

**ICT ORGANISATIONS' MINIMAL COMPLIANCE WITH AFFIRMATIVE
ACTIONS REGULATIONS: CASE OF THE BROAD-BASED BLACK
ECONOMIC EMPOWERMENT (B-BBEE) ICT SECTOR CODE IN SOUTH
AFRICA**



By

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A thesis submitted in fulfilment for the requirements for Degree of
Doctor of Philosophy in Information Systems.

**DEPARTMENT OF INFORMATION SYSTEMS FACULTY OF COMMERCE
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DECLARATION

I hereby declare that the thesis

**ICT ORGANISATIONS' MINIMAL COMPLIANCE WITH AFFIRMATIVE ACTIONS
REGULATIONS: CASE OF THE BROAD-BASED BLACK ECONOMIC EMPOWERMENT (B-BBEE)
ICT SECTOR CODE IN SOUTH AFRICA**

is my own work, and all sources have been acknowledged through referencing.

Signed by candidate

.....

Tendani Mulanga Chimboza

DEDICATION

In loving memory of my late father Mr. Thabela, Amos Lufuno.

To my husband, Nisbert Takura Chimboza “Nizza”, my daughter Tadiwa Rianze Chimboza, my mother Julia Azwihangwisi Thabela, my siblings Mulalo and Masha Thabela, my sister-in-law, Rudzani “Mia Muano” Thabela thank you for the continued support and consistent motivation throughout this journey.

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ABSTRACT

Research problem: Broad-Based Black Economic Empowerment (B-BBEE) is a legal framework established by the South African government to eradicate racial and gender exclusionary elements from the apartheid regime. This refers to the process called economic transformation. The B-BBEE Information Communication and Technology (ICT) Sector Code is the primary regulatory instrument for regulating ICT organisations' economic transformation activities. Organisational minimal compliance with the B-BBEE ICT Sector Code is the primary obstacle to including Black people in ICT business.

Minimal compliance is a compliance behaviour that looks good on the letter of the law but does not transform the intended systems. While ICT organisations have good B-BBEE certificates, the points earned in the compliance process have not been translating into transformation. In 2020, 17 years after the introduction of the B-BBEE Act, the ICT Sector Council reported that ICT organisations had not made real progress in racial inclusivity in ownership and management structures. Minimal compliance with the B-BBEE ICT Sector Code reveals a policy enforcement dilemma where compliance with regulation makes no social change.

Purpose of the research: The study interrogated how contextual factors affect minimal compliance with affirmative action regulations such as the B-BBEE ICT Sector Code. The study is a response to the call for Information Systems researchers to investigate the role of ICTs in achieving social justice and the socio-technical aspects that affect ICT enterprises. Investigating these kinds of regulations in Information Systems research also reveals how ICT business interacts with aspects of the socio-political context in post-colonial contexts such as South Africa.

Methodology: This is a qualitative inquiry guided by a critical research paradigm. Data was collected through interviews, observations, and document analysis in various touchpoints of the B-BBEE ICT Sector Code. We employed thematic analysis and content analysis to analyse the research data. We developed a conceptual framework that suggests that minimal compliance stems from the need to protect the achievement of organisational goals.

Key findings: Factors that affect minimal compliance with the B-BBEE ICT Sector Code are the organisational perception of the policy implementation context, organisational logic of action, and organisational legitimisation. ICT organisations leverage regulatory loopholes (e.g., point-system compliance) in the B-BBEE ICT Sector Code to comply with it in a manner that does not add value for the beneficiaries but allows them to achieve their organisational goals. ICT

organisations responded to B-BBEE regulatory requirements through two utilitarian logics (goal prioritisation and maintaining status quo).

Businesses are pragmatic institutions! This phrase surfaces every time a question B-BBEE compliance comes up. When they introduced the point-system compliance, B-BBEE policymakers did not consider the granular details concerning the complexity inherent in the South African historical context that would affect Black people's involvement in the digital economy. Quantifying the involvement of Black people in the ICT sector has resulted in the commoditisation of gender and race – making the beneficiaries the means to an end through B-BBEE points. The point-system compliance mechanism is the supreme loophole of the B-BBEE policy implementation context. The point-system enforcement mechanism propels ICT organisations to protect the achievement of their economic goals while neglecting the transformation agenda. Ideological discourses such as “B-BBEE compliance is anti-FDI, B-BBEE compliance is costly, and B-BBEE compliance is complex” continue to thrive as legitimisation mechanisms to justify minimal compliance behaviour and its outcome.

Research contribution: The study is rich with new knowledge about ICT organisational response to affirmative action policies in post-colonial contexts. The focus on the B-BBEE ICT Sector Code revealed policy discrepancies that future policymakers may consider ensuring that transformation takes place. International actors may benefit from the study's practical contribution to B-BBEE compliance processes, and the stakeholders involved. The study contributes to theory by proposing a conceptual framework for minimal compliance behaviour. The conceptual framework proposes three factors to be considered while analysing compliance behaviour: policy implementation context, organisational logics of action, and organisational legitimisation. Through this conceptual framework, the study shows that minimal compliance behaviour is mostly viewed as a binary behaviour – compliance or non-compliance. The compliance behaviour that looks good in the letter of the law but does not solve the problems that warrant policy introduction is taken for granted. The methodological contribution of the study rests in the use of multiple data sources that provided a heterogeneous perspective on B-BBEE compliance. Moreover, a critical interrogation of compliance behaviour is instrumental in illuminating mechanisms used by dominant powers to maintain hegemony by going around the regulations.

KEYWORDS

B-BBEE, Affirmative Action, Sociotechnical, Social Justice, ICT Sector, point-system compliance, South Africa.

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PUBLICATIONS RELATED TO THE PHD STUDY

Conference papers published:

1. Thabela-Chimboza, T.M. & Chigona, W. (2019). *How does the ICT Sector in South Africa frame B-BBEE compliance?* South African Institute of Computer Scientists and Information Technologists (SAICSIT). The University of Pretoria, Skukuza Kruger National Park. 17-18 September 2019.
2. Thebela-Chimboza, T.M. & Chigona, W. (2017). A diagnosis of complexities inherent in the B-BBEE ICT Sector Code. African Conference on Information Systems & Technology (ACIST). University of Cape Town. 10-11 April 2017

Journal Paper under review:

1. Chimboza, T.M. & Chigona, W. Creative compliance with Affirmative Action policies: The Case of ICT organisations in South Africa. *Journal of Information Technology & Politics*

ABBREVIATIONS

4IR	Fourth Industrial Revolution
ACIST	African Conference on Information Systems & Technology
ANC	African National Congress
ANT	Actor Network Theory
B2B	Business to Business
BI	Business Intelligence
BYOD	Bring-Your-Own-Device Policy
BEE	Black Economic Empowerment
B-BBEE	Broad-Based Black Economic Empowerment
BITF	Black Information Technology Forum
BPO	Business Process Outsourcing
CSC	Critical Security Controls
CEE	Commission on Employment Equity
CSR	Corporate Social Responsibility
CoGP	Codes of Good Practice
COBIT	Control Objectives for Information and Related Technologies
CEO	Chief Executive Officer
CSO	Civil Society Organisations
CMM	Cybersecurity Capacity Maturity Model
CIBD	Construction Industry Development Board
GDP	Gross domestic product
DA	Democratic Alliance
DTI	Department of Trade and Industry
DCDT	Department of Communications and Digital Technologies
DTPS	Department of Telecommunication and Postal Services
DOC	Department of Communications
EU	European Union
EAP	Economically Active Population
EC	Electronic Communication
EME	Exempted Micro Enterprise
EE	Employment Equity

EWS	Economically Weaker Sections
EAP	Economically Active Population
EEIP	Equity Equivalent Investment Programme
ERP	Enterprise Resource Planning
ESOP	Employment Share Ownership Plans
FCP	Federal Character Principle
FDI	Foreign Direct Investment
GE	Generic Enterprise
GFT	Goal Framing Theory
HDI	Historically Disadvantaged Individuals
HDP	Historically Disadvantaged Persons
HDG	Historically Disadvantaged Groups
ISO	International Organization for Standardization
ICA	International Compliance Association
ICT	Information Communication and Technology
ICT Exec	ICT Executive
ICASA	Independent Communications Authority of South Africa
IDC	Industrial Development Corporation
IS	Information Systems
IT	Information Technology
ITO	Information Technology Outsourcing
ISP	Information Security Policies
ISS	Information Systems Security
ITU	International Telecommunication Union
JSE	Johannesburg Stock Exchange
KPI	Key Performing Indicators
OBC	Other Backward Classes
OFCCP	Office Federal Contract Compliance Programs
ONA	Online News Article
MICT SETA Authority	Media, Information and Communication Technology Sector Education Training
MIS	Management Information Systems
NSDS	National Skills Development Strategy

NDP	National Development Plan
NEP	New Economic Policy
NEEEF	Namibian National Equitable Economic Empowerment Framework
NYSC	National Youth Service Corps
NGO	Non-governmental organisations
PDI	Previously Disadvantaged Individuals
PM	Policymakers
POPIA	Protection of Personal Information Act
PRASA	Passenger Rail Agency of South Africa
QSE	Qualifying Small Enterprises
RET	Radical Economic Transformation
RSA	Republic of South Africa
SAICSIT Technology	South African Institute of Computer Scientists and Information
SANAS	South African National Accreditation System
ZAR	South African Rand
SABC	South African Broadcasting Corporation
SC	Scheduled Castes
ST	Scheduled Tribes
SOE	State-Owned Entities
SPV	Special Purpose Vehicles
SLA	Service Level Agreement
STEM	Science, Technology, Engineering and Mathematics
SSP	Sector Skill Planning
TOE	Technology, Organisation and Environmental
UTAUT	Unified Theory of Acceptance and Use of Technology
UCT	University of Cape Town
USA	United States of America
VA	Verification Agents
YES	Youth Employment Service

GLOSSARY OF TERMS

Term	Definition
Affirmative action	Policies and practices within a government or organization seeking to include particular groups in the mainstream economy based on their gender, race, sexuality, creed or nationality in areas in which they are underrepresented, such as education and employment.
B-BBEE points	Points accumulated by organisations as they contribute towards socio-economic development initiatives include Black people in management control, business ownership structures, and the supply chain.
B-BBEE scorecard/certificate	Documentation that is used to show proof of compliance with the B-BBEE regulations. A B-BBEE certificate is also used as an important business development document that is included in service-level agreements.
B-BBEE Status	A recognition level that shows organisational commitment to economic transformation activities
B-BBEE verification agencies	Organisations that are accredited by the South African National Accreditation System (SANAS) to advise, audit and verify B-BBEE compliance activities.
Broad-Based Black Economic Empowerment (B-BBEE)	A legal framework was established by the South African government to eradicate racial and gender exclusionary elements from the apartheid regime.
Economic transformation	The process of eradicating institutional exclusion of previously disadvantaged people in the mainstream economy of South Africa.
Equity Equivalent Investment Programme (EEIP)	Investments targeted at advancing ICT sector economic transformation through critical skills development, supporting enterprise development activities, and supporting research and development activities.
Goal framing	The process of prioritizing goals or conceptualizing goals in terms of the outcome of achieving the prioritized goals.
Ideological discourses	Shared ideas and beliefs used to legitimize or justify behaviour or action in a particular context
Instrumental rationality	A logic of action where the actors endeavour to achieve their goals with the most effective means for desired self-ends (Thoma, 2017a).
Minimal compliance	A compliance behaviour that does not achieve the goals of a given regulation makes it difficult to determine whether or not the policy is transforming the system or not.
Organizational dissonance	Organisational dissonance refers to the tension that arises when there is a misalignment of key elements in the organisation.
Transformation initiatives	Any project designed to accelerate Black People's empowerment. Examples are but are not limited to learnerships, ownership schemes, and internships for Black people.

GLOSSARY OF ORGANS OF STATE INVOLVED IN THE B-BBEE ICT SECTOR CODE COMPLIANCE

Organ of the state	Responsibility
B-BBEE Commission	The official commission to monitor and evaluate, supervise and promote compliance with the B-BBEE Act.
Department of Communication and Digital Technologies	Leading all policy development and implementation process to ensure that ICT businesses promote an inclusive digital transformation journey by creating an enabling environment for a digital society to foster socio-economic growth.
Department of Trade and industry (DTI)	The DTI promotes structural transformation, towards a dynamic industrial and globally competitive economy. It is the primary department mandated by the government to facilitate and oversee the implementation of the B-BBEE Act.
ICT Sector Council	The main responsibility of the Council is to develop and monitor the implementation of the sector code including but not limited to being the custodian of the B-BBEE ICT Sector Code of South Africa.
Independent Communications Authority of South Africa	The official regulator of the South African communications, broadcasting, and postal services sectors. ICASA promotes transformation through the Electronic Communications Act No. 35 of 2005.
Media, Information and Communication Technology Sector Education Training Authority (MICT SETA)	The MICT SETA plays a pivotal role in achieving South Africa's skills development and economic growth within the sub-sectors it operates namely, Advertising, Film and Electronic Media, Electronics, Information Technology and Telecommunications.

NOTE FOR UNDERSTANDING THE DOCUMENT

First or third person research writing

The current research is written using both first and third person “we”, “the study”, and “the research”. Noteworthy, you will see “we” in places that explain actions done by the researcher, for example, theoretical and methodological decisions take for the study. In the findings, discussion and conclusion chapter, the research is largely written using “the study” and “the research” interchangeably. Where the document talks about researcher reflections and final word, “I” is used to personalise the experience. The practice of a personalised writing style is consistent with critical research that declares that the researcher is not divorced to the research.

Capitalisation of racial concepts

While reading the document, you will notice that Black, White, Indian and Coloured are capitalised. This is to be consistent to these terms as racial concepts are used in the B-BBEE policy documents.

Terms used interchangeably

Regulatees are used interchangeably with organisations to refer to any actor that is regulated or required to respond to regulatory requirements. Where we are referring to the unit of analysis, the terms regulatees are used interchangeably with ICT organisations. To be consistent with the B-BBEE language, we also use the terms entities and organisations interchangeably. The regulator and the government also used interchangeably to refer to the actors who set the rules. Finally, the words “the study”, “the enquiry” and “the research” are used interchangeably.

Reference to the size of the organisations

Emerging Micro Entities is synonymous (EME) to SMMs. Qualifying Small Entities (QSE) is synonymous to SMEs. Generic Entities (GE) are large entities or organizations.

1. Introduction and Study Background

‘Transform or die’ is South Africa’s radical approach for achieving a racially inclusive Communication Technology (ICT) sector. This means that if ICT organisations do not include Black people in their operations, they risk ‘business death’. However, racial inclusivity through compliance with the Broad-Based Black Economic Empowerment (B-BBEE) in South African ICT organisation is not clear-cut. The relationship between B-BBEE compliance and transformation is a complex maze! This study demonstrates ICT organisations’ minimal compliance with the B-BBEE ICT Sector Code. Most importantly, the study shows many contextual factors that makes it transformation in the ICT sector a complicated endeavour.

B-BBEE is the primary legal framework aimed at transforming the economy by redressing the imbalances of the apartheid government through equal redistribution of South Africa’s economic resources to Black people (Acemoglu et al., 2007a). The South African government hopes to achieve equitable redistribution by enforcing compliance with B-BBEE regulations. This study was launched against the backdrop of poor performance by South African ICT organisations in areas of economic transformation.

The study argues that poor representation of Black people in the ICT sector is not a result of non-compliance with B-BBEE regulations, but a consequence of minimal compliance. Minimal compliance refers to modest involvement with regulatory requirements. Actors that perform minimal compliance comply with a regulation in a manner that looks good in the letter of the law but does not solve the problems warranting the establishment of the regulation. Furthermore, minimal compliance is a technique of maintaining the status quo to sustain hegemony. Through critical interpretive research principles, the study interrogates how contextual factors affect minimal compliance with the B-BBEE regulations in the South African ICT sector.

The chapter is organised as follows: Section 1.1. provides the South African historical context informing the study. Aspects of the revolution of B-BBEE regulations are discussed in Section 1.2. Section 1.3. provides a market overview of the South African ICT sector. Section 1.4. defines minimal compliance in the context of the study. Section 1.5. discusses the benefits of a B-BBEE study in information systems research domain. Section 1.6 and Section 1.7. provide details of the research problem, research questions and objectives, respectively. Section 1.8. briefly explains the methodological decisions while Section 1.9. outlines the structure of the thesis.

1.1. The historical context of poor representation of Black people in the ICT sector

Why is it that after 18 years since the promulgation of the first B-BBEE regulation, the South African ICT Sector remains in the hands of the White minority? Poor representation of Black people is entrenched in the apartheid regime that sought to exclude non-Europeans systematically and institutionally from participating meaningfully in the national economy. Between the 1800s and 1994, non-European South Africans suffered racial discrimination and they were excluded from participating meaningfully in the national economy. The discrimination intensified in 1948 when the White Afrikaner political party, the National Party won the elections (Edwards & Hecht, 2010). The National Party was formed by White Afrikaners in 1914 (Seekings, 2020).

After many years of British imperialism, the National Party sought to dominate the South African economy and rule over all means of production (Edwards & Hecht, 2010). The National Party ruled South Africa for 46 years – from 1948 to 1994. The National Party governed through an apartheid system; a legislative framework that privileged White people and excluded all non-Europeans from economic and political freedom (Massey & Gunter, 2020). Table 1.1 summarises the segregation strategies implemented by the National Party.

Table 1.1: Primary segregation strategies implemented by the National Party in South Africa

Segregation strategy	Description
Creating derogatory ideologies about Black people	These were concepts used by White people to perpetuate prejudice and exert power to exploit Black people.
Racialising residential areas	Maintained four provinces and 10 homelands for Black people and forced Coloured and Indian people to stay on the outskirts of the cities.
Movement restrictions	Introducing laws that restricted non-European movement in the country, especially movement to economic active locations.
Establishing a poor education system	Introducing an education system for Black people.

Coloured people in this context refer to people who are of a mixed race from Europeans and Africans or those with Asian ancestry such as the Cape Malay people (Harris, 2017).

A major aspect of the apartheid project was to break the spirit and confidence of all non-Europeans. The National Party achieved this by introducing insulting concepts to refer to non-Europeans. Black Africans were called 'Kaffirs' while mixed race people were called 'Coloureds', and Indians were called 'Coolies' (Broadcasting Complaints Commission of South Africa, 2011). Referring to mixed-race people as 'Coloureds' was relatively acceptable, and it was included in population registration forms as a demographic identifier. However, in 2018,

because of its roots in the apartheid regime, Coloured communities in Cape Town called for the government to abolish the word 'Coloured' (eNCA, 2018).

While the 'Coolies' concept hardly comes up, the word 'Kaffir' is considered the most derogatory and offensive word in South Africa (Webb, 2015). Moreover, the word 'Kaffir' later became an equivalent of the word 'Nigro' in America (Webb, 2015). While 'Kaffir' has not been properly defined, it is associated with insignificant beings (Beavon, 1982; Heleta, 2016).

The use of derogatory terms has propagated stereotypes that continue to negatively affect Black people's entrance to corporate South Africa today. As a result, White males have created cultures and myths regarding the effectiveness of Black people in business contexts (Madi, 2016, p. 14);

- Black executives lack initiative;
- Black people are by nature politically inclined towards communism rather than free-market enterprise, where the basic understanding of business escapes their DNA;
- Black people's cultural values are incompatible with western culture and corporate culture, and
- Blacks will run established White businesses into the ground – as is the case in the rest of Africa.

The apartheid government also altered the geography of the country to have clear locations for Black people that were separate from White people. In this manner, the apartheid government was implementing the South Africa Bantustan policy that aimed to reduce Black people's political voice and remove them from economic activities (Klein, 1987). This was also part of solidifying their nationhood and pushing non-Europeans to unstable settlements (Christie & Collins, 1982). Figure 1.1 illustrates a map where South Africa was divided into four provinces and 10 homelands or Bantustans. Bantustans mean a place where native or Black people stay (Gallo, 2020). The four provinces were Cape Province (the largest), Orange Free State, Transvaal, and Natal. As illustrated in the legend in Figure 1.1, the Bantustan territories were divided according to the tribes of Black people who lived in those areas.

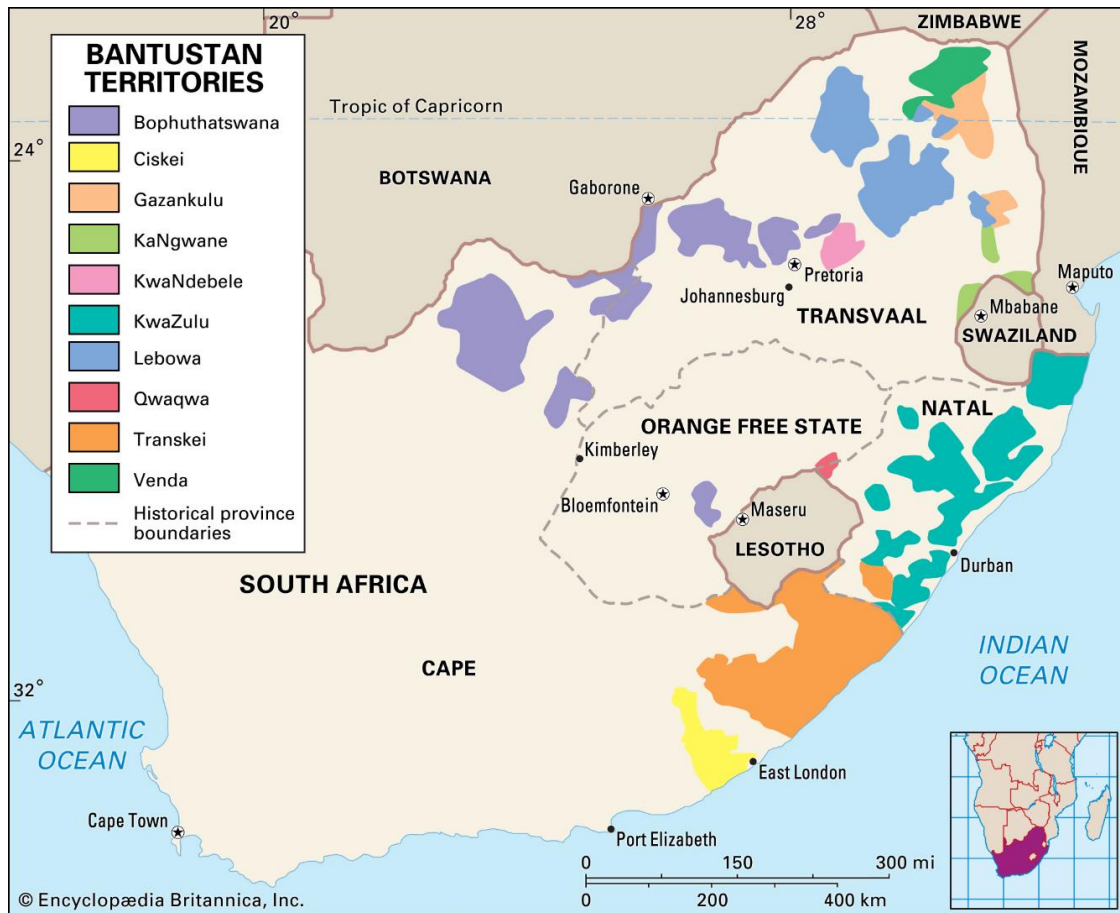


Figure 1.1: Bantustan Territories and four provinces during apartheid

Along with demarcating locations for non-Europeans, Bantustan policies introduced a pass law that stipulated that Black people carried a 'Dompas' (stupid pass) while they move especially out of the homelands (Robins, 2004). Through the Groups Areas Act, Coloured and Indian people were forced to live on the outskirts of the cities in smaller dwellings compared to those where White people stayed (Massey & Gunter, 2020) while Black people mostly live in rural homelands or townships that had very minimal economic activities.

To intensify economic exclusion, the apartheid government ensured that Black people were educationally inferior compared to White people. This was achieved by introducing an educational policy and curriculum for Black people (Gallo, 2020). Before the National Party rule, schools were under the control of missionaries with an inclusive curriculum. However, from 1954, Black South Africans were expected to learn through the Bantu education curriculum (Pirtle, 2021). The Department of Bantu Education was formed in 1958 and led by Hendrik Verwoerd who oversaw a curriculum that trained black children to strictly qualify for manual labour to be useful in factories or farms (Gallo, 2020). Forming an education system was an important instrument to ensure that the majority of Black people remain segregated and disempowered to participate meaningfully in the national economy (Christie & Collins,

1982). As a result, technical skills such as software development or anything in the technology field were dominated by White People and this made them dominate the ICT sector from its early days (Booyesen, 2007).

In the early 1960s, the prominent Black liberation movement, the Africa National Congress (ANC) started making efforts for regime change. Apartheid ended in 1994 after free and fair elections (Mosala et al., 2017a). ANC under the leadership of Nelson Mandela ushered the democratic government in South Africa. The main aim of the ANC was to develop a constitution that would make South Africa a democratic country. Moreover, the party had to ensure that all people who were oppressed by the apartheid government got opportunities to access the national economy.

1.2. Evolution of the B-BBEE regulations

In 2001, ANC introduced the Black Economic Empowerment (BEE) – which was later rebranded as the B-BBEE strategy to facilitate remediation and equal redistribution of wealth – a process called economic transformation (Mosala et al., 2017a). B-BBEE is similar to affirmative action policies that were implemented in India, Brazil and Malaysia to ensure equal access to the economy for minority groups and previously disadvantaged groups (Freund, 2007). Initial beneficiaries of the B-BBEE strategy were Historically Disadvantaged Individuals (HDIs). HDIs were described as all persons who were disadvantaged by the apartheid government or before the establishment of the Constitution of the Republic of South Africa Act No. 200 of 1993 (DTI, 2007). HDIs included Black people, females and people with a disability regardless of race (Yonazi et al., 2012a). The ANC government mandated the Department of Trade and Industry (DTI) to translate the 2001 B-BBEE strategy into a policy framework.

In 2003, DTI promulgated the Broad-Based Black Economic Empowerment (B-BBEE) Act No. 53 of 2003. Noteworthy, the B-BBEE Act No. 53 of 2003 had changed the beneficiaries of economic transformation to Black people with little mention of HDIs. B-BBEE categorised Black Africans, Coloured people, Indians and Chinese into one group called Black people. To facilitate the implementation of the B-BBEE Act, DTI established the first Codes of Good Practice (CoGP) in 2007 (Krüger, 2016).

The CoGP is the primary regulatory instrument used to measure organisational compliance with the B-BBEE policy. As presented in Table 1.2, the first version of the CoGP consisted of seven B-BBEE elements with points that organisations had to accumulate as they included Black people in areas of ownership, management control, employment equity, procurement,

enterprise development, and socio-economic development (DTI, 2007). For example, by employing Black people in the management team, Company B would be awarded a maximum of 10 points. This would be an indication of Company B's commitment to economic transformation. Equally, including Black people's companies in Company B's supply chain would amount to a maximum of 15 B-BBEE points from the enterprise development element.

Table 1.2: The first generic CoGP with seven B-BBEE elements and their weighting points (DTI, 2007)

B-BBEE Elements	B-BBEE points
Ownership	20 points
Management control	10 points
Employment equity	15 points
Skills development	15 points
Preferential procurement	20 points
Enterprise development	15 points
Socio-economic development	5
Total	100

B-BBEE compliance is measured in terms of three categories of enterprises (Forbes & Rust, 2019):

- Exempted Micro Enterprise (EME) – an organisation with less than R10 million turnover. These organisations are deemed compliant by enterprise size and are automatically awarded a Level 4 with a 100% procurement recognition¹ level. This size of an organisation is similar to Small Micro and Medium Enterprises (SMMEs).
- Qualifying Small Enterprises (QSE) – organisations with between R10 million and R50 million turnover. This size of the organisation is similar to Small and Medium Enterprises (SMEs).
- Generic Enterprise (GE) or large organisations – these are entities with more than R50 million turnover.

By the end of 2008, it was apparent that each economic sector needed its Sector Code to facilitate transformation. As result, DTI conducted sector consultations to introduce Sector Codes under the B-BBEE Act No. 53 of 2003 (Gordon, 2009; Krüger, 2011). A Sector Code is

¹ A recognition level to the status given to an organisation according to their compliance activity (Department of Trade and Industry Notice 303 of 2019, 2019).

an “industry-agreed empowerment initiative that seeks to deal with transformation challenges that are relevant to a specific sector” (DTI, 2014, p.3). There are only three Sector Codes that were promulgated in terms of the CoGP of 2007. These are;

- Integrated Transport Sector code of 2009;
- Chartered Accountancy Sector Code of 2011; and
- B-BBEE ICT Sector Code of 2012.

The CoGP of 2007 was a generic “one size fits all” regulatory instrument used to facilitate organisational compliance with B-BBEE regardless of the nature of the sector. By the year 2013, the South African government had not achieved satisfying economic transformation. Consequently, the DTI promulgated the amended B-BBEE Act No. 46 of 2013 along with the amended CoGP (Kassnerf, 2016). As presented in Table 1.3, the amended CoGP of 2013 had the following implications for the regulatory instrument:

- the number of B-BBEE elements (regulatory instruments) decreased from seven to five;
- Employment equity was combined with Management control while preferential procurement was combined with enterprise and supplier development;
- B-BBEE points increased on all elements, except for the Socio-economic development element;
- the new amendment introduced three priority elements, namely: ownership, skills development and enterprise development (Amended Broad-Based Black Economic Empowerment (B-BBEE) ICT Sector Code of 2016., 2016); and
- Lastly, overall B-BBEE points increased to 109 from 100.

Table 1.3: Amended B-BBEE CoGD of 2013

B-BBEE Elements	Weighting points
Ownership	25 points
Management control	19 points
Skills development	20 points
Enterprise and Supplier development	40 points
Socio-economic development	5 points
Total	109

The majority of other economic sectors established their Sector Codes under the B-BBEE Act No. 46 of 2013 amendment which is cognizant of transformation needs in their respective industries. As a result, sector codes do not have the same compliance targets. For example, while the Tourism Sector Code of 2017 requires 27% of Black ownership, the B-BBEE ICT

Sector of 2016 requires 30% of Black ownership. Table 1.4 presents all Sector Codes that were established in line with the CoGP of 2013.

Table 1.4: Sector Codes established in terms of the CoGP of 2013 (Department of Trade and Industry Notice 303 of 2019, 2019)

Sector Code	Effective date
Tourism Sector Code	20 November 2015
Marketing, Advertising and Communication (MAC) Sector Code	1 April 2016
B-BBEE ICT Sector Code	7 November 2016
Forest Sector Code	21 April 2017
Property Sector Code	7 June 2017
Agri-BEE	8 December 2017
The Financial Sector Code	1 December 2017
Defence Sector Code	12 April 2019

Nations with racial inequalities have introduced various forms of affirmative action policies such as B-BBEE to promote inclusivity (Govenden & Chiumbu, 2020). Affirmative action policies are controversial because of the political and intersectional discourses that surround them (Crosby, 2006). Enforcing compliance with affirmative action has been a challenge in many contexts. For this reason, they have been criticised for their ineffectiveness in redressing the legacy of oppression (Langer et al., 2016a). The current study is concerned with the South African ICT organisations' response to affirmative action policies such as the B-BBEE. We specifically investigate minimal compliance with the B-BBEE ICT Sector Code of 2016.

1.3. Market overview of the South African ICT Sector

The South African ICT sector includes organisations operating in IT, Broadcasting (film and media), Advertising, Telecommunications and Electronics (B-BBEE ICT Sector Council, 2020). The sector has over 30,727 organisations, with annual revenue of US\$ 13.9 billion, employs 2,285 983 ICT practitioners and contributes roughly 8% to the national gross domestic product (GDP) (MICTSETA, 2021). In 2017, it was reported that the ICT sector has grown to exceed the agricultural sector (Statistics South Africa, 2017). The same report also states that the ICT sector is one of the sectors with the highest number of employees as a result of the growing mobile service industry. Moreover, the ICT sector was predicted to create more employment by 2020 (GCI, 2018; Gillwald et al., 2018a). The South African government is one of the biggest customers of the ICT sector. For example, for the 2019/2020 financial year, the South African government spent US\$ 118 829 million on various ICT projects (National Treasury, 2021).

Despite challenges related to the political economy, the South African ICT sector remains one of the most competitive in Africa. Globally, it is ranked 46 out of 79 countries in the world in

terms of connecting its citizens (GCI, 2018). In Africa, it is ranked number one followed by Egypt (GCI, 2018). Moreover, multinational organisations such as Microsoft, IBM, Dell and SAP operating in South Africa continue to shape the ICT landscape in the region (ICASA, 2019). Major players in the sector are telecommunication or mobile network organisations such as Telkom, Vodacom, MTN, and Cell C. Both Vodacom and MTN have established businesses in other African countries and the Middle East.

The rapid growth of the telecommunication industry can be attributed to the increased number of subscribers, digital device ownership, and the use of the internet (Bornman, 2016; Bosch, 2017). The success of the country's ICT sector can be attributed to its proactiveness in responding to global technologies in the banking and telecommunication industry (Gillwald et al., 2018a). In addition, increased dependence on technology to improve business efficiency, communications and service delivery efficiency continue to influence ICT spending in South Africa. As shown in Table 1.5, by 2019, IT expenditure had increased to US\$20.1 billion from US\$19.1 billion in 2018 (Goasduff, 2019). Mobile networks have played a major role in transforming the communication landscape of South Africa (Morgan & Govender, 2017). This is also shown in Table 1.5, which indicates that most of the IT spending is on communication services.

Table 1.5: South African IT expenditure (ICASA, 2020)

	2018 Spending	2018 Growth (%)	2019 Spending	2019 Growth (%)	2020 Spending	2020 Growth (%)
Communication Services	129,837	3.2	132,852	2.3	133,572	0.5
Data Center Systems	9,053	16.1	8,598	-5.0	8,898	3.5
Devices	44,615	7.5	45,966	3.0	40,328	-12.3
IT Services	79,685	4.9	83,897	5.3	87,996	4.9
Software	28,849	12.9	32,147	11.4	35,850	11.5
Total	292,040	5.6	303,460	3.9	306,644	1.0

One of the key success indicators for the best performing ICT sectors in developing countries is their ability to offshore IT services. Offshoring can be defined as the practice of the country offering services to an international destination (Omoju, 2017). This is common in developed countries, whose customer service centres operate in developing countries such as India. The South African ICT sector has the potential to be one of the biggest offshoring destinations in Africa. Aspects such as the language of business, i.e. English, cultural affinity, an established corporate environment, and working technological infrastructure give South Africa an

advantage for Business Process Outsourcing (BPO) or Information Technology Outsourcing (ITO) (Alkali et al., 2016; Deloitte, 2019).

Offshoring can also contribute positively to the unemployment challenges facing the country. Between 2014 and 2019, the sector created 6,000 jobs from Webhelp and WNS Global (Deloitte, 2019). Moreover, (Alkali et al., 2016) suggest that South Africa's success in offshoring can be attributed to the country's attractiveness. (Alkali et al., 2016) add that the skills available for BPO attract international clients from the banking and insurance industry. However, significant hurdles related to the South African policy environment, labour unrest, and power cuts have affected the country's attractiveness for offshoring (Alkali et al., 2016; Omoju, 2017).

South African ICT organisations experience two primary contextual challenges emanating from the regulatory environment and IT skills deficit as presented in Table 1.6.

Table 1.6: Contextual challenges experienced by the South African ICT Sector

Contextual challenge	Description
Regulatory environment	The lengthy policy process, especially the South African National Integrated ICT Policy, has affected industry growth (Gillwald et al., 2018a).
IT skills deficit	Scarcity of IT skills regardless of candidates' race (Kirlidog et al., 2018).

