach and modifying their capabilities. Although the pursuit of mergers and acquisitions is a strategic goal of any enterprise, this chapter will examine the strategies that have shaped the manner in which the firms ultimately perform.

I have found that there have been four dominant strategic approaches utilized by these four companies that have periodically reformed the way in which business is conducted.

Three of these options fall within the construction portion of the enterprise and have been:

1. To build relationships with the new ruling elites to secure public sector work ***(Strategic Decision 1)***
2. To focus on obtaining contracts from the South African private sector as opposed to relying on those from the public sector ***(Strategic Decision 2)***

3. To distance the firm from South Africa and her market and rather expand abroad, particularly in Southern Africa ***(Strategic Decision 3)***

While fourthly and more broadly:

48 By concentration of capital is meant an increased portion of social wealth concentrated within the company.

4. To diversify company operations and service offerings, such that the business does not only comprise of construction related activities but includes other closely related functions – operationally diversify ***(Strategic Decision 4)***

As will be discussed, these are arguably the four dominant strategic positions taken by these firms at various stages over the twenty-year period. It is thus essential to examine at which points the companies engaged in these strategies over the three phases and how their choices have impacted them.

To document the key strategic milestones and decisions made by each firm during the phases, I have utilized a table for each period that details the critical strategic decision made by a particular company at that phase. Moreover, to better illustrate the impact of certain strategic decisions, I have employed the assistance of a typology that shows the extent of geographical and operational diversification for the four companies. The table illustrates the extent of both geographic and operational diversification, with geographical diversification split into these three categories:

- Undiversified – firm is active in local markets only
- Moderately diversified – company is mostly active in South Africa, with limited cross-border operations
- Highly diversified – company is internationally active

Similarly, the following table also illustrates the extent of operational diversification that is split into these three categories:

- Undiversified/ single service offering
- Moderately diversified – refers to limited vertical markets
- Highly diversified – refers to multiple vertical markets

By depicting the typology table for each phase, one finds a clear demonstration of the movements of a company from one category to another. The table in the third phase illustrates the final results of the extent of diversification.

Table 31: Typology

Operational Diversification	***Highly Diversified***			
	Moderately Diversified			
	Undiversified			
		Undiversified	***Moderately Diversified***	***Highly Diversified***
		Geographic Diversification		

Adapted from Olivier & Root, 2014

One finds that the placement of each firm in the table above will change according to the phase discussed. Hence, the typology assists in informing the movements made by each company, in so far as diversification is concerned.

6.3 The Strategic Reformations

6.3.1 Phase 1 Strategic Reformations: 1994-2000

Table 32: Strategic Reformations, 1994-2000

Firm	Key Strategic Milestones and Decisions
Murray & Roberts	**1994 -** Loss in political connections and struggle to operate in new markets **Strategic Decision 3:** **1995 -** Rapid international expansion across the continent [49] **Strategic Decision 1:** **2000 -** Firm begins to make gains in political currency[50]

[49] Having started its international expansion growth path in the early 1990s, the firm had an international turnover of 15.2% in 1995.

[50] Brian Bruce, the CEO of Murray & Roberts at the time, becomes involved in the formation of the CIDB and forms part of the committee responsible for the drafting of the construction charter.

Firm	Key Strategic Milestones and Decisions
WBHO	**1994 -** Growth through acquisitions made to safeguard the company against a change in political order **Strategic Decision 1 & 2:** **1995 –** Impressively establishes a black empowered construction company in Soweto, gaining favour with both the private and public sector
Group Five	**1994 -** Brief loss in political connections and struggle to operate in new markets. **Strategic Decision 1 & 2:** **1999 -** Focuses on building and maintaining relationships with their dominant customers, namely, the South African private sector and government
Basil Read	**1994 -** Majority French-owned firm[51] at the time with weak political network, but good financial results **Strategic Decision 3:** **1998 -** Strategically focuses on expanding further South into Africa, with the assistance of the Bouygues Group

During the first period, one finds that the commonality among the firms is the uncertainty about their positions in a democratic South Africa. With the change in the face of government came a sudden lose in political connections. These firms, which were at the time heavily reliant on public sector contracts, collectively struggled to operate in the new environment under the new regime, which vehemently attempted to the loosen the grip held by white capital.

Additionally, the demise of apartheid afforded South African businesses the opportunity to expand their operations into the rest of the continent and the world as a whole. Basil Read, Murray & Roberts, as well as WBHO, were thus a part of the first few firms in the sector to explore markets beyond South Africa, competing with sophisticated and well-resourced European companies. The advantage possessed by other international firms due to their

[51] Basil Read was a member of the Bouygues Group at the time.

years of experience in and familiarity with those markets proved difficult a hurdle to overcome. This first "wave of South African investment into other countries" as remarked by Olivier and Root (2014) saw much of the investment made by these companies into overseas markets suffer due to market and cultural ignorance.

This first period is thus marked by a scramble among firms to acquire political capital in South Africa while exploring the possibility of operating beyond the Limpopo. The failure however of the firms to, properly investigate these new markets was an impediment to their development and performance. Tabulated below is their position in the typology.