The prolonged process of policy implementation in developing countries such as South Africa continues to negatively affect ICT sector growth (Makoza, 2017). South African ICT organisations experienced high opportunity costs resulting from the delay in policy and regulation approval. Opportunity costs are benefits that an entity loses by choosing alternatives (Persson & Tinghög, 2020). For example, ICT organisations may lose out on a government contract while waiting to comply with B-BBEE regulations. To avert "regulatory bottlenecks" and remain competitive in the global ICT sector, South African organisations expand their markets beyond the borders into countries with minimal regulatory burden (Gillwald et al., 2018a, p. 4). At a Gauteng² Business Collaborative Forum for the ICT sector, industry players concluded that the South African regulatory environment was not conducive

² Gauteng is one of the nine South African provinces. Gauteng hosts the South African capital city, Pretoria.

for the industry to thrive (V. Abdullah, 2017). In addition to this sentiment, the following aspects were highlighted as challenges in the sector:

- weaknesses in institutional arrangements – this pertains to the weakness of the multiple actors involved in the legislative process; and
- conflicting regulations between departments – relate to two departments regulating the same aspect but differently.

Regulatory challenges are not unique to the South African context; they are a reality in the region. Omoju (2017) argued that, through ICTs, the African region has the potential to have the largest workforce in the world. However, the regulatory burden continues to affect the continent's perception, attractiveness, and competitiveness as an innovation destination (Ajulor, 2018). The regulatory burden can be defined as all costs (economic, psychological and time) resulting from compliance requirements as obligated by the government in a particular context (Buchak et al., 2018b). Economic costs are burdens associated with the cost of compliance (Bulgurcu et al., 2010a). Psychological costs are embedded in the concealed politics of complying with a certain regulation; for example, the stress of obtaining socio-political information to comply with a certain regulation (Moynihan et al., 2015). The time cost pertains to the time spent on ensuring that all compliance requirements are met. In addition, political instability and corruption in regulatory compliance have affected the success of most innovations in South Africa, Ghana, Nigeria, and Kenya (Ajulor, 2018; Gillwald et al., 2018a; Omoju, 2017).

The dynamic nature of the ICT sector presents a skills paradox in South Africa. Although there is evidence of a lack of ICT skills, ICT graduates are still struggling to secure jobs in the ICT sector, where there is a documented mismatch between university graduate skills and those required to be competent in the dynamic global ICT sector (Ryklief, 2018; Twinomurinzi et al., 2017b). Despite the high intake of ICT students in universities, the demand for ICT skills keeps increasing (Kirlidog et al., 2018). The shortage of skills can be attributed to the overall perceptions about a career in ICT. People in developing nations such as South Africa perceive ICT professions as less secure and not exciting, especially for young professionals (Kirlidog et al., 2018). In addition, the ICT skills shortage is a result of historical factors such as apartheid, where professions such as ICT were racially polarized.

The progression within the 4th industrial revolution (4IR) poses new skills challenges (Dwolatzky, 2019). The challenges are apparent in the workplace, where tasks performed by humans are replaced by technology at a rapid stride, which results in job losses. Beyond

automation and robotics, 4IR relates to a digital-driven economy, where the majority of production, services, or manufacturing takes place through digitisation (Manda & Backhouse, 2017). The 4IR enables organisations to cut costs by using robotics, machine learning, and artificial intelligence technologies that have efficiency capabilities beyond humans (Romero et al., 2016). These capabilities have seen humans becoming helpers of technologies, and industry experts predict that this will in many industries replace human beings completely (Xing & Marwala, 2018).

The skills implications of 4IR are explicit in the ICT and banking sectors. Critics of 4IR argue that digitisation and automation of human roles will continue to disrupt employment in corporate South Africa should the government lack policy direction to upskill and protect jobs (Takawira, 2019). In June 2019, MultiChoice, one of the biggest television companies in Africa, announced that it would be cutting over 2,000 jobs in its call centre division to use digital technologies that will increase efficiency (Mybroadband, 2019). In the same month, Standard Bank (Stanbic), one of the largest banks in South Africa, announced that it was going to close 104 of its 630 branches across the country (BusinessTech, 2019). This translated to 1,200 job losses across the bank. The CEO of Standard Bank mentioned that the bank's business model was embedded in technological advancements that require it to be efficient by adapting to digital-only financial services and products (Eye Witness News, 2019). Due to the efficiency inherent in new technologies, it is predicted that more banking institutions may implement retrenchments to cut costs and achieve efficiency (BusinessTech, 2019; Eye Witness News, 2019; Goasduff, 2019).

1.4. What is minimal compliance?

Minimal compliance refers to passive resistance toward regulatory compliance (Lang, 2015). This study defines minimal compliance as a compliance behaviour that does not achieve the goals of the regulation.

A compliance behaviour that does not achieve the goals of a given regulation makes it difficult to determine whether or not the policy is transforming the system or not. In this case, regulatees do comply with the policy, but in a manner that serves their goals rather than those of the regulation or the regulatory authority. For example, a study about gender quota systems in Germany found that the lack of gender diversity in a dominant male institution was not a result of non-compliance, but a case of minimal compliance (Lang, 2015). Consequently, both the regulator and feminists were not able to decipher the lack of transformation, as there was no overt refusal or protest of the quota system (Lang, 2015).

When it comes to minimal compliance, regulatees perform norm-conforming behaviour that neglects the regulation but protects the achievement of their goals. Minimal compliance behaviour is linked to actors who are introduced to regulations that are perceived to be conflicting or involve risky choices (Batory, 2016). To navigate these regulations actors may employ various strategies of going around the law to look compliant. Throughout the policy implementation processes, these strategies become acceptable. For example, while it is the government that introduced a point system in B-BBEE compliance, the intention was not to promote using Black people as tokens but to empower them. Circumvention acts such as fronting, and window dressing are consequences of exploiting Black people for B-BBEE points.

We observed that compliance theorists assume that compliance behaviour is binary (compliance or non-compliance). We argue that there is compliant behaviour that looks legitimate according to the letter of the law but does not help the regulator achieve the goals of regulation in terms of the social ills that it was intended to resolve. For this reason, this research unpacks factors that influence minimal compliance with the B-BBEE ICT Sector Code.

1.5. Benefits of a B-BBEE study in Information Systems (IS) research.

The relevance of B-BBEE regulations in information systems research is two-fold: the role of ICTs in achieving social justice (Aanestad & Kankanhalli, 2022) and emphasis on IS as a field is multidisciplinary and sociotechnical (Sarker, et al., 2013). This means that IS research is concerned with the social analysis of the interaction between technology and humans or society (Sawyer, 2005). In the context of social justice, ICT organisation are perfectly poised to improve the economic circumstances of marginalised groups (Heeks, 2010). Conducting research on policies that are geared for improving inequalities in the context of ICTs affords IS researchers an opportunity to critically reflect on the question of “Are we making a better world with ICT” (Walsham 2012 in Qureshi, 2015: 511).

IS research differs from computer science because it embraces the involvement of contextual and social factors (for example, ICT policy) in the development and use of technology (Sarker, et al., 2013). While the focus of computer science is design research, IS research is concerned with both design and behaviour research (Sarker, et al., 2013). IS research is entrenched in social science (Orlikowski & Baroudi, 1991).

Sub-fields such as social informatics, digital activism and ICT for development emerged as a result of the realisation of the social impacts of technology (George & Leidner, 2019). For over two decades, the IS community has embraced qualitative research – particularly critical

inquiries that interrogate how social factors affect the information system or technology (Woods et al., 2016). The current study focuses on how socio-political context (previous injustice) affects how ICT business is done in South Africa. Aspects of the racial makeup of people who are developing technologies and owning technology businesses are of contextual importance in the South African agenda of rectifying the past.

In South Africa, B-BBEE ICT Sector Code is embedded in the national ICT policy. The government sees this regulation as the cornerstone of sectoral growth and digital inclusion. Furthermore, the B-BBEE ICT Sector is crucial in bridging the digital agenda that remains a reality in South Africa. Therefore, as part of the ICT policy, it requires IS scholars to interrogate from a critical research perspective to determine whether it is achieving its transformative goals, and if not, what constraints impede the transformation process. This study theorised the compliance behaviour of ICT organisations with affirmative action policy. It is rich with aspects of organisational compliance, ICT organisations' interaction with public policy and organisational goals. This positions the current study perfectly in the province of multidisciplinary IS research. A study of this nature allows IS researchers to engage and intensify the critical research agenda which was started in the late 1990s (Avgerou, 2005; Klein & Minh, 2003; Klein & Myers, 1999a; McGrath, 2005; Mingers et al., 2013; Ngwenyama, 2019).

Research in B-BBEE in information systems is an effort to engage with the debate on the social impacts of information systems. In 2021, Management Information Systems Quarterly (MISQ) made a resolution to encourage the IS community to pay attention to "participate fully in the social world" (Aanestad & Kankanhalli, 2022, p. 1). MISQ is one of the leading journals and falls within eight IS journals with a high impact in the Association of Information Systems in the senior scholars' basket of journals (Aanestad & Kankanhalli, 2022).

The resolution by MISQ was based on the realisation that the IS field and its constituencies (research, IS development and IS business) pose a myriad of challenges in a society that are neglected. While information systems have incredible social development opportunities, they have aspects that have exacerbated social injustices in many contexts. For example, aspects of inclusion in IT teams whether from a gender or racial perspective remain a no-go area for many IS researchers, but this reflects the degree of social imbalances in the ICT business.

"Consider Silicon Valley's abysmal diversity metrics (Ioannou 2018), the Google anti-diversity memo (Bogost 2017), and the gamergate controversy (Dewey 2014). These examples underscore a need to understand and address persistent biases against marginalized groups that manifest in the cultures of "corporate IT" and online

communities. Consider the persistent gender gap in the IT workforce: 80-90% of software developers worldwide are men (Stack Overflow 2015)” (Aanestad & Kankanhalli, 2022, p. 2).

MISQ's reflection above about the ICT business is not an exception when it comes to aspects of oppression and unethical digital practices. This constitutes a profound call for information systems researchers to investigate these areas that perpetuate persistent marginalisation. To this end, MISQ launched a special issue entitled “ *Technology and Social Inclusion: Building a dialectic on the role of technology in inclusion and exclusion from societies, organizations, economies, and academe*” (Aanestad & Kankanhalli, 2022, p. 1). The current study's endeavour with B-BBEE regulations matches the special issue as it critically interrogates and theorises some exclusionary aspects of the South African ICT sector.

In addition to MISQ, Taylor and Francis's Journal of IT and Politics pays special attention to research that illuminates how government policies affect the development and use of technology in different contexts. The journal accepts papers that embrace the relevance of political science, sociology, and economics in technology research. While there are many journals concerning society and technology, MISQ and the Journal of IT and Politics solidify the relevance of the current study as an IS research topic.

From the research process, we learned that compliance is indeed a complex phenomenon. For this reason, it is necessary to be studied using multiple lenses that will allow researchers to avoid a reductionist view of compliance behaviour. Compliance behaviour in cybersecurity requires a different theoretical lens than that of affirmative action. Adding the multiple theoretical lenses to explain minimal compliance was useful in exposing the aspects that restrict economic transformation in the South African ICT Sector.

1.6. Research problem

The need to investigate minimal compliance with the B-BBEE ICT Sector Code emerged from the sentiments of the Department of Telecommunication and Postal Services (DTPS) that the ICT organisations were performing poorly in areas of transformation. In a speech for launching the B-BBEE ICT Sector Code, the DTPS Minister Siyabonga Cwele complained that B-BBEE compliance in the sector was poor.

“The report reflects the transformation efforts of ICT companies that were gleaned from 200 BEE verification reports. This is a small sample, but it provides a good measure of where the sector is in relation to transformation. The report shows that the ICT sector is performing poorly on transformation by all measures. I am happy that the Council has

undertaken to discuss the constraints to transformation with all stakeholders” (South African Government, 2016).

For compliant organisations, there was a significant contradiction between their B-BBEE scores, and the Black people represented in their organisation. While Black ownership had increased slightly in 2019, the ICT sector was still largely White-owned (B-BBEE Commission, 2019). Furthermore, the ICT sector’s ownership level and top and middle management remain racially stratified (Kirlidog et al., 2018). Earlier, the Black IT Forum raised concerns regarding the paradox of the scorecard (IT Web, 2017). Their concern alluded to the idea that, while some large ICT organisations echo great B-BBEE status levels, their organisation do not look transformed, and it is not clear how the B-BBEE investments empower Black SMMEs.

“Corporate entities like Vodacom and many others must be extremely careful and sensitive to the state of economic recession, high unemployment (especially youth) and lack of transformation in the economy before they make grandiose announcements in the media. In our understanding, Vodacom has yet to undergo the necessary changes in condition, nature, or character to serve as a desirable model of transformation” (IT Web, 2017).

Despite the multiple amendments to the B-BBEE Act, B-BBEE CoGP and the B-BBEE ICT Sector Code, transformation remains problematic in the ICT sector. The South African government’s idea of a transformed sector is one with organisational members (workforce, management control and ownership) who are representative of the national racial population (Grobler et al., 2019). Therefore, transformation also means empowering Black people by allowing them to thrive in their various ICT careers or ICT business ownership (Mcwalter & Ritchken, 2018). From its inception, the South African government envisaged that Black ownership, management control and enterprise development would accelerate transformation. In achieving this, they envisioned smooth sailing, in a straightforward process of moving from a White-dominated sector to a more representative one (Vrinda Chopra, 2017).

Given the continuous debate around the challenges associated with B-BBEE implementation, it is imperative to investigate B-BBEE compliance within the ICT sector of South Africa (Mohapi & Njenga, 2012). The broader literature relating to B-BBEE criticised its failure to empower Black South Africans and transform the economy across all sectors (Campbell, 2016; Jeffrey, 2015; Lindsay; 2015; Herman, 2014; Kruger, 2011; Elibiary, 2010). In a study concerning the nature of B-BBEE as an imperative social phenomenon, Lindsay (2015) found that there was still a gap in the literature concerning the actual understanding of the policy including the

complexities inherent in it. The same study recommended further studies to provide a deeper understanding of the B-BBEE policy and the corrosive discourses limiting its ability to transform the South African economy. While there is a common affirmation that B-BBEE compliance in the ICT sector is far too intricate (Tanski-Mod, 2011; Gordon, 2009), there is no literature that demonstrates how ICT organisations have responded to the regulation.

1.7. Research questions and objectives

The study investigates how contextual factors affect minimal compliance behaviour with the B-BBEE ICT Sector Code. The primary research questions are:

How do contextual factors affect minimal compliance with the B-BBEE ICT Sector Code in South Africa?

The main question will be answered through the following sub-questions.

- **Sub-question 1:** How do ICT organisations perceive the policy implementation context of B-BBEE regulations?

This question is concerned with identifying how B-BBEE regulations are conceptualised in ICT organisations. The question is based on the idea that actors' perception of a phenomenon influences how they behave towards it (Asak & Molale, 2020).

- **Sub-question 2:** How do ICT organisational logic of action influence minimal compliance with the B-BBEE ICT Sector Code?

Literature indicates that logic of action is central to organisational behavioural preference (Etienne & Schnyder, 2014a). Literature indicates that organisations are inclined toward their business goals and they devise behavioural choices to protect these goals (Cho & Kwon, 2010).

- **Sub-question 3:** How do ICT organisations legitimise minimal compliance and its outcome?

To maintain the status quo, the organisation may find ways of justifying how it behaved toward a phenomenon (Beelitz & Merkl-Davies, 2012).

The subsequent research objectives are:

- To highlight ICT organisations' perceptions of the B-BBEE policy implementation context;

- To identify ICT organisational logics of action which influence minimal compliance with the B-BBEE ICT Sector Code; and
- To interrogate how ICT organisations legitimise their compliance behaviour.

1.8. Research design

A phenomenon that is entrenched in socio-political factors such as race relations and marginalisation call for a critical inquiry. For this reason, we adopted the critical interpretivism paradigm to appreciate the complexity of minimal compliance. A critical interpretive paradigm allows researchers to immerse themselves in the meaning in context while unpacking and critiquing mechanisms that restrict systems from transforming (Pozzebon, 2002).

To commit to the principles of critical theory research, we employed theoretical triangulation by combining theories to use them as sensitising concepts to develop a conceptual framework for minimal compliance. The conceptual framework consists of four sensitising concepts; policy implementation context (Smith, 1973); Goal Framing Theory (Lindenberg et al., 2018); instrumental rationality (Kincheloe & McLaren, 2011); ideological discourses (van Dijk, 2013). Combined, these concepts were instrumental in exposing the various tactics used by organisations to passively respond to regulations.

To appreciate the vast knowledge that resides in various B-BBEE compliance stakeholders, we gathered data from diverse sources. We conducted interviews with policymakers (PM), ICT executives (ICT Execs), and B-BBEE verifications agents (VA). We attended B-BBEE ICT Sector policy hearings hosted by the Independent Communications Authority of South Africa (ICASA) to gain insight into the sector's perspective on the ownership elements, and B-BBEE regulations in general. B-BBEE ICT Sector reports were instrumental in providing insight into B-BBEE compliance and progress on economic transformation. From organisations' websites, we analysed the internalisation of B-BBEE regulations in ICT organisations. B-BBEE ICT Sector policy documents enabled us to interrogate the regulator's interpretation and regulatory loopholes that perpetuated circumvention practices. Online news stories provided a broader perspective on ICT organisations' perception of B-BBEE regulation. All data sources were analysed through thematic analysis and content analysis. We used NVIVO software to organise all qualitative data.

1.9. Structure of the thesis

The study approached activities of B-BBEE compliance in the ICT sector through multiple touchpoints to provide a holistic idea of what could be influencing minimal compliance. The

thesis consists of 10 chapters, three chapters (Chapters 6, 7, and 8 respectively) dedicated to findings that capture the multiple perspectives regarding how contextual factors affect minimal compliance with the B-BBEE ICT Sector. Chapter 1 provides the background of the study as well as the benefits of the study, research problems, questions, and objectives. Moreover, the concept of minimal compliance is in Chapter 1. Chapter 1 concludes by briefly discussing the research design.

Chapter 2 consists of the case and context description of the study. Chapter 2 describes the B-BBEE ICT Sector Code, its stakeholders, and its relevance to the South African ICT sector. Moreover, drivers of B-BBEE compliance in the ICT sector are also discussed in this chapter.

Chapter 3 covers the literature review of the study. The chapter starts by conceptualising compliance behaviour. This is followed by a discussion of the conception and experiences of affirmative action policies in the Global South. Chapter 3 concludes by discussing public policy implementation factors influencing compliance.

The conceptual framework underpinning the study is discussed in Chapter 1. This chapter includes descriptions of all five sensitizing concepts and how they address the primary research question. Aspects of research design are explained in Chapter 5.

Chapter 6 discusses the findings on how ICT organisations perceive the B-BBEE policy implementation context. In Chapter 7 we present the findings of how ICT organisational logics of action influence minimal compliance with the B-BBEE ICT Sector Code. Chapter 8 discusses findings of how ICT organisations use ideological discourses as a mechanism to legitimise their minimal compliance behaviour and its outcome. We have dedicated chapter 9 to a discussion of findings and providing the answer to the primary research question. The thesis is concluded in Chapter 10.

2. Case and context description

2.1. Introduction

This chapter provides the contextual background of the study. It is important to provide the context of B-BBEE compliance to highlight South Africa's uniqueness to the rest of affirmative action policies in a similar context, where colonialism was a reality. The chapter is structured as follows: Section 2.2 discusses South Africa as the research context. Section 2.3 provides an overview of the South African population. Section 2.4 explains aspects of the South African political economy that are relevant to the study. Aspects of the B-BBEE ICT Sector Code and its regulatory components such as the B-BBEE elements, B-BBEE points, status and certificates are briefly discussed in Section 2.5. Section 2.6 provides details of the major stakeholders involved in B-BBEE implementation. Section 2.7 explains the relevance of the B-BBEE ICT Sector Code in the context of South African ICT policies. The drivers of B-BBEE compliance in the ICT sector are discussed in Section 2.8. Lastly, Section 2.9 discusses how other economic sectors have complied with B-BBEE regulations. The discussion of this chapter is summarised in Section 2.10.

2.2. South Africa as the research context

The current study is in post-colonial country South Africa. We have selected the research context to be the South African ICT sector because it remains with many White-owned businesses (MICTSETA, 2021). Like many nations in Africa, South Africa was colonised and experienced many years of oppression. However, South Africa had a unique experience of oppression because the systemic exclusion of Black people was done under the rule of law called apartheid (Pirtle, 2021). The topic of B-BBEE is in line with South Africa's post-colonial agenda of redistributing economic activities to equitably to black people (Melber, 2006).

For historians, South Africa has been a playing field for investigating post-colonial dynamics. This relates to exploring the experiences of Black people in South Africa as she implements the various post-colonial policies. The South Africa post-colonial project is unique because it remains with many European people compared to many other African nations. As noted by Hirsch & Lopes (2020: 33) "even after the end of apartheid in South Africa the country was not treated statistically as part of Africa, a remnant of the 'White Africa'". White owned corporations have remained in South Africa and continue along with subliminal racial exclusionary culture (Mzwakhe, 2016). The failure of South Africa's affirmative action policies

is largely attributed by the passive resistance of White-owned corporations in the context of economic transformation.

Aspects of B-BBEE implementation in South Africa have introduced new research direction in policy analysis associated with policies developed with good intentions but do not contribute towards social change. For this reason, we acknowledge that in post-colonial South Africa, the B-BBEE regulations introduce multiple dilemmas when it comes to including Black people in mainstream economy. The governing party, the ANC had not thought through the enforcement mechanism of B-BBEE policies. Thus, the policies are being implemented through minimal understanding of the complexity of the South Africa's population. Aspects of the B-BBEE which only let White-owned businesses to contribute to the transformation agenda through quantified mechanisms have only increased the number of Black elites but empowered very few (Mbeki, 2009). Moreover, the negative narrative associated with Black people or Africa is persistent and, in many cases, shadows their ability to flourish in various economic sectors (Hirsch & Lopes, 2020).

2.3. South African populations composition

South Africa has a population of 60.14 million people of which 48.6 million are Black Africans, 5.3 million are Coloured people, 4.66 million are White people, and 1.54 million are Indian/Asian people (Statista, 2021). The racial proportion of the country's population is graphically illustrated in Figure 2.1. **Error! Reference source not found.**

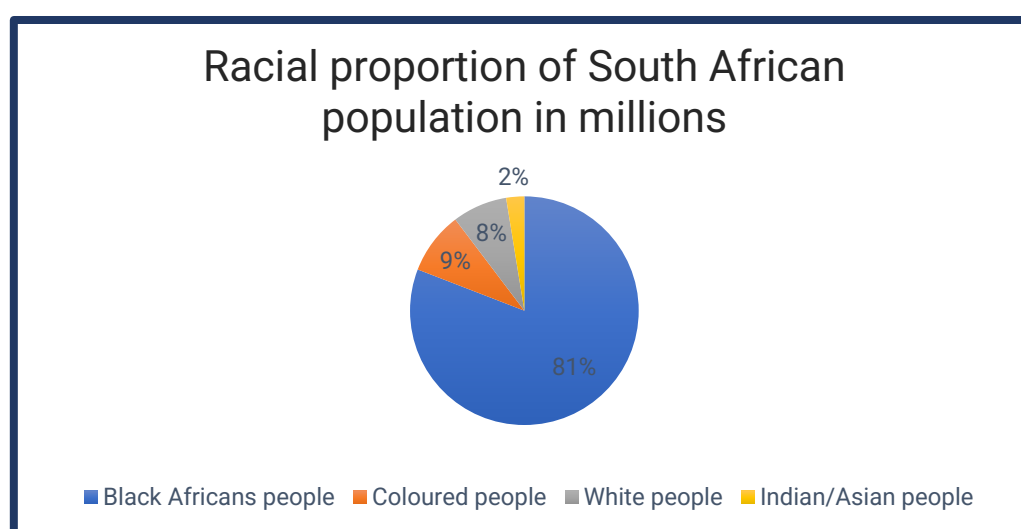


Figure 2.1: Racial proportion of South African population in millions

The country's population gender composition is 51.1% female (about 30.75 million) and 48.9% male (about 29.39 million) (Statista, 2021). Figure 2.2 illustrates South Africa's population

according to age. At 20.6 million, the youths (age 15-24) are the largest population group in the country (Statista, 2021).

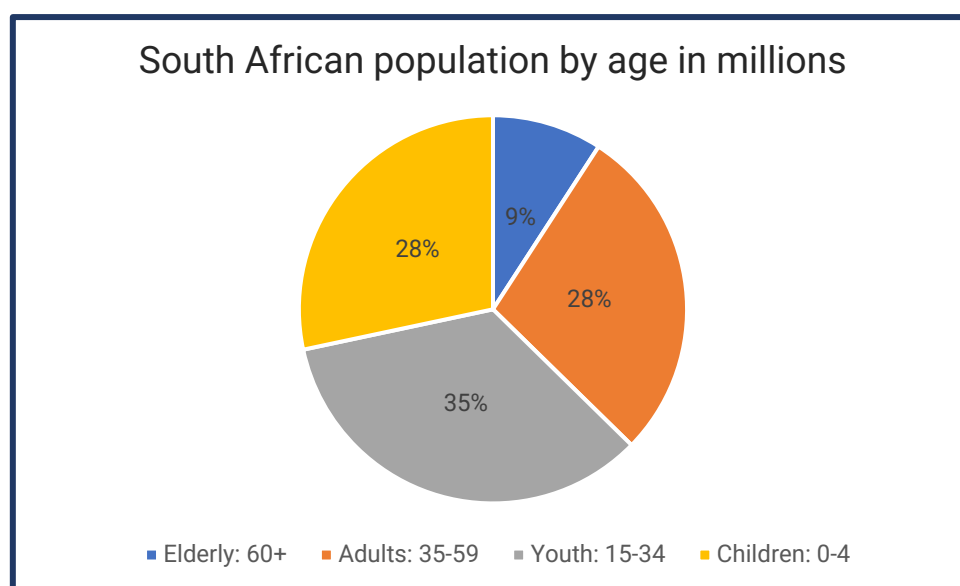


Figure 2.2: Age composition of South African population (Statista, 2021)

South Africa has a working population of 22.4 million people (World Bank, 2022). Despite being the majority population, South African youth struggle to obtain employment compared to the adult population. The 2022 data indicate that the population of young people between the ages of 15-24 is over 10 million. However, 7.7 million (75%) of these young people are unemployed (Statistics South Africa, 2022b). The lack of youth in the workforce is attributed to the poor education system that cannot provide adequately trained graduates in the workforce (Graham & De Lannoy, 2016; Ranchhod & Daniels, 2021). For example, the number of graduates from science, technology, engineering and mathematics (STEM) does not meet the requirements for the ICT sector (Sutherland, 2020).

The legacy of prolonged racial segregation makes South Africa one of the most racially unequal societies in the world (O'Brien et al., 2020). While White people only form part of 10% of the population, they own 80% of the country's wealth (World Bank, 2022). White people are overrepresented in corporate South Africa and own the majority of the organisations that are listed on the Johannesburg Stock Exchange (JSE). The JSE is the largest stock exchange in Africa located in South Africa, Sandton.

The country's labour market has a history of favouring White people across (Assouad et al., 2018). Figure 2.3 presents South Africa's unemployment rate at 34.4% (Statistics South Africa, 2021). At 41% of the unemployment rate, Black women are the most economically excluded.

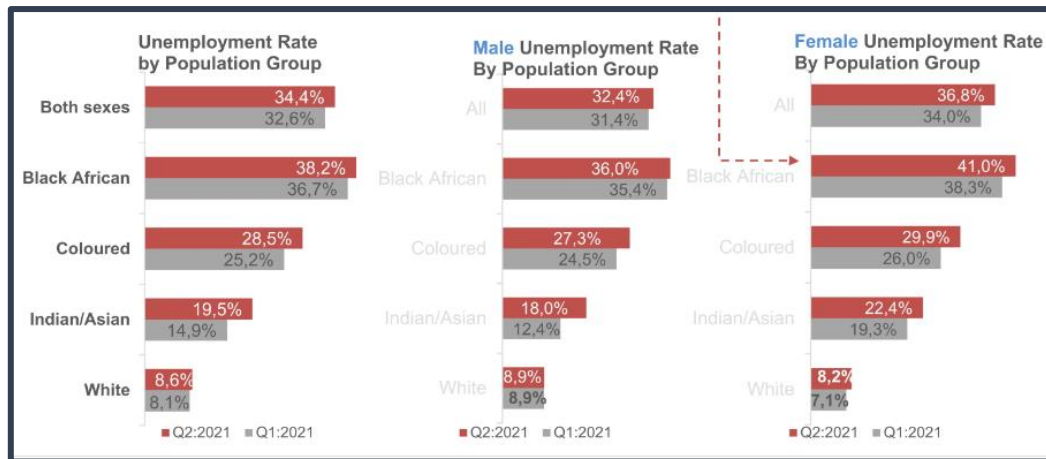


Figure 2.3: South African unemployment rate by population group

Racial disparities in income persist despite multiple economic transformation interventions and labour laws in South Africa. Black people earn less than White people in most professions. Despite the level of education, White people have better economic opportunities than Black people. Figure 2.4 indicates that despite a university degree, a Black woman earns less than a White woman. Essentially, White people earn better than the majority of Black people despite their educational qualifications (Oxfam, 2020)

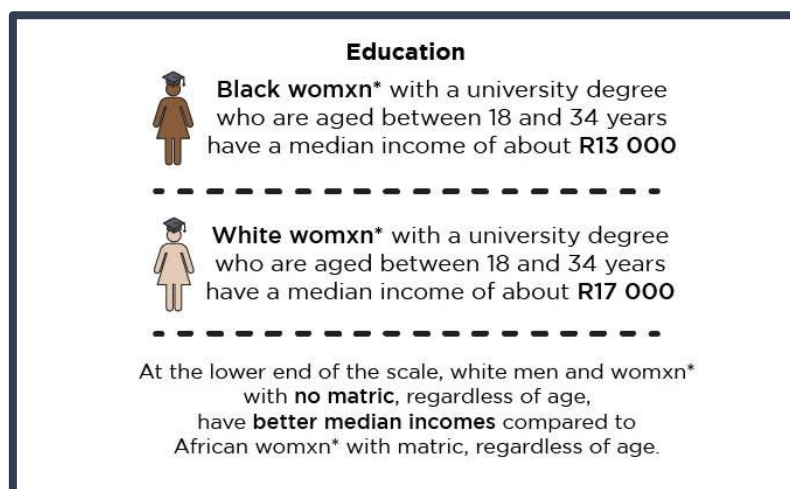


Figure 2.4: Income disparities between black and white with the same educational level (Oxfam, 2020)

South Africa is urbanising rapidly (Bank, 2018a). During the early 2000s, South Africa saw an increase in population migrating to urban areas. To date, 67.35 South African live in urban areas (Statistics South Africa, 2022b). It is predicted that 71% of the population will be living in urban areas by 2030 (World Bank, 2022). Table 2.1 summarises major social indicators of the South African population.

Table 2.1: summary of social indicators for the South African population

Description of indicator	Status	Source
Low literacy levels	95.02%	Statistics South Africa, 2020a
Human development index	114 out of 198	Worldometer, 2022
Rural population	32.2%	Statista, 2021
Urban population	67.8%	Statista, 2021
Electricity penetration rate	84%	Bank, 2018b
Mobile penetration	74.17%	Statista, 2021
Poverty	55.5%	Statistics South Africa, 2022b

2.4. The South African political economy

South Africa is one of the last few countries in Africa to gain independence; it emerged from an apartheid model of government in 1994. Since then, the country, through the ANC has been in a remedial mode to rectify the ills of apartheid. The Country has a GDP of US\$419.95 billion, South Africa depends on its mining sector (National Treasury, 2021). In 2021, as indicated in Figure 2.5, the country saw a sharp growth in the mining, agriculture, and manufacturing sectors (Statistics South Africa, 2022a).

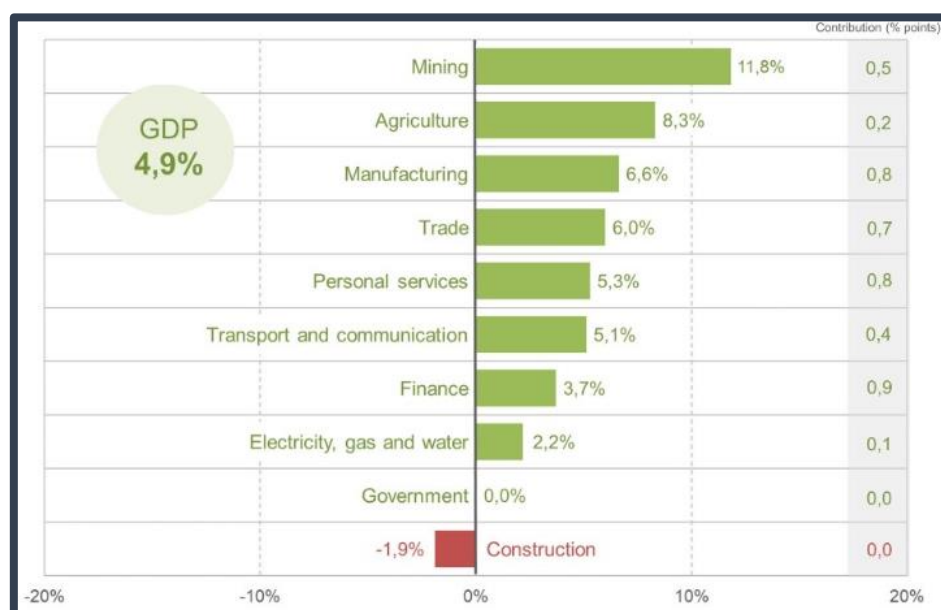


Figure 2.5: Mining, agriculture and manufacturing sector high growth rate in 2021

The country is divided into nine proveniences: Gauteng (GP), Western Cape (WC), Eastern Cape (EC), KwaZulu Natal (KZN), Northern Cape (NC), Mpumalanga (PM), and Limpopo (LP).

In the 2019/2020 reporting period, GP (34%), KZN (16%) and WC (14%) were the largest contributors to the GDP (see Figure 2.6) (Statistics South Africa, 2020b). The least

contributors were NC (2%), FS (5%) and LP (7%) respectively. Figure 2.6 summarises how much each province contributed to the GDP In the 2019/2020 reporting period.

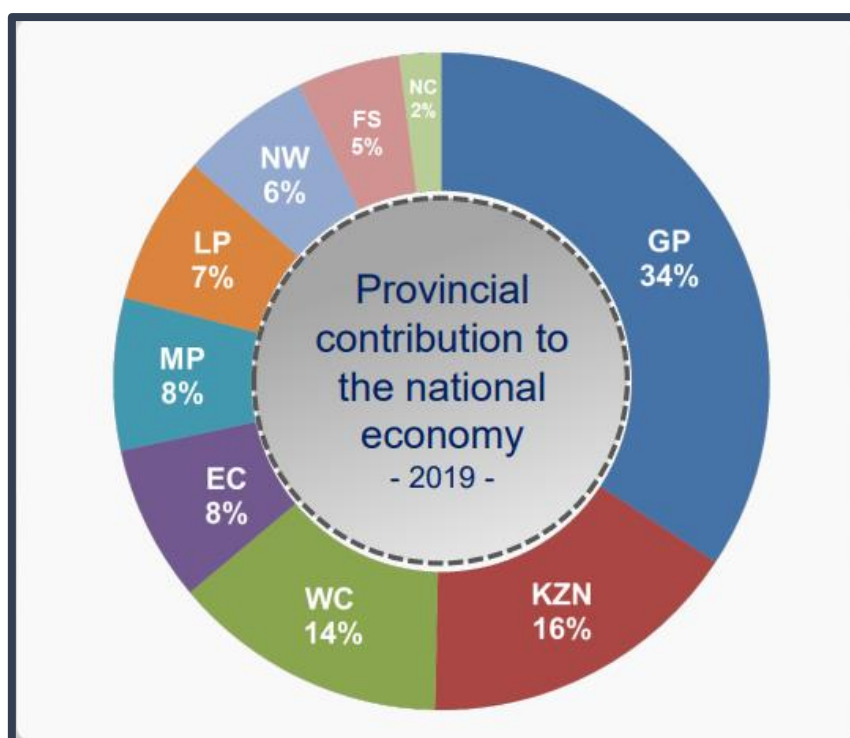


Figure 2.6: South African GDP contributions per province in the 2019/2020 reporting period

South Africa is a middle-income emerging market, with 55.5% of the population living on less than US\$75 per day (StatSA, 2018). As an emerging market macroeconomy, South Africa is in a “middle-income trap” (Bulman et al., 2017, p. 6). That is, it is a country whose economy stagnates in the face of low-income strategies that are not effective to transition the nation to a higher average income. The country is driven by both capitalist and socialist economic ideologies. Specifically, aspects of socialism are apparent in the majority of redistributive policies developed by the ANC (Kondlo, 2015). Capitalism has been robust as a result of the successful financial, ICT, mining and banking sectors that were well-established before democracy (Kondlo, 2015; Mosala et al., 2017b). Proponents of capitalism argue that the majority of post-colonial policies such as B-BBEE are socialist, and contradict the goals of capitalism (Krüger, 2016).

2.5. The B-BBEE ICT Sector Code regulatory instrument

This section discusses components of the B-BBEE ICT Sector. It also demonstrates the changes that the B-BBEE ICT Sector Code went through to be consistent with the policies governing B-BBEE compliance such as the B-BBEE Act and the CoGP of 2013.

2.5.1. The establishment of the B-BBEE ICT Sector Code

Figure 2.7 presents the B-BBEE ICT Sector Code timeline. The B-BBEE ICT Code was first introduced in 2012 and later amended by the B-BBEE ICT Sector Code of 2016 to be consistent with the B-BBEE Act No.46 of 2013 amendment. Between 2012 and 2016, the government implemented the ICT Sector Code B-BBEE through the generic CoGP (recall Table 1.2). While companies were starting to comply with B-BBEE, the transformation was not taking place (Mohapi & Njenga, 2012).

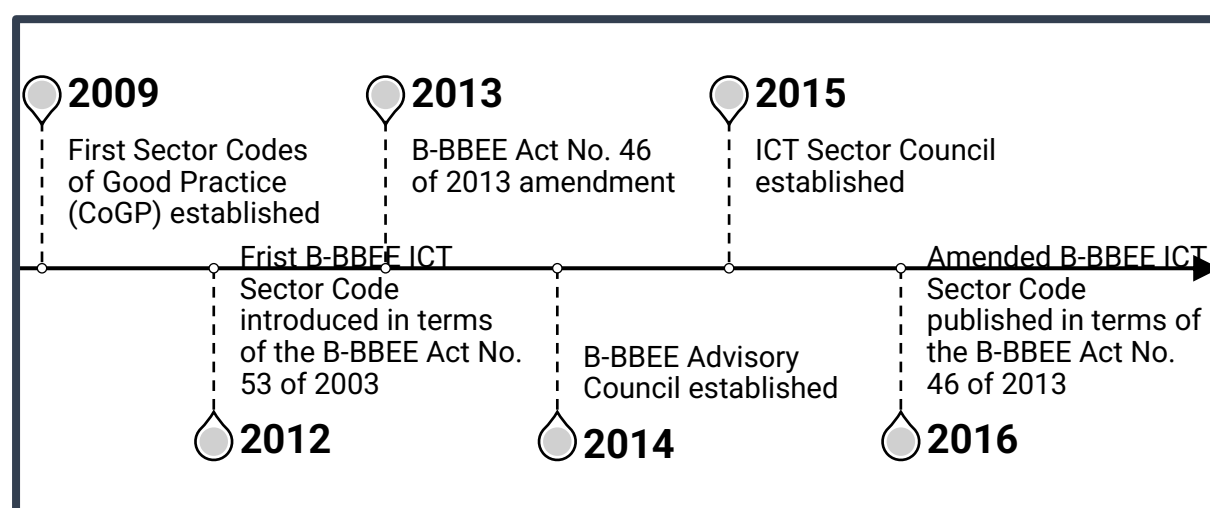


Figure 2.7: The B-BBEE ICT Sector Code timeline

The primary discrepancy that affected transformation through the generic CoGP was the absence of punitive measures and policy monitoring actors for organisations that try to go around the legislation without empowering Black people (Madi, 2016). These policy implementation discrepancies resulted in most ICT organisations focusing on increasing the number of Black people through fronting activities (Matsimela, 2013). Fronting is an attempt to circumvent the founding principles of the B-BBEE Act and its regulatory instruments (DTI, 2013). Fronting can take place through the following forms (DTI, 2013):

- Window dressing – the act of appointing Black people as tokens (solely for collecting BEE points) with little or no empowerment taking place. These enterprises place Black people in environments that are not conducive to economic empowerment, and which

inhibit them to participate meaningfully in the activities of the business. For example, a Black manager who does not own a team or perform any management function.

- Benefit diversion – this includes initiatives with economic benefits that do not flow to Black people as intended by the regulation. A typical example is an organisation with Black directors or shareholders who never receive the proceeds of the business.
- Opportunistic intermediaries – these are business agreements that are concluded based on the benefits of partnering companies that have favourable B-BBEE status but with little empowerment impact on the part of Black people. Put in context, a non-compliant organisation can choose to partner with an entity with a favourable B-BBEE status (Black-owned company) to bid for a certain government tender.

These implementation challenges presented the need for another reform – this involved appointing sector councils to develop sector-specific transformation strategies (SA News, 2016). Consequently, a Sector Council was formed in September 2015 to fast-track sectoral reform and elevate the transformation agenda in the ICT sector. The Sector Council completed the second version of the B-BBEE ICT Sector that was consistent with the B-BBEE Act No. 46 of 2013 along with the B-BBEE CoGP of 2013. The B-BBEE ICT Sector Code of 2016 was promulgated in 2016 with the following main objectives (Amended Broad-Based Black Economic Empowerment (B-BBEE) ICT Sector Code of 2016., 2016);

- to commit to the objectives of the B-BBEE Act as amended;
- to bridge the “digital divide” by actively promoting access to ICT;
- to stimulate and support growth in the ICT sector;
- to advance economic and social transformation in the ICT sector;
- to contribute towards the reduction of unemployment and poverty alleviation;
- to support skills development and training initiatives;
- to foster equity and address the legitimate economic aspiration of all South Africans;
- to provide an enabling environment conducive to transparency, fairness, and consistency when adjudicating matters related to BEE in the ICT sector; and
- to comply with the requirements of the ICT sector code as defined by the charter.

The regulatory instrument for the B-BBEE ICT Sector Code of 2016 consists of five B-BBEE elements with a total of 120 points – an increase from 100 points. Noteworthy, the 2016 ICT Sector Code has more B-BBEE points on management control, enterprise development and supplier development. Moreover, the 2016 version introduced three mandatory elements that organisations must prioritise while complying with the B-BBEE ICT Sector Code, i.e., ownership, management control, enterprise and supplier development elements. Table 2.2

and Table 2.3 presents the changes between the 2012 and 2016 B-BBEE ICT Sector Code in terms of points and the number of B-BBEE elements.

Table 2.2: B-BBEE ICT Sector Code of 2016 under B-BBEE CoGP of 2013 (DTI, 2016)

B-BBEE Elements	Weighting points
Ownership	25
Management control	23
Skills development	20
Enterprise and Supplier development	40
Preferential procurement: 25 points	
Supplier development: 10 points	
Enterprise development: 15 points	
Socio-economic development	12
Total points	120

Table 2.3: B-BBEE ICT Sector Code of 2012 under B-BBEE CoGP of 2007 (DTI, 2007)

B-BBEE Elements	Weighting points
Ownership	20
Management control	10
Employment equity	10
Skills development	17
Preferential procurement	20
Enterprise development	11
Socio-economic development	12
Total points	100

In addition to increasing B-BBE points, the B-BBE ICT Sector Code of 2016 provides that a multinational organisation doing business in South Africa should contribute toward economic transformation through the Equity Equivalent Investment Programmes (EEIP) (DTI, 2016). EEIPs are investments targeted at advancing ICT sector economic transformation through;

- critical skills development;
- supporting enterprise development activities; and
- supporting research and development activities.

The beneficiaries of EEIPs are EMEs or QSEs with Level 1 B-BEE status. Compliance with B-BBEE regulations through EEIPs is done by applying to the DTI with a proposal of a relevant EEIP programme. The beneficiaries must consist of 75% of Black people with a focus on Black women included in ownership structures of the enterprise (B-BBEE ICT Sector Council, 2017). For example, in early 2021, Amazon Web Services (AWS) invited Black-owned SMMES to participate in their EEIP (Malinga, 2021). AWS's EEIP was an enterprise development initiative

designed to mentor Black-owned SMMEs to become technology partners in AWS's supply chain (Malinga, 2021).

2.5.2. The B-BBEE elements

The B-BBEE ICT Sector of 2016 consists of five B-BBEE elements that are backed up by specific policy frameworks to accelerate the empowerment of Black people. The B-BBEE elements are ownership, management control, skills development, enterprise supplier development, and socio-economic development.

2.5.2.1. Ownership

This element measures the ownership of enterprises by Black people (Amended Broad-Based Black Economic Empowerment (B-BBEE) ICT Sector Code of 2016., 2016). It is informed by the principles of the Companies Act No. 71 of 2008 which recognises Black ownership as a prerequisite for operating business in South Africa. Furthermore, the Act provides that ICT organisations ought to create employee ownership schemes and partnerships with South Africans (Republic of South Africa (RSA), 2014). The ICT Sector Code requires companies to at least have 30% Black ownership to promote Black business ownership (Department of Trade and Industry Notice 303 of 2019, 2019). Ownership in this context refers to the voting rights, economic interest of Black people and new Black entrants in the ownership structure of the enterprise.

Other aspects which are included in calculating Black ownership are employee schemes, B-BBEE public share schemes, and equity deals with Black-owned organisations or expected SMMEs. Large telecommunications organisations such as Vodacom and MTN have had numerous B-BBEE equity deals, some successful and some devastating (Mahlaka, 2017). For example, in the recent MTN's Zakhele Futhi qualifying black (according to capital availability) investors have an opportunity to invest a minimum of R2,000 (\$106) to own MTN shares (IT Web, 2016). In addition, MTN proposed to introduce what they called an employee share ownership plan (ESOP). This employee share initiative would be held in a trust which will eventually benefit their workforce. However, by 2019, the MTN B-BBEE share scheme had accumulated debt of R5 bn (\$265 980 080), and could not sell the shares, due to the complexity of the B-BBEE ownership share scheme structure (Mahlaka, 2019).

The ownership elements remain a sensitive aspect of the B-BBEE discourse. (John Campbell, 2016) warns that the element of ownership in B-BBEE should not be viewed as expropriation. Considering that most businesses within this sector are owned by White people, there is a consensus that B-BBEE will eventually push more Black people to own enterprises that belong

to White people (Gordon, 2009). Furthermore, there is a belief that many whites believe that they will be largely excluded in corporate South Africa (John Campbell, 2016).

2.5.2.2. Management control

This element was designed to measure effective management control of organisations by Black people (ICT Sector Council, 2016; Kleynhans & Kruger, 2014). The management control element is informed by the principles of the Employment Equity (EE) Act 55 of 1998. This Act provides that organisations must increase PDI participation by ensuring that their workforce is representative of the national demographics as provided by the Commission on Employment Equity (CEE) report and Economically Active Population (EAP) indicators (ICT Sector Council, 2016; Ngcobo & Ladzani, 2019). Moreover, organisations may improve compliance with this element by increasing their black females at executive and directorship levels.

The management control element requires ICT organisations to prioritise designated groups as stipulated by the EE Act. Designated groups are Black women, youth, and people with disabilities (Ratuva, 2014a). Characteristics considered while calculating the management element include Black people's participation in board membership, other executive management, senior management, middle management, junior management, and employees with disabilities.

Literature in the EE Act and management control highlights that organizational culture plays a role in how the ICT sector responds to these elements (Madi, 2016). Typically, an entity with a clan organisational culture would be inclined to commit to empowering its employees (Naicker, 2008). However, for entities that use entrepreneurial and market culture, being competitive and profit-oriented would take precedence over committing to EE targets (Naicker, 2008). Although there are aggressive regulations inherent in B-BBEE to encourage the inclusion of the Black workforce at the management control level, the dominance of market organisational culture has systematically made EE implementation slow (Booyesen, 2007). Figure 2.8 shows the CEE report, which indicates that nationally across all economic sectors, top management positions are dominated by White people at 68%. Moreover, in terms of gender disparities, the report shows top management positions consist of 78% males.

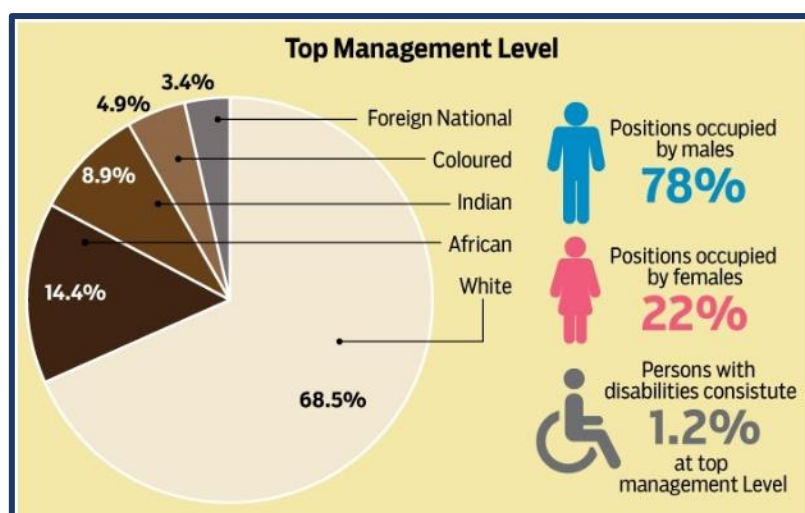


Figure 2.8: Employment Equity statistics (SA News, 2017)

The B-BBEE ICT Sector Council report indicates that although organisations made efforts to meet EE targets, the ICT sector ‘is white’ (ICT Sector Council, 2017). South Africa continues to see a decline in Black CEOs (Schofield, 2016). In 2018, CEOs of the top 40 companies in South Africa continued to be White males in their 50s (Dwolatzky, 2019). Across all economic sectors, (Oosthuizen et al., 2019) observed that most White people feel excluded in organisations and perceive the EE Act and management control element as discriminatory regulations.

2.5.2.3. Skills development

The skills development element is part of the government’s strategy to improve the skills and competencies of Black people through the implementation of the National Skills Development Strategy (NSDS), the Skills Development Act No. 97 of 1998 and the national skills development levies Act no. 9 of 1999, respectively (Amended Construction B-BBEE Sector Code of 2017, 2017). Skills development is done primarily through internships and vocational learnership training, as well as academic qualifications.

To facilitate the implementation of this element, a training authority, i.e., the Media, Information and Communication Technology Sector Education Training Authority (MICT SETA) was established. The South African government established SETAs to facilitate vocational skills training in all economic sectors. Each sector has a SETA which performs all training. For example, while the ICT sector has MICT SETA, the construction sector uses the Construction Education and Training Authority (CETA). The main responsibility of MICT SETA is to facilitate compliance with the skills development element by mapping ICT skills needed by the sector. Moreover, the MICT SETA also facilitates youth skills development through ICT internships and learnerships. In 2018, the government introduced and included the Youth

Employment Service (YES) in the B-BBEE Act. This was to combat the ever-increasing youth unemployment that remains a challenge for the South African government (BusinessTech, 2018b).

Within the B-BBEE ICT Sector in the new codes, the skills development element accounts for 20 points in the BEE scorecard (DTI, 2015). The NSDS stipulates those beneficiaries of skills development initiatives must be 85% Black people, 54% women and 4% of people with disabilities. The programmes through which this element is implemented include learnerships, internships, professional certifications and formal learning programmes from universities, universities of technology (widely known as polytechnics³) and vocational colleges. Despite these skills development strategies, South Africa is still battling a severe deficit of Black skills across its major economic sectors (Maririmba, 2017).

The numerous skills development interventions have failed to improve the overall skills of the South African ICT workforce (Dwolatzky, 2019). The skills shortage within the ICT sector has largely been attributed to the promulgation of the Skills Development Act and the complexities around its implementation within the B-BBEE scope. The first level of complexity rests on the rapid change in technology that is a reality globally. For instance, like cloud computing, big data and other emerging technologies brought about by 4IR, organisations continue to experience skills scarcity (Twinomurinzi et al., 2017a). Secondly, there are many stakeholders or entities involved in the monitoring and reporting of skills development activities. Therefore, to devise a skills development plan, an organisation must commit to the principles of MICT SETA which are informed by the CEE report and the national EAP. Each of these entities with their specific requirements may probably increase the regulatory burden on the organisation.

2.5.2.4. Enterprise and supplier development

Enterprise and supplier development element measures the degree to which ICT organisations buy goods and services from Black businesses (Van Der Merwe & Ferreira, 2014). Enterprise and supplier development was designed to address the plethora of challenges faced by Black business owners ranging from access to finance, access to markets, and sustainability (Hiam

³ Polytechnics are higher educational institutions that provide practical or experiential learning on subjects that include, but not limited to technology, engineering, entrepreneurship, and hospitality. <https://commons.bcit.ca/news/2018/12/difference-between-polytechnic-and-university/>

et al., 2017). This element has two objectives. The first objective is to support small Black-owned SMMEs to perform optimally in their respective markets (Amended Construction B-BBEE Sector Code of 2017, 2017). Organisations comply with this by donating funds and providing mentorship and office space and/or equipment to Black-owned SMMEs. The second objective is to include Black-owned businesses in the supply chain and identify means to empower them as suppliers (Amended Construction B-BBEE Sector Code of 2017, 2017).

This element plays a major role in influencing Black people to explore entrepreneurship. Organisational compliance with enterprise and supplier development has resulted in the sustainability of most small businesses (Mphahlele, 2017). In the ICT sector, this element also plays a role in ensuring that start-ups have access to technologies relevant to their businesses (Willemse, 2018). This often takes place through business incubation initiatives which are embedded in organisations' B-BBEE compliance strategies (Kassnerf, 2016). Research on enterprise development in the context of SMEs found mentorship to be the most useful strategy to empower emerging entrepreneurs (Willemse, 2018).

2.5.2.5. Socio-economic development

DTI (2013) describes this socio-economic development element as any monetary or non-monetary contribution towards the development of people in previously disadvantaged communities. It further stipulates that beneficiaries of socio-economic development activities such as CSI must consist of 75% Black people (Amended Broad-Based Black Economic Empowerment (B-BBEE) ICT Sector Code of 2016., 2016). These must include development initiatives to support (Department of Trade and Industry Notice 303 of 2019, 2019):

- youth, women, people with disability and those living in rural areas;
- healthcare and HIV/AIDS;
- education programmes for both secondary and university levels in a form of scholarships and bursaries;
- arts, cultural and sporting activities; and
- capacity building and skills development for the youth and adult learning.

This element was designed on the basic premise of the potential of ICTs to accelerate socio-economic development. It is through this element that the government hopes to bridge the digital divide through ICT organisations. As noted in the National Integrated ICT policy, ICT organisations have the potential to transform various aspects of the economy by expanding access to technologies for Black people (Pater & Hurst, 2017).

2.5.3. B-BBEE points, status and certificate

The government enforces B-BBEE compliance through a point system where a measured entity accumulates points by including Black people through the five B-BBEE elements. B-BBEE points are weightings that are allocated for each of the B-BBEE elements. Combined, the five B-BBEE elements have 109 points. Table 2.4 presents an example of the B-BBEE points for contributing toward the socio-economic development elements. Essentially, if a measured entity contributes 1.5% of its Net Profit after Tax (NPAT), it gets a maximum of 12 points. These points will be accumulated provided that 75% of the beneficiaries were Black people (DTI, 2016).

Table 2.4: Socio-economic development points

Criteria	B-BBEE points	Compliance target
The annual value of all Socio-Economic Development Contributions by the Measured Entity as a percentage of the target. The full value of the Socio-economic Development contributions is recognisable if at least 75% of the value of the contribution directly benefits Black People.	12	1.5% of NPAT

At the end of a compliance period, VAs provide a scorecard to the measured entities that show their B-BBEE status. A B-BBEE status is the outcome of the sum of all B-BBEE points.

Table 2.5 presents B-BBEE status from levels 1-8 where Level 8 is the lowest level of compliance. Essentially, the sum of points accumulated from the B-BBEE elements is viewed

as qualifying indicators where a measured entity with less than 55 points is considered a non-compliant contributor.

Table 2.5: B-BBEE Status (DTI, 2016)

B-BBEE Status	Qualification
Level One Contributor	≥120 points on the ICT Scorecard
Level Two Contributor	≥115 but <120 points on the ICT Scorecard
Level Three Contributor	≥110 but < 115 on the ICT Scorecard
Level Four Contributor	≥100 but < 110 on the ICT Scorecard
Level Five Contributor	≥95 but <100 on the ICT Scorecard
Level Six Contributor	≥90 but <95 on the ICT Scorecard
Level Seven Contributor	≥75 but <90 on the ICT Scorecard
Level Eight Contributor	≥55 but <75 on the ICT Scorecard
Non-Compliant Contributor	<55 on the ICT Scorecard

Noteworthy, Levels 1 to 4 are the most sought-after B-BBEE statuses. One of the benefits of having an attractive B-BBEE status is that it makes it easy to do business with the government, municipalities and other organs of the state (Ndhlovu, 2019). Moreover, an entity with high B-BBEE status is considered to practice good corporate citizenship.

A B-BBEE certificate is a document that shows the measured entity's commitment to B-BBEE compliance. It presents information about all elements that the entity complied with and the points they accumulated. Figure 2.9 is an example of a B-BBEE certificate from Dimension Data – one of the largest IT organisations operating in South Africa. The certificate has six primary components used to verify B-BBEE compliance which are;

- B-BBEE status;
- details of the measured entity such as its name and business registration number;
- points accumulated from B-BBEE elements;
- details of the entity's ownership structure from a B-BBEE perspective;
- the certificate number, date issued and expiry date; and
- details of the Sector Code used to measure the entity.

Figure 2.9: Example of a B-BBEE Certificate: Dimension Data

2.6. Summary of major stakeholders in the implementation of the B-BBEE ICT Sector Code

stakeholders who ensure that the government achieves its transformation goals in the ICT sector.

Table 2.6: Major stakeholders in the implementation of the B-BBEE ICT Sector Code

Stakeholder	Role
DTI	<ul style="list-style-type: none"> Setting up the B-BBEE ICT Sector Code Developing a formula to measure B-BBEE points Facilitating industry consultation and the establishment of the B-BBEE ICT Sector Council
DTPS now called the Department of Communications and Digital Technologies (DCDT)	<ul style="list-style-type: none"> Hosts the ICT sector Aligns B-BBEE objectives with the National Integrated ICT Policy
ICASA	<ul style="list-style-type: none"> Enforce compliance with the ownership element for businesses seeking telecommunication licences
B-BBEE ICT Sector Council	<ul style="list-style-type: none"> Monitoring and reporting on B-BBEE compliance in the ICT sector
The B-BBEE Commission	<ul style="list-style-type: none"> Monitors transparency of B-BBEE compliance reporting of the JSE listed ICT companies
MICT SETA	<ul style="list-style-type: none"> Facilitate organisational compliance with skills development and training
B-BBEE rating agencies	<ul style="list-style-type: none"> These are organisations responsible for auditing and verifying organisational B-BBEE compliance.

2.6.1. Department of Trade and Industry (DTI)

DTI is responsible for developing commercial and industrial policies to gear all trading activities to match global trading standards ICT Sector Code of 2016., 2016).It is the sole department mandated by the government to develop transformation policies. DTI developed the B-BBEE ICT Sector regulations and aligned them with industrial transformation needs. This includes developing a formula to measure each B-BBEE element to accelerate black empowerment in the ICT sector. Moreover, DTI also established a sector council to monitor all B-BBEE compliance activities in the ICT sector.

2.6.2. The B-BBEE Commission

B-BBEE Commission was established in 1998to assess the challenges of Black participation in the mainstream economy and develop the B-BBEE strategy to form a legal framework informing economic transformation activities (Horwitz & Jain, 2011). To date, the commission addresses sectoral complaints related to B-BBEE compliance malpractices such as fronting.

In its latest report, the commission revealed that 85% of compliance malpractices are fronting followed by fraudulent B-BBEE certificates and tendering irregularities (BBBEE Commission, 2019). The commission is also mandated to ensure that all ICT organisations listed on the JSE make their B-BBEE compliance publicly visible. The B-BBEE Commission works closely with the B-BBEE ICT Sector Council to ensure consistency in reporting to the DCDDT.

2.6.3. The B-BBEE ICT Sector Council

The ICT Sector Council was established by the DTI to oversee, monitor and report transformation activities of the ICT sector (SA News, 2016). Its formation was a result of ICT sector consultation to ensure that the B-BBEE ICT Sector Code stipulations represent the transformation that needs to be addressed by enforcing compliance. The council plays an important role in the continuous amendment of the regulation to ensure that it is in line with the changes in the B-BBEE Act. For example, when the government included the YES initiative in the B-BBEE Act, the council consulted the industry on how organisations can embed it in their internships and learnership programmes (BusinessTech, 2018b).

In 2017, the B-BBEE ICT Sector Council released its first B-BBEE monitoring report to show progress in B-BBEE compliance since its appointment in 2015. The report revealed that the ICT sector was performing well in other elements with others showing the poor performance (ICT Sector Council, 2017). Organisations pay attention to ownership and enterprise and supplier development elements. Of the 120 ICT companies assessed, a majority of them had 43.63% voting rights from Black people: an increase from 33.99% in 2016. For example, the report indicates that the ICT sector workforce continues to be dominated by White people, which is inconsistent with the B-BBEE regulations. Despite these disparities, the report acknowledges that of the organisations assessed, compliance with B-BBEE is high in generic entities, i.e. large telecommunications organisations and that this has had a positive impact on the transformation agenda in the sector (ICT Sector Council, 2017).

2.6.4. B-BBEE rating agencies

The role of rating agencies is to calculate and translate points accumulated by complying with the five B-BBEE elements. B-BBEE rating agencies are the official organisations accredited by the South African National Accreditation System (SANAS) to verify B-BBEE compliance activities. Some early and prominent B-BBEE rating agencies include Empowerdex, Grant

Thornton, and AqRate. The majority of B-BBEE rating agencies emerged after the first promulgation of the CoGP in 2007. The B-BBEE rating process for a measured entity can cost up to US\$ 3,600 per rating period. In 2014, the B-BBEE rating business was valued at US\$109 million (Thomas, 2014). To date, over 70 B-BBEE rating agencies are operating in South Africa.

Rating agencies employ VAs who perform the tasks of rating organisations. Most of the VAs have an accountancy or auditing degree. There are B-BBEE rating-specific training and courses to equip VAs in their role. In addition to the rating, VAs may also assist organisations in developing B-BBEE activities. This is mostly useful for organisations that are at their early stages of B-BBEE compliance. For example, an organisation may need plans and strategies on how to include Black people in the ownership structure to fulfil the ownership element requirements. Most organisations have an internal department or person that deals with B-BBEE compliance activities to support the external VAs. In most cases, B-BBEE activities fall under Human Resources and procurement department. In the Human Resources department, the person must ensure that the organization's recruitment practices are consistent with B-BBEE regulations, i.e., the management control element. Similarly, the procurement person must align all supply chain practices with the enterprise and procurement development elements. Overall, the role of the B-BBEE agencies can be equated to that of auditing firms. However, these agencies are concerned with recording and auditing B-BBEE compliance activities. While many freelancers can verify B-BBEE compliance, most organisations prefer their verification to be done by accredited agencies.

2.6.5. Department of Communications and Digital Technologies (DCDT)

As the host of the ICT sector, the DCDT translates and aligns B-BBEE objectives with the National Integrated ICT policy (Department of Telecommunication and Postal Services, 2016). It needs to be noted that this was the responsibility of the DTPS. However, in June 2019, the government merged DTPS and the DOC to reduce the duplication of powers and regulatory confusion that emerged after the DOC split in 2014 (IT Web, 2020). In addition to alignment, the merger would strengthen the B-BBEE agenda through dedicated entities within the department. Moreover, the DCDT plays a collaborative role between the ICT Sector Council and the DTI in monitoring economic transformation performance by ICT organisations.

2.6.6. Independent Communications Authority of South Africa (ICASA)

ICASA is a regulatory entity that was established under the ICASA Amendment Act No 3 of 2006. ICASA is responsible for allocating spectrum, regulating and granting licences to both telecommunication and broadcasting organisations (Fourie et al., 2018a). It ensures that all

licences are granted in line with the B-BBEE ICT Sector Code (Independent Communications Authority of South Africa, 2019). ICASA has played an instrumental role in reviewing the B-BBEE ICT Sector Code specifically compliance with the ownership, management control and enterprise and supplier development elements (BusinessTech, 2018a). For example, in its 2018 “State of South African ICT sector” report ICASA reported on how telecommunications organisations are performing in terms of putting Black people at their executive level. The report indicated that the ICT Sector for the year 2017-2018 had 192 top-level managers. However, there were only 52 Black people in top management: 21 females and 31 males (ICASA, 2019).

2.6.7. MICT SETA

To appreciate the role of MICT SETA, it is first important to explain the concept of SETA. In the South African context, SETAs are institutions established to respond to workplace skills need for all economic sectors. The goals of SETAs are to assist organisations in various sector to (MICT SETA, 2018):

- develop a skills plan
- implement the skills plan for their sector
- promote learning programmes
- register agreements for learning programmes
- perform functions assigned by the quality council for trade and occupations
- pay out funds collected from employers and their sector
- work with the national skills authority on policy, strategy and sector skills plan.

MICT SETA was established in terms of the Skills Development Act 97 of 1998. Its function is to promote ICT skills development, report on skills status and facilitate compliance with the skills development element through skills plans. This includes encouraging organisations to commit to their employee skills development initiatives through the national skills levy. The authority also conducts Sector Skill Planning (SSP) research to report on how the ICT sector is doing in terms of available skills. Furthermore, the authority maps priority ICT skills in terms of technological trends, while developing training frameworks to increase skills for both the private and government sectors (MICT SETA, 2018). In its recent report, it indicates that the South African ICT sector is still lagging in terms of IT skills beyond racial parameters (MICT SETA, 2018).

2.7. B-BBEE regulations in the context of the South African ICT policy

Three important ICT policies are associated with B-BBEE compliance in the South African ICT sector. These are:

- ICASA Amendment Act No 3 of 2006
- National Integrated ICT Policy White Paper
- Electronic Communication (EC) Amendment Act No 1 of 2014.

Each of these policies has its conception of the objectives which B-BBEE must achieve in the ICT sector.

2.7.1. ICASA Amendment Act No.3 of 2006

ICASA legislation was first enacted in 2000 to regulate both telecommunication and broadcasting activities. In the same year, ICASA became a regulatory authority to specifically deal with licencing, monitoring industry growth and facilitating the formation of what is today the ICT sector of South Africa. As the primary regulator, ICASA is also responsible for granting, amending, renewing, and revocation of all telecommunications and broadcasting licenses (Ellipsis, 2014). In addition, ICASA is mandated to monitor organisational compliance with the EC amendment Act No 1 of 2014 (ICASA, 2019).

In 2014, the ICASA Amendment Act No. 3 of 2006 was amended by the ICASA Act No, 1 of 2014 to align it with the objectives of B-BBEE Act No. 46 of 2013. As a result, section 4(3)(k) provides that the ICASA may make regulations on empowerment requirements to achieve the goals of the B-BBEE ICT Sector Code of 2016. Consequently, ICASA requires all organisations that need new licences to have 30% of HDIs in ownership (Paula, 2018).

2.7.2. Electronic Communications (EC) Act Amendment Act No.1 of 2014

The EC Act was amended in 2014 to clarify some definitions, add regulatory responsibilities to ICASA and include B-BBEE as one of its interventions. This legislation regulates the activities of electronic communications network services and broadcasting services (Republic of South Africa, 2006). The difference between ICASA Act and the EC Act rests in their responsibilities. i.e., the EC Act governs what the ICASA does, while the ICASA plays the role of the regulator, with the ICASA Act specifying what it should do as a regulatory authority. For example, section 2 (2) (h) stipulates that the authority must promote compliance with B-BBEE and specifically ensure empowerment in the licensing process.

2.7.3. The National Integrated ICT Policy White paper

The National Integrated ICT Policy is designed to regulate electronic communication, access to information, broadcasting, information protection and security, industry growth and ICT business activities in South Africa (Department of Telecommunication and Postal Services, 2016). In its current form, it is in the white paper phase. This means that it consists of proclamations which after consultation will inform the ICT policy framework. The South African government envisage that this legislation will replace Telecommunications Act (1996), and Postal Services Act (1998) and amend EC Act No. 1 of 2014 (Independent Communications Authority of South Africa, 2019).

The principles of its integrated approach to regulating the ICT environment are entrenched in solving a plethora of socio-economic problems in South Africa (Department of Telecommunication and Postal Services, 2016, p. 155). National Integrated ICT policy is closely aligned with the NDP vision 2030 of eliminating poverty and reducing inequality. Essentially, through this policy, the government hopes that it can address the following development challenges (Amended Broad-Based Black Economic Empowerment (B-BBEE) ICT Sector Code of 2016., 2016; Department of Telecommunication and Postal Services, 2016):

- unemployment and scarce ICT skills;
- poor quality of education;
- ICT infrastructure to facilitate service delivery;
- economic sustainability;
- poor healthcare technological infrastructure;
- corruption; and
- racial inequality in the ICT sector.

In the National Integrated ICT Policy white paper, B-BBEE compliance is positioned as a solution to the challenges listed above, and to facilitate sector growth. Section 12.13 of the white paper provides that business practices in ICT organisations must commit to the moral and social reasons for the economic empowerment of Black people, who have been systematically oppressed and economically excluded (Department of Telecommunication and Postal Services, 2016). The White Paper further stipulates that multinational organisations which cannot comply with B-BBEE have to contribute to economic transformation via EEIPs. To resolve skills-related challenges, the white paper provides that organisations must invest in developing e-skills and e-literacy through the Skills Development B-BBEE element. With regards to equity ownership, the white paper recommends that organisations must employ strategies that will increase Black ownership.

2.8. Drivers of B-BBEE compliance in the ICT Sector

The primary driver for B-BBEE compliance in the ICT sector is the government's need to accelerate transformation by including Black people in ICT businesses. As one of the strong economies in Africa, South Africa has attracted many international ICT organisations. This has also encouraged South African entrepreneurs to venture into technology. Some of the early establishments include telecommunication organisations, such as Telkom, Vodacom and MTN in 1991, 1993 and 1994, respectively. By the early 2000s, Vodacom and MTN started expanding their businesses beyond South African borders. Ultimately, the government needed to increase black participation in ICT businesses and the digital economy. The following are three drivers for the South African government to enforce B-BBEE compliance in the ICT sector (Department of Trade and Industry, 2012):

- persistent exclusion of Black people in the sector;
- reducing White male domination in areas of equity ownership and management control of ICT businesses; and
- bridging the digital divide and the potential for socio-economic development through ICTs.