Table 33: Diversification, 1994-2000

Operational Diversification	***Highly Diversified***		Murray & Roberts	
	Moderately Diversified	Group Five	Basil Read	
	Undiversified	WBHO		
		Undiversified	***Moderately Diversified***	***Highly Diversified***
		Geographic Diversification		

For the initial part of this period, one finds that Group Five remained a firm that primarily operated in South Africa, however from 1999 onwards, one finds that the company began developing rather rapidly outside of South Africa.

6.3.2 Phase 2 Strategic Reformations: 2001-2009

Table 34: Strategic Reformations, 2001-2009

Firm	Key Strategic Milestones and Decisions
Murray & Roberts	2001- Marks the beginning of the scramble for a BEE scorecard influence. **Strategic Decision 1:** 2008-2009 - Major profit gains due to construction activities linked to 2010 FIFA World Cup. Continued harnessing of public sector relationships. **Strategic Decision 3**: The firm grows in the Middle East and continues to develop across the continent.
WBHO	**Strategic Decision 1:** 2001 - Senior executives influential in CIDB and drafting of B-BBEE scorecard **Strategic Decision 3:** Firm continues to focus on securing major acquisitions. Continues to rapidly expand internationally[52]
Group Five	**Strategic Decision 1:** 2001 - Gained political leverage through influential networks in the board[53] **Strategic Decision 3:** 2006 - Major expansions into Africa, the Middle East and Eastern Europe. -Growth in acquisitions[54] **Strategic Decision 1 & 2**: 2009 - Moves from high geographic diversification towards moderate diversification in order to focus on operations in South Africa

[52] Acquires some of its competitors such as Capital Africa Steel (Pty) Ltd and Matkovich and Hayes (Pty) Limited in order to dominant the Southern African market.
[53] See table n chapter 5 on firm board.
[54] Group Five acquires Quarry Cats. See table 23.

Firm	Key Strategic Milestones and Decisions
Basil Read	**Strategic Decision 1 & 2:** Firm continues to grow rapidly in size due to acquisitions 2005 - Good political leverage acquired through the empowerment transactions[55]. Makes a move towards becoming a black-owned construction company 2009 - Slowly begins to retract from its operations in overseas market to cater for 2010 FIFA World Cup, as well as focus on other domestic infrastructure activities

The second period, which sees the formal implementation of black empowerment policy, is also one where each of the firms pursues two or more of the strategies simultaneously. At the start of the period, Murray & Roberts along with WBHO had some of their executives as part of the committees in charge of drafting the sector's empowerment charter as well as setting up the CIDB. Engaging in such activities granted them access to powerful decision-making networks that would add value to future business endeavours. Therefore, what is conspicuous about the early years of this period is the upward surge of B-BBEE deals as black (usually politically connected) individuals accept positions on the boards of these companies. Hence, although not overtly apparent, such networks have worked in the favour of the firms, regarding their adherence to B-BBEE and their access to resourceful relationships. Simultaneously, both these companies as well as Group Five continued to grow and develop their foothold in other parts of the continent as well as in Australia and the Middle East.

When South Africa won the bid to host the 2010 FIFA World Cup during the latter part of this phase, there is a significant shift in strategic focus among the firms. With the general focus among the firms primarily being geared towards geographic expansion, the World Cup presented numerous domestic opportunities for players in the industry. Projects such as the building of stadia, the improvement of rail and road systems, as well as the upgrade of airports across the country were made available. These massive infrastructure projects would require firms with the experience, expertise and resources to reach completion. What one then notices from these companies, particularly Group Five and Basil Read is that they become acutely aware of the gains to be made domestically, thus begin to reign in resources

[55] Bouygues sale of 51% Basil Read shares to two black owned enterprises, Amabubesi Investments and Metallon Ventures.

to capture a significant portion of the perceived rents. There is thus a strategic ploy to retract slightly from offshore operations and instead focus on securing the massive domestic projects that would be extremely profitable for 'winners'.

Regarding diversification, evidence indicates that all four firms were geographically, moderately diversified during this phase as illustrated below. The shared strategic approach was to develop operations in the rest of the continent and begin to take captive of those markets. This proved to more favorable for the firms than was previously seen.

Table 35: Diversification, 2001-2009

Operational Diversification	***Highly Diversified***		Murray & Roberts	
	Moderately Diversified		Basil Read WBHO Group Five	
	Undiversified			
		Undiversified	***Moderately Diversified***	***Highly Diversified***
		Geographic Diversification		

Moreover, one finds that strategic decision 1 was followed by all four of the firms during this period. The necessity to form relationships with the governing elite was thus seen an instrumental component for their futures in South Africa.