Due to institutional exclusion, the ICT sector was not conducive to Black entry, either in terms of employment or business ownership. Moreover, in the 1990s, historians claim that it was too early to have qualified candidates in the technology sector (Madi, 2016). This was the case because, during apartheid, most people were excluded from technical education resulting in the Bantu education curriculum, which was designed as a form of educational curtailment set against educational growth (Mlatsheni & Leibbrandt, 2011). Specifically, Bantu education was a curriculum designed by the apartheid government to train Black people to be efficient and compliant with white superiors so that economic power remain in their minority control (Heleta, 2016). Under this established milieu, for Black candidates presenting with IT qualifications, white employers have often been suspicious of and hostile to Black competence in the technology field (Tanski, 2011),

The government turned to B-BBEE compliance to diffuse White male dominance in the ICT sector (MICT SETA, 2018; Oosthuizen et al., 2019). The government's concern was not to deracialise the ICT sector but to ensure inclusivity of all races in it. It needs to be noted that, for the South African government, an organisation is transformed when it has racial representation that meets the requirements of the B-BBEE Act. Through this piece of legislation, the government's goal was to empower Black people through employment and

skills development and to transform the economy by allowing Black people to own ICT businesses and trade freely; thereby encouraging industry inclusive growth.

There is a digital divide between the rich and poor, which also determines access to information in South Africa (Gillwald et al., 2018a). An increase in internet penetration will also result in bridging the digital divide (Bosch, 2017). Despite the increased internet penetration and mobile phone users, this has not had a positive impact on the country's digital divide. The South African government has envisaged that enforcing B-BBEE compliance, would bridge the digital divide that is a reality, especially in rural areas. Another driver related to bridging the digital divide is ICTs' potential to address the many socio-economic challenges faced by Black people. This is based on the idea that ICTs provide access to economic opportunities such as employment and entrepreneurship (Shankar et al., 2016).

2.9.B-BBEE compliance in South African organisations

This sub-section explores how organisations in other sectors have complied with the B-BBEE regulation. It also highlights some of the factors affecting compliance as well as the challenges.

The primary objective of the Construction Sector Code as amended in 2017 is to transform the sector by increasing economic participation in the sector by Black people thereby ensuring that Black people are trading in the construction sector (Amended Construction B-BBEE Sector Code of 2017, 2017). In this sector, B-BBEE compliance activities are driven by the Construction Industry Development Board (CIBD). Similar to the ICT Sector Council, the CIBD has to monitor and evaluate all B-BBEE compliance activities in the construction sector. One of the unique factors about the construction sector is that most of its business comes from both local and national governments. For this reason, it is imperative to ensure that the organisations in the sector are complying as a compliant B-BBEE certificate is a prerequisite for acquiring government contracts (Mpanza, 2016; Rogerson, 2012). However, how organisations in the sector comply with the regulation has affected their ability to achieve their transformation goals (Mpanza, 2016; Ngcobo & Ladzani, 2019).

There are two strategies used by the construction sector to comply with B-BBEE. The first one focused on increasing points by investing in priority elements such as ownership, skills development and enterprise and supplier development (Koaho, 2016). The second one involved organisations getting acquainted with political elites to identify partners for Black ownership (Mpanza, 2016). Koaho (2016) interviewed B-BBEE compliance practitioners in 21 construction companies and found that their compliance strategy was focused on increasing

B-BBEE points. This involved increasing B-BBEE spending on the B-BBEE elements which carried the most points, i.e. ownership, supplier development and skills development (Koaho, 2016). The same study points out that, in these organisations, B-BBEE compliance is perceived as a tool for acquiring tenders from the government as opposed to addressing inequalities.

In the early days of governmental B-BBEE implementation, construction conglomerates such as Murray and Roberts, WHBO, Group Five and Basil Road implemented a specific Black ownership B-BBEE compliance strategy (Acemoglu et al., 2007b; Mpanza, 2016). This strategy involved (Mpanza, 2016):

- establishing relationships with political elites
- acquiring Black-owned small companies to safeguard uncertainties that may emanate from legislation changes
- establishing Black-owned empowered companies in townships to attract more government contracts.

This rational approach to B-BBEE compliance limits organisations from complying with aspects of the regulation which have explicit benefits to them as opposed to Black people (Acemoglu & Jackson, 2017; Van Scheers, 2016). For example, its focus on ownership ignores multidimensional compliance with management control, socio-economic development and skills development elements (Mpanza, 2016).

A major factor affecting B-BBEE compliance in the construction sector is the organisation's perception that ownership and management control are the only indicators of a compliant organisation (Mpanza, 2016). Therefore, the sector's perception of B-BBEE and approach to compliance have made it easy for phenomena such as tokenism and fronting to thrive in the construction sector (Gerber, 2018; Mpanza, 2016). As (A. Collins et al., 2016, p. 51) note "B-BBEE ownership requirements do not make sense and encourage fronting"

To assist in meeting transformation targets and thereby fulfilling B-BBEE compliance obligations, the accountancy sector developed the Chartered Accountancy Sector Council (Ngcobo & Ladzani, 2019). The government hopes that B-BBEE can address the racial disparities that are persistent in the accountancy sector (Perumal et al., 2012). However, the number of new PDI entrants in the sector has not increased much since the promulgation of the Chartered Accountancy Sector Code in 2012. For example, in 2007, of the 25 902 registered chartered accountants, 12.01% were Black people while 87.86% were White (Ngcobo & Ladzani, 2019). By 2014, the sector had 36 286 registered chartered accountants;

with 20.96% of candidates being Black people, and 78.57% of candidates being White (Ngcobo & Ladzani, 2019).

An early study that investigated the perception of chartered accountancy trainees and managers on B-BBEE compliance found that the negative perception of the regulations affects compliance (Perumal et al., 2012). The study indicates that most firms assert that B-BBEE compliance is time-consuming and increase stress levels for employees who are not included in the scorecard. This indicates that the racial aspect of the regulation placed White employees at a disadvantage, particularly regarding job security. Moreover, (Perumal et al., 2012) also argue that a lack of awareness of the primary objective of B-BBEE and its transformation goals hinder compliance in the Accountancy sector. The tendency to assume that the regulation is reverse discrimination comes from an organisational lack of understanding of the need to not repeat the sins of the apartheid regime (Acemoglu & Jackson, 2017; Krüger, 2014; Madi, 2016).

The mining sector has the highest Black ownership requirement at 40%, followed by the ICT sector at 30% (Hiam et al., 2017). One of the primary objectives of the mining sector, as stipulated in The Mining Sector Code, is to grant mining rights to Black people (Kilambo, 2016). In the mining sector, common strategies used to comply involve:

- increasing Black ownership by allowing Black people to get funding from Special Purpose Vehicles (SPVs) to facilitate B-BBEE transactions mining companies (De Klerk, 2008);
- creating employee share schemes (Diale, 2016);
- granting mining rights to Black people (Capps, 2012)
- improving living conditions in areas where the mines operate (ANC, 2017; Thomas, 2014);

SPVs were criticised for leaving Black people with irrecoverable debt which affected their attractiveness for future B-BBEE deals (Thomas, 2014). For this reason, Black ownership and mining rights in the sector continue to be a challenge as these Black people often have no access to business capital (Kilambo, 2016). In addition, some of the challenges faced by Black people in achieving ownership in the mining sector include inadequate access to mining technology and the complexity of accessing export markets. This is because most B-BBEE transactions by large White-owned conglomerates are face-value with very little empowerment of the Black owners (Kilambo, 2016). Empowerment in this respect means

training Black owners to understand the mining business and introducing them to international markets to trade successfully in it.

In a critical analysis of B-BBEE compliance and mining ownership structures, (Kilambo, 2016) found that although the South African Mining Sector Code has gone through rigorous amendments, ownership remains in the hands of White and foreign owners. Similar to (Mersham & Skinner, 2016), (Kilambo, 2016) suggests that one of the factors affecting compliance with B-BBEE in the mining sector is the complexity inherent in both the ownership structure and the regulator tool itself. (Kilambo, 2016, p. 189) concludes that organisations spend a considerable amount of time comprehending the “complex maze” of shareholding in their sector code. For example, although there are ostensibly Black-owned mining organisations, this simply means that a certain percentage of equity lies in the hands of Black people.

Early studies on B-BBEE assert that the mining sector has been the most challenging sector when it comes to B-BBEE compliance. This is because, in addition to being the biggest contributor to the national GDP, it is largely owned and controlled by multinational organisations (Bracking, 2013; De Klerk, 2008). Consequently, to regulate transformation in the mining sector, the government is confronted with certain dilemmas (Kassnerf, 2016). The first dilemma is concerning navigating the demands of the mining labour unions, which cause uncertainties in the sector (Horne, 2015). The second dilemma pertains to the government's ability to regulate the sector less stringently to avoid discouraging multinationals from trading in the country which could affect the GDP. Thirdly and lastly, there is the dilemma of ensuring that the regulations promote inclusivity and transparency and accelerate Black people's involvement in mining (Diale, 2016).

Notably, there has been an interest from researchers in South Africa to identify the impact of B-BBEE compliance on business performance and shareholding returns of companies listed on the JSE. For example, (Mehta, 2016) observed the relationship between B-BBEE compliance and shareholding returns in listed companies. The study found that companies with attractive B-BBEE scorecards had low shareholder returns compared to non-compliant companies. (Mehta, 2016) further suggested that continually increasing the cost of complying with B-BBEE across sectors is one of the reasons for low shareholder returns in listed companies. The majority of businesses in South Africa do not believe that B-BBEE compliance can improve international competitiveness (Kleynhans & Kruger, 2014). Furthermore, (Kleynhans & Kruger, 2014), argued that B-BBEE compliance does not entirely hurt companies as there are aspects of it that contribute to business growth. The B-BBEE scorecard is

instrumental for business development as well as job creation for Black people (Kleynhans & Kruger, 2014).

An earlier study by (Krüger, 2011, p. 1) was interested in assessing the impact of B-BBEE compliance on 10 dimensions of the business; “international competitiveness; service excellence and client satisfaction; quality; productivity; entrepreneurial spirit and innovation; production performance; human development; staff morale, business ethics and transparency; sales and access to markets; and financial performance”. Of the 500 managers surveyed across economic sectors, most disagreed that B-BBEE compliance has a positive effect on the business dimensions mentioned above. Despite efforts at sectoral versions of the B-BBEE regulation, the government’s implementation of this policy through compliance remains a challenge. Overall perception toward B-BBEE continues to influence the degree of compliance (Kassnerf, 2016).

2.10. Chapter Summary

This chapter presents the context that informs the study. The presentation of South Africa’s population composition demonstrated the gravity of economic marginalization that the majority of previously disadvantaged communities still experience to date. From a political economy perspective, this chapter shows that political infighting in the ANC, corruption and the rise of multiple opposition parties will remain problematic for the South African economy in years to come (UNICEF, 2017). The (Bank, 2018c) predicted that the uncertainties in the regulatory environment will continue to affect the country’s economic policies indefinitely.

The chapter presents primary components that facilitate B-BBEE compliance. These are the B-BBEE elements, points, and scorecards. The chapter explained details of the stakeholders involved in the B-BBEE implementation process. The chapter also highlights how B-BBEE is embedded in the South African ICT policy and the drivers of B-BBEE compliance. The fact that the majority of the ICT policies must be amended to include its transformation agenda shows its significance in driving an inclusive economy. Despite criticism both in the media and academia, B-BBEE compliance remains at the centre of operating business in South Africa.

3. Literature review on factors influencing public policy compliance behaviour.

3.1. Introduction

This chapter presents the literature review consulted to understand factors that influence compliance with public policies. The B-BBEE ICT sector is a public policy. The success of public policy implementation rests on the compliance behaviours of regulatees (Sutinen & Kuperan, 1999a). Most studies around B-BBEE attribute its failure to challenges of implementation (Irene, 2017).

The plethora of compliance studies on how organisations respond to these industry-specific regulations overshadows the need to understand compliance with other types of regulations. For instance, South African ICT organisations are expected to comply with affirmative action policies since 2003 (Krüger, 2014). But compliance with this policy in the ICT sector has not been satisfactory (Gordon, 2009; Tshetu, 2014). Reasons for minimal compliance and the dynamics thereof have not been studied in the ICT sector. Compliance with this policy is sufficiently studied in other sectors such as mining, banking, and agriculture, but little has been done in the ICT sector. Given the impact of B-BBEE on how organisations operate in South Africa, it is important to understand why the ICT sector has shown minimal compliance with the policy.

The chapter is organised as follows: To gain insight into what constitutes compliant behaviour, literature to conceptualise compliance behaviour is presented in Section 2. Section 3.3. discusses the conceptions and experience of affirmative action policies in some nations in the Global South. We cover the literature on public policy implementation factors influencing compliance in Section 3.4. We have summarised the discussion of this chapter in Section 3.5.

3.2. Conceptualising compliance behaviour.

From the institutional perspective, compliance is a process that enforces adherence to rules, i.e., business process procedures, industry codes of good practice, domestic policies and regulations (Clara et al., 2018). In organisational contexts, these rules are implicit while others are explicit (Hovav & Putri, 2016). Implicit rules are those that are encultured but are not written. For example, one may not need a written rule to post nudes on their workplace collaboration platform. Explicit rules are those that are written and communicated through company policies. For example, an IT manager may not implement a new programme without following a framework such as Control Objectives for Information and Related Technologies (COBIT) (Hashmi et al., 2016).

3.2.1. Defining compliance.

The term 'compliance' is common in tax, economics, health and legal studies (Kyngäs et al., 2000). In the past four decades, compliance emerged as a major area of research in the ICT business, governance, education, climate change, and technology use (D'Arcy & Greene, 2014). Its multidisciplinary nature has resulted in several definitions. However, the absence of a widely accepted definition creates confusion (Hashmi et al., 2016; Ingram, 2009; Richard Fiene, 2016). This is more so because of the word 'conformity' which assumes that all compliance behaviours ought to be viewed as acting in accordance with the social norm regardless of the agreement with the set norms (Lindenberg et al., 2018b).

When defining compliance, one must be sensitive to the area of study. For example, in health sciences, compliance is defined as "the extent to which the patient's behaviour coincides with medical or health advice" (Ingram, 2009, p. 190). This definition highlights the need for the patient to match their behaviour with rules set by health practitioners for their benefit. Non-compliance by patients has detrimental effects on their life span. In business contexts, compliance is conceptualized from a heuristic point of view (Kuhlmann et al., 2018). Businesses view compliance as a state in which an entity performs activities that are in accordance with established guidelines, specifications, or legislation to achieve certain organisational goals (Amankwa et al., 2018). In education, the concept of compliance refers to the act of following the instructions of educators (Ingram, 2009). Similar to the health sciences, learners conform to these rules for their benefit.

In ICT business, compliance is also defined using a heuristic approach but with an emphasis on internal controls that facilitate compliance (D'Arcy & Greene, 2014). For example, (Hashmi et al., 2016) define compliance as controls followed by businesses to achieve the desired behaviour as required by regulators. In most cases, these controls consist of rules set by the regulator to achieve regulators' goals (Hashmi et al., 2016). This definition is similar to one accepted by the International Compliance Association (ICA) which defined compliance as acting according to order, rule or request (International Compliance Association (ICA), 2019). The ICA further distinguishes between two levels of compliance. Level one relates to compliance with external rules which are imposed by governments. Level two is compliance with internal systems or internal controls which facilitate compliance with external rules. This definition of compliance is centralised on an organisational response to government regulatory demands.

Economists have sought to define compliance from a rational perspective (Bellé et al., 2018). They view compliance as an act of collating the necessary resources to achieve regulators' goals but with rational engagement with the cost and benefit of the compliance process

(Herzfeld & Jongeneel, 2008; Lindenberg et al., 2018a; Kyobe, 2015). Due to the inherent need to maximise economic gains, this conception of compliance may not aid the government's achievement of its regulatory goals (Lindenberg et al., 2018a). For example, if the cost of compliance is too high, the regulatee will strive to do as little to achieve the minimum compliance requirements. Essentially, regulatees navigate the compliance process by applying creative compliance (Batory, 2016; McBarnet, 2001). Creative compliance pertains to finding ways to achieve compliance with regulation while undermining the reasons for the government's implementation of the policy (McBarnet, 2001). The concept of creative compliance will be discussed later in the section that deals with theorising compliance behaviour.

In psychology, compliance refers to responding to social influence (Sacconi et al., 2011). At the organisational level, conformity relates to responding to institutional norms to achieve legitimacy. For example, when multinational corporations establish their businesses in new territories, they engage critically with the accepted norms of operating business (Peck, 2017). In many cases, responding to social influence may cause tension on the part of the conforming actor (Dolinski, 2015). To resolve this tension, the conforming actor devises tactics to move towards harmony. In the example of the multinational, it may be that conforming has cost implications and may affect the bottom line. Cost implications become the source of cognitive dissonance (tension) in the form of an economic threat that the conforming actor endeavours to alleviate (Festinger, 1962; Keith, 2004).

Inherent in these definitions are three stakeholders which constitute the process of compliance which are the regulator, the regulation and the regulatees. However, in some contexts such as health and psychology, the regulation may not be explicit or in the form of written policy. For example, in health, the rules followed are statements from healthcare practitioners. The regulator introduces rules, policies, and protocols which can be summed up as regulations. The regulator is authoritative and ensures that there are enough enforcement strategies designed to achieve regulatory goals. The regulation is the actual rules and norms developed to shape or change behaviour. Finally, the regulatees are those who are expected to comply with the regulation.

There are various types of compliance, but the current study will discuss three types identified by (Norfolk, 2011). These types include regulatory compliance, commercial compliance, and organisational compliance. Regulatory compliance ensures that the regulatee adheres to rules which govern the overall conduct of specific contexts. For example, ICT organisations are expected to comply with all industry regulations both domestic and international ones.

Commercial compliance pertains to adhering to business requirements that govern Business to Business (B2B) relations. An example is a service level agreement. Organisational compliance seeks to adhere to rules set to preserve organisational assets or to solve national socio-economic challenges. For example, complying with social responsibility policies would fall under this category (Clara et al., 2018).

3.2.2. Institutionalism is the foundation of regulatory compliance.

Early work on institutionalism involved organisational analysis treated as an organisational theory (Thornton & Ocasio, 2012). Institutional studies from Meyer and Rowan (1977b) and DiMaggio & Powell (1983) are the keystones of institutionalism. The notion of institutionalism explains how authoritative guidelines are developed to influence social behaviour in organisations (Sutinen & Kuperan, 1999a). Social behaviour is shaped through conformity or compliance with these established rules. Institutional theory describes how institutions (e.g., governments) design rules or norms to be followed by constituencies (organisations or regulatees) to attain the desired end. However, the rules intended to shape behaviour through compliance introduce institutional pressure on organisations (DiMaggio & Powell, 1983). Institutional theory also explains how these organisations respond to the pressures emanating from both the internal and external environments of the organisations.

Organisations respond to three types of pressures; coercive, mimetic and normative pressures (DiMaggio & Powell, 1983). Coercive pressure emanates from the political demands of a state or governmental regulation, for example, labour laws. This pressure is also connected to the need for organisations to achieve legitimacy within the contexts they operate (Meyer & Rowan, 1977). Similar to the concept of adaptation by (Cook et al., 1983) mimetic pressures are those influenced by the need to guard an organisation against environmental uncertainties. Cybersecurity or internet security protocols are some examples. Normative pressure relates to professionalisation – the need for “members of an occupation to define the conditions and methods of their work” (DiMaggio & Powell, 1983, p. 152). For example, CISCO or any network certification. Another example is how the ICT sector has developed methods of assessing good data scientists and business intelligence analysts to cope with the institutional pressure of analysing big data.

To respond to this pressure, organisations become isomorphic with the environment they operate (DiMaggio & Powell, 1983). Isomorphism refers to the idea that all organisations

become the same over time in terms of how they respond to rules –they tend to employ the same compliance strategies for specific rules or regulatory instruments (Dimaggio & Powell, 1983). For example, in 2007 the International Telecommunication Union (ITU) introduced guidelines for secured passwords in the telecommunication industry (ITU, 2007; Shay et al., 2016; Sun et al., 2018). To date, most organisations have implemented password policies and three-factor authentication guidelines for protection against cyber threats (Shay et al., 2016; Sun et al., 2018).

Early literature on the origin of regulations comes from Meyer and Rowan (1977) who suggested that formal organisations develop “institutional myths” to survive. In their view, these myths consisted of rules to which organisations conform or legitimise their existence. To date, these myths are regulations that require compliance.

Meyer and Rowan (1977a) made profound inferences concerning institutional theory and conformity. They suggested that modern organisations conform to regulations to survive and legitimise their existence. Organisations that do not conform are regarded as illegitimate and risk a bad reputation (Meyer & Rowan, 1977). In their work on institutionalised organisations, Meyer & Rowan (1977a: p. 341) suggested that in their bid to achieve legitimacy, organisations are rational and they tend to perform “ceremonial conformity”. Ceremonial conformity involves engaging in “face-saving” actions that mimic full compliance legally but do not translate to the achievement of the goals as intended by institutional rule. Ceremonial conformity is a consequence of conflict rising from goal incongruity between institutional authorities and organisations (Meyer & Rowan, 1977b; Thornton & Ocasio, 2012). For example, technology businesses tend to be concerned with efficiency while domestic institutional rules may be concerned with transforming the working conditions for the betterment of society.

Both Dimaggio and Powell (1983) and Meyer and Rowan (1977b) tend to assume that all organisations respond to institutional pressure in uniform, which is often never to achieve the goal of the regulator. They dispel the idea of ‘genuine compliance’ where organisations develop organisational cultures designed to achieve the ideals of the regulator (Greenwood et al., 2014). The concept of seeking legitimacy by Meyer and Rowan (1977b) may contradict modern regulatory compliance which is desired to propel social change, for example, organisations that firmly believe in facilitating social change by complying with CSI policies. While institutional theory scholarship by these scholars is prominent, (Greenwood et al., 2014) conclude that they ignore the heterogeneity of organisations and treat them the same regardless of their context.

3.2.3. Approaches for organisational response to regulations

Early scholarly work on regulatory compliance presents two approaches to organisational response to regulations; adaptation and selection (Cook et al., 1983). In adaptation, organisations design strategies to adapt to the ever-changing regulatory environment. Compliance strategies employed in adaptation regulatory response ensure that the organisation copes with the limitations enforced by the environment (Cook et al., 1983). Moreover, adaptation relates to survival mechanisms undertaken by the organisation to sustain its operations (Greenwood & Hougham, 2015). The selection regulatory response involves the existence of extreme environmental limitations or nonadaptive elements that threatens the survival of organisations (Cook et al., 1983; Greenwood & Hougham, 2015). Examples of these limitations are costs or political conflicts that affect organisations' business activities. Essentially, adaptation increases the likelihood of regulatory compliance while selection discourages compliance.

It is a long-standing tradition for compliance scholars to explain compliance behaviour from a rationalist and a normative perspective (Kyobe, 2015). The rationalist perspective to compliance posits that regulatees comply with a regulation to maximise their gains (John, 2018). Regulatees spend time analysing the regulation to identify 'what's in it for them'. Moreover, rationalist compliance behaviours are influenced by the consequence of non-compliance in the regulatees' immediate environment. For example, if non-compliance translates to a negative impact on business, corporations are likely to do their best to meet compliance requirements.

Normative models of compliance behaviours posit that regulatees will comply with regulation because it is in their interest to commit to their moral values. Rules and regulations are viewed as legitimate instruments for advancing and protecting humans. In this context, compliance behaviour is influenced by the need for regulatees to commit to their duty of contributing positively to society (Jiang et al., 2015; Kyobe, 2015).

Mcbarnet (2001) identifies three types of regulatory compliance behaviour:

- committed compliance,
- cumulative and;
- creative compliance.

In committed compliance, regulatees comply with a regulation based on their need to cooperate with the regulator. This is common in compliance with codes of good practice in IT

environments. For example, compliance with King IV principles ⁴has become a prerequisite for operating a business for all Johannesburg JSE-listed companies (Dzingai & Fakoya, 2017).

Cumulative compliance explains how regulatees become reluctant to comply with regulations. In cases where the benefits of complying are not explicit, actors tend to be reluctant to comply with the regulation and this often results in minimal compliance. Moreover, if there is no stringency in regulations or if non-compliance has little negative effects on business activities, regulatees are likely to be reluctant (Acemoglu & Jackson, 2017).

Creative compliance behaviour entails complying with regulations in a manner that does not achieve the goals of the regulator. In this compliance behaviour, regulatees may leverage the loopholes, gaps or ambiguity inherent in the definitions of regulation. In many cases, regulatees who practice creative compliance tend to deviate from the intended goal of the law or regulation and focus on their gains (Mcbarnet, 2001).

Compliance behaviour can be explained in terms of a combination of types of organisations' (regulators') power and participants' (regulatees') involvement in the compliance process (Etzioni, 1975) in (Lunenburg, 2013). Notably, these types of power are similar to (Dimaggio & Powell, 1983) categories of institutional isomorphism or pressures, i.e., coercive, mimetic and normative pressures. Power and involvement influence regulatees' response to regulations. As shown in Table 3.1, types of power and involvement include coercive power, utilitarian power, and normative power; and types of involvement include alienative, calculative and moral.

Table 3.1: Etzioni's (1975) types of organisation's power and regulatee involvement

Coercive	Prisons		
Utilitarian		Corporations	
Normative			Government/religious organisations
	Alienative	Calculative	Moral

⁴ King IV principles are ethical leadership, the organisation in society, corporate citizenship, sustainable development, stakeholder inclusivity, integrated thinking and integrated reporting <https://www.adams.africa/wp-content/uploads/2016/11/King-IV-Report.pdf>

- Coercive-alienative uses force to influence behavioural change from the regulatee. It is alienating in nature and often renders the regulatee powerless (mostly because of fear). The powerlessness forces these regulatees to comply. Examples of organisations with this kind of power include mental hospitals, rehabilitation centres, prisons, and military institutions.
- Utilitarian-calculative uses extrinsic rewards (Lunenburg, 2013) such as good salary, exceptional working conditions or competitive advantage. From a regulatee perspective, calculative involves a rational engagement with the regulation to achieve extrinsic rewards (for instance, improving one's socio-economic status) (Sutinen & Kuperan, 1999a). In this context, the regulator may be more explicit about the benefits of compliance and the benefits of extrinsic influence on compliance behaviour.
- The normative-moral mostly consists of the regulator's need to solve a social moral dilemma. Normative-moral influence compliance behaviour through intrinsic rewards. The rewards in this context are psychological. They appeal to the esteem and prestige elements of regulatees. For example, compliance with a policy is marketed as an act of doing good, and a positive contribution to a community that was marginalised in one form or the other. Another example is religious organisations that have regulations that general people must comply with to ensure the welfare of societies (Lunenburg, 2013).

Social actors often behave in a particular way after they have engaged with the consequences of a behaviour rationally (Dente, 2014; Pérezts & Picard, 2015). Once the regulatees have answered the question of "what's in it for me" and "what is acceptable with regards to this behaviour in my context" they move towards a willingness to behave favourably. This conception of compliance behaviour suggests that regulatees continue to be influenced by two models: rationality and normative. These perspectives of compliance behaviour raise a moral dilemma for the regulators' compliance enforcement goals (Kvalnes, 2019a). While engaging with a regulation, regulatees have a "moral obstacle" which gives the option to choose between right or wrong. And often, what is right for the regulatee may not be enough for the regulators' goals. For example, regulatees may comply to achieve the extrinsic rewards of complying but not of shaping the intended behaviour.

Compliance behaviour is a thoroughly reasoned and planned action to respond favourably to the regulation. For this reason, a plethora of information systems and compliance research has employed the theory of planned behaviour to explain compliance behaviour (Bulgurcu et al., 2010a; Herath & Rao, 2009a). These studies allude to the idea that a lack of appropriate

behaviour has negative consequences on the implementation of policies (Bulgurcu et al., 2010b). Moreover, the rational aspect of these theories also moves regulatees towards assessing the outcome of non-compliance behaviour. This view on compliance suggests that compliance behaviour is determined by teleological foundations, i.e., the explicit fear of consequences of non-compliance.

The overt fear of punishment gave rise to studying compliance through behavioural theories such as the deterrence theory (Abed & Weistroffer, 2016). Deterrence theory posits that compliance behaviours are influenced by the certainty, severity and celerity of the sanction (Abed & Weistroffer, 2016). However, most compliance studies in information systems domain have dispelled the effectiveness of deterrence theory in compliance behaviour (Abed & Weistroffer, 2016; Kyobe, 2015). For example, Abed and Weistroffer (2016) investigated compliance with information systems security (ISS) by employees. They discovered that deterrence theories fail to account for underlying mechanisms in organisational contexts which affect employee behaviour. This pertains to factors such as resistance and intention. Moreover, they also found a weak correlation between the constructs of deterrence theory (severity, certainty and celerity) and intention to comply with ISS policies. Abed and Weistroffer (2016) recommend that deterrence theory would have to be combined with other behavioural models for factors such as awareness of the policies to predict or control compliance.

Sutinen and Kuperan (1999b) proposed that research on compliance must move towards a socio-economic theory, a combination of economic, psychological, and sociological perspectives to capture the complexity of both compliance behaviour and regulations. Economic theories towards compliance place the position of the organisation as a determinant of compliance behaviour (Sutinen & Kuperan, 1999b). Studies employing economic theory to explain compliance posits that organisations will respond favourably towards regulatory compliance if:

- the organisation is doing well in their business (Pérezts & Picard, 2015)
- the political environment within which the organisation is operating is conducive, i.e. if organisations are free from political coercion due to political instabilities in the country (Damania et al., 2004)
- both intrinsic and extrinsic rewards are clear on the part of regulatees (Bulgurcu et al., 2010a).

Beyond economics, compliance behaviour is influenced by a psychological process at individual and organisational levels (Sutinen & Kuperan, 1999b). Regulatees engage cognitively with a regulation to identify aspects of perceptions and value judgements about compliance behaviour. From a sociological perspective, regulatees engage with the regulation to identify the morality of the compliance behaviour. The sociological perspective qualifies the idea that actors will always be concerned with appropriateness depending on their socialisation in specific contexts (Sutinen & Kuperan, 1999b).

3.2.4. Ethics in the context of regulatory compliance.

In a recent study about compliance in organisations, Kvalnes, (2019a) makes a call for the logic of compliance to be informed by ethical philosophy. Ethics is a moral principle about what is morally right or wrong (Geddes, 2017). Beyond morality, ethics in organisations are concerned with whether commercial practices are acceptable or not (Geddes, 2017). Compliance actors need to engage constructively with the ethical issues that raised the need to regulate the social contexts. For example, in the case of cybersecurity compliance, regulatees and regulators alike must concern themselves with doing the right thing to protect digital platform users.

Regulations are developed to shape behaviour by enforcing rules that require people to do what is right. Ethics are heavily involved in behavioural norms and are culturally bound (Ramirez, 2018). What is considered wrong, or right is context-dependent. Therefore, business leaders must constantly navigate the contextual moral requirement of each regulation imposed on their organisation. For example, in the South African context, the national ICT policy includes a moral requirement of bridging the digital divide for underprivileged people. Therefore, when complying with this regulation, doing the right thing would include developing initiatives that achieve the digital divide goal.

Ethics in the context of compliance has received considerable attention from tax researchers. Alm and Torgler (2011) argue that challenges experienced by the government concerning tax evasion emanate from divorcing ethics from compliance behaviour. They further claim that it is not possible to explain compliance behaviour without ethics philosophy in hindsight. Research on compliance behaviour needs to introduce a paradigm shift that place moral ethics at the centre of compliance behaviour. In addition to explaining the motivations of compliance from a rational or normative perspective, it would also be explained on ethical grounds (Haugh, 2017). Conceptualising compliance from an ethical philosophical perspective is necessary in cases where regulatees comply with remedial policies. These

policies are common in unequal societies such as South Africa where the domestic government has a mandate for redressing the legacy of systematic exclusion of Black people.

3.2.5. Factors influencing compliance behaviour in ICT organisations

Organisational compliance refers to the process of aiding regulations, laws, ethical codes of good practice and standards set by governments, international sector bodies as well as the organisation itself (Herath & Rao, 2009b). The need to protect customers, control business activities and accelerate growth in the ICT sector gave rise to regulatory compliance in organisations. As shown in Figure 3.1, compliance in the ICT sector takes place across three levels.

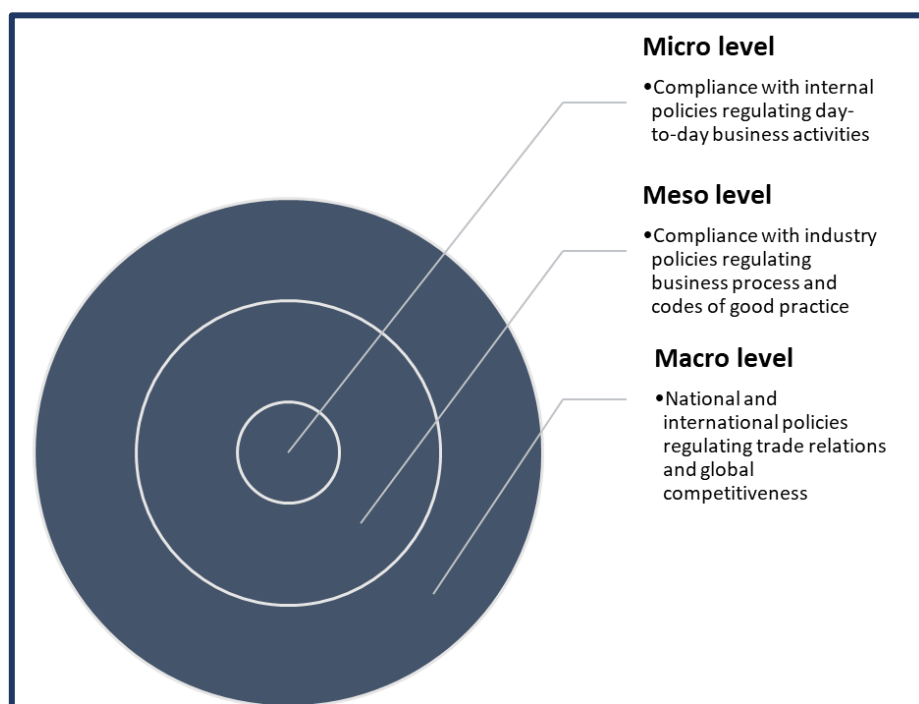


Figure 3.1: Three levels of compliance in the ICT sector

Firstly, at the micro level, organisations (mostly their workforce) must comply with internal policies that regulate their day-to-day activities. Examples include but are not limited to Bring-Your-Own-Device Policy (BYOD), social media policy, internet policy, teleworking policy, IT security or cybersecurity policies and Human Resource-related policies (Hovav & Putri, 2016). Secondly, the meso level involves compliance with industry regulations that regulate business processes. Examples include corporate governance frameworks such as King IV; IT governance frameworks such as Control Objectives for Information and Related Technologies (COBIT), Critical Security Controls (CSC) and the International Organization for Standardization (ISO) to mention but a few (Sohrabi Safa et al., 2016a).

Finally, at a macro level, ICT organisations must comply with government regulations, for example, economic transformation laws (B-BBEE) labour laws, national ICT policies and global ICT regulations as imposed by ITU. While these policies are contextual in terms of their make-up, they have a common agenda. For example, the majority of ICT policies regulate data governance, electronic communication, broadband, data costs, termination rates accessibility, privacy, user protection, global competitiveness and contribution to economic growth (Asongu & Le Roux, 2017; Jorgenson & Vu, 2016).

In today's ever-changing technological environment, regulatory compliance has been framed as an administrative and regulatory burden for ICT businesses (Mbuyisa, 2017). Globally, it is estimated that businesses spend approximately US\$436 billion on regulatory compliance (Yoseph Elkaim, 2019). Lopez and Mairesse (2017) warn that regulatory compliance requirements in the ICT sector have the potential of creating an anti-competitive business environment as it is becoming increasingly expensive to comply with numerous regulations. This is especially the case for SMEs. In an ICT usage research by SMEs in South Africa, (Mbuyisa, 2017) found that with each amendment in the ICT policy, there is an increased regulatory burden that affects business growth.

Technological advancements increase the number of regulations in the ICT sector (Twinomurinzi et al., 2017a). For example, social media introduced a range of policies from cybersecurity to cyberbullying policies. Moreover, these advancements also increase the complexity of compliance. If an organisation implements blockchain, not only do they have to comply with security protocols but with security features such as two-factor authentication (Deokyoong, Sooyong, Smolander, Jesse, Ko, 2016). Despite challenges posed by regulations, non-compliance presents risks for ICT business survival. Regulatory compliance mitigates risks related to reputation, loss of revenue and in many cases reputational damage (Jiang et al., 2015; Sohrabi a et al., 2016b).

The complexity of regulatory compliance in the ICT sector is also increased by industry and technological convergence (Garcia-Murillo & Macinnes, 2003). Industry convergence refers to the blurred lines between industries, for example, banking and technology that gave rise to financial technology (FinTech) (Buchak et al., 2018b). While digital advancements brought by technological convergence have contributed positively to the banking industry, they have equally increased compliance challenges (Buchak et al., 2018).

Technology convergence relates to combining technologies with various purposes to be performed in one technology (Sick et al., 2019). There are two aspects of technological

convergence; technical design, and functionality (Margaret Rouse, 2019). Functionality is concerned with ease of use (Matikiti et al., 2018), while the technical design is about the underlying infrastructure that facilitates digital content accessibility. Technological convergence makes it easy to perform a transaction on mobile phones with few clicks. However, this convenience comes with risks that continue to increase regulatory compliance. For example, for safety purposes, the first level of compliance must be with the security features of the phone. Secondly, the bank must comply with customer information protection protocols emanating from national regulatory bodies. If one step in the security protocols is missed, it may render banks vulnerable to hacking resulting to customers losing large amounts of money (Bertot et al., 2012; Komb et al., 2016). As a result, this also place regulatory compliance in the centre of operating FinTech business.

Increased complexities in regulatory compliance influence ICT businesses to turn to regulatory arbitrage which results in minimal compliance (Kanwal & García, 2019). The latter is similar to creative compliance where businesses capitalise on the discrepancies of a regulation to circumvent compliance (Buchak et al., 2018b). This is common in an ICT environment where the benefits of the compliance process are not explicit (Buchak et al., 2018b).

The adoption of cloud services has led to confusion in ICT regulatory compliance. As cloud services become more ubiquitous, there is often a question of which regulations to comply with (Hendre et al., 2015). Organisations are adopting cloud services to cut costs and facilitate globalisation. ICT businesses that depend on offshore partnerships are an example. Organisations ought to comply with security controls that have data encryption for media protection (Hendre et al., 2015). This is because the majority of cloud services are media-sharing dependent (Jakob Edler, Paul Cunningham, 2016). (Singh et al., 2015) recommend that in addition to data protection, organisations must comply with common laws that protect sensitive data such as health, finance, and intellectual property.

An earlier study by Xue et al., (2011) investigated employees' compliance with IT policies. The study found punishment to be instrumental in shaping regulatory compliance behaviour in the ICT sector. The presence of an explicit punishment for non-compliance behaviour influenced employees' compliance with internal policies. The efficacy of this strategy rests on employees' fear and perception of punishment. The punishment that carries detrimental effects on the nature of employment not only punished the transgressor but those who observed non-compliance without flagging it early (Xue et al., 2011).

Factors influencing compliance with cyber security policies differ from one context to the next. Challenges of compliance in the Global South may not be the same as those in the Global North. Table 3.2 summarises some of the factors that influence compliance with cyber laws in Africa (Kyobe, 2015, p. 58).

Table 3.2: Factors influencing compliance with cyber laws in Africa

Factors	Description
Political and legal factors	The strength of the legal framework regulating cybersecurity matters both at the national and organisational levels.
Technological factors	National IT infrastructure, keeping abreast with new technological trends, strong security systems and adequate internet connection.
Factors from codes of good practice	Lack of standardised practices or knowledge of benchmarks, awareness of compliance processes systems of reporting cybercrime.
Economic factors	Perceived benefits of compliance, perceived cost of compliance and Socio-economic aspects related to unemployment and poverty.
Biosocial factors	Inherent characteristics associated with genetics; for example, men violating compliance rules compared to women or vice versa. In some cases, this may be attributed to the age where young people tend to violate cybersecurity protocols due to their knowledge of advanced technology.
Sociological factors	Neglect of ethical or moral principles informing cyber law compliance.
Psychological factors	The general perception of the regulations.

Some researchers measured compliance behaviour in terms of the maturity stages of the Cybersecurity Capacity Maturity Model. These researchers conclude that majority of African governments are at the start-up level, with minimal awareness of cybersecurity behaviour (Bada et al., 2018). Consequently, a lack of awareness influences cybersecurity compliance in the African region (Bada et al., 2018). Furthermore, a lack of awareness is attributed to the weakness of regulatory frameworks to tackle cybercrime (Turianskyi, 2018).

Conflict of interest between the regulator and the regulatee has an impact on the implementation of public policies (Shanapinda, 2015). Worldwide, ICT sectors strive to keep up with technological changes which are a reality in their business environment. Failure to do this may have effects on their competitiveness (Yonazi et al., 2012b). Therefore, the ICT sector's need to be a global competitor supersedes response to domestic policies.

3.3. The conception of affirmative action policies in the Global South

Affirmative action is operationalised differently according to the national context. In Malaysia, affirmative action policies are defined as remedial programmes dedicated to introducing economic opportunities for minority groups (Dupper & Sankaran, 2014). In the 21st century, affirmative action policies are largely at the centre of driving diversity where governments depend on corporates to comply with affirmative action policies to redress racial, ethnic and gender-based discrimination.

In the South African case, affirmative action policies are different in the sense that they were designed to redress the underrepresentation of the majority in the economy who were institutionally excluded. This is because South Africa is battling vast inequalities between White minorities and the Black majority with the former being the most advantaged (Lee, 2016). Although the initial agenda was to eliminate gender-based discrimination, to date, affirmative action policies cover a wide spectrum of discrimination, from race to religion, ethnicity to sexual orientation, as well as linguistic group and age (Edward Telles, 2014). This section conceptualises the discourses of affirmative action in the Global South.

3.3.1. The Malaysian New Economic Policy (NEP)

The main objective of the Malaysian affirmative action policy is to eradicate poverty among the Bumiputera people, who have been disadvantaged by ethnic tensions (Lee, 2016). After gaining their independence from Britain in 1957, the Malaysian economy was dominated by the Chinese, who blocked Bumiputera's access to participate in the country's economy (Tshetu, 2014). Through the New Economic Policy (NEP), Malaysia developed preferential programmes in tertiary education, increased asset ownership, and created employment in the public sector for the Bumiputera people. NEP was an imperative policy direction in response to the race-based violence that took place in 1969, which magnified the racial tension inherent in the country (Woo, 2015). To comply with the NEP, organisations are required to restructure their equity for the Bumiputera people to achieve 30% of ownership (Tshetu, 2014). In tertiary education, the NEP requires 55% of Bumiputera people to be placed at universities. For public sector employment, the NEP requires the government sector to ensure that the workforce is representative of population of Malaysia as follows (Department of Statistics Malaysia, 2017):

- Bumiputera: 68.8%;
- Chinese: 23.2%;
- Indian: 7.0%; and
- other: 1.0%.

The NEP was implemented along with a new economic strategy which encouraged FDI (Freund, 2007). In this manner, Malaysia would increase asset ownership for the Bumiputera people (Chee Lim et al., 2016). The rapid growth of agrarian and manufacturing sectors is attributed to the implementation of NEP (Freund, 2007).

3.3.2. The Nigerian Federal Character Principle (FCP)

The Nigerian affirmative action policy is known as the Federal Character Principles (FCP). It was introduced in 1979 to address the unequal ethnic disparities which had been at the centre of conflict for many years (Kayode, 2015). Post-independence, Nigeria was left with a complex problem of unifying and ensuring equity for its 250 ethnic groups. For example, the striking inequalities between ethnic groups in the North and the South remained, even after many years of independence (Idike et al., 2019). Furthermore, larger ethnic groups such as the Hausa (27.4%), Yoruba (21%), and Igbo (14.1%) dominated the national economy, compared to the 37.5% who constitute the rest of the ethnic groups (Kayode, 2015). For this reason, the FCP was introduced to achieve Nigeria's ethnic "representational equity" objective in both its political and economic system (Okolo, 2014) through the following three principles:

Federal character: policy actions to reconstruct the national fabric to accommodate minority ethnic groups in the national agenda. Nigeria envisioned that this would be achieved by introducing quota systems to enhance equal opportunities, fair redistribution of national resources and harmonious co-existence (Idike et al., 2019; Okolo, 2014). Furthermore, the federal character would be realised by fostering an inclusive constitutional settlement (Nweke & Nwoye, 2013).

- Nation-building: the process of unifying and developing a sense of belonging among multiple ethnic groups. This means creating a political entity that embraces Nigeria's diversity by building institutions such as civil service, judiciary, universities and civil society organisations which serve all Nigerians regardless of their ethnic groups (Nweke & Nwoye, 2013).
- National integration: this principle pertains to creating awareness of a common identity entrenched in nationhood void of religious and ethnic differences (Okolo, 2014). The establishment of the National Youth Service Corps (NYSC), Unity Schools and ethnic quota systems are some of the measures geared to commit to this principle (Cornelius & Greg, 2013).

Affirmative action policies cannot be divorced from phenomena such as decolonisation, deracialisation, redistribution, Black economic empowerment and in some contexts,

nationalisation. Embedded in these four terms is a “you took from me, I take back” approach to economic transformation synonymous with post-colonialism. Affirmative action policies may manifest through these phenomena, especially in former colonies. When Nigeria gained independence from Britain in 1960, multinationals such as Barclays Bank (Union Bank) and British Petroleum (a.k.a. African Petroleum) were some of the first organisations to be nationalised (Amao & Okeke-Uzodike, 2016). The Nigerian government implemented programs that allowed citizens to become owners of those organisations (Amao & Okeke-Uzodike, 2016). The reality that faced these two organisations was that they would lose some ownership percentage and control in their businesses.

Since its inception, the FCP has attracted controversies emanating from its inability to overcome discrimination (Kayode, 2015). Earlier, (Dupper & Sankaran, 2014) suggest that this legislation has been heavily criticised for leaving women and people with disabilities out of the transformation process. Similar to the NEP of Malaysia, the FCP affirmative action policies are centred on rectifying ethnic-based socio-economic challenges which supersede gender inequalities (Dupper & Sankaran, 2014). This is because, in most Global South nations, ethnic conflicts are primarily the root of economic inequalities (Omenma et al., 2016). In 2008, Nigeria introduced the National Gender Policy to redress gender equality (Federal Government of Nigeria, 2008). Given the complexities of gender roles in Nigerian ethnic groups, implementing gender equality has been sluggish (Idike et al., 2019). Despite various amalgamations of economic policies and affirmative action measures, Nigeria is still largely faced with a major challenge when it comes to inequality (Langer et al., 2016b). Additionally, various studies are confirming that the Nigerian affirmative action measures have exacerbated corruption and socio-political malpractice (Omenma et al., 2016).

3.3.3. The Fijian Social Justice Act of 2001

Similar to Nigeria, the Fijian affirmative action policies aim to redress ethnic inequalities which are legacies of colonial power. The Fijian affirmative action policies differ from Nigeria’s in that, in Fiji, the beneficiaries are the majority ethnic group. Fijians conceive affirmative action policies as instruments to improve the standard of living for Indigenous Fijians known as i-Taukei. The latter were marginalised with minimal access to education, state employment, land ownership and participation in commerce (Ratuva, 2016). In Fiji, affirmative action policies were introduced as ethical conflict resolution between the categories of ethnic groups which became salient after the military coup in 1987 (Naidu, 2013).

The Social Justice Act of 2001 provides four programmes dedicated to combating inequalities:

- education and training;
- land and housing;
- participation in commerce and state services; and
- poverty alleviation.

The Fijian government placed significance on improving education for the i-Taukei people. For this reason, required all government scholarship beneficiaries to be composed of 70% of the i-Taukei people. To date, this decision has led to an increase of i-Taukei people in urban areas, and their participation in the mainstream economy (Ratuva, 2016).

In the early days of introducing the Social Justice Act of 2001, there were challenges related to defining who is a true “Fijian” (Naidu, 2013). This loophole created an opportunity for the dominant group to politicise economic affirmative action. Consequently, preferential programmes in Fiji were associated with political parties and elites who used them for self-enrichment (Ratuva, 2014b). Affirmative action regulations in Fiji became instruments of political mobilization and were often abused in the electoral process to serve majority groups who dominated the political arena (Ratuva, 2014b).

3.3.4. The Brazilian National Law of Social Quotas

In Brazil, the affirmative action debate dominated the political discourse in 1988 when they introduced their national constitution (da Silva, 2019). During this period, Brazil conceptualised affirmative action policies as a measure to rectify “situations of exclusion” (da Silva, 2019, p. 3). Furthermore, Brazil considered women and people with disabilities as deserving beneficiaries of affirmative action interventions (Edward Telles, 2014). Consequently, the constitution provided regulations to increase the number of women in the labour market, and allow people with disabilities to participate in the private sector labour market (da Silva, 2019).

Racial-based affirmative action policies did not exist until the Brazilian delegation attended the 3rd World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in 2001 in South Africa, Durban. The discussion at the conference offered Brazil an opportunity to reflect upon its racial inequalities which had been neglected in the country’s public policy (Bailey et al., 2018). In Brazil, Black people entered the 21st century as the most marginalised group (Telles & Paixão, 2013). In recognition of this reality, in 2003, the University

of Rio de Janeiro established an affirmative action programme to increase Black student placement in the university (da Silva, 2019). The move by the university influenced Brazilians to enact the official affirmative action policy called the National Law of Social Quotas of 2012 (Dupper & Sankaran, 2014; Telles & Paixão, 2013). The main objective of this policy was to increase the number of educated Black people and redefine racial democracy to address inequalities resulting from over 300 years of the slave trade (Edward Telles, 2014). The policy required all universities in Brazil to reserve 50% of their enrolments for Black people (Bailey et al., 2018).

Some early implementation challenges were attributed to Brazil's struggle to identify and classify Black people (Farfán-Santos, 2015). In addition to race, the implementation of this affirmative action policy involved meritocracy (Edward Telles, 2014). Brazil would not only give opportunities to marginalised people based on their race only which is the case in Fiji but would grant them based on merit (Kassnerf, 2016). Furthermore, meritocracy would also counter the contention of reverse discrimination, which some White Brazilians viewed as a consequence of race-based interventions (Bailey et al., 2018). However, as time went on, universities saw an increase of non-Blacks misrepresenting their racial identities to secure placements at universities (Farfán-Santos, 2015). In 2017, Foreign Policy, an online news portal reported that the "race tribunals are measuring skull shape and nose width to determine who counts as disadvantaged" (De Oliveira, 2017, p. 1). This took place around the same period when 24 non-Black students were expelled for misrepresenting their racial identities (De Oliveira, 2017). The dilemma of classification of Blackness will continue to affect the implementation of Brazilian affirmative action policies until the beneficiaries are redefined (Farfán-Santos, 2015).

Despite Black people's minimal participation in the Brazilian commerce arena, there are still unclear affirmative action interventions to address this challenge. Brazil does not have solid affirmative action policies that foster Black people into the labour market (Bailey et al., 2018). The National Law of Social Quotas was successful in increasing Black students in university, but it lacks clear progression (i.e. does not cater for future socio-economic participation). There are only a few sectors that acknowledged the need to introduce affirmative action interventions to include Black people in their workforce (Bailey et al., 2018; Telles & Paixão, 2013):

- the agrarian ministry enforces 20% of the workforce to consist of Black people; and
- few large companies developed their internal affirmative action policies to train and increase the number of Black People.

Lack of progression is apparent when Black graduates are not accepted in the broader labour market. While the majority of White people accept that affirmative action policies are an ethical obligation of the government, structural racism continues to block Black people from participating meaningfully in the national economy (Bailey et al., 2018). Most educated people end up in working-class and informal sector jobs (Telles & Paixão, 2013).

3.3.5. The Indian Reservation policy

The Reservation policy of India was enacted in 1950, making it the oldest affirmative action policy in the world (Gandhi, 2017). India adopted affirmative action as a remedial strategy for designated groups, i.e., Scheduled Castes (SC), Scheduled Tribes (ST), Other Backward Classes (OBC) and Economically Weaker Sections (EWS) experiencing socio-economic discrimination. Before 2019, the Indian government only recognised three beneficiaries for affirmative action interventions. It was only after it amended the national constitution that the EWS was added as a designated group (Cassan, 2019; ClearIAS, 2020). The primary objectives of the Reservation Policy were to (Frisancho & Krishna, 2015):

- advance designated groups' education, income-earning, and employment opportunities;
- ensure adequate representation of designated groups in state service and politics; and
- to open access of designated groups to the public educational institutions, government labour force and the legislature.

Table 3.3 presents the government and higher education jobs quotas provided by the Reservation policy in the 103rd Constitution amendment (ClearIAS, 2020). The policy requires government and higher education to reserve 60% of the jobs for designated groups, and the remaining 40% to be filled on merit.

Table 3.3: Quotas for government and higher education jobs (ClearIAS, 2020).

Reservation Category	Reservation Quota (%)
ST	7.5
SC	15
OBC	27
EWS	10
Total	59.50%

Although the Reservation policy has widened opportunities for designated groups in higher education, students from these groups often have to “catch up” (Frisancho & Krishna, 2015). This is attributed to their social standing or the poverty situations in their homes which often affect their performance (Bagde et al., 2016). In this manner, affirmative action policies may have unintended consequences on the students from designated groups as they are “placing them in academic situations for which they are poorly suited” (Bagde et al., 2016, p. 1520). Most researchers of the Reservation policy attribute this unintended consequence to India’s struggle to integrate designated groups with the rest of the society (Cassan, 2019; Frisancho & Krishna, 2015; Gandhi, 2017). Despite the various challenges faced by designated students at universities, they do graduate with a small dropout rate (Bagde et al., 2016).

3.3.6. The Namibian National Equitable Economic Empowerment Framework (NEEEF)

Given the chronic poverty status of Namibia, the need for business corporations to engage with the government to develop an affirmative action framework became apparent in the early 2000s (Gaomab, 2005). The first affirmative action policy in Namibia – the Affirmative Action Act No. 29 of 1998 was established through the Employment Equity Commission. Its primary objective was to:

“To achieve equal opportunity in employment following Article 10 and Article 23 of the Namibian Constitution; to provide for the establishment of the Employment Equity Commission; to redress through appropriate affirmative action plans the conditions of disadvantage in employment experienced by persons in designated groups arising from past discriminatory laws and practices; to institute procedures to contribute towards the

elimination of discrimination in employment, and to provide for matters incidental thereto” (Rooyen, 2000 ,p. 9)

Despite this comprehensive affirmative action plan, Namibia was still experiencing both racial and gender equality. The programmes provided by Namibia’s early affirmative action policy were not broad enough to redress inequality. Namibian inequality is similar to that of Nigeria and India because their designated groups were also excluded from basic service delivery (Gaomab, 2005). In general, native Namibians remained with modest land rights, and could not participate in the mainstream economy (Henning Melber, 2006).

The Namibian government acknowledged that the Affirmative Action No. 29 of 1998 had not transformed the lives of native Namibians (Republic of Namibia, 2015). In 2015, Namibia published a draft of the NEEEF Bill (Republic of Namibia, 2015). The goal of NEEF is to rectify:

- income disparities;
- racial ownership of income-earning assets;
- racial management and control of organisations;
- minimal socio-economic development of individuals in traditional communities;
- economic participation of women, youth and people with disabilities; and
- minimal development of rural areas.

The affirmative action interventions from Namibia are similar to the South African B-BBEE regulations. For both countries, the Black ownership of assets has been constantly rejected (Kassnerf, 2016; Murarangada, 2020). The rejection of 25% Black ownership by corporate Namibia has contributed to the delay of the official enactment of the Bill (moving from a draft state) (Murarangada, 2020). Table 3.4 contrasts the regulatory elements of the NEEEF and those of the South African B-BBEE to demonstrate the striking similarities between affirmative action programmes between the two countries.

Table 3.4: Namibian and South African AFFIRMATIVE ACTION regulatory elements (Gaomab, 2005; Krüger, 2011)

Namibian programmes	South African B-BBEE Elements
Direct ownership, management and control of the enterprise and productive assets	<ul style="list-style-type: none"> • Ownership • Management control
SME development	Enterprise development
Human Resource and skills development	Skills development
Achieving equity employment	Employment Equity
Preferential procurement	Preferential Equity
Corporate social investment in HIV/Aids prevention programmes and community development initiatives.	Socio-economic development

A major distinction between Namibian and South African interventions is that majority of the programmes in South Africa are backed by an enacted bill that enforces compliance, in addition to the regulatory instrument (Krüger, 2016). Furthermore, the description of designated groups also differs. While both countries consider Black people to be beneficiaries, in South Africa, Black is a generic term that includes Black Africans, Coloureds and Indians as these groups are all considered to have suffered exclusion during apartheid.

3.3.7. Beneficiaries and objectives of affirmative action policies in the Global South

When they gained independence from their colonisers, a majority of countries in the Global South implemented affirmative action policies to address inequalities, open inclusive economies and alleviate poverty for most of their populations. Furthermore, in the Global South, affirmative action is conceptualised as a policy to redistribute wealth from the dominant groups to the ones which were excluded by the oppressive regimes. In the Global North, affirmative action policies are largely implemented to increase economic opportunities for women and include minorities in the mainstream economy (Katchanovski et al., 2015).

Globally, all affirmative action policies are implemented to redress the ills of the past. However, due to the different historical contexts, the ills redressed are heterogeneous. Depending on the context, beneficiaries of these policies are different (see Table 3.5). Affirmative action policies in the Global North are largely concerned with rectifying both gender and racial minority inequalities (Katchanovski et al., 2015); whilst the Global South is concerned with redressing racial, gender, ethnic and caste inequalities (Lee, 2016). It is noteworthy that the historical context of a country influences how it conceptualises affirmative action policies. Black people designated and/or disadvantaged people differ from one country to the next, depending on historical context. In Canada, they include Indo-Canadians and Aboriginal people, while Australia has the Aboriginal and Torres Strait Islanders. In Malaysia, they include the Bumiputera people, known as the “Sons of the Soil” (Lee, 2016).

As shown in Table 3.5, we identified five different types of affirmative action policy beneficiaries common in the Global South.

Table 3.5: Beneficiaries of affirmative action policies in the Global South

Beneficiaries	Country
Majority ethnic group	Malaysia
	Nigeria
	Fiji
Minority race and gender	Brazil
Class or caste	India
Majority race	Namibia

Majority race and gender	South Africa
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Although affirmative action is seen as a social cohesion quota system across the world, its interpretation and practice are more contextualised (Maisonave et al., 2009). This is because each country has its elements of discrimination that may not be like another. For example, South Africa is battling massive racial discrimination across its economic sectors, while Nigeria encounters ethnic, gender, and disability discrimination (Merham & Skinner, 2016). In contexts where the designated groups exhibit high levels of illiteracy, most nations in the Global South tend to prioritise education in their affirmative action programmes (Edward Telles, 2014). This is the case for Malaysia, Fiji, India, and Brazil programmes, specifically for educational advancements. The literature indicates that each of these affirmative action policies has complexities ranging from political economy to bureaucracies, which hinder achievement in terms of remedying inequalities (Merham & Skinner, 2016). Table 3.6 summarises all affirmative action policies discussed in terms of the name of the policy and the objectives.

Table 3.6: Objectives of affirmative action policies from six countries in the Global South

Country	Name of the policy	Objective
Malaysia	New Economic Policy (NEP) [1970]	To eradicate poverty for the Bumiputera people by increasing access to university, ownership of assets and employment in the public sector
Nigeria	The Federal Character Principle (FCP) [1979]	To foster representational equity, harmonious co-existence and fair redistribution of national resources for all ethnic groups.
Fiji	Social Justice Act of 2001	To improve the standard of living of the i-Taukei people by increasing their access to education, land ownership and participation in commerce.
Brazil	National Law of Social Quotas [2012]	To increase the number of Black people in universities.
India	Reservation Policy [1950]	To ensure the advancement of Scheduled Caste (SC), Scheduled Tribes (ST), Other Backward Classes (OBC) and Economically Weaker Sections (EWS) through education, and employment in government and higher education institutions as well as participation in the legislature.
Namibia	National Equitable Economic Empowerment Framework Bill (NEEEF) [2015]	To rectify all areas of economic exclusion for Black people by prioritising their participation in business ownership and control, development in traditional communities and rural areas and skills development.

Everywhere in the world, the issue of affirmative action is often an emotionally charged one (Bailey et al., 2018). Researchers in this arena are often confronted with the challenge of removing emotional sentiments from the subject to reflect on the reality of all affirmative action programmes dedicated to redressing inequality. The root of this challenge is that even after decades, and centuries after promulgations of various affirmative action policies, the issue of inequalities and diversity in the Global South continues to be ubiquitous (Acemoglu et al., 2007b; Iheduru, 2004; Krüger, 2011; Lindsay, 2015; Cassan, 2019). Even developed countries are still experiencing their fair share of inequalities on one level or another (Katchanovski et al., 2015). In as much as governments implement them, these policies require compliance on an organisational level to achieve their main objectives. In some instances, affirmative action translates to redistribution of wealth sources and the transformation of economic sectors to create a sense of ownership for Black people (Campbell, 2016).

3.3.8. Affirmative action programmes in the ICT sector

Literature on affirmative action tends to be universal in approach – there is little attention given to affirmative action compliance in ICT organisations. Affirmative action policies are at the centre of remedial action in all economic sectors where previous racial, gender, ethnic or class inequalities exist (Miller, 2017). In the majority of African nations, the ICT sector largely consists of multinationals (ICT Sector Council, 2017). Affirmative action compliance by ICT multinationals has the following potential in nations that are going through the remedial process (Combs et al., 2005):

- strengthening recruitment processes which attract diverse IT talent to foster global competitiveness and pave for success in global markets;
- through cultural awareness programmes, affirmative action creates a cosmopolitan mindset that allows all employees to be global citizens;
- building a creative workforce by allowing inclusive collaboration across social status race and ethnic groups; and
- affirmative action programmes allow and establishment of inclusive corporate citizenship through social responsibility activities.

Globally, to embrace diversity, ICT businesses sort solutions from affirmative action policies (Thompson, 2017). Organisations such as IBM, Intel and DuPont collectively agree that universities must support affirmative action in their admission processes to diversify skills in the STEM arena (Obosco, 2015). However, enforcing compliance with these policies has been

a challenge. In a historical analysis between Europe and USA, (Roberson et al., 2017) found organisations to be struggling with affirmative action regulation compliance.

In Oman, ICT businesses were expected to comply with affirmative action policies to include women in building technologies (Elnaggar, 2007). Most Arab countries suffer from the low representation of women in economic activities. Beyond diversity, affirmative action promotes a diversity of technology ideas that are useful in opening access to ICTs for women in the Arab Gulf region. Similar to the case of Oman, Kenyan research in the ICT sector concluded that affirmative action policies can be a potential solution to the gender digital divide that exists in Africa (Ponge, 2016). However, in an economic sector that sees people as 'assistance for technology, affirmative action presents a dilemma (Quigley, 2018). This speaks to the relevance of public policies in a techno-driven world (Quigley, 2018). Compliance with affirmative action policies in the ICT sector is unsustainable as other industry regulations take precedence (Shah, 2018).

Earlier, Kalev et al (2006a) conducted a study on 708 organisations to assess best practices for complying with affirmative action policies. They suggest that most USA organisations leave the responsibility of affirmative action compliance to managers. Further, modern American organisations turn to affirmative action policies to increase diversity at the managerial level, by including women and Black men (Kalev et al., 2006b).

Kalev et al (2006a) argue that organisations have three approaches to increasing workforce diversity via affirmative action policies. The first approach involves viewing diversity as a corporate responsibility to address national inequalities. For example, along with procurement preferential regulations, B-BBEE introduced socio-economic development programmes which require organisations to participate in the betterment of their surrounding communities (Mersham & Skinner, 2016). The second approach is about controlling the bias that exists in hiring top managers. For example, programmes that set targets for underprivileged groups are to be considered at the managerial level of organisations. And finally, the third approach focuses on reducing the exclusion of women and minority groups in an organisation (Kalev et al., 2006a).

3.4. Public policy implementation factors influencing compliance

Public policies refer to government rules designed to achieve social order (Goymen & Lewis, 2015). Public policy "entails the broad statement of future goals and actions, and expresses the means of attaining them" (Khan & Khandaker, 2016, p. 539). Governments develop public policy as a response to social problems. To implement these public policies, governments

introduce regulatory instruments to enforce compliance (Bell, 2019). For this reason, compliance is central to any public policy implementation (Khan & Khandaker, 2016). This section captures literature on factors of public policy implementation that influence compliance.

3.4.1. Types of public policy

Lowi (192) introduced four types of public policies in terms of the government's objective of addressing social problems. These types of public policy include redistributive, distributive, regulative and constituent policies (Lowi, 1972).

Redistributive public policies involve redistributing assets and resources from an upper economic class to the lower economic class (Peters et al., 1977). Policies in this category emanate from the government's need to employ remedial measures to address prior prejudicial social injustices. Redistributive public policies tend to have economic effects on policy actors (regulatees and regulators). Examples of these policies in modern societies include affirmative action policies. However, implementing redistributive policies has been problematic globally (Dupper & Sankaran, 2014; Langer et al., 2016b; Singh, 2010).

Peters et al., (1977, p. 333) were cited earlier stating that failure to implement these policies is influenced by the aspect of “taking from one and giving to another”. Aspects of taking and giving to the other effects compliance because the other party is perceived as underserving (Ramasubramanian & Martinez, 2017). Most redistributive policies implemented in post-colonial nations have failed to achieve their regulatory goals, due to the difficulty of enforcing compliance. Some of the reasons for this failure include inadequate regulatory information, the inclusion of multiple policy actors at a policy level, the polarised economic power of regulated groups, and a lack of impactful enforcement (Howlett, 2009).

Constituent public policies are designed to influence the government itself (Greitens & Joaquin, 2010). From a South African perspective, this includes policies that monitor corrupt activities within government operations. Many inquiries involving members of the president are some examples of how this type of policy works. However, constituent public policies have been largely criticised for not falling under the category of “types of public policies”. This is because, in addition to a lack of empirical evidence, constituent public policy resembles a regulator, and functions less like a policy (Heckathorn & Maser, 1990).

Regulative public policies are developed to determine acceptable or unacceptable behaviour in society (Peters et al., 1977). Governments introduce regulative public policies to control public behaviour which in turn protects the citizenry from potential harm. Anti-narcotics and

drunk and driving policies are some examples. In organisational settings, regulative policies regulate good or bad practices to maintain a harmonious trading environment (Clara et al., 2018; Herath & Rao, 2009b).

3.4.2. Approaches to public policy implementation

There are mainly two policy implementation approaches that view both policy designers and target groups as mutually important for the implementation process (Matland, 1995; Schofield, 2001). These are top-down and bottom-up approaches, respectively (Matland, 1995).

In the top-down approach, those who have designed the policy hold the mandate to implement it (Matland, 1995). The government incumbent interprets the legal framework to facilitate the implementation process (Howlett, 2009). All policy implementation decisions are authoritative and centrally located (Schofield, 2001). Essentially, the success of this approach in implementing policies rests on its authoritative strategies. In many cases, the government uses this approach when the target is the private sector (Kunyenje, 2019). Matland's conception of the top-down approach presents policy implementation as a linear process, that is, directly from the government to the target group.

Because it is designed and implemented by a government incumbent, who mostly has a political agenda, the top-bottom approach has been largely viewed as a political process (Matland, 1995). For instance, in 2018, Ugandan president Yoweri Museveni introduced a social media tax that made social media platforms expensive to access (Rebecca & Okiror, 2019). The policy was designed to regulate the use of social media in Uganda. Critics argue that this social media tax was legislated to restrict freedom of speech, which the President considered having become 'rampant' (Rebecca & Okiror, 2019).

In the bottom-up approach, the target group is at the centre of implementation (Matland, 1995). Moreover, the bottom-up approach sees everyone who has been involved in the policy process as instrumental in the implementation stage. For example, while it is the responsibility of the government to implement ICT policies, it may not be possible to implement them without external experts. For their first ICT policy implementation, the Kenyan government depended on international actors to ensure that it is implemented in a manner that would achieve its desired policy outcomes (Piper et al., 2015). Getting actors external to the government allows for the outsider perspective, of which the government is often unaware.

Both the seminal work of Matland (1995); Sabatier and Mazmanian (1979) did not capture challenges arising from the network of stakeholders (target and other policy actors) involved

in the bottom-up policy implementation process. Moreover, they were not explicit about the complexities that arise due to a large number of policy stakeholders, for example, the number of external agencies that facilitate the process. This can be explained through the policy in the current study that has numerous stakeholders. For the government to implement the B-BBEE ICT Sector Code, they needed to conduct industry consultation, which would give them feedback from their perspective, which does not necessarily address the challenges of the public beneficiary of the policy. As a result, during the implementation of this policy, in one way or the other, it still disadvantages the beneficiaries (Mehta, 2016). Furthermore, whether the private sector is compliant or not, it is verified by other organisations, which equally have a business agenda. This means that as a business, they may be creative in their service offering, to remain in business.

3.4.3. The public policy implementation process

Public policy implementation is a critical stage of a policy for the government or institution concerned. It involves governments' intention to act on something that ultimately has an impact on its constituencies (Pülzl & Treib, 2017, p. 116). This is in essence where all policy actors develop ways of putting the contents of the policy into action (Makoza & Chigona, 2016). Successful implementation of public policies is characterised by a high level of compliance (Chung, 2015). Despite this, the literature on public policy implementation and compliance has been viewed independently. Moreover, in public policy implementation studies, there is a lack of academic cross-over knowledge between compliance and implementation. For this reason, aspects of public policy implementation that affect the level of compliance need to be brought to light.

Pülzl and Treib (2017) see public policy implementation as a process that involves three action points; specification of programme details; resource allocation; and decisions. Specification of programme details includes the identification of organisations, personnel, or agencies that will be involved in the implementation process. For example, in South Africa, the ICT sector relies on ICASA to facilitate the implementation of all technology licensing regulatory activities. In the case of the United States of America, affirmative action policies are enforced by the Ministry of Labour and implemented by the Office of Federal Contract Compliance Programs (OFCCP). For this reason, the OFCCP ensures all organisations that are contracted to provide services with the government comply with all affirmative action policies (Glen, 2017). In addition, the OFCCP is the designated agency to monitor and report on organisational compliance affirmative action. In some instances, these agencies also determine the regulatory tool for public policy. For instance, DTI depended on transformation

charters⁵ to translate the B-BBEE Act into a scorecard (Krüger, 2016). Identifying relevant agencies may affect the implementation process negatively. In cases where these agencies still need to be established, a policy would take longer to be implemented. When the South African government introduced the Protection of Personal Information Act (POPIA) in 2013, they did not have a specific implementer. It took the government almost two years to establish the Information Regulator to facilitate the implementation process (Dala & Venter, 2016; Pelteret & Ophoff, 2017).

The allocation of resources involves identifying people who will execute policy actions as well as allocating the budget associated with implementing public policies (Pülzl & Treib, 2017). Most organisations rely on compliance officers (Freeman, 2007) to be the centre of the implementation process. Compliance officers are instrumental in developing compliance strategies and programmes (Freeman, 2007). Budget allocation is important for increasing awareness of public policy. As early as the 1970s, public researchers acknowledged that failure to communicate policies effectively influences implementation negatively (Beckman, 1975). At a national level, a lack of effective communication inhibits governments to navigate through the complex public policy environment (Hudson et al., 2019). The Government must allocate the budget specifically for communicating with the intended target.