6.3.3 Phase 3 Strategic Reformations: 2010-2014

Table 36: Strategic Reformations, 2010-2014

Firm	Key Strategic Milestones and Decisions
Murray & Roberts	2011 - Discovery of collusions linked to the 2010 FIFA World Cup **Strategic Decision 3:** - Rapid international expansions and operational capability growth. **Strategic Decision 4:** - Acquires Concor[56]. Growth in firm operations and capacities. - Embarks on a three-year Recovery and Growth Strategic plan to restore financial stability **Strategic Decision 3, 2 & 4:** **2014** - International operating platforms accounted for more than 70% of revenue and 80% of profit. Massive growth in operations outside of South Africa.
WBHO	**Strategic Decision 3:** **2011** - Moves to becoming a specialised construction company, thus focuses on being the 'top contractor' and remain operationally undiversified - Implicated in the construction collusion scandal which further motivates it to expand internationally **Strategic Decision 3:** **2012** - Rapidly increasing international expansion as domestic projects dwindle due to collusion allegations.

[56] With both companies listed on the JSE, the deal was contested and questioned by various players in the industry, who saw the transaction as anti-competitive. Eventually it drew the attention of the Competition Commission. The transaction was eventually investigated by the Competition Tribunal which ultimately approved the deal.

Firm	Key Strategic Milestones and Decisions
Group Five	**2012 -** Negatively impacted by the slow roll out of government's infrastructural development programme and outcome of Competition Commission **Strategic Decision 3:** Grows its operations in other parts of Southern Africa
Basil Read	**Continues with Strategic Decision 1:** 2010 - Began to focus on operating primarily in South Africa due to the National Infrastructure Plan and its promise for long-term business in the sector **Strategic Decision 4:** 2011 - Becomes a highly diversified in its operations -Mistrust between sector and state due to the collusion scandal has a significant impact on its operations due to its heavy reliance on South African based projects. **Strategic Decision 3:** 2012 -Began to rethink strategy to operate primarily in South Africa, thus branches out to other parts of the continent.

As illustrated in their strategic trajectories, expansion into the African continent has been a shared goal for the four enterprises, as this opportunity has allowed these firms to diversify their income streams and generate revenue in foreign currencies. As a part of their 2009-2014 strategy, Murray & Roberts (Murray & Roberts Annual Report, 2011) state that: “Africa has become a new frontier for sourcing natural resources, and the economic benefit will support the development of new public and commercial infrastructure”. Likewise, Basil Read stated in 2011 that they had established a wider range of operations in other parts of Africa while Group Five has been involved in infrastructural development projects in Southern Africa. Thus, over time one finds that the strategic approach changes from working towards forming relationships with the ruling elite (strategic decision 1) to rapidly expanding beyond South Africa (strategic decision 3) particularly during the third period.

Table 37: Diversification, 2010-2014

Operational Diversification	***Highly Diversified***		Basil Read	M&R
	Moderately Diversified		Group Five	
	Undiversified			WBHO
		Undiversified	***Moderately Diversified***	***Highly Diversified***
		Geographic Diversification		

Perhaps the greatest deterrent from planned strategies during the years in this period is the sudden outbreak of a collusion scandal that significantly impacted all the main players in the industry. Undoubtedly one of the largest post-1994 investments made into the South African construction industry were the infrastructure development projects that led up to the 2010 FIFA World Cup to be hosted in the country. It is worth re-iterating that the post-apartheid state is the construction sector's biggest single client in the delivery of social and economic infrastructure, hence landing projects that were associated with the World Cup would be an enormous gain to any construction company. The bidding process for a range of projects was thus set to be vicious and highly competitive, however through rigorous investigations by the Competition Commission; it was discovered that some of the largest and most successful construction companies in South Africa opted to 'cheat the system' through rampant collusions.

In an investigation that included other industry leaders besides those discussed in the paper[57], the commission found that these firms colluded when bidding for tenders, allocating tenders among themselves and agreeing on profit margins to be achieved from these bids (SA Commercial Prop News, 2013). With the assistance of Group Five as the self-proclaimed 'whistle-blower' (Group Five Annual Report, 2013)[58], the Commission launched the Construction Fast Track Settlement Process in February 2011 that resulted in a collective administrative penalty of R1.47 billion paid by participating firms[59]. Some argue

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[57] Other leading firms charged with collusion are Stefanutti Stocks, Aveng subsidiary Grinaker LTA, Raubex and Wade Walker – which is now a subsidiary of Murray & Roberts.

[58] Group Five makes the claim to have taken an 'industry-leading' position by taking decisive steps from 2009 to gather all necessary information of corruption and anti-competitive behaviour from their employees in an attempt to implement internal corrective action. This eventually led to the decision to approach the Commission, providing it with the information gathered, which assisted in allowing the Commission to prosecute the construction industry, collect penalties and fines and eliminate the collusive behaviour in the country. Due to their continuous co-operation and provision of evidence of the industry's behaviour, Group Five became the primary leniency candidate.

[59] Specifically, Murray & Roberts was fined R309 046 455, WBHO, R311 288 311 and Basil Read, R94 936 248. Group Five did not accept the Commission's settlement offer in terms of the fast track process.

that this was a small price to pay if the Commission is to show that it is serious in curbing anti-competitive behaviour that has been endemic in the construction industry for decades. Moreover, the role of the CIDB in limiting construction sector cartels was interrogated, with the CIDB arguing that its powers need to be extended, such that they can sanction firms that may be involved in collusive practices (Centre for Competition, Regulation and Economic Development, 2014).

The initiative by the Competition Commission revealed over 300 instances of bid rigging[60]. However, the settlements reached were on projects concluded after September 2006. One thus finds that some of the biggest construction contracts to have been conducted over the last twenty years are indeed part of this scandal. Appendix B gives a comprehensive listing of some of the largest construction projects to have taken place over the last decade, which coincidentally, were discovered to have been part of collusive behaviour. These projects which are both private and public sector projects involve all facets of infrastructural development, all with contract values above R100 million (Centre for Competition, Regulation and Economic Development, 2014). The firms coordinated tenders over different projects, with the method of operation being that firms would collude to create the illusion of competition by submitting sham bids ("cover pricing"), enabling a fellow conspirator to win a tender (SA Commercial Prop News, 2013). Some of these companies had carved up contracts between them through a cartel dubbed "the party". They colluded, fixed prices, exchanged commercially sensitive information and rigged tenders (SA Commercial Prop News, 2013).

The scandal has undoubtedly caused a rift between the sector and the state, clearly reflected by the performance of each of the companies as they continue to struggle in securing tenders. This has had an impact on profit and revenue streams, exasperated by the fact that the roll-out of major projects in government's R3-trillion infrastructure plan have stalled since the announcement was made in 2011.

The scandal thus caused all these firms, particularly Group Five and Basil Read to re-strategize as their hopes to be the frontrunners in the National Infrastructure Plan[61] had become slim.

Moreover, from the two forms of diversification strategies discussed in this paper, namely geographic and operational, one finds that Murray & Roberts is the only firm that currently features as highly diversified for both geographical and operational diversification. This

60 See Appendix B

61 The National Infrastructure Plan was adapted by the South African Government in 2012. The plan aims to transform the economic landscape of the country, while simultaneously creating jobs and strengthening the delivery of basic services. (South African Government, 2016)

strategic approach has been beneficial to the company in that it does not rely solely on its construction activities for survival, but is also able to maintain stability when the construction sector is not performing well in South Africa.

6.4 Overall findings of firm Strategic Performance

Over the examined 20-year period, Murray & Roberts has remained strategically fixed on not only taking the lead on some of the biggest construction projects in the country, but also ensuring that its footprint reaches across the continent and even into other parts of the world. Its approach has thus been dominated by the shifts it has made towards growing the company in size to match up with what is required in capability. Strategically, this has translated into the firm continuously expanding both operationally and geographically as it looks to the developing world for sustained operations. Moreover, the company has chosen to focus more on the extraction of oil and gas, as well as the development of petrochemicals and water as opposed to construction as they strive to position themselves as a market leader in the African continent. In South Africa, their strategy has also evolved tremendously, as the focus has become to target multinational corporates and property developers interested in establishing themselves in South Africa, whereas previously the focus had been to rely on government work.

Perhaps what is most conspicuous about WBHO is that they have chosen to remain a 'pure' construction company, despite exploring other related activities over the years as illustrated by the three phases. This strategic decision has arguably made them 'niche' in this industry as they have gained the reputation of being one of the best quality contractors in the country. Their strategies have ranged from attempting to diversify their operations, to settling on becoming a construction company with a wide geographical spread. Expansion into various other countries, as well as the beneficial relationships it has with other industry stakeholders in South Africa has afforded WBHO the ability to focus on primarily being a construction company and strategically maintain all factors that enable it to stay safely afloat.

Similarly, both Group Five and Basil Read moved away from primarily focusing on their South African operations and looked towards developing their brands in other parts of the continent during this period. The stagnation of the National Infrastructure Plan has greatly disappointed both firms, propelling them to move into developing economies. Additionally, the tension between industry and state has resulted in a difficult-to-repair relationship, which has thrown off the strategy to rely heavily on strong rents-based networks that had

previously operated smoothly. There has consequently been a move by the firms to explore work opportunities in South Africa's private sector.
Drawing from the strategic decisions made at firm levels, there are a few inferences that one can gain about the industry.

Lastly, the extent to which these large construction companies are diversified across the countries of Southern Africa is indicated in the table below, where a tick expresses that a firm is operational in that country. The relevance of this is that is points out where strategies to operate beyond South Africa have been successful, as well as indicates that indeed these firms have been able to be profitable in these countries despite challenges faced during the first period, where unfamiliarity with these markets almost caused them to fail.