In this context, decisions refer to how the entire implementation process will take place (Pülzl & Treib, 2017). This includes deciding on the period of implementation and how the public policy process should be implemented. In the African context, decisions related to policy implementation tend to take a long (Makoza & Chigona, 2016). The majority of the decisions with regards to implementing the ICT policies remain at the draft or White paper stage for a long time (Gillwald et al., 2018b). An example is the South African National Integrates ICT Policy, which remains a White paper to date. Factors that influence these delays in decision-making include industry disagreements with policy proposals, and the government's reluctance to accept public comments about the policy (Asongu & Le Roux, 2017).

⁵ Also known as sector charters, these are agencies which consist of major stakeholders in the industry who decide on matters of B-BBEE compliance in respective sectors (Amended Broad-Based Black Economic Empowerment (B-BBEE) ICT Sector Code of 2016., 2016).

3.4.4. Public policy actors that influence the implementation process

Public policy implementation consists of an array of actors who directly and indirectly influence policy decisions. The larger the number of policy actors involved the more complex the implementation becomes. During the implementation process, policymakers are often unaware of the heterogeneity of the goals of public policy actors. Laranja (2017) argues that multiple actors involved in the public policy process have diverse goals. Considering this reality, public policy actors harbour a plurality of rationalities that influence how they behave in the entire policy process. For example, governments need to solve a particular social issue through policy implementation while regulatees, in the case of the current study, simply want to do business. As a result, the type of actors and their goals of getting involved in the public policy process affects the implementation process.

Most policy studies categorise policy actors into two types; official/institutional and unofficial/noninstitutional actors (Birkland, 2016; Matland, 1995; Cahn, 2012; Dunn, 2016). Official/institutional actors are governmental actors who are responsible for developing the policy and identifying policy networks to facilitate the implementation process. Examples of official/institutional actors are government officials, policy managers and in some cases, a political party's incumbent. Unofficial/noninstitutional actors are those who are not involved in the policy development process but may at some point influence policy direction. Examples of these actors include media, interest groups, think tanks and the citizens. Depending on the political context of a country, governments may decide which actors to include as official/institutional actors.

(Howlett, 2017) identified three types of public actors: governmental actors, societal actors, and international actors. Governmental actors include the legislative body, executive and judiciary involved in developing and implementing the policy. Moreover, government actors are heavily involved in interpreting and communicating the regulatory tools of public policy. In the current study, government actors include DTI and the ICT sector council who ensure the successful implementation of B-BBEE in the sector.

Societal actors include civil society organisations, activists, litigants, and industry forums. These groups may attempt to reject the policy or criticise its legitimacy in addressing social problems. Examples of societal actors include but are not limited to the Black Information Technology Forum (BITF), private companies as well as industry experts and journalists. When the first report about B-BBEE compliance in the ICT sector of South Africa was released, BITF complained about the contradiction between the organisations' scorecards and the actual

transformation in business ownership and control (IT Web, 2017). Societal actors function as an external influencer of the policy where their intentions are in the interest of the general citizenry. However, the involvement of societal actors in the policy implementation process will differ from one political context to the next (Gornitzka & Sverdrup, 2015). For example, due to the political climate, which is largely authoritarian in most African nations, the activities of societal actors are often limited (Chiumbu, 2008). In the USA, the actions of societal actors are salient, especially with the advent of social media. Beyond boycotts, these actors make their voices heard through various online platforms (Valente et al., 2015).

Gornitzka & Sverdrup (2015) studied the involvement of societal actors in the European Union (EU) policy implementation. Their unit of analysis was political interest groups. They argued that in the case of the EU societal actors are the centre of policy implementation so much that they have been institutionalised. However, the value of their involvement constantly raises questions, especially because some of the groups include business people who are largely driven by the need to increase economic gains (Gornitzka & Sverdrup, 2015). Despite this reality, (Gornitzka & Sverdrup, 2015) acknowledge that to a larger extent, societal actors can increase policy compliance.

International actors are external organisations that influence domestic policy implementation. At a micro level, these entities influence how organisations implement their policies and how this would affect their competitiveness (Kunyenje, 2019). International actors work closely with national governments as advisors who provide views from other nations that implemented similar policies. In some contexts, these actors also advise on the impact of the policy on international trade relations (Birkland, 2016). These actors keep a close eye on industry trends to see how new policies would, for instance, affect FDI.

Dente (2014) developed an interesting typology of public policy actors which categorises them in terms of how they rationalise their behaviour, involvement or intervention in the implementation and decision-making process. This was conceptualised as a “claim of intervention” which (Dente, 2014) defined as the rationality behind the action or behaviour. Further, the claim of intervention was also described as a “logic of action” which refers to the reasoning behind any policy action or behaviour. In essence, the typology developed by (Dente, 2014) categorises public policy actors in terms of how they rationalise their public policy behaviour. The types of public actors are political actors, bureaucratic actors, special interest actors, general interest actors, and expert actors.

Political actors claim that their actions are determined by their need to represent the masses. Their rationality is based on the ideologies of a democratic state where all policy processes must be transparent for the benefit of the citizenry. These actors increase their utilities by achieving consensus about public policy. For example, when B-BBEE was amended in 2014, the Democratic Alliance (DA), the official opposition party in South Africa, published a series of news stories rejecting the policy to achieve a consensus that it is a reverse racism policy (Mosala et al., 2017b). Bureaucratic actors are government officials involved in the policy process. Their behaviour is rationalised in terms of the law and the need to do the right thing for the citizenry. Most policy researchers find that these actors often take a long time to make policy-related decisions, and this affects the implementation process. In New Zealand, (Eichbaum & Shaw, 2007) observed that most policies failed as a result of long waiting periods for certain aspects of policies that needed to be approved before implementation.

Special interest actors consist of persons, organisations and any entities representing a certain segment of the citizenry. Their behaviour is rationalised by considering the legitimate and genuine interests of certain social groups. For example, there has been a proliferation of reports providing evidence that B-BBEE as a transformation policy did not improve the lives of the Black majority (Wallace, 2017). General interest actors are Civil Society Organisations (CSOs), non-governmental organisations, or community groups that represent marginalised groups.

Every action they embark on is rationalised by the need to be the voice for the people who cannot defend themselves from the implications of public policies. Their rationality is based on highlighting important aspects of the policy which bureaucratic actors ignored during the policy development phase. General interest actors are largely concerned with moral ethics in terms of the idea of doing the right thing for marginalised groups. While they may be considered highly radical in their approach, general actors are also instrumental in institutional transparency of the policy implementation process (Fischer et al., 2014). Because of their explicit demonstrations, they can influence policy to be more stringent on punishing non-compliance.

Expert actors include persons who have the experience and expertise in policy development, as well as in solving problems through policies. These are actors who base their behaviour on how knowledgeable they are about specific social problems. Expert actors reject any decision-making which is based on emotions rather than empirically proven facts (Dente, 2014). Any non-scientific logic that informs the policy process is rejected based on irrationality. In their view, only people with the necessary skills must be involved in the policy implementation

process. In most cases, bureaucratic policy actors depend on these actors to articulate the social problem as well as the solution which suits the context (Fischer et al., 2014). Absolute dependence on the expert policy may present biases emanating from the goals they wish to achieve through their behaviour (Fischer et al., 2014).

These actors and their logic of action are summarised in Table 3.7. Dente's typology strictly highlights why and how policy actors get involved in the policy process.

Table 3.7: Policy actors and their logic of action (Dente, 2014)

Policy actor	Logic of action
Political actor	Archiving consensus
Bureaucratic actor	Adhering to the law
Special interest actor	Protecting the interest of special segments in the citizenry
General interest actor	Adhering to moral ethic
Expert actor	Adhering to scientific logic

During their interaction with public policy, actors have different roles in which they play. Dente (2014) identifies these roles as; promoter, director, opposer, ally, mediator, gatekeeper, and filter. The promoter is also known as the initiator. Their role is to highlight the problem and provide possible policy solutions. Moreover, the promoter also serves the role of identifying relevant actors who must be involved in the implementation phase. The director guides the policy process from inception, implementation, and evaluation. They often experience challenges from goal incongruence amongst policy actors in the policy network. A policy network refers to all persons or organisations involved in the policy process (Cram et al., 2017). Directors are instrumental in thinking through the implementation process. For instance, if one aspect of implementation such as the compliance mechanism is not thought through, this may affect compliance and in turn the implementation process (Dente, 2014). When the implementation process is successful, the director acts as an ombudsman for aspects that start deviating from the goal of the public policy (Dente, 2014). The opposer invests their resources in rejecting changes proposed by the policy. They scrutinise the policy and highlight areas with loopholes. Their objective with this behaviour is to render the policy useless in solving the identified problem.

The ally is largely content with the policy and declares their support outrightly (Dente, 2014). Their activities mimic those of the promoter where they do everything possible to ensure that the policy is implemented successfully. The mediator is concerned with solving conflicts amongst all policy actors. Their goal is to move the conflicting parties to an agreement. The

gatekeepers, on the other hand, are largely negative and act as internal controllers of the policy. They spend most of their time blocking aspects of the policy which affect their benefits. Essentially, gatekeepers can be viewed as nugatory to the efforts of the director. Lastly, the filter's role focuses on the interest of other groups. Similar to gatekeepers, Dente (2014) warns that this role can only be problematic if it is given importance in the decision-making process of the policy, for example, when political actors highlight a discrepancy in the policy where they do not gain anything should a specific problem be solved; if given significance, they can influence change to suit their needs.

3.4.5. Challenges of public policy implementation context

While the current study is not concerned with implementation, it is important to explore the causes of challenges in public policy implementation as they influence the compliance process. These causes are summarised in Table 3.8.

Table 3.8: Triggers of challenges in public policy implementation

Challenges	References
<ul style="list-style-type: none"> National socio-political economy Limited political leadership and willingness to follow up on the implementation process Lack of institutional capacity Numerous changes in leadership due to comrade deployment or political instabilities 	Gillwald et al (2018a)
<ul style="list-style-type: none"> Involvement of external or international actors) 	Kunyenje (2019)
<ul style="list-style-type: none"> Unrealistic goal setting by policymakers Ignoring policy beneficiaries Lack of contextual understanding of policy environment 	Ajolor (2018)
<ul style="list-style-type: none"> Involvement of multiple government actors Outsourcing the policy implementation process 	Tebele (2016)
<ul style="list-style-type: none"> The complexity of the public policy process, i.e., interdependencies both in the policy development and implementation stage 	Dunn)2016) Robert Geyer and Paul Cairne (2015) Dente (2014) Cairney (2012) Göktuğ Morçöl (2012)
<ul style="list-style-type: none"> Corrupt political actors Long bureaucratic processes 	Ikechukwu and Chukwuemeka (2013)

Public policy researchers view complexities in the policy network as a major challenge in achieving successful implementation. These complexities are exacerbated by the interaction between the policy network and environmental factors that are unique to specific contexts (Cairney et al., 2016). Although not explicit, political actors tend to influence policy decisions

which will satisfy their political agenda (Verschuere, 2009). Pülzl and Treib (2017) suggest that policy decision is also complex because of the multiple realities in society. Morcol (2006, p. 314) adds that;

“public policies are systems that coevolve with their social systemic environments and they engage in nonlinear relations with many other systems. Their outcomes are not precisely predictable or controllable”.

To explain the complexities inherent in public policies, Geyer and Cairney (2015) identify the following six (6) themes that emerge from complex systems (Cairney, 2012, p. 125):

- a complex system has elements of **interdependence** – it cannot be explained by separating its parts;
- the behaviour associated with a complex system is characterised by a lack of **non-linearity**. In a complex system, a certain behaviour will not always produce an intended outcome. Non-linearity in the system often produces unintended consequences;
- the context of a complex subject is too **sensitive**. The conditions within which a system exists may lead it to it being sensitive;
- complex systems exhibit behavioural **uncertainties** which often make them difficult to control;
- complex systems exhibit **‘punctuated equilibria’**; and
- complex systems are ambiguous and **incomprehensible**.

A complexity view of public policy emerged when policymakers overlooked the complexities inherent in the policymaking process (Birkland, 2016; Howlett, 2017; Geyer and Cairney, 2015). Failure to view public policies as complex systems can have detrimental implications on the compliance process.

3.5. Chapter Summary

To synthesise the literature that informs the current study, we framed the current chapter to answer the question of “what factors influence minimal compliance with the B-BBEE ICT Sector Code”. Literature indicates that factors that influence compliance behaviour in the ICT sector range from organisational to industry, national, and international factors. While domestic policies are mandatory, ICT organisations tend to commit to policies that may facilitate their global competitiveness (Asongu & Le Roux, 2017; Jorgenson & Vu, 2016).

We consulted the literature on compliance to identify factors that influence compliance behaviour. Literature indicates that various ways of theorising compliance may influence

regulatory outcomes. For example, the concept of “ceremonial performance” introduced in the seminal work of (Meyer & Rowan, 1977b) explained the behaviour of compliance which looks perfectly normal but does not solve any social problem as identified by policymakers. The ceremonial performance or creative compliance may be the two theoretical concepts that could explain how ICT organisations employ minimal compliance with the B-BBEE ICT Sector Code.

From the available literature, we learned that the objective of all affirmative action programmes is to achieve fairness (Schildberg-Hörisch et al., 2020). Affirmative action policies are largely perceived positively in the context of diversity interventions (Gubitz & Avant, 2020). This positive perception towards affirmative action policies implemented as diversity programmes is associated with fair discrimination. Despite efforts from various nations to implement affirmative action policies, enforcing compliance with them remains a challenge (Oosthuizen et al., 2019).

While reviewing the literature on public policy implementation, it became clear that this process and the actors involved can affect compliance. For example, the study by Dente (2014) identified policy actors according to their logic of action and indicated that challenges to regulatory compliance can emanate from actors. For example, in their effort to gain clarity on a new regulation, interest groups may frame a new regulation negatively thereby affecting compliance.

4. Theoretical Foundations

4.1. Introduction

This chapter presents the theoretical foundations to explain contextual factors that affect minimal compliance with the B-BBEE ICT Sector Code. The theory is central to the body of knowledge generated by the research (Walsham, 2006a). Researchers must engage critically with their areas of research to identify a theory that will best answer the research question (Gregor, 2006a). Ngwenyama (2019) calls for researchers to ensure that their theoretical framework is appropriate for the IS research question in each relevant empirical situation. We developed a conceptual framework that proposes three primary contextual factors that affect minimal compliance behaviour. These contextual factors are:

- organisational perception towards policy implementation context (Smith, 1973);
- organisational logic of action (goal framing and instrumental rationality) (Kincheloe & McLaren, 2011a; Lindenberg & Steg, 2007a); and
- organisational legitimisation through ideological discourses (van Dijk, 2006a).

The study uses critical theory as the meta-theory and interpretive framework. IS researchers employ critical theory to explore prevailing social issues that affect ICTs, which Sarker et al. (2013) term the *sociotechnical*. A critical perspective was instrumental in navigating the political elements and race relations that persist in South African ICT organisations.

The chapter is structured as follows: Section 4.2 discusses critical theory as a meta-theory informing the study. We dedicated Section 4.3. – 4.6. to present the conceptual framework of minimal compliance which is the primary theoretical foundation of the study. Section 4.7. describes theoretical decisions informing the study. The need for theoretical triangulation in information systems research is described in Section 4.8.

4.2. Critical theory as the meta-theory informing the study.

Critical theory is used as a meta-theory when a phenomenon of interest exhibits inequalities, lack of transformation and human emancipation as influenced by power relations, historical, sociocultural, and political context (Myers et al., 1991). Critical theorists believe that people ought to be equal, and ought to be afforded opportunities in a social institution (Asghar, 2013). The objective of the critical researcher is to bring to light any behaviour or social structures that prohibit the achievement of equality. Critical theory refers to the overarching research paradigm that problematises the social practices that shape B-BBEE compliance in the ICT

sector. The discourse produced by decisions of organisations to comply with affirmative action policies, and their level of compliance in the ICT sector, is entrenched in race relations, power relations, and the socio-political context of South Africa. Moreover, concerns over affirmative action policies are rooted in the need to rectify social injustices meted out upon a majority of the population in the past. Critical theory suggests that, when the subject is concerned with domination, it needs to be approached from a critical perspective (Chikuni, 2016).

The current research is concerned with a policy developed to improve economic equality across racial boundaries in the South African ICT sector. The critical theory calls for the problematisation of the underlying mechanisms that lead to how actors behave towards a given phenomenon. Critical theory allows the researcher to choose theories that best problematise aspects of a phenomenon of interest (Klein & Myers, 1999b). The researcher must choose concepts that can best expose a phenomenon that is often taken for granted in a specific context. The conceptual framework of the study was developed based on the three basic assumptions of critical theory (Collins & Stockton, 2018; Kincheloe & McLaren, 2011b; Myers et al., 1991) (see Table 4.1).

Table 4.1: Three assumptions of critical theory and matching theoretical concepts

Tenets of critical theory followed in the study	Theoretical concept
The social reality of a phenomenon and how actors behave towards is shaped by its context	Policy implementation context (Cerna, 2013)
Actors maintain hegemony by answering the questions of 'how to' instead of "why should I?".	Goal framing theory (Lindenberg et al., 2018a) Instrumental rationality (Steinberg & Kincheloe, 2010)
Critical theory research exposes the imbalance in the system which is maintained through ideologies	Ideological discourses (van Dijk, 2006b)

The success of public policy implementation rests in its context (Haugh, 2017). The policy implementation context construct interrogates the various elements of the policy such as the goals of the regulator, how they communicate compliance requirements, and implementation actors. Goal framing and instrumental rationality are two logics of action that are central to the final behavioural preference. Goal framing examines the goals that regulatees prioritise while engaging with regulations. Instrumental rationality indicates the calculative nature of actors, particularly when they want to protect their gains in specific contexts. Combined, the two constructs reveal those social conditions that influenced B-BBEE's inability to transform the South African ICT sector as envisaged.

In a quest to protect the status quo and guard resources, social actors use ideologies to conceptualise a phenomenon in a certain way. Moreover, social actors use language to name (frame) what a phenomenon is and how it affects them. The language then influences ideological discourses that shape how to behave towards a given phenomenon. If compliance threatens regulatees' resources (e.g., profit) it may be conceptualised unfavourably. This framing is seeded in power structures that are often maintained precisely to ensure that the system remains unchanged (Makoza, 2017).

IS researchers have explained compliance and non-compliance behaviour (see Table 4.2). The majority of these inquiries are largely positivist, and employ IS theories (Kolkowska et al., 2017). Viewing compliance from a compliant and non-compliant perspective is problematic since it assumes the compliance behaviour to be binary, and it overlooks regulatees' creative response to regulations (McBarnet, 2001). The binary perspective of compliance ignores the complexity of a compliant behaviour that looks perfectly fine in the books but fails to rectify the problem that led to the introduction of the regulation (Pérezts & Picard, 2015).

Table 4.2: Some IS studies on compliance

Compliance behaviour	Author	Topic	Theory
Non-compliance	Kyobe, 2015	Factors influencing non-compliance with cyber laws	<ul style="list-style-type: none"> Rational choice theory
	Abed & Weistroffer, 2016	Correlation between deterrence theory constructs of celerity, severity and certainty on compliance with Information Systems Security (ISS)	<ul style="list-style-type: none"> Deterrence theory
Compliance	Herath & Rao, 2009a	Factors which influence employees' intention to comply with Information Security Policies (ISPs)	<ul style="list-style-type: none"> Protection motivation theory
	Vance et al., 2012		<ul style="list-style-type: none"> Deterrence theory
	Bulgurcu et al., 2010a	Drivers of employees' compliance with IPSs	Theory of planned behaviour
	Hovav & Putri, 2016	Motivations for employees to comply with BYOD security policies	Reactance theory
	Xue et al., 2011	The influence of punishment and justice on compliance with IT policies	<ul style="list-style-type: none"> Technology Acceptance Model Perceived punishment
	D'Arcy & Lowry, 2019, p. 43	"Cognitive-affective drivers of employees' daily compliance with information security policies: A multilevel, longitudinal study"	<ul style="list-style-type: none"> Rational choice theory Theory of planned behaviour

Many theories have not dealt in detail with the regulatees' pre-decisional involvement with regulations. Goal framing is a combination of psychological (hedonic) and behavioural

economic (gain) concepts that reveal a prior critical engagement with a regulation. The outcome of this engagement then influences how regulatees respond to regulation (Lindenberg & Steg, 2007a; van Wijk & Six, 2014a). Furthermore, the multiple goals present interdependencies that prompt social actors to apply some sort of instrumental rationality, where the most efficient and effective means allow them to achieve their goals.

There is a dearth of compliance models that demonstrate how regulatees legitimise their logic of action. The researcher argues that ideologies are critical to justifying compliance behaviour. Once regulatees are aware of power relations discourses that may arise because of the resistance, they may form concepts that explain why they resist.

The view of compliance in the current study combines theoretical concepts that are relevant for critical theory research. The current study considers compliance with affirmative action policies as a complex phenomenon that involves power and politics. We developed a conceptual framework with multiple concepts to reveal multiple realities that exist in the context of B-BBEE compliance. Furthermore, our conceptual model accepts the significance of cognitive biases that influence decision-making. Cognitive biases prompt actors to engage with a social phenomenon in terms of its positive and negative effects on actors (Li & Ling, 2015). Researchers in behavioural economics suggest that ideologies are central to compliance behaviour (Kühberger & Tanner, 2010; Li & Ling, 2015).

Compliance behaviour requires a theoretical underpinning that captures multiple activities that regulatees' do while engaging with regulations. Most theories end at explaining factors that influence resistance to regulatory requirements. We selected concepts that analyse the compliance process, explain contextual factors that influence minimal compliance behaviour, and demonstrate how regulatees legitimise their compliance behaviour. The selected concepts demonstrate that compliance behaviour is dominantly a psychological one. Moreover, these concepts are useful in exposing how dominant groups rationalise the perpetual marginalisation of certain groups in the social system. Details of the concepts borrowed to develop the conceptual framework are discussed in the subsequent section.

4.3.A conceptual framework for minimal compliance

The study borrowed multiple concepts that explain contextual factors that affect minimal compliance with affirmative action policies such as the B-BBEE ICT Sector Code. We developed this conceptual framework to unpack regulatees' behavioural preferences during institutional transformation. In many contexts, for example, post-colonial context, institutional

transformation may produce uncertainties that propel regulatees to pursue opportunism while responding to institutional pressures (Etienne & Schnyder, 2014c).

Therefore, the conceptual framework developed recognises the significance of organisational perception in the policy implementation context in shaping minimal compliance behaviour. Moreover, through this conceptual framework, the study suggests that minimal compliance behaviour should be understood in terms of regulatees' logic of action. This is because a logic of action is associated with decisions about behavioural preferences. In the conceptual framework, we propose that regulatees use two logics of action: goal framing and instrumental rationality. Goal framing is a logic of action for prioritising goals while instrumental rationality is used as a strategy to protect the achievement of prioritised goals. The conceptual framework also suggests that regulatees are aware that the outcome of their minimal compliance behaviour is inconsistent with acceptable contextual norms. To justify this inconsistency, the conceptual framework suggests that regulatees form ideological discourses that legitimise minimal compliance behaviour and its outcomes.

In the South African context, organisational compliance with affirmative action is voluntary (Kloppers, 2017). However, non-compliance with these regulations may negatively affect organisations especially if they participate in government procurement and trade with other organisations that require a B-BBEE certificate (Shai et al., 2019). To navigate the dissonance that emerges from the possibility of losing business, ICT organisations employ minimal compliance. Figure 4.1. illustrates the proposed conceptual framework for minimal compliance behaviour that has three basic propositions:

- **Proposition 1:** Regulatees form perceptions about the B-BBEE policy implementation context that shape their attitudes towards the B-BBEE ICT Sector Code, and in turn influence the behavioural decision;
- **Proposition 2:** Organisations use goal framing and instrumental rationality as their logic of action to employ minimal compliance with the B-BBEE ICT Sector Code;
- **Proposition 3:** ICT organisations use ideological discourses to legitimise their compliance behaviour and its outcomes.

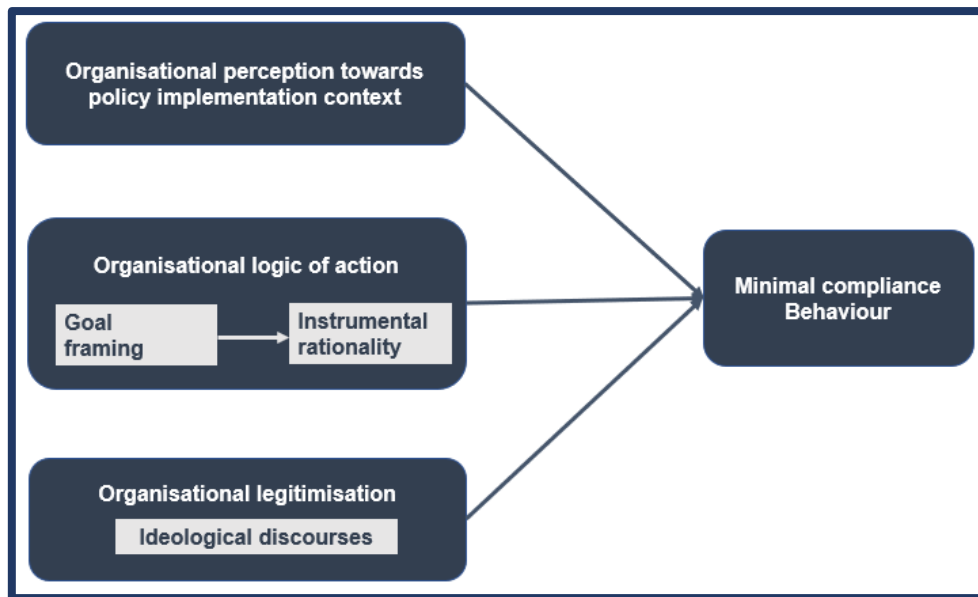


Figure 4.1: A conceptual framework for minimal compliance behaviour.

Concepts adapted from Smith (1973); Lindenberg (2016); Kincheloe and McLaren (2011); van Dijk, (2013).

The aim of developing a conceptual framework as opposed to using an existing theory was to ensure that the inquiry captures the complexity of minimal compliance behaviour, especially in the context of affirmative action regulations. Furthermore, a conceptual framework with multiple concepts provides multiple perspectives for explaining a phenomenon (March & Olsen, 2011). We have dedicated Section 4.4., Section 4.5, and Section 4.6 to a detailed discussion of the three theoretical constructs that shape our conceptual framework.

4.4. Organisational perception of the policy implementation context

“Contextual factors within the implementing environment are important in shaping policy success” (Cerna, 2013, p. 18).

Perceptions of the policy implementation context shape regulatory response (Ranci & Arlotti, 2019). An introduction of a new phenomenon such as a policy prompts organisations to form a perception of it (Vermeulen & Coetzee, 2006). Researchers study perceptions when they want to understand overall attitudes towards a phenomenon (Pienaar, 2009). This is based on the idea that attitudes shape behaviour (Rose, 2019). In organisational behaviour, organisational perception refers to the process of selecting, arranging and interpreting information (Hung & Wong, 2007). Forming a perception is part of the organisational internalisation of a policy in accordance with the potential effects it may have on organisational activities.

Organisations use the context as the frame of reference to form judgements (positive or negative) about the policy (Hung & Wong, 2007). A context also presents how a phenomenon manifests from one setting to the next (Davidoff, 2019). In social science research, context does not only improve science but also reveals multiple realities of the same phenomenon in different settings (Beard, 2015; Davidoff, 2019). Therefore, to understand minimal compliance behaviour, it is important to interrogate the organisations' perception of the policy implementation context.

The policy implementation concept explains aspects of the implementation situation that affect compliance behaviour. The policy implementation context affects the success of regulatory compliance (Cerna, 2013). Public policies such as affirmative action may be the same but the context in which they have been implemented may be different. The difference between these policy implementation contexts influences how organisations respond to them.

Activities in the actor's socio-political context "influence the propensity to move towards or away from compliance" (Eungkyoon, 2008, p. 741). Socio-political context refers to the political climate, regulatory environment, accepted norms and rules, and prevailing ideologies that shape reality in a locality (Beard, 2015). Socio-political context also reveals historical factors that shape social reality in various localities. Aspects of socio-political context are central to making behavioural choices (Van Dijk, 1993). The socio-political context reveals reasons why actors in different localities respond differently to a similar group of regulations. In most American states, gender-based affirmative action policies have been more successful than race-based ones (Katchanovski et al., 2015). While the affirmative action regulations in South Africa require compliance to remediate both racial and gender inequity, race is given the prominence given the persistence of racism in the country (Bosch, 2017).

The primary goals of regulations are to maintain social order and to restrict actors from behaving adversely in specific contexts (Higgins & Pinelli, 2020). Each regulation is developed to improve social change. The regulatory goals may discourage compliance if there is tension emerging from misalignment with the regulatees' goals (Shanshi et al., 2021). Affirmative action policies tend to have redistributive regulatory goals (Bailey et al., 2018). In the NDP, South Africa considers B-BBEE regulations as the primary redistributive regulations that will aid the achievement of economic equality and racial harmony (Mosala et al., 2017b). However, the regulator's goal to redistribute economic assets to Black people is a source of tension in South Africa. The government's requirement for B-BBEE compliance increases fear of White people's relevance in the South African economy and unintentionally drives a negative attitude

towards B-BBEE regulations (Grobler et al., 2019). The majority of studies about B-BBEE implementation attribute its failure to the negative perception that it attracts (Kruger, 2016).

4.5. Organizational logic of action

“Logic of action refers to a set of goals or motivations that influence how actors organize their behavioural preferences” (Etienne & Schnyder, 2014c, p. 367).

Literature indicates that the success of policy compliance rests on policy actors’ (e.g., regulatees) logics of action (recall 3.4.4) (Dente, 2014). The current study extends the concept of logic of action to the context of organisational behavioural preferences. Organisational logic of action refers to the rationality that shapes actors’ behaviour towards a phenomenon (Dente, 2014). The logic of action has been employed to explain behavioural preferences during organisational transformation (Bacharach et al., 1996). Organisational logic of action enables actors to embrace the idea that a behaviour is an output of rationalising both benefits and dangers of an action (Reddy, 2001).

Policy researchers use the logic of action to determine factors that deter regulators from behaving favourably towards compliance requirements (Dente, 2014). The early conceptualisation of the logic of action emanates from (March & Olsen, 1998) in their study of institutional dynamics of international political orders. In this study, they observed that policy response is driven by two primary logics of action: logic of consequence and logic of appropriateness. Logic of consequences is pervasive in capitalists contexts where actors devise utilitarian logics to protect their resources and avoid punishment (Etienne & Schnyder, 2014b). The logic of consequences is associated with increasing ones gains through the most cost-effective and efficient means (Lunenburg, 2012). Logic of appropriateness is associated with doing the right thing according to contextual rules. Therefore, organisational logic of action is central to policy acceptance and overall response to institutional pressure (Appari et al., 2009).

The current study assumes that organisations have two primary logics of actions that shape minimal compliance behaviour with the B-BBEE ICT Sector Code:

- logic of goal framing (Lindenberg, 2016); and
- logic of instrumental rationality (Kincheloe & McLaren, 2011a).

Goal framing is used as a tool to prioritise organisational goals while engaging with regulatory compliance. Goal framing is relevant for the current study because it suggests that actors have three primary goals that they pursue simultaneously: gain, normative, and hedonic goals.

In other words, organisations pursue the goal of increasing utility, achieving contextual appropriateness, and attaining pleasure place while complying with regulations (Lindenberg & Steg, 2007b). The details of the three goals are the object of the subsequent sections. Instrumental rationality is a means-to-an-end logic that actors use to protect the achievement of prioritised goals (Blau, 2020).

4.5.1. Goal Framing

In this logic of action, regulatees prioritise their goals through goal framing. This is based on the idea that organisations have pre-existing goals that they want to protect during any transformation process. Therefore, the study employed goal framing to unpack regulatees' process of goal prioritisation while engaging with regulations. Goal framing posits that, when faced with compliance decisions, regulatees tend to pursue simultaneous and multiple goals (Lindenberg & Steg, 2007b). To describe these goals, Lindenberg, (2016, p. 669) claims that:

“Goals determine what we attend to, what information we are sensitive to, what information we neglect, what chunks of knowledge and what concepts are being activated at a given moment, what we like and dislike, what criteria for goal achievement are being applied”.

The description also emphasises selective attention to information that is important at a particular time. Moreover, Lindenberg positions the knowledge of goals as a core determinant of behavioural decisions. Goal framing proposes that regulatees create frames consistent with their goals for each behaviour, that is, what Lindenberg and Steg (2007a, p. 117) term “goal frames”. Frames in this context pertain to heuristics or cognitive shortcuts and quick judgements used by people and organisations to arrive at a given behavioural decision (Kleining & Witt, 2000). Understanding these goal frames reveals the goals that regulatees prioritise in the context of the regulatory goals.

Goal framing consists of three constructs i.e.; hedonic goal frame, gain goal frame and normative goal frame (Lindenberg & Steg, 2007a). The hedonic goal frame pertains to a psychological goal, where regulatees seek to improve how they feel. The gain goal is an economic goal where regulatees seek to improve their resources. A normative goal frame is an ethical or institutional goal, where regulatees attempt to achieve what is considered appropriate according to contextual rules.

In some instances, these goals may overlap and cause conflicting decision-making (Etienne, 2011). For example, an organisation may wish to comply with regulations to satisfy contextual norms, and at the same time, wish to remain profitable. However, conflict may arise if

satisfying the contextual norm affects profitability. Sometimes the goals may support one another. For example, the hedonic goal frame may be consistent with the normative goal frame. These goal frames will be described in subsequent sub-sections.

4.5.1.1. Hedonic goal frame

The hedonic goal frame refers to pursuing the goal of improving how one feels about an action (Lindenberg et al., 2018a, p. 395). For this goal frame, regulatees engage with an action that decreases the likelihood of effort, direct uncertainties, and negative events (Lindenberg, 2016a). The hedonic goal frame provides a social status associated with high esteem and honour in a specific context (Ummaha, 2014). It is widely agreed that when engaging with any action, social actors may assess its outcome in terms of either pleasure or pain (Myrsky et al., 2017). Therefore, actors are highly likely to respond positively if they ascertain the pleasure that is associated with the phenomenon. For example, ICT organisations comply with security policies to decrease the likelihood of pain associated with security breaches (Hong & Furnell, 2019).

The hedonic goal frame is the least studied construct at the organisational level (Van Wijk & Six, 2014). This can be attributed to the idea that feelings are often studied at an individual level. Earlier, Veenhoven (2003) argued that hedonism may be difficult to apply at the organisational level because it is often associated with achieving short-term happiness. This knowledge forces people to only focus on constructs (gain and normative) that help organisations achieve long-term goals. Moreover, people who make decisions based on hedonism are considered irrational for putting “their feelings” first (Gerow et al., 2013a).

Hedonism has been employed to enhance IS theories such as the Technology Acceptance Model (TAM), Unified Theory of Acceptance and Use of Technology (UTAUT) and Technology, Organisation and Environment (TOE) to explain technology adoption, acceptance and use (Ojiabo, & Emecheta, 2015; Gareeb & Naicker, 2015; Venkatesh, Sykes, & Zhang, 2011). In addition to perceived usefulness and perceived ease of use, Van der Heijden (2004) proposed the construct of perceived enjoyment to account for the hedonic goals that users hope to achieve when they adopt the technology.