Table 38: Operations in Southern Africa

Country	Murray & Roberts	WBHO	Group Five	Basil Read
Angola	✓			
Botswana	✓	✓	✓	✓
Lesotho	✓	✓	✓	
Malawi	✓			
Mozambique	✓	✓	✓	
Namibia	✓		✓	✓
Swaziland	✓	✓	✓	✓
Zambia	✓	✓	✓	✓
Zimbabwe	✓	✓	✓	✓

Source: Olivier and Root, 2014

Murray & Roberts as the largest contractor of the group operates in all specified countries. The other three firms are active in most of these countries while one finds that the countries most operated in are Botswana, Swaziland, Zambia and Zimbabwe. There is an overall consensus among the firms that the Southern African region is the most promising for growth opportunities in the sector, specifically for water, transport, energy as well as mining. The movement to expand beyond South Africa has also been exasperated by the conditions that exist in the domestic market, where the construction sector is currently in a recessionary phase of negative growth. This has resulted in increased competition and lower profit margins (Olivier and Root, 2014). Strategically, therefore, the firms are pushing towards establishing themselves and solidifying their operations in these African markets.

Chapter 7: Conclusions and Recommendations

7.1 Introduction

This chapter seeks to summarize the major themes and hypotheses asserted in this paper. In conclusion it gives a few recommendations, some directed at the construction industry and others on the implementation of B-BBEE as a whole.

7.2 Technical Discussion

In an attempt to answer the main research question of this paper, I have tracked the objectives of the study through each of the chapters. Primarily the study objectives were;

- To contextualize BEE and the B-BBEE scorecard in South Africa as an economic development tool to be utilized by all sectors in their efforts for transformation.
- To analyse the construction sector and its interaction with BEE, using four firms in the sector as a case study to assess progress in attaining the policy objectives of B-BBEE and the respective B-BBEE charter.
- To evaluate the strategic reformations that the firms have undergone over a twenty year period and how they have performed at various points during the period.

To meet these objectives, while addressing the research question, the paper was structured as follows:

Chapter two examined the foundations of BEE, tracing the various narratives of black empowerment, as well as detailing the key components of the B-BBEE policy framework. Chapter three gave a historical account of the construction sector and the formation of the CIDB. Chapter four elaborately discussed the Construction Sector B-BBEE Charter, describing the elements embedded in its scorecard in order to usher in a discussion around how four construction companies have dealt with requirements set in this charter.

Chapter five began with a description of each of the four companies to be discussed. It broke down the evaluated period into three phases, systematically examining the efforts made by the firms in addressing black empowerment during each phase.

Lastly, chapter six found that the strategic reforms undertaken at different times by the firms were largely dictated by the continuous change in the South African political climate at differing times during the twenty year period. Continuing with the usage of three phases over the examined time period, the chapter sought to find patterns in the strategic decision making made by the firms.

The study thus aimed to evaluate and examine the impact of BEE in the construction sector as well as the strategic changes undergone by players in the industry from 1994-2014, using Murray & Roberts, WBHO, Group Five and Basil Read as case studies.

7.3 Main Findings and Observations

Informed by the evidence obtained through this research, the main conclusion is that there are inherent limitations to B-BBEE in addressing South Africa's socio-economic challenges, despite the expansive manner in which both the B-BBEE Act and industry charters define B-BBEE. Moreover, based on the case study of the four firms, evidence suggests that the sector has performed inadequately in its attempts to address empowerment through the scorecard as it has failed to reach the targets set in the charter. This is due to weaknesses in the performance of these firms in relation to the scorecard. The construction sector has thus been able to only partially fulfil its transformation agenda and meet some of the objectives set out in its transformation charter. There are however variations among the firms on the degree to which they have met set objectives, hence the necessity to discuss the outcomes comparatively, as for some criteria, some firms perform better than others.

Evidently from the discussion in the paper, there are three broad elements to the B-BBEE Construction Charter, namely, ownership, management and the softer elements of the scorecard such as enterprise development. It now becomes useful to discuss the evaluation of each element separately.

7.3.1 Ownership

One may conclude that despite a tailored industry charter that specifies indicators for each B-BBEE element; many firms in the construction sector (including those discussed in this paper) had abbreviated B-BBEE to the selling of equity to a few blacks, particularly during the first two phases (1994-2000). This element was perhaps the most widely reported on due to the controversies that arose around ‘BEE deals’ and the political networks they exposed.

Evidence from the scorecard, as well as the board membership composition of each company, indicates that all four of the companies have - at some point during the 20 year period -managed to meet the ownership target as set out in the charter. This element of B-BBEE had been portrayed as the hallmark of empowerment and had been overly accentuated at the deficit of other aspects of the black empowerment process, particularly during the early years of South Africa’s democracy. White business had often regarded empowerment as a political necessity while arguing that major changes in management would be detrimental to investment and economic growth. The introduction of a multidimensional scorecard was a way in which other aspects of empowerment could be identified and addressed, hence one finds that it has been a gradual process for these firms to look beyond ownership in their attempts to address transformation imperatives.

7.3.2 Management

Arguably the objective of the B-BBEE charter and the scorecard is that transformation goes beyond ownership as was its focus during the late 1990s, towards addressing other aspects that can directly affect ordinary black South Africans. The advancement of black people into managerial positions in the corporate sector thus become necessary to transform the manner in which these corporates operate. Evidence from this study indicates that this is where weaknesses are most prevalent; both in the manner in which the construction charter is structured and in the resulting low scores. Firstly, the scorecard only allocates 10 points to employment equity, whereas the generic scorecard allocates 15 points. Evidence in the study further shows that there has indeed been a decline in the scores for both management control and employment equity for each of the four firms as discussed in Chapter 5. Specifically, areas of weakness are in the advancement of the previously disadvantaged in middle and senior management positions. The strategic revolutions of each of the firms have thus failed to deal adequately with addressing these elements, although it is here where it is worth emphasising that it is the socio-economic challenges such as the lack of skills that are a huge impediment. Although expansive in its outlook, B-BBEE remains restricted in what it is able to address.

What is also to be drawn from this is that there are barriers that limit the ability to have regulations transform firms. Firms can reduce the volume of business that they do with the state, through making strategic choices that lead to diversification procedures (both geographic and operational diversification) as a way to limit the impact of B-BBEE constraints on their corporate culture and norms. The onus is on the firms in the industry to make strategic choices that would improve black empowerment initiatives. However, what is seen is that the geographic and operational diversification strategies have been a way to limit the impact of B-BBEE regulatory constraints for these firms, as they become less dependent on government projects and maintain the status quo when it comes to management.

7.3.3 'Softer' Elements

The scores for skills development, enterprise development and socio-economic development are good across all four firms, with WBHO and Group Five performing well above the other two firms. As elements that address the broader dimensions of B-BBEE and are arguably easier to address as they barely disrupt the operational arrangement of a firm, the scores obtained under these elements show off ways in which B-BBEE has been successful. The ability for these firms to adequately addressing these elements - which are the majority of the elements in the scorecard - is somewhat of an indication that these firms have indeed been highly responsive to B-BBEE pressures.

7.4 Conclusions and Recommendations

B-BBEE and its scorecard are multidimensional and seek to simultaneously address a multitude of transformation targets. One finds however that the issue with the implementation of B-BBEE is that it ignores this multidimensional nature of the charter and scorecard, with attention often focused on ownership as the element most often equated with the entire empowerment project because of the perception of what empowerment is. Thus in answering whether or not firms have adequately addressed B-BBEE objectives and how their strategies have evolved since 1994, it was important to look beyond the general perception that ownership and management control are the primary indicators of empowerment and recognize that there are broader elements embedded in the charter that are also significant indicators. Accordingly, there is undoubtedly a great deal of significance in the ownership of the means of production by the previously marginalized black majority, a significance that cannot be over-emphasized. The ownership element will thus most certainly remain the cornerstone of B-BBEE, however in order to truly transform the construction industry, there is arguably a necessity for BEE "to shift from supporting passive shareholding to promoting a more active and productive empowerment of black people across South Africa's economy" (DTI, 2012) as articulated by DTI Minister Rob Davies. Simplistically, what this means is that in discussing BEE and its impact, it is important to locate the impacts of BEE beyond ownership through shareholding, but also begin to seriously ensure that the policy is impactful to smaller black companies through encouraging big business to play a greater role in their development.

Particularly looking at the four firms discussed in this paper, one notices that what BEE/B-BBEE has been able to achieve is a high level of commitment from players in the industry to address the grievances that relate to black empowerment. The four firms have - through their involvement in the CIDB and other organisations interested in the transformation and development of the sector – displayed a willingness to reform the industry such that it is representative and inclusive of South Africa's demographical makeup. Although findings from this study show that the firms have failed to transform adequately the demographics across all management levels, they have thrived in creating programmes that are geared to providing skill and training. These 'soft' actions have thus boosted scorecard points, while simultaneously making inroads in addressing issues around the development of black suppliers. The firms, therefore, need to find means to implement BEE more shrewdly, as, purely based on what is stipulated in the charter and the indicators imposed on the scorecard, the policy has tremendous potential of transforming the industry, contributing to the government's development agenda.

Thus, there is value in the 'softer' parts of the scorecard and perhaps more gains will be realized through the implementation of the revised BEE Codes of Good Practice. For the construction sector, in particular, the four companies discussed in this paper, I find that there are two recommendations to be made that could assist in addressing empowerment;

1. As captains of the construction industry, these companies have the responsibility to use their high profits to assist further in the development of small black enterprises, beyond what is required to meet the 15 points targeted from the charter. The larger companies could thus invest in finding innovative ways in which they could bridge the "capability gap of emerging companies on a win-win basis" (Qubeka, 2016).

Moreover, regarding the construction sector scorecard, clarity on what is measured as ‘empowerment’ in the procurement process needs to be addressed.

2. With regards to employment equity and management control, there needs to be more pressure exerted on the industry to address the low levels of black representation at all levels of management. The sector needs to be pushed by the CIDB through continuous assessment to find ways to develop black talent within the firms.