Ummaha (2014) employed hedonism as a sensitising concept of hedonic motivations, hedonic functions and hedonic attributes to explain technology acceptance decisions. In this study, hedonic motivations or functions were used to enhance the UTAUT framework to account for the sub-motivations that influence people to accept smartphones. Ummaha (2014) argued that smartphones have hedonic attributes such as enjoyment and playfulness

embedded in the plethora of applications that increase the probability of acceptance. Moreover, most IS research uses hedonic motivations as a strong predictor of new technology acceptance in the workplace (Gerow et al., 2013a; Van der Heijden, 2004b). There is a need to operationalise the hedonic goal frame construct at the organisational level, and in the context of regulatory compliance.

Extant literature indicates that the logic of hedonic goal framing is related to maximising pleasure or being in a 'happy place' (Kanyisa Mzilikazi, 2015; Van Wijk & Six, 2014). Maximising pleasure has often been conceptualised from an individual level. The current study explored this aspect at an organisational level. It sought to identify actions in the context of regulatory compliance, which is conducted to maximise the pleasure at an organisational level. At the organisational level, a hedonic goal frame can be associated with brand reputation. An organisation can act in a certain way, to influence the societal positive perception of the brand.

4.5.1.2. Gain goal frame

Gain goal frame refers to pursuing the goal of maximising utility from the action, i.e., protecting one's "resources" (Lindenberg, 2016b, p. 673). The gain goal involves regulatees' calculation of the cost and benefits of taking any action (Etienne, 2011; van Wijk & Six, 2014). Lindenberg and Steg (2007) argue that the gain goal frame makes regulatees more sensitive to any changes in the system that may negatively affect their resources. The gain goal is equivalent to the logic of consequence (Etienne & Schnyder, 2014c) where actors' behaviour is shaped by the fear of loss. Etienne (2011, p. 9) adds that regulatees in the gain goal frame "will be principally attentive to the prospect of rewards or profit (in money, power or influence)". For this reason, the gain goal frame mimics any rational-choice and deterrence approaches that have been employed in information systems research to explain the reasons why regulatees resist compliance (Abed & Weistroffer, 2016; Etienne, 2011).

In some contexts, the gain goal frame entails the need to seek action that has a positive influence on efficiency and productivity. In this case, regulatees would comply with regulations if they do not threaten productivity in their organisations. Gain goals have been explored in employee compliance with organisational information security policies. For example, Bulgurcu et al., (2010) observe that, if the gains (intrinsic and extrinsic rewards) of complying with information security policies are not explicit, employees tend to show non-compliance.

Lindenberg and Steg (2007b) accept that the gain goal frame may replace the need to satisfy contextual norms or feel good about an action. If the regulation is not explicit about the "gain" aspect, regulatees may just do the bare minimum to satisfy normative requirements

(Lunenburg, 2013a). The challenge with the gain goal frame approach to regulatory compliance is its effects on the goals of the regulation. Étienne and Wendeln (2010) postulate that the opportunistic element salient in the gain goal makes it difficult for governments to achieve their remedial goals. Once the initial phase of searching for the gains is done, regulatees tend to ignore the goals of the regulations and reasons (Lunenburg, 2013a).

4.5.1.3. Normative goal frame

A normative goal frame relates to pursuing the goal of achieving contextual appropriateness through an action (Lindenberg, 2016a). A normative goal is also associated with “striving to do the right thing” (Etienne & Schnyder, 2014c, p. 372). This goal makes regulatees sensitive to a moral commitment in the form of the pursuit to ‘do the right thing’ in each context (Étienne & Wendeln, 2010). In this normative goal, regulatees place significance on the social obligation to shape their behaviour for the regulation (Palthe, 2014). Moreover, the normative goal frame is driven by values such as “altruism, duty and trust” (Etienne, 2011, p. 7). This goal frame is similar to Kantian deontological ethics, where actions are guided by the need to fulfil a moral duty (Ward, 1971). Combined with hedonic goal framing, regulatees may help in achieving the government’s regulatory goals.

Regulatees in the normative goal frame are sensitive to what is considered appropriate conduct in the context where their organisations operate. After POPI act No. 4 of 2013 was introduced, the South African government tried to enforce compliance with it. However, this policy was introduced with multiple uncertainties regarding how organisations ought to comply. Despite this, organisations were proactive in developing awareness strategies for their employees (De Bruyn, 2014). Some of these strategies included running internal education campaigns about creating strong passwords as well as two-factor authentication (Shay et al., 2016). This move was influenced by an earlier global call by the ITU for organisations to implement personal information protection at the employee level (ITU, 2007). Moreover, most African nations were still falling behind in terms of implementing personal information protection policies (Dala & Venter, 2016; Pelteret & Ophoff, 2017). This means that these organisations were striving to act appropriately according to the global standards regarding personal information protection.

4.5.2. Instrumental rationality

After they have prioritised their goals through goal framing, regulatees devise means of protecting and achieving them. Instrumental rationality is a means-end logic of action where the actors endeavour to protect the achievement of their goals with the most effective means

(Thoma, 2017a). As an analytical tool, instrumental rationality is useful in understanding factors that inform regulatory compliance strategies (Blau, 2020). Instrumental rationality exposes how regulatees seek behavioural preferences that only aid the achievement of their goals with little attention to the goals of the regulator.

Instrumental rationality is pervasive in a public policy context. It tends to be a behavioural resource when both the social problems and institutions designed to rectify them are complex (Moehler, 2014). The B-BBEE ICT Sector consists of a large network of implementation actors who increase the complexity of navigating the compliance process. From an institutional perspective, the long processes associated with identifying these actors, their requirements and costs is a perfect condition for instrumental rationality. Instrumental rationality assumes that actors are goal-oriented, and as such their attainment supersedes requirements from external actors (Higgins & Pinelli, 2020; Moehler, 2014).

Instrumental rationality is widely employed in behavioural economics; however, it has posed a paradox for decision theorists for decades. On the one hand, it is viewed as emerging from rational choice theory and heuristics; and on the other hand, it is viewed as a theory to explain risky choices (Thoma, 2017b). Decision theorists see instrumental rationality as the centre of human action and decision-making (Steinberg & Kincheloe, 2010). Another stream of decision theorists laments that, as a method of reasoning, instrumental rationality raises questions of morality (Adanali, 2017; Moehler, 2014). This is because the means-to-ends logic of action may propel actors to neglect some universal principles of maintaining social order (March & Olsen, 1998). For pragmatists, instrumental rationality ought to be viewed as the most practical form of reasoning in highly efficient contexts (Moehler, 2014; Thoma, 2017a).

4.6. Organisational legitimisation through Ideological discourses

“When group members explain, motivate or legitimate their (group-based) actions, they typically do so in terms of ideological discourse” (van Dijk, 2006c, p. 121).

Organisational legitimisation is based on the belief that actors’ behavioural preferences are contextually appropriate and desirable (Beelitz & Merkl-Davies, 2012). Achieving organisational legitimacy is a survival mechanism during a time of transformation (Kloppers, 2017). In the current study, ideological discourses are analytical resources for organisational legitimisation. Legitimisation is the process of justifying courses of action or behaviour (Burdon & Sorour, 2020). An ideology is a worldview formed through communicative elements (discourse) that shape social reality in specific contexts (Prasad, 2020). Ideological discourses are relevant for the study because actors used ideologies to legitimise resistance

and attain domination (van Dijk, 2006c; Van Leeuwen, 2007). Ideological discourses explain how actors develop group beliefs or information asymmetries to legitimise their logic of action whether positive or negative (Brookfield, 2016).

This study takes the position that language is a resource for forming ideological discourses. Language shapes discursive practices used to respond to perceived competing goals in the system. Because they are formed through language, ideological discourses may represent a phenomenon in a positive or negative light and ensure that this sentiment is sustained over time (Blommaert & Bulcaen, 2000; Van Dijk, 2006a). During a crisis, organisations find ‘spin doctors’ to communicate the crisis in a way that legitimises why things took place the way they did. Therefore, actors use ideological discourses as cognitive shortcuts to develop and sustain an attitude towards a phenomenon (e.g., the belief that affirmative action policies are exclusionary) (Weninger, 2020).

Ideological discourses are associated with the moralisation of behaviour that is incongruent with contextual norms (Van Leeuwen, 2007). Most researchers accept that ideological discourses are formed with one function in mind; to legitimise utility maximisation (Bobo & Kluegel, 1993; Haugh, 2017; Stewart & Gosain, 2006). The study adapts the ideological discourse view by Van Dijk’s (2006) ideological square conception, which states the following (see Table 4.3):

“The overall strategy of ideological discourse is the enhancement of Our Good Things, and Their Bad Things, and the Mitigation of Our Bad Things and Their Good Things, at all levels of discourse structure” (Van Dijk, 2006b, p. 54).

The division of “us” and “them” introduces ideas of the other, who is viewed as inferior, and another who holds power; both with competing goals. For example, in the context of B-BBEE compliance, we identify three actors, who have varied forms of power. Firstly, the government as the regulator may restrict or permit ICT organisations to operate a business. Secondly, the ICT organisations, given permission to operate, hold economic power through employment and tax. Thirdly, the power of Black people rests in compliance activities, where their scarcity means that ICT organisations may not meet the requirements of some B-BBEE elements. However, from Marxism, there is a fundamental idea that those who hold economic power fundamentally shape the dominant ideology towards most socio-economic elements of a given society (Goldstein, 1992).

Table 4.3: Ideological square (Van Dijk, 1993)

	Positive	Negative
Us	Emphasise our positives	Minimise our negatives
Them	Minimise their positives	Emphasise their negatives

The ideological square indicates that ideological discourses are instrumental. This means that ideological discourses are formed in the context of maximising utilities. Negative beliefs that are formed against a certain phenomenon are designed to make it unattractive making the alternative more desirable to attain. Ideological discourses are used as a source of power to maintain equilibrium where there is a perceived threat to the status quo (Weninger, 2020). This manifests through the formation of distortions or “systems of false” reality that legitimise resistance to transformation (Van Dijk, 2006b, p. 7). Social scientists conduct an ideological discourse analysis to interrogate how ideologies are used to legitimise subversion, and ultimately expose nuances of power relations associated with resistance behaviour (Cheng et al., 2013).

Ideological discourses are significant in understanding the notions used by actors to rationalise their behaviours. The concept of ideological discourses offers a critical lens to reveal ideologies formed about B-BBEE compliance that have the potential to influence perpetual minimal compliance behaviour. As a theory, ideological discourse is consistent with critical theory research, because it demonstrates how social actors use the power of language to shape social reality and maintain the status quo. Ideological discourses are key to unpacking the often-ignored socio-political aspects of ICT business in postcolonial contexts. Moreover, ideological discourses cannot be divorced from a study of organisations. This is because organisations’ responses to coercive power, such as regulatory requirements, are shaped by ideologies (Lunenburg, 2013b). Whatever the regulatory response i.e., whether favourable to regulatory goals or not, it is legitimised through ideological discourses.

In many contexts, ideological discourses have inherently negative connotations (Daghighi et al., 2018). However, the modern uses of ideologies in public policy contexts have been useful in shaping behaviour for the good of society. For governments seeking citizens to commit to digital transformation, ideological discourses are formed to “promise transformative effects on public administration” (Avgerou & Bonina, 2020, p. 75). During the peak of the COVID-19 pandemic, governments formed various ideologies to influence people to use various web applications to report infections (Wnuk et al., 2020). Despite the transformative attributes that ideological discourses may offer, they continue to be used as elements of domination and hegemony (Steinberg & Kincheloe, 2010).

4.7. Theoretical decisions informing the study

There are four primary theory decisions. These decisions determine the researchers' knowledge contribution, the field of study, the relationship of variables the researcher wishes to present, the approach to theory, data collection methods, and in many cases, the research paradigm. Emphasis is placed on selecting theories relevant to the data collected and the unit of analysis (Walsham, 2006b). This is because units of analysis also dictate modalities of scrutiny (Cyr, 2016).

These theory decisions are:

- approach to theory;
- meta-theory/interpretive frameworks and sensitising concepts;
- type of relationship between variables; and
- knowledge contribution.

4.7.1. Approach to theory

The first theory decision pertains to the approach to reasoning, and how one creates and arrives at inferences, whether this is deductive or inductive (Myers & Newman, 2007; Soiferman, 2010). A deductive approach uses existing theories. In this approach, the researcher focuses on the empirical situation, identifies themes and concepts that characterise the phenomenon of interest and behaviour, and consults the literature to identify the theory that best explains it (Boell & Hovorka, 2019). The inductive approach starts with generalisations to produce a theory at the end of the study (Ibrahim, 2012). As is the case in the current study, the researcher may be deductive, but follow inductive principles in the early stages of qualitative data analysis to identify patterns that may not be captured by the theory. The advantage of this is that the data may tell a story which may add knowledge to the existing theory (Braun & Clarke, 2019). Most studies such as the current one start with a theoretical proposition; however, there has been an increasing trend to follow grounded (inductive) theory to explain information systems development problems (Matavire & Brown, 2013).

4.7.2. Meta theory/ Interpretative frameworks and sensitising concepts

The second theory decision relates to meta-theory, sensitising concepts, and the origin of the theory to explain the phenomenon of interest (see Figure 4.2). Of the four decisions, this is the most technical one where researchers spend a great deal of time identifying theoretical lenses that have the best inference for a better explanation of their phenomenon (Ngwenyama, 2019). A meta-theory is a "theory of theories" (Gregor, 2006a, p. 616), which serves as the interpretive

framework of the knowledge. A sensitising concept is a construct that provides a theoretical foundation to explain behaviour (Bowen, 2006). Genealogy refers to the origin of the theory, for example, economic or psychological theory (Gregor, 2006a). Through the illustration in Figure 4.2, we show how the study's theoretical foundations were systematically developed.

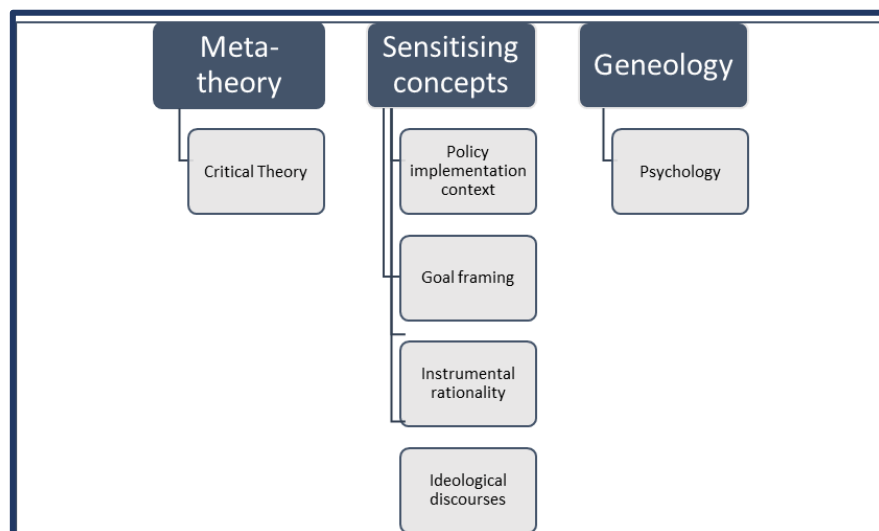


Figure 4.2: Second decision theory: Meta-theory, sensitising concepts and their genealogy

The decision about the meta-theory, sensitising concepts and genealogy constitutes the highest level and acts as an umbrella theory that presents the researcher's worldview of a phenomenon. Meta-theory is also connected to the philosophy of science, i.e., ontology and epistemology, aspects of the study of whether reality is objective or subjective (Collins & Stockton, 2018). The choice of theories also influences the choice of research paradigm.

"Discussions of theory in qualitative research relate to the theories that ground a methodological approach (e.g., phenomenology, ethnography, narrative) or the epistemological paradigms that guide a study (e.g., postpositivist, constructivist, critical)" (Collins & Stockton (2018, p. 4).

The meta-theory or interpretive framework informs the study based on the nature of the phenomenon of interest and the research problem (Hoye et al., 2009). For example, a phenomenon that is entrenched in race relations, politics, and history as is the case with the current study tends to present multiple realities and call for critical treatment. A meta-theory provides the overarching stance that the researcher takes concerning the knowledge about the phenomenon. However, if the study seeks to create a cybersecurity application to counter high school cyberbullying, it might take a more pragmatist approach (Decoteau, 2017; Goldkuhl, 2012).

Sensitising concepts offer the bases of analysis and the direction to look for discursive practices that best answer the research questions (Bowen, 2006). The current study has four main constructs that explain minimal behaviour viz.: policy implementation context, goal framing; instrumental rationality, and ideological discourses. Sensitising concepts often emanate from the initial observation of the phenomenon in its context.

The genealogy of the theory speaks to the field of the selected theory/theories. For example, whether compliance can be explained from the perspective of economics, institutionalism, sociology or psychology. To explain drivers of technology adoption, diffusion of innovation is often a theory of choice. However, some researchers may choose economics, psychological, and sociological theories to account for aspects that the technology theory fails to explain. The current study borrowed from psychology to suggest that minimal compliance ought to be explained from a psychological perspective, as it influences actors to be aware of their self-interest in a regulatory system. In the current study, we use sensitising concepts from psychology to deepen our understanding of the minimal compliance phenomenon.

4.7.3. Type of relationship between variables

The third theory decision relates to the relationship between variables, i.e., whether the theory selected is concerned with illuminating causation (cause and effect relationship), or correlation (positive or negative relationship) of variables that generate knowledge about the phenomenon of interest (Grimes & Schulz, 2002). Aspects of relationships often dictate the methodological choices regarding whether a study is qualitative or quantitative (Myers & Cand, 2000). The current study is concerned with explaining causation, and theorising what causes minimal compliance with B-BBEE regulations in ICT organisations.

4.7.4. Knowledge contribution

The fourth theory decision relates to the function of theory in developing knowledge. This entails deciding whether the research seeks to explain, predict, provide a prescription, or describe the phenomenon of interest. Gregor (2006) identifies five functions of theory to be considered when choosing a theoretical framework. These functions include analysing, explaining, predicting, a combination of explaining and predicting, as well as designing (prescribing). The current study uses critical theory to explain minimal compliance behaviour while the conceptual framework is used as an analytical tool. The final theory product of the current study is an explanation of how contextual factors influence minimal compliance with the B-BBEE ICT Sector Code. Ultimately this theory decision allows the researcher to answer

the questions of “what types of claims or statements can be made” by the study regarding the unit of analysis and the phenomenon (Gregor, 2006a, p. 612).

Qualitative researchers employ explanatory research to explore causal factors about a phenomenon or explain how a phenomenon manifests (Ngwenyama & Klein, 2018). Explanatory research provides a deeper understanding of a given phenomenon (McGillivray & White, 1993). Explanatory research use theory constructs that allow researchers to sift through complex environments to develop new knowledge. The current research employed multiple constructs emanating from psychology and behavioural economics to explain factors that influence minimal compliance with the B-BBEE ICT Sector.

4.8. The need for theoretical triangulation in information systems research

Drawing from a recent call to use mixed methods to account for the manifold nature of information systems research, the current study uses theoretical triangulation. For almost three decades, IS researchers have been advocating for the recognition of theoretical triangulation in pursuit of richness in scientific knowledge (Walsham, 1995; Hoque et al., 2013; Midgley, 2011). Theoretical triangulation entails applying multiple theories to explain a phenomenon. This enables scientific knowledge to emerge from different viewpoints (Midgley, 2011). In contexts where the phenomenon of interest is relatively novel in a research domain, theoretical triangulation is an alternative that accounts for the many levels of its complexities (Hoque et al., 2013). Moreover, theoretical triangulation facilitates the hermeneutic search for the meaning of a specific phenomenon from multiple theoretical perspectives.

Fundamentally, theoretical triangulation in information systems research is instrumental in highlighting that scientific knowledge about IS stems from the interaction between nonhumans (computer/technology) and humans (i.e., their contexts and behaviour) (Baškarada, 2014). We developed a conceptual framework to reveal how affirmative action policies such as B-BBEE influence the IS business.

Researchers need to be aware of the epistemological implications inherent in theoretical triangulation (Baškarada, 2014). Researchers need to navigate between the interpretive and positivist paradigms that are a consequence of employing multiple theories, and which have different functions in the research (Hevner & Chatterjee, 2010; Kaplan & Duchon, 1988). Furthermore, a study has a probability of yielding contradicting results from the theories used to interpret a given phenomenon (Denzin & Lincoln, 2006b). Seeing an IS phenomenon from multiple lenses is core to the epistemological principles of information systems research,

which requires inferences to be guided by both social and critical theory, such as interpretive devices (Lee & Liebenau, 1997; Myers & Klein, 2011; Ngwenyama & Lee, 1997; Ngwenyama et al., 2016; Ngwenyama, 2019).

In critical studies such as this, epistemological aspects such as causality are core to knowledge creation. As critical interpretive devices, chosen theories produce knowledge from various perspectives. Minimal compliance with affirmative action in the ICT sector is a relatively novel area of study requiring multiple viewpoints. Compliance theories have always sought to explain compliance or non-compliance from a reductionist perspective. The aspect of minimal compliance is often conceptualised on the spectrum of non-compliance, ignoring those phenomena that lie between compliance and non-compliance. Moreover, despite the ongoing debate that compliance cannot only be seen from a rational or normative perspective, a plethora of studies in regulatory compliance also continue to explain this phenomenon from deterrence perspectives (Coleman & Fararo, 1992; Haugh, 2017). The challenge with these perspectives rests in the difficulty they present when accounting for contextual factors, which may be unique in the Global South nations such as South Africa.

4.9. Chapter summary

This chapter discussed the theoretical underpinnings informing the study. In the backdrop of critical theory research, the proposed conceptual frame combines policy implementation context, goal framing theory, instrumental rationality, and ideological discourses to analyse and explain minimal compliance behaviour. In information systems research, minimal compliance has received little attention. As a novel subject, it was necessary to employ theoretical triangulation to explain and deepen its understanding from multiple lenses. Theoretical triangulation, as employed in the current research, provides a richness of the subject matter. We maintain that minimal compliance ought to be explained through critical theories, due to the dense nuances of power discourses that increase the complexity of compliance behaviours. We present four important theoretical decisions of an IS researcher. Aspects of employing theoretical triangulation were also discussed to justify why we employed multiple theories. It was also important to highlight the reasons for selecting critical theory as a meta-theory for the study.

5. Research Design

5.1. Introduction

This chapter discusses and justifies the methodological choices made to execute the study. The chapter is structured as follows: The research paradigm and philosophical assumptions informing the study are discussed in Section 5.2. Section 5.3. covers aspects of research sampling. We discussed data collection methods in Section 5.4. Thematic and content analysis as data analysis methods is discussed in Section 5.5. Section 5.6. explains the principles followed to achieve validity and reliability in the study. The details of the ethics are discussed in Section **Error! Reference source not found.** Section 5.8. covers the summary of the chapter.

5.2. Research methodologies

This section discusses the methods employed in the study. This is a critical research inquiry concerned with minimal compliance with the B-BBEE ICT Sector Code in South Africa. We followed principles of critical theory research to interrogate how contextual factors affect minimal compliance with the B-BBEE ICT Sector Code. It is qualitative research that used primary and secondary data from various touch points of the B-BBEE ICT sector to deepen understanding of ICT organisations' engagement with the B-BBEE regulation.

5.2.1. Research paradigm: Critical research

The critical research paradigm is informed by various perspectives of critical theory (Creswell, 2012). The traditional theory is concerned with explaining a phenomenon while critical theory "challenges the status quo and strives for a balanced and democratic society" (Asghar, 2013, p. 3123). Critical theory is concerned with revealing power relations that constrain systems from transforming or emancipating (Mcgrath, 2005). In policy studies, critical theory allows the researcher to not only expose the problematic aspects of policy implementation and compliance but also pave the ways to transform the policy (Taylor, 1997). The primary purpose of a critical research paradigm is to critique the status quo (Saunders et al., 2009). Ngwenyama and Lee (1997, p. 151) add:

"The responsibility of a researcher in a social situation does not end with the development of sound explanations and understandings of it, but must extend to a critique of unjust and inequitable conditions of the situation from which people require emancipation"

Habermasian views on critical theory are relevant for the current inquiry because they acknowledge that (Stahl, 2008):

- a historical situation shapes knowledge claim;
- language is instrumental in shaping reality;
- social critique is essential for achieving an emancipatory system;
- power relations exist as forms of resistance to hinder systems from transforming;
- discursive ethics are central to human behaviour; and
- a researcher's mission must be to change the status quo.

The initial stage of critical research involves the assumption that the IS phenomenon needs some form of emancipation, and that the status quo is a result of existing power relations (Ngwenyama, 2019). The researcher critically engages with what they consider to be problematic elements in the discourse to obtain a clear idea of the status quo (Geeling, 2018; Hur et al., 2019). Furthermore, the critical researcher embraces the multiple realities that emerge from the two actors in information systems phenomenon. The first one is the dominant actor who produces power relations and hegemonic norms to constrain transformation (Colpitts, 2019). The second one is the marginalised actor who deserves emancipation (Brooke, 2002). In this study, power relations are inherent in the ICT organisations' compliance practices, while the beneficiaries of B-BBEE (Black People) can be viewed as marginalised actors.

Myers and Klein (2011, p. 25) proposed six principles of conducting critical research (see Table 5.1). Opponents of critical theory assert that dismissing power relations and criticising the status quo does not solve world problems (Goldstein, 1992). Schmid (2018) attributes this to the idea that the work of a critical theorist is diagnostic which supersedes developing solutions for the problems identified. Earlier, Goldstein (1992), contended that the assumed never-ending oppression, the myth that someday capitalism will end, and dispelling power structures in organizations is contradictory to the reality of organizations and social institutions which are prone to inevitable strongholds of power.

Table 5.1: Principles of conducting critical research (Myers & Klein, 2011a)

Principle	Description	Current study application
Engaging with core concepts of critical social theorists to achieve richness	Involves researchers selecting theoretical concepts from other critical theorists	We developed a conceptual framework that proposes that actors use goal framing to prioritise their goals. We complemented this by employing critical theory concepts such as ideological discourse (van Dijk, 2006d), and instrumental rationality (Kincheloe and McLaren, 2011) to reveal how actors protect the achievement of their goals to maintain status quo.
The principle of taking a value position	This principle is concerned with the articulation of the researcher's value proposition.	Ethics is the value proposition for the current study. we believe that human behaviour such as compliance should be guided by contextualized ethics. The assumption here is that all organizational actors are aware of the right thing to do concerning B-BBEE compliance.
The principle of individual emancipation	Pertains to researchers to ensure that both their research practices and the inquiry emancipate the respondents.	We employed in-depth qualitative interviews to allow them to reflect upon their experiences with B-BBEE compliance activities. Reflections are emancipating as they allow respondents to see the reality of the subject matter.
The Principle of Improvements in Society	Involves the researcher striving to improve aspects of society.	Recommendations of the research about B-BBEE compliance in the ICT sector may be useful for policymakers as they make amendments.
Improvement in Social theories	Pertains to the role of the researcher in improving social theory to explain the IS phenomenon.	The study developed a conceptual framework from multiple theories to explain minimal compliance.

5.2.2. Philosophical assumptions

Philosophical assumptions are the foundation of research that drives researchers to ask questions related to “what constitutes reality?”, “how do we get to know what we know?” and “what is the researchers’ value in conducting the research?” (Guba & Lincoln, 1994). This summarises the four philosophical assumptions (ontology, epistemology and axiology) as identified by Guba and Lincoln (1994) and Hart, (1971). Careful selection of these

philosophical assumptions is crucial to conducting any social science research. IS researchers have generally recognised ontology and epistemology as the foundation of methodological choices (Chughtai & Myers, 2017; Pozzebon et al., 2014). However, in many cases, the research question may determine the philosophical assumption to adopt (Saunders et al., 2009). Arguably, while it must be used for value-laden research, axiology is the last mentioned philosophy in information systems research.

5.2.2.1. Ontological assumption: Subjectivism

The current study employs subjectivism since it allows the researcher to conceptualise reality in its immediate context. Subjectivism assumes that reality is a result of human interaction and their subjective interpretation of it (Klein & Myers, 1999b). Furthermore, the research accepts that reality is socially constructed through history, social, political, economic and gender values “crystallised” over time in a particular context (Guba & Lincoln, 1994, p. 165). For example, in Africa, where the current study was conducted, affirmative action policies are usually interventions used to correct the racial ‘wrongs’ of European colonial powers. In Europe, the majority of affirmative action policies are implemented to rectify many years of gender inequality (Petters & Schröder, 2020). Essentially, the position of this study is that reality is relative to the subjects’ frame of reference of the social phenomenon. The foundation of subjectivism is social constructivism. Social constructivism is underpinned by relativist ontology which suggests that there exist multiple realities about a social phenomenon emanating from social and historical context (Mingers, 2004).

5.2.2.2. Epistemological assumption: Critical interpretivism

Epistemology is concerned with the nature of human knowledge. It questions aspects of social inquiry that constitute “acceptable, valid and legitimate knowledge” (Saunders et al., 2009, p. 127). The purpose of epistemology in research is to assist the researcher in interpreting and communicating new knowledge about social reality. In this manner, “all research is interpretive” (Gummesson, 2003, p. 482). Similar to interpretivism, critical assumptions posit that reality is socially constructed. The purpose of a critical researcher is to critique and transform the status quo while an interpretative researcher seeks to interpret the social reality that shapes it. Despite the differences mentioned above, critical and interpretivism epistemology can be combined to complement each other in research that seeks both interpretation and critique (Pozzebon et al., 2014).

As the implications of ICTs on society become significant in “maintaining social order” (Doolin, 1998, p. 301), encourages IS researchers to cautiously adopt a critical stance of interpretative

research. Where the subject of information systems research is historically and politically situated, interpretivism alone is not sufficient to shape its knowledge (Doolin, 1998). Literature suggests that research concerned with inequalities needs to be approached from a critical perspective (Denzin & Lincoln, 2006b). The current inquiry sought to investigate compliance with a policy whose objective is to redress inequality.

Combining these two assumptions is consistent with the research goal to interpret the causal mechanisms that lead to minimal compliance with affirmative action policies such as B-BBEE in ICT organisations. An interpretive stance is consistent with policy discourse (Pülzl & Treib, 2017). The language used in policy statements may have “multiple meanings” which calls for policy analysts to simultaneously interpret the meaning by both the regulator and the regulatees (Pülzl & Treib, 2017, p. 100). Part of the current study is to identify whether there are aspects of the B-BBEE policy that may influence compliance behaviour. In a study of this nature, interpretivism offers the lens to dig deeper into the meaning of policy stipulations.

5.2.2.3. Axiological assumption: Ethics

The current study is informed by the axiological assumption of ethics, concerned with principles that govern human conduct (behaviour) within a social system. In critical research, the axiological assumption is consistent with Myers and Klein, (2011b) second principle, which requires researchers to define their value proposition. Major questions answered by the axiological assumptions are: which value is the researcher guided by to conceptualise the discourse in question?; and what is the most favourable “right” or “good” behaviour acceptable in the discourse or towards the phenomenon? (Biedenbach & Jacobsson, 2016; Kivunja & Kuyini, 2017). As critical researchers, we value the idea of achieving the agreed-upon moral conduct of the B-BBEE compliance discourse.

Axiological assumptions play an important role in declaring biases inherent in the researchers’ perspective about the discourse or phenomenon (Shahin, 2016). However, declaring biases is only a common practice in interpretive and critical paradigms, and not in positivism. This is because positivists believe that researchers ought to remove themselves from the inquiry so to avoid ‘contaminating’ the reality (Goldkuhl, 2012; Harman, 1962). Axiology is central to consistently expressing aspects of truthfulness, validity, and reliability of the research (Shahin, 2016).

5.2.3. Research strategy: Qualitative research

The current study follows qualitative research principles. Qualitative research is a multi-methods involving an interpretative and naturalistic approach to its subject matter (Guba &

Lincoln, 1994). In critical research, qualitative research principles ensure that the inquiry achieves reliability and validity (Ummaha, 2014). Furthermore, qualitative research is a relevant strategy because of the following characteristics identified by the following (Benbasat et al., 1987):

- data can be collected from multiple sources;
- multiple entities about the phenomenon can be examined, and
- it is suitable for an inquiry that asks questions of “why” and “how” about the phenomenon.

Unlike quantitative research, which limits the researcher to survey scales and testable theories, qualitative research offers methodological freedom. The researchers may choose from the plethora of data analysis methods to show the multiple realities of the phenomenon. In qualitative research, a phenomenon can be investigated through multiple data sources, analytical tools, and theoretical approaches (Yin, 2011). Quantitative research seeks to test hypotheses, making it purely deductive. Qualitative research, on the other hand, allows the theory to narrate the story, or the story to inform the development of a theory about the IS phenomenon. For this reason, the research instrument can emerge from the research problem, and/or a theory that best explains the relevant IS phenomenon.

5.3. Research sampling

The sample for the primary data was collected through in-depth interviews, with people in ICT organisations, people from B-BBEE rating agencies, and policymakers; and observations of a B-BBEE public policy hearing. Figure 5.1 summarises the data collection methods and the data sources. Secondary data was collected through document analysis from online news articles (ONAs), websites, reports and policy documents.

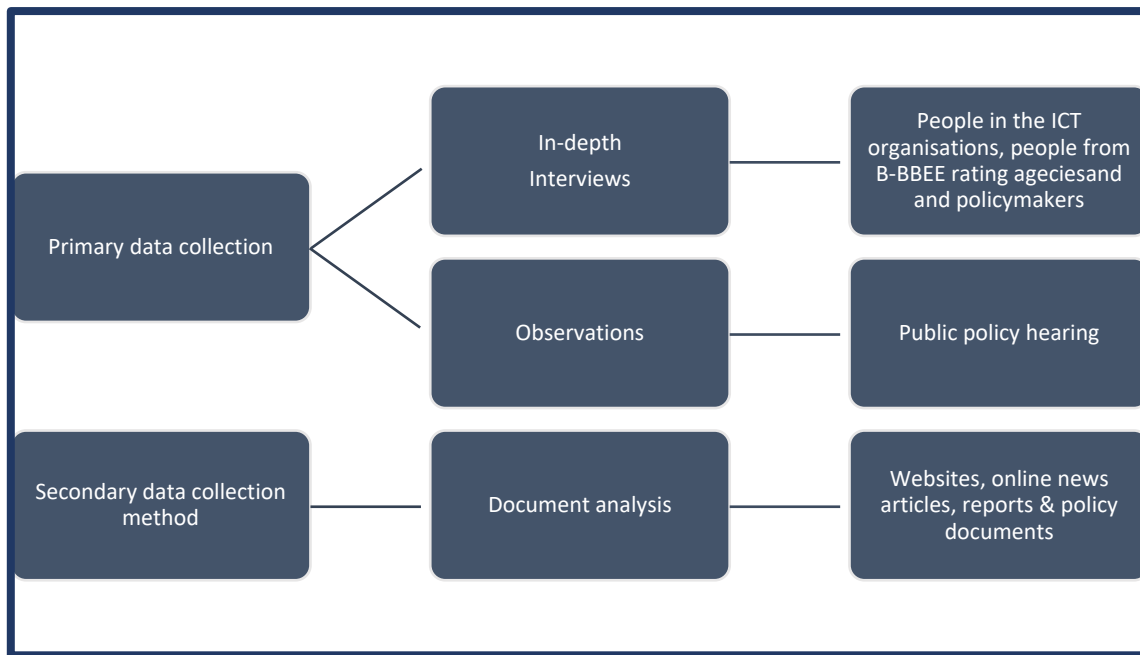


Figure 5.1: Summary of data collection methods and data sources

5.3.1. Purposive sampling strategy

We used purposive sampling to identify research respondents. Purposive sampling is also known as “judgement sampling” which refers to putting data sources through scrutiny (Etikan, 2016, p. 2). This allows the researcher to use judgments to avoid the mistake of collecting inappropriate data for the inquiry. We followed the principles of judgement sampling to identify subject matter (B-BBEE ICT Sector Code) touchpoints, where it was possible to gain primary and secondary data. Arguably, judgement sampling was useful in sifting secondary data to select relevant sources from the plethora of B-BBEE regulation information.