7.5 Chapter Summary

This chapter is the summit of the study. Herein the major findings and subsidiary observations emerging from the study were interrogated. Moreover, one finds that the conclusions reached in this paper are largely similar to those reached in a study by the CSCC on the state of empowerment and transformation in the industry[62]. All-in-all, BEE implementation in the construction sector has been summed up as inadequate, although the impact of BEE on the industry players has been acknowledged and taken seriously by firms operating in the industry.

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[62] Please refer to Appendix C for a summary on the findings by the CSCC.

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WBHO B-BBEE Scorecards. 2010-2014

Appendix A

Influential Shapers of the Construction Charter

Name	Association with the Charter and Scorecard	Other Construction Affiliations
1. Mike Wylie	Co-chairman of the CIDB Committee tasked to establish the industry's charter and scorecard	Former executive chairman of WBHO
2. Brian Bruce	Former chairman of the CIDB (2001-2007)	He was the Chairperson of M&R from 2000-2011
3. James Ngobeni	Co-chairman of the CIDB Committee tasked to establish the industry's charter and scorecard	Has served on the board of WBHO since 2006
4. Philisiwe Mthethwa (nee Buthelezi)	Chief director of the BEE Commission that developed the B-BBEE strategy, the B-BBEE Act and Codes of Good Practice that govern the charter and scorecard	Currently serves as the chairperson of the Group Five board of directors

5. Nonhlanhla Mjoli-Mncube	Deputy chairperson of the CIDB during the drafting of the charter and scorecards	Serves as a non-executive director of WBHO since 2006
6. Spencer Hodgson	first CEO of CIDB (2001-2007)	Seconded to Wits University by M&R to assist in their major expansion programme
7. Savannah Maziya	Board member of the CIDB	Serves as a non-executive director of WBHO since 2006

Appendix B

List of large Public and Private Sector Collusion Projects: 2000-2008

Table 39: Major Public Sector Projects

Project	Year	Client	Conduct	Firms that colluded	Firm that won bid
Sanral Tender: Mount Frere	2006	Eastern Cape Department of Roads and Transport	Cover price	Grinaker LTA, Haw & Inglis, Rumdel and WBHO	WBHO
Northern Waste Water Treatment Works	2006	Johannesburg Water Department		Grinaker LTA and Group 5	Group 5
UCT Ladies Residence Project (presumably Graca Machel Residence)	2005	University of Cape Town	Cover price	Grinaker LTA and Group 5	Group 5
Durban ICC	2007	eThekwini Municipality	Cover price	Grinaker LTA, Group 5, Stefanutti and WBHO	Group 5/WBHO JV (Referred to as Masinya JV)
Bayhead Road Extension Khangela Bridge	2006	eThekwini Municipality	Cover price profit share	Basil Read, Group 5 and Stefanutti	Basil Read/Stefanutti JV
Green Point Stadium Tender 1	2006	City of Cape Town	Cover Price	WBHO and Group 5	WBHO/Murray & Roberts JV
Green Point Stadium Tender 2	2006	City of Cape Town	Cover Price	WBHO and Stefanutti	WBHO/Murray & Roberts JV
N17 Link Road to Soweto	2006	Johannesburg Roads Agency	Loser's fee	WBHO and Group 5	Group 5

Project	Year	Client	Conduct	Firms that colluded	Firm that won bid
National Route 5, section 4 between Senekal and Vaalpenspruit	2006	SANRAL	Cover price	Concor and Group 5	Group 5
N1 North, N1 South and N17 Maintenance Contract	2001	SANRAL	Loser's fee	Murray & Roberts/Concor, Group 5 and Basil Read	N1 North and N1 South - Group 5 N17 - Basil Read
N1 Section 16 Glen Lyon/Zandkraal	2006	SANRAL	Cover price	Basil Read, WBHO and Raubex	Basil Read
R40 Baberton Reconstruction Project	2006	SANRAL	Cover Price	Basil Read, WBHO and Raubex	WBHO
Upgrading of National Route - Hilltop to Baberton	2006	SANRAL	Cover price	Raubex and WBHO	WBHO
Upgrading of N1 from Zandraal to Verkeerdvlei	2007	SANRAL	Cover price	Raubex and Basil Read	Basil Read
Olifantspoort Water Reticulation Works	2008	Lepelele Northern Water	Cover price	Stefanutti and Group 5	Group 5

Appendix C

Largest Mergers and Acquisition by the Firms

Table 40: Largest Mergers and Acquisitions by the Firms

Construction Company	Second Party	Year	Merger	Acquisition	Summary
WBHO	Simbithi Eco-Estate (Pty) Ltd	2007	✓		WBHO increased its 50% shares in Simbithi to 100% by acquiring additional 50% shares. On completion of the transaction, WBHO had sole control of Simbithi.
	Roadspan Holdings (Pty) Ltd	2010	✓		WBHO acquired an additional 40% of the issued share capital of Roadspan Holdings. Post this merger, WBHO had 70% shareholding in Roadspan Holdings.
	Matkovich and Hayes (Pty) Limited	2006		✓	Acquires 51% stake in Matkovich and Hayes (Pty) Limited, a major player in the design and construction of golf courses in Southern Africa.
	Capital Africa Steel (Pty) Ltd	2013	✓		The implementation of the transaction resulted in WBHO acquiring sole control of Capital Africa Steel
Murray & Roberts	Clough Limited	2003		✓	Murray & Roberts acquires Australian based oil and gas engineering company Clough
	Concor Roads & Earthworks	2006	✓		The merger between Murray & Roberts and Concor created Murray & Roberts Construction.
	Cementation Africa	2004		✓	Gained approximately 60% of the market share of the hard rock underground mining construction and contracting sectors in Southern Africa due to this merger

Construction Company	Second Party	Year	Merger	Acquisition	Summary
	CH-IV International	2014		✓	CH-IV is a boutique engineering company, based in the United States of America ("US") that was acquired by Clough, a wholly owned subsidiary of Murray & Roberts for US$5 million
Group Five	Quarry Cats (Pty) Ltd	2007	✓		Cobbler sold the entire issued share capital of Quarry Cats (a wholly-owned subsidiary of Cobbler) to Group Five Construction. Quarry Cats (a sand and stone supplier) has become a wholly owned subsidiary of Group Five Construction.
Basil Read	Stone and Allied Industries Limited	2006		✓	Viewed as a strategic materials supply opportunity
	Spray Pave	2006		✓	Viewed as strategic materials supply opportunity
	TWP Holdings	2009		✓	Basil Read acquired the entire issued share capital of TWP
	Mvela Phanda Construction (Proprietary) Limited, Contract Plumbing and Sanitation (Proprietary) Limited and P. Gerolemou Construction (Proprietary) Limited also known as 'the Group'	2009		✓	Basil Read acquires Pretoria-based construction group made up of Mvela Phanda Construction and its two subsidiaries, Contract Plumbing and Sanitation and P Gerolemou Construction.

Construction Company	Second Party	Year	Merger	Acquisition	Summary
Basil Read	Roadcrete Africa Pty (Ltd)	2008		✓	Basil Read acquires all share of Roadcrete Africa for R157.8 million

Appendix D

Findings from the CSCC on the State of Transformation and Empowerment in the Construction Sector

Although there is no industry-wide 'mega' scorecard, the baseline report on the state of transformation and empowerment in the construction sector written by the CSCC gives some insight on the overall performance of the industry. According to the report, that was intended to assess the accurate state of the sector from the period June 2009 and June 2013, one of the main conclusions was that the construction industry is showing progress towards transformation. One of the factors demonstrating this is that over 71 % of the sample drawn reflected an upward bias to the overall B-BBEE contributor status (CSCC, 2014). Moreover, over 2454 (which is 20.4. % of the commercially active industry population) and 69% of the sampled certificates is made up of QSEs and Large Enterprises. Another outcome is that the construction sector showed enhanced and significant levels of compliance with the construction sector code (CSC). This is illustrated by the increase in the numbers of scorecards annually, which has risen by 107% (in 2009 – 2010), by 78% (in 2010 – 2011) and by 82% (in 2011-2012).

On large enterprises, (four of which are of concern in this paper) the report shows that at the time that the study was conducted, the overall B-BBEE contribution for these enterprises showed an average Level 4 contributor status, but none had achieved a level 1. Additionally, black women ownership has increased in all sizes of the construction sector measured entities over the reporting period, however, results exposed polarization in both extremes (either no black ownership or there is 100% black ownership) (CSCC, 2014). Further details revealed that over 393 construction measured entities showed less than 10% black ownership in 2011. Most of the large entities are hovering around 10 percent ownership level which is lower than the 25 percent ownership target. There is therefore little participation of black people as owners in large companies as remarked by Mr. Rob Davies, Minister of the DTI (DTI, 2014). During the same period, over 211 construction, measured entities have shown less than 10% black women ownership and 85 have shown between 90% - 100% black women ownership. Additionally, there was a decrease in compliance with the ownership element, while preferential procurement becomes a critical driver of overall increased performance.

The results from the baseline report are somewhat demonstrative of the strides made by the industry thus far and are in alignment with the outcome of this study. The industry-wide trends – much like the evidence from the scorecards of these four companies - have shown that if measured using the sector scorecard, B-BBEE has succeeded in meeting some transformation targets. The report further argues that when looking holistically at the sector, results are skewed by the overwhelming number of construction companies registered in the lower grades (grade 1-5). The baseline report, therefore, makes it clear that the overall results of the sector's transformation status are directly attributable to the fact that SMMEs make up large and significant numbers of the construction industry. To a great extent, this distorts the results. Thus, by investigating a cohort of enterprises, the evidence has indicated that the perception that the private sector has been lagging in their commitment to contribute proactively to empowerment initiatives is often exaggerated, as firms have managed to do well in some elements of the scorecard. As illustrated, a comparison of the various scores obtained by each firm over the last six years shows that although there has been an annual general improvement, there is much to be done for the firms to at least meet the targets they ascribed to on the charter in 2009. This is a point that is also emphasized in the baseline report.