In purposive sampling, the researcher engages with key touchpoints of the phenomenon to obtain data that will best answer the research question (Naderifar et al., 2017). For example, an IS researcher investigating IT strategies used during a crisis will directly approach people who develop strategies as opposed to programmers. To identify the relevant touchpoints for B-BBEE compliance activities, we initiated engagements with a broad audience so that the feedback could point us to touchpoints. The two key engagements were:

- We presented a paper titled “A diagnosis of complexities inherent in the B-BBEE ICT Sector Code which hinder organisational compliance” at the African Conference on Information Systems and Technology (ACIST) at the University of Cape Town. ACIST is one of the biggest IS conferences that mostly attracts African researchers. Comments from the conference provided direction regarding the key industry players

and policymakers involved in the B-BBEE ICT Sector Code. The conference was also instrumental in initiating the secondary data collection process.

- In 2018, we attended the ICASA public policy hearing about their position on HDIs and B-BBEE ownership. During the hearings, we purposively identified presenters who worked with the B-BBEE regulation.

Purposive sampling is effective for a population that is difficult to access (Naderifar et al., 2017). As noted earlier, aspects of B-BBEE compliance in South Africa are sensitive both to the organisations and the beneficiaries. Consequently, it was difficult to obtain respondents to conduct interviews about B-BBEE. In an earlier study about the role of B-BBEE in the South African political economy, (Lindsay, 2015) observed that getting people to talk about B-BBEE from an organisational level was difficult, considering its sensitive nature as a racialised procedure. Purposive sampling enabled us to exhaust every area of B-BBEE to identify all kinds of research data.

5.3.2. Research sample size

The study collected data from ONAs (N=105), people from the ICT sector (N=8), policy documents (N=4), B-BBEE reports (N=6), and a public policy hearing (N=1), B-BBEE certificates (N=99), and websites (N=33). The study was conducted from three B-BBEE ICT Sector Code touchpoints. As in Table 5.2, these touchpoints are people in the ICT sector, news stories and reports about B-BBEE compliance, and B-BBEE policy documents.

Table 5.2: Three B-BBEE ICT Sector Code touchpoints and their data sources

Touchpoints	Data sources
People in the ICT Sector	<ul style="list-style-type: none"> • N= 2 Policymakers • N= 3 ICT Executives (ICT Execs) • N= 3 Verifications Agents (VAs) • N=1 ICASA B-BBEE Public policy hearing
B-BBEE ICT Sector Code news stories and reports	<ul style="list-style-type: none"> • N=105 ONAs • N= 33 Websites • N= 99 B-BBEE certificates • B-BBEE reports <ul style="list-style-type: none"> ○ N= 4 Empowerdex report ○ N= 4 ICT Sector Council Reports ○ N= 2 B-BBEE Commission ○ N= 3 MICT SETA ○ N= 2 ICASA reports

B-BBEE policy documents	<ul style="list-style-type: none"> • N= 5 policy documents <ul style="list-style-type: none"> ○ B-BBEE Act No. 53 of 2003 ○ B-BBEE Amendment Act, No 46 of 2013 ○ B-BBEE Codes of Good Practice 2007 and 2013 ○ B-BBEE ICT Sector Code of 2012 ○ B-BBEE ICT Sector Code of 2016
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5.3.2.1. People in the ICT sector

We conducted interviews with eight respondents from the ICT sector (see Table 5.3). The eight respondents include ICT Executives (ICT Exec), Policymakers (PM), and Verification agents (VA). The number of respondents was determined by saturation (Marshall et al., 2013). The eight respondents were asked similar questions but eventually started providing the same answers about aspects of B-BBEE compliance.

Table 5.3: Summary of key Interview respondents for the study

Quantity	Participant type	Description
3	ICT Executives (ICT Exec)	These are ICT sector employees who function at the executive level. They work with the B-BBEE ICT Sector Code at the decision-making and corporate strategy level. They provided data regarding strategies used to comply with B-BBE policies as well as the factors that influence the choice of those of those strategies.
2	Policymakers (PM)	These two participants were involved in the design of the first version of the B-BBEE ICT Sector Code OF 2012. Moreover, they also played an important in translating the B-BBEE CoGP into the B-BBEE ICT Sector Code of 2016. They provided information regarding aspects of the regulatory instrument (B-BBEE measurements), their views on ICT organisations' compliance behaviour, aspects which they feel are still difficult to navigate in the policy, and their perceptions on overall B-BBEE compliance in the ICT sector.
3	Verification agents (VA)	These are individuals who work in B-BBEE rating agencies that conduct verification activities to determine organisations' level of compliance. They provided information about B-BBEE calculations, B-BBEE elements that are prioritised by ICT organisations, and opportunities that lie in B-BBEE compliance.

5.3.2.2. ICASA B-BBEE Public policy hearing

Public policy hearings are mechanisms used by the government to facilitate citizen participation in public policy processes (van Deursen et al., 2014). In May 2018, we attended the B-BBEE public policy hearing hosted by ICASA. Table 5.4 presents the 15 organisations

that participated in the hearing and submitted their comments to ICASA regarding HDI B-BBEE ownership requirements.

Table 5.4: Organisations that participated in ICASA B-BBEE public policy hearing in May 2018

Name of organisation	Description of the organisation
1. American Chamber of Commerce (AMCHAM)	A business association that represents over 200 American organisations operating in South Africa. Amongst these entities are 26 ICT organisations.
2. Cell C	Mobile network operator
3. Internet Solutions	An internet service provider – a subsidiary of Dimension Data.
4. Business Carrier Coalition	Industry association which represents the interest of international organisations such as AT&T, Orange Business Services, BT, and Verizon.
5. Wireless Access Providers' Association of South Africa	A non-profit trade association acting as a collective voice for the wireless industry.
6. Vodacom	Mobile network provider
7. MTN	Mobile network provider
8. South African Communication Forum	An industry association which represents members from a broad group of respondents in the ICT sector, which includes class and individual licensees, as well as respondents who do not hold licenses who contribute to the ICT ecosystem in general.
9. Premedia	Broadcasting service provider
10. National Association of Broadcasters	Association that represents South Africa's broadcasting industry.
11. Huawei	ICT infrastructure and smart device provider
12. Multichoice	Cable network television provide
13. Internet Service Providers Association	South African non-profit company, and recognised Internet industry representative body.
14. Kagiso Media	Radio broadcasting provider and content creator
15. Liquid Telecommunication South Africa	ICT infrastructure and data centre provider

The primary purpose of the ICASA B-BBEE public policy hearing was to establish:

- how ICT organisations understand and interpret the HDI B-BBEE ownership requirement;
- sectoral suggestions about how ICASA should incorporate B-BBEE regulations, particularly the ownership element in the ECA⁶;
- the type of document that should be used to proof for HDI or black equity ownership;

⁶ Electronic Communications Act, 2005 (ECA) came into force on 19 July 2006 to regulate electronic communications in South Africa.

- if organisations understand the difference in terminology between HDIs and Black people as set out in ECA;
- the nature of confusion about the application of the 30% of HDI ownership for any organisation that was applying for class licenses; and
- if the B-BBEE ICT Sector Code was sufficient to regulate black equity ownership.

To facilitate this discussion, ICASA provided participating organisations with 14 questions. These questions are detailed in Appendix H.

5.3.2.3. Online news articles (ONAs)

The study harvested N=105 ONAs about B-BBEE compliance in the ICT sector published between 2012-2020 (these can be viewed in Appendix J). We selected this period of publications to capture the reactions of ICT organisations at the time that the first version of the B-BBEE ICT Sector Code was gazetted in 2012, and later amended in 2016. The number of news articles used in a study depends on the nature of the research and the research question (Lacy et al., 2001). Longitudinal research that seeks to see a change in the phenomenon over time tends to use saturation as the determinant for the news sample size (Lacy et al., 2001; Marshall et al., 2013).

The ONAs were harvested following two phases. The first search phase was a universal Google news search that produced seven pages of results. However, the ONAs were not mainly from the B-BBEE ICT Sector Code, but from various sectors in South Africa. To narrow this search, in the second phase we identified a trend that showed B-BBEE ICT Sector Code news appearing on ICT industry-specific news portals as shown in Table 5.5.

Table 5.5: ICT-specific news portals

Name of publisher	URL of the news portals	Number of articles
1.IT Web	https://www.itweb.co.za/	41
2.Mybroadband	https://mybroadband.co.za/news	9
3.IT Online	https://it-online.co.za/	11
4.Business Tech	https://businesstech.co.za/news/	9
5.IT News Africa	http://www.itnewsafrika.com/	8
6.TechCentral	https://techcentral.co.za/	4
7.Consultancy South Africa	https://www.consultancy.co.za/	4
8.BisNis Africa	https://www.biznisafrica.com/	1
9.BizNews	https://www.biznews.com/	1
10. Daily News Bulletin	http://www.dailynewsbulletin.co.za/news/	1
11. Engineering news	http://www.engineeringnews.co.za/	2

12. Fin24Tech	https://www.fin24.com/Tech	1
13. MoneyWeb	https://www.moneyweb.co.za/	2
14. SA News	https://www.sanews.gov.za/	3
15. PoliticsWeb	http://www.politicsweb.co.za/	1
16. Independent Online	https://www.iol.co.za/technology	7
Total		105

In these portals, only 105 news stories were selected based on their year of publication (between March 2012- and July 2020). The search criteria consisted of the following terms:

- B-BBEE
- B-BBEE ICT Sector Code
- BEE in the South African ICT sector
- Economic transformation in the ICT sector
- B-BBEE ICT Sector Code 2012
- B-BBEE ICT Sector Code 2016
- BEE compliance in the IT industry
- Affirmative action in the ICT sector of South Africa

In addition to the search, we also set a news alert on Google news (See Figure 5.2) to send articles with the words “B-BBEE ICT Sector Code”.

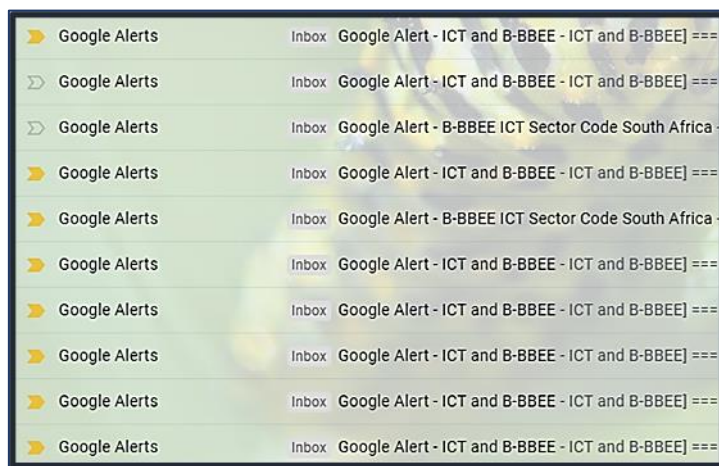


Figure 5.2: B-BBEE ICT Sector News Alert

These news alerts sent relevant news articles directly to our email. The alerts were also useful in keeping us updated about the constant changes in the B-BBEE regulatory environment. We monitored the Google news alerts until the end of the collection process in 2020 July.

5.3.2.4. Websites of JSE-listed ICT organisations at the time of data collection

Internet sources such as websites have been embraced as qualitative data sources since early 2000. The primary function of internet sources is to increase the diversity of data and in some cases, such as the current research, complement primary data (Benfield & Szlemko, 2006). The study consulted websites of 33 ICT organisations that are listed in the JSE (see Appendix D). Noteworthy, in the JSE, the number of companies listed is subject to change annually due to economic challenges. As such, this list might not be the same at the time of this publication. We used this source to gain insight into three aspects:

- how these organisations conceptualize or internalize B-BBEE compliance in corporate activities
- which department/division deals with B-BBEE compliance activities; and
- the racial make-up of the leadership and ownership structure.

For example, where an organisation place B-BBEE compliance under ethics and diversity tells a story about their conception of the function of B-BBEE compliance in their company. Moreover, the websites also revealed ownership information. The website section on the team or board of directors was instrumental in showing Black ownership as it relates to their “compliant” B-BBEE certificate. As illustrated in (see Appendix D), the website data was organized in three columns, the name of the company and the B-BBEE function and how it is conceptualised in the organisation.

5.3.2.5. B-BBEE certificates

We reviewed three certificates for each of the 33 companies from the B-BBEE certificate database called Beagle.co.za for a period of three years, i.e., 2016/17 to 2018/19 financial years. As shown in Figure 5.3, the database has a B-BBEE scorecard showing level recognition, and a Black ownership score with a link to download the certificate to view indicators of all B-BBEE elements. The aim of using B-BBEE certificates was two-fold.

- to understand how ICT organisations complied with B-BBEE, i.e., the B-BBEE elements they prioritise as the regulation changes; and
- to see how organisations are navigating Black ownership given the government’s concern about modest Black ownership of ICT entities.

Vodacom (Pty) Ltd							
VAT NUMBER: 4010139121							
LEVEL	VALID UNTIL	SCORE	SIZE	BLACK OWNERSHIP	BLACK FEMALE OWNERSHIP	MEASURED UNDER?	
1	28 May 2021		Generic	31.53	14.45	Rcogp	View Report
1	28 May 2020		Generic	27.06	11.97	Rcogp	View Report
3	30 May 2019		Generic	16.97	8.33	Rcogp	View Report
4	30 May 2018		Generic	17.23	8.41	Rcogp	View Report
2	15 May 2017		Generic	18.62	9.06	Cogp	View Report
2	28 Apr 2016		Generic	9.4	4.34	Cogp	View Report

Figure 5.3: Vodacom Scorecard from 2016-2021 (retrieved from Beagle.co.za)

5.3.2.6. B-BBEE policy documents

Qualitative researchers turn to policy document analysis when they need to understand its regulatory statements. A policy document is a starting place for understanding why actors behave in a particular manner while responding to it (Owen, 2014a). We analysed B-BBEE policy documents to see the changes in policy stipulations over time, and the interpretation of the B-BBEE Act through its regulatory instruments, i.e., CoGP. These policy documents are briefly explained as follows:

- The first policy document is the B-BBEE Amendment Act, No. 46 of 2013. This policy document is the amendment to the B-BBEE Act 53 of 2003 that was reviewed to understand the primary principles informing economic transformation in South Africa. This is the source document for all sector-specific regulations.
- The second documents were CoGP 2007 and 2013 which consists of regulatory measurements that were used to develop sector-specific B-BBEE regulations.
- The third policy document was the B-BBEE ICT Sector Code of 2012 – the first version of the ICT sector code.
- The fourth document was the B-BBEE ICT Sector Code of 2016 to understand the changes from the first version of the regulatory instrument and its implications on ICT B-BBEE compliance activities.

As noted in Chapter 1, Sector Codes are regulations specifically crafted for each economic sector to comply with B-BBEE. Therefore, as a data source, they are useful in understanding the stipulations and objectives of the B-BBEE policy within the ICT sector.

5.3.2.7. B-BBEE reports

We consulted 15 B-BBEE reports from four B-BBEE compliance and transformation organisations which tracked and monitor the B-BBEE compliance activities of 33 ICT organizations listed on the JSE. These organisations include Empowerdex⁷, the B-BBEE ICT Sector Council, the B-BBEE Commission, ICASA, and MICT SETA (see summary in Table 5.6). The rationale for 33 companies is based on the fact that listed companies are not transformed in the B-BBEE sense in terms of race and gender (ITWeb, 2016; A. Schofield, 2018). Despite low levels of transformation, listed organizations subject themselves to B-BBEE verification.

Table 5.6: Summary of sources for B-BBEE reports used in the study

Report	Organisation	The function of the report
Empowerdex Most Empowered Companies report	Empowerdex	To show top compliant organisations per sector.
B-BBEE ICT Sector Council Report	B-BBEE ICT Sector Council	Report on the overall performance of ICT organisations in B-BBEE compliance and transformation.
Major B-BBEE transactions report B-BBEE fronting cases	BEE Commission	To report on major B-BBEE transactions, their implications on the economy, as well as cases of organisations that circumvent the regulation.
MICT SETA annual report	MICT SETA	To show ICT skills availability and report on compliance with the skills development element.
ICASA Annual performance report	ICASA	To report on the annual performance of telecommunications and broadcasting companies in terms of profitability and B-BBEE compliance – specifically ownership and supplier and enterprise development elements

Empowerdex releases annual reports that rank companies from 1 to 100 that have gone through B-BBEE verification. The companies are listed in terms of their recognition levels 1-8, with 1 being the most compliant, and 8 being the least compliant. We observed B-BBEE

⁷ Empowerdex is one of the oldest and biggest B-BBEE verification agencies in South Africa.

compliance of the 33 ICT organisations on the four Empowerdex reports for three years (from 2016 -to 2019).

The B-BBEE ICT Sector Council has played a major role in capturing how ICT organisations included B-BBEE compliance activities in their operations since the 2012 B-BBEE ICT Sector Code. We used four B-BBEE ICT Sector Council monitoring reports. The reports indicate:

- the number of compliant ICT organisations.
- ICT organisations' focus areas in terms of B-BBEE elements.
- the overall level of transformation in the ICT sector.

The B-BBEE commission reports for 2018 and 2019 were selected because they provide annual details of B-BBEE compliance of all JSE-listed organizations. The reports also show details of the number of compliant organizations in terms of their size, i.e., large ⁸and QSE ⁹. Furthermore, the B-BBEE ICT Sector Code has been instrumental in exposing organisations that commit fronting offences.

The MICT SETA reports for 2016/17, 2017/18 and 2018/19 were consulted to track employment equity indicators in the ICT sector. These indicators show information about the number of Black people employed in the ICT sector. Finally, the ICASA Annual Performance reports show the B-BBEE performance of telecommunications and broadcasting organisations.

In-depth interviews involve gathering information about the respondent's overall involvement, perceptions and feelings about the given social phenomenon (Milena et al., 2008). We conducted eight in-depth interviews through questions guided by the conceptual framework. The in-depth interviews were conducted with respondents' policymakers, ICT executives, and B-BBEE verifications agents. The number of interviews conducted was informed by saturation (Guest et al., 2006). Saturation takes place when the respondents start having a similar pattern of responses regarding the subject matter.

⁸ Large entities are those with more that R50 million (\$ 2.8 million) turnover.

⁹ QSEs are ORGnisations with with an annual turnover of between R10 million (\$580,000) and R50 million (\$ 2.8 million).

The efficacy of the in-depth interview rests on the length of the interviews and the role of the respondents in the social phenomenon. For example, the top managers in (Earl, 1993) were selected for their proximity to the information systems strategy. Further, the interviews were rich; were between one-three hours long (Earl, 1993). Similarly, the eight respondents selected for this study are policymakers, ICT executives and verification agents who regularly work with B-BBEE.

5.4. Data collection methods

5.4.1. In-depth interviews

To intensify our qualitative endeavour, we employed in-depth interviews with eight (8) participants. In-depth interviews are ideal for a qualitative researcher who seek respondents to reflect deeper on the phenomenon (King & Torkzadeh, 2008). Milena et al., (2008, p. 1279) add that:

“In-depth interview is an effective qualitative method for getting people to talk about their personal feelings, opinions, and experiences. It is also an opportunity to gain insight into how people interpret and order the world”.

The need to use in-depth interviews rests on the notion of sensitivity. For example, Hollway and Jefferson (1997, p. 53) suggest that it would be challenging to collect data about the experiences of women in war zones or “life stories of Jewish survivors” without following in-depth interviewing principles. This study probes a sensitive topic. B-BBEE stems from a painful past and regardless of its noble intention, it has led to the marginalisation of certain groups in society (Mbandlwa & Anwana, 2020). Moreover, White people in corporate often feel that B-BBEE regulations make it difficult for them to thrive in their professional careers in South Africa (Horne, 2017).

5.4.1.1. Research instrument

As shown in Appendix A, we developed the research instrument based on the literature on factors influencing public policy compliance, the main research question and the three concepts from the conceptual framework for minimal compliance. Proponents of qualitative research believe that the researcher is also the instrument (Xu & Storr, 2012). This is because, during the initial stages of the inquiry, the researcher engages with literature to acquire knowledge of the research problem and the best data sources that would be useful to answer the research question.

5.4.1.2. Interviewing process

Of the eight interviews, three were face-to-case, and five were conducted via phone calls. the respondents of the face-to-face interviews could choose a location that would be comfortable for them given the sensitive nature of the study. All the interviews were conducted in English – there was no need for translation services. The interviews lasted for about 45 minutes. We followed the interview process informed by some guidelines considered useful by other qualitative researchers (Crowe et al., 2011a) (see Table 5.7).

Table 5.7: Guidelines followed during the interview process

Guidelines	How it was addressed in the study
<ul style="list-style-type: none"> Refining interview questions or research instruments to ensure that it moves the researcher closer to answering research questions (Crowe et al., 2011b). Ensuring that research questions are free from ambiguity (Turner, 2010). 	The research instrument went through refinements with the help of the thesis supervisor. This back and forth was done to ensure that the questions were open-ended and consistent with the research objectives and to avoid. Our interview protocol included questions about biographical data such as gender and occupation. Only the occupation was compulsory, the rest were optional.
Obtain research ethics from the relevant authority and populate consent letters (Kivunja & Kuyini, 2017).	Before starting the interviews, we obtained ethics from the University of Cape Town (UCT) (see Appendix B).
Collate recording and note-taking tools (M. D. Myers & Newman, 2007).	We purchased a voice recorder with rechargeable batteries to record the interviews. This was to avoid recording from a phone where data can easily be lost.
Informing the respondents in advance about the format of the interview (Marshall et al., 2013).	Identified respondents were sent emails with consent letters (see Appendix C) to sign before the interview process. In the emails, we also enclosed the interview questions for the respondents to have an idea of the question format.

5.4.2. Observations

Observations refer to immersing oneself in an event or activity to take notes about the phenomenon as it manifests in its natural context (Morgan et al., 2017). Observing social phenomena in their natural setting is instrumental in revealing insights that interviews may fall short to expose (Morgan et al., 2017). Before the field trip, the qualitative researcher must critically engage with “what, when and where to observe” (Yin, 2011, p. 126). In the public policy hearing, we were interested in observing how ICT organisations say they achieve Black ownership, and what areas of B-BBEE they find challenging. Often, that which a qualitative researcher observes is informed by their philosophical standpoint about the phenomenon in question (Morgan et al., 2017).

We observed the discussions in a public policy hearing hosted by ICASA (see the public invitation in Appendix F). Before travelling to the public policy hearing, we sent a request letter to make them aware that we informed the organisers in writing that would be participating for research purposes (see Appendix G). Details about the participants of the public policy hearing are discussed in Section 5.4 where all data sources are described.

5.4.3. Document analysis

The study used document analysis as a complementary data collection method. Document analysis is a “systematic procedure of reviewing or evaluating documents both printed and electronic (computer-based or internet-transmitted) material” (Bowen, 2009, p. 27). Document analysis is an iterative process which involves content and thematic analysis used to organise and interpret meaning from documents (Cardno, 2018). In most cases, document analysis follows an inductive approach to generating data (Owen, 2014b). This method is consistent with critical research because it allows the researcher to trace the historical situation of the phenomenon through documents (Mackieson et al., 2019). Moreover, document analysis is effective for case studies as it works as a scaffolding technique leading toward a holistic understanding of the phenomenon before venturing into the field (G. A. Bowen, 2009). In this study, document analysis laid the foundation for understanding B-BBEE compliance as a discourse. From policy documents to reports, through to company websites, it was possible to gain insights into the connection between the policy and how society reacted to it in the public sphere.

In policy analysis, document analysis investigates “what lies behind and within the policy document”, which affects its outcomes (Cardno, 2018, p. 625). Document analysis offers a policy analyst an opportunity to critically engage with policy to capture its evolution and its influence on implementation and compliance. To improve the validity of secondary data, qualitative researchers must highlight the details of each secondary data source which was consulted for the inquiry (Flowerday & Tuyikeze, 2016). In the current study, as the three policy documents went through amendments, so did the discourse on B-BBEE compliance.

5.5. Data analysis method

Researchers have a responsibility of selecting an appropriate data analysis method that can systematically interpret collected data. Data analysis is the process of interpreting information to inform conclusions about the research subject matter (Abbasi et al., 2018). To facilitate the analysis process, the study used NVIVO and Microsoft Excel to organise and prepare triangulated data for coding. Thematic analysis and content analysis are the

appropriate data analysis methods for the current study. The study is guided by the thematic analysis principles of Braun and Clarke (2019a). Content analysis was employed to provide a descriptive analysis of a certain aspect of online news stories used in the study.

5.5.1. Data analysis software

Researchers use various computer software to aid the coding process of their data. The bigger the research sample, the more difficult it is to organize it manually (Gibbs, 2015). This was the case in the current study. We coded the interview respondents in terms of their roles in their organisations and their activities regarding B-BBEE compliance. These were then uploaded to NVIVO for coding to identify themes associated with the research question. We then organised news articles with their hyperlinks and gave them codes from ONA1 to ONA 105. Thereafter, they were coded according to the main objective of the story to identify their agenda from the headline. Excel sheets also allowed us to code them according to publishing date to determine when certain stories were mostly published along with the period of B-BBEE policy amendments. Furthermore, we used Excel sheets to produce descriptive data for the news articles.

B-BBEE statements from the websites of the organisations were placed on Excel sheets according to their themes. We read through the statements to determine what the organisations call B-BBEE activities. For example, some called it empowerment while others called it transformation. We summarised rating information from Empowerdex Most Empowered companies through Excel sheets. This allowed us to determine the number of ICT organisations that have appeared on this list over four years; we graphically illustrated their rise and fall in their B-BBEE status using B-BBEE certificates from Beagle.co.za. We uploaded all 15 public policy hearing documents on NVIVO. NVIVO allowed us to code these submissions in terms of organisations' ideas of how respondents think ICASA should regulate HDIs and 30% Black ownership in the context of spectrum licensing. Finally, we uploaded both B-BBEE policies and reports and coded them directly from NVIVO.

5.5.2. Deploying thematic analysis

Thematic analysis is defined as the process of identifying patterns from the data (Ussher & Perz, 2015). Qualitative researchers employ thematic analysis to systematically identify and organize themes that tell a story about the phenomenon of interest (Braun & Clarke, 2019a). Moreover, through thematic analysis, themes can be identified through inductive and deductive approaches (Joffe, 2016). This is because thematic analysis is not restricted to any epistemological foundations or theoretical framework (Anderson, 2007). Thematic analysis

allows researchers to interpret and generate meaning for data through themes and sub-themes. Figure 5.4 illustrates the six iterative phases for deploying thematic analysis as prescribed by Braun and Clarke (2006). The six phases are familiarising yourself with data, generating initial codes, searching themes, reviewing themes, defining and naming themes, and producing the report (Clarke, 2006). We discuss the details of these steps in subsequent sections.

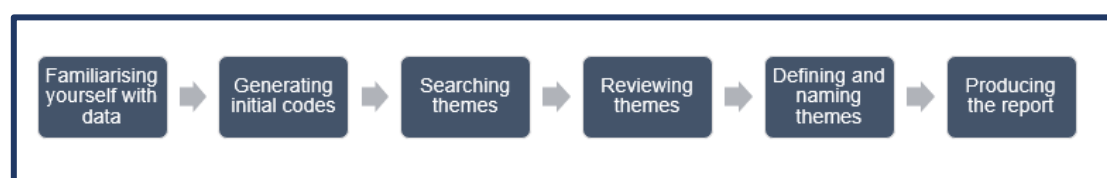


Figure 5.4: Six phases of thematic analysis(Braun & Clarke, 2019a)

5.5.2.1.Phase 1: Familiarisation yourself with data

In phase 1, the researcher immerse themselves in the textual data to identify initial ideas (Braun & Clarke, 2019a). This involves critically reading textual data with focus in the meaning of words and phrases to capture feelings and perceptions of the respondents regarding the phenomenon of interest (Fereday & Muir-Cochrane, 2006). We critically read the transcribed interviews and all secondary data (news, websites, policy documents, B-BBEE certificates, reports and public policy hearing documents) to understand initial ideas about B-BBEE compliance. Each of the data set was analysed with a purpose. For example, B-BBEE reports were analysed to identify both the status and the degree of organisational compliance with the B-BBEE ICT Sector Code. Another sample analysis is presented on Figure 5.5 where we analysed how ICT organisations internalise B-BBEE regulations in their activities. In Figure 5.5 MTN mentions that B-BBEE activities are hosted in the Sustainability Department and are the responsibility of an ethics committee. Essentially, how organizations internalize B-BBEE activities indicates how they conceptualise the function of B-BBEE, and how they comply given this function. In Figure 5.5, MTN puts a B-BBEE compliant certificate as a pre-selection criterion. This indicates the B-BBEE position in MTN corporate activities – especially procurement.

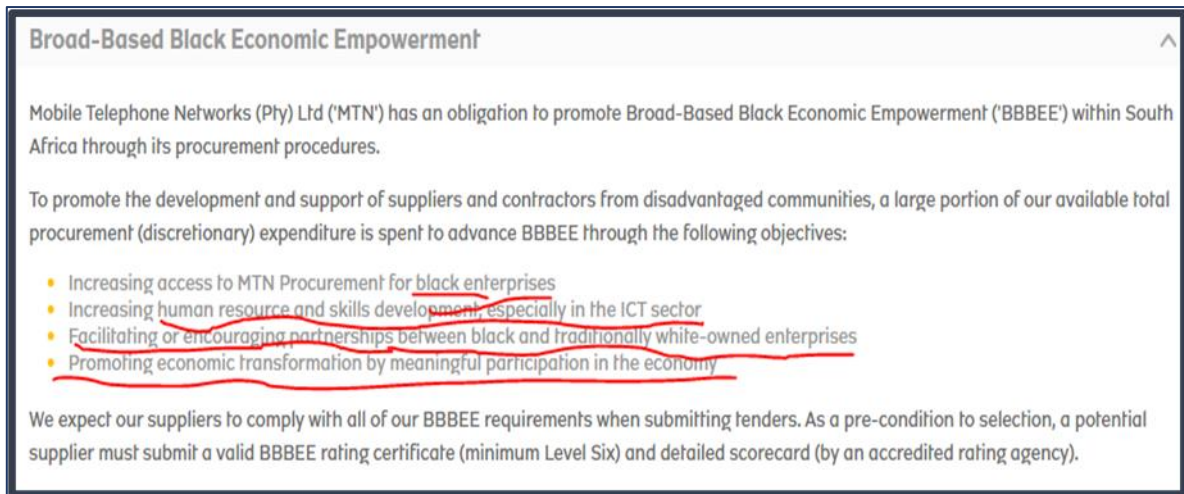


Figure 5.5: Example of MTN B-BBEE statement

We conducted further analysis on B-BBEE certificates to see the B-BBEE elements prioritized (as shown in their B-BBEE scorecards) by the organizations over three years, i.e., 2016/17, 2017/18 and 2018/19. The certificates were instrumental in revealing how organizations respond to the ever-changing policy discourse. For example, when the 2016 amendment came into effect, the B-BBEE compliance discourse echoed the need to increase Black ownership and support Black-owned businesses. Consequently, B-BBEE certificates would show if compliance matched this discourse.

Figure 5.6 is an example of two scorecards from Vodacom's B-BBEE certificates which show the increase in points of enterprise and supplier development element from 11 points in 2016/17 to 40 in 2018/2019. This indicates Vodacom's response to the change in this element which made it compulsory to support small enterprises through procurement and supply chain activities.

BBBEE Status Level		B-BBEE Status Level	
Level 2		Level 3	
Element Points Obtained	EO: 19.79 points; MC: 11 points; EE: 6.96 points; SD: 14.07 points; PP: 23.43 points; ED: 11 points; SED: 12 points	Element Points Obtained	EO: 16.08 points; MC: 17.56 points; SD: 18.98 points; ESD: 46.01 points; SED: 12 points
Black Ownership	18.62% Black Ownership; 9.06% Black Women Ownership	Discounting Principle Applied	No
Value Adding Vendor	Yes	Empowering Supplier	Yes
BEE Procurement Recognition	125%	<small>*Black Owned: >=51% and 8 points for Net Value *Black Women Owned: >=30% and 8 points for Net Value</small>	
Issue Date	16/05/2016	Black Voting Rights	19.11%
Expiry Date	15/05/2017	Black Economic Interest	16.97%
		51% Black Owned *	No
		30% Black Women Owned *	No
		Black Designated Group Supplier	No
		Modified Flow Through Principle Applied	
		Issue Date	31/05/2018
		Expiry Date	30/05/2019

Figure 5.6: B-BBEE scorecards from Vodacom's B-BBEE certificates

5.5.2.2. Phase 2: Generating initial codes

Phase 2 requires the researcher to generate initial codes from the data. Data coding is done by identifying textual extracts that reveal interesting insights about the phenomenon (Herzog et al., 2019). Moreover, generating initial codes involves a textual analysis that rely on linguistic devices to establish initial concepts from the data. As illustrated in Figure 5.7, we generated codes following two phases.

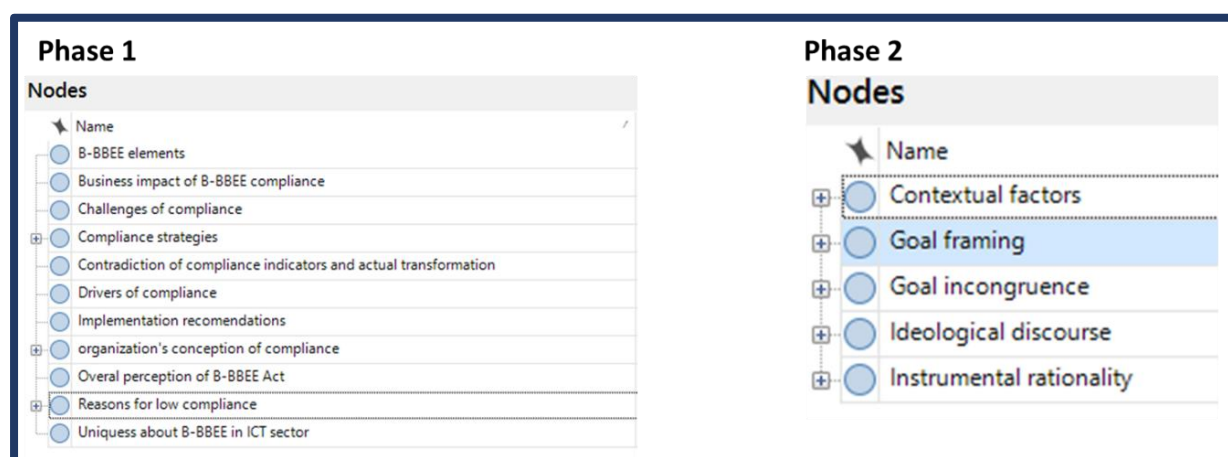


Figure 5.7: Two-phased approach followed to generate initial codes

In the first phase, we analysed the data inductively to identify how the respondents were describing the B-BBEE ICT Sector Code in terms of:

- the strategies they used to comply;
- factors or challenges which may deter compliance; and
- the overall perception of the regulation.

The second phase involved coding the data to identify themes that were similar to the constructs in our conceptual framework of minimal compliance. From the example, when a participant mentions that their strategy was informed by the need to increase points to get business from the government, this would be coded under the gain goal frame – a construct from the goal framing theory.

In another example, an analysis at the policy level was necessary to understand policy discourse elements which may hinder compliance. We inductively conducted a thematic analysis on four policy documents to identify aspects of the text that may hinder compliance. The documents were coded focusing on policy objectives, definitions of key principles and changes in stipulations from policy amendments. These are aspects of the policy stipulations which were analysed from a linguistic perspective to identify anything that may affect B-BBEE compliance. Figure 5.8 illustrates our NVIVO coding process from a single policy document.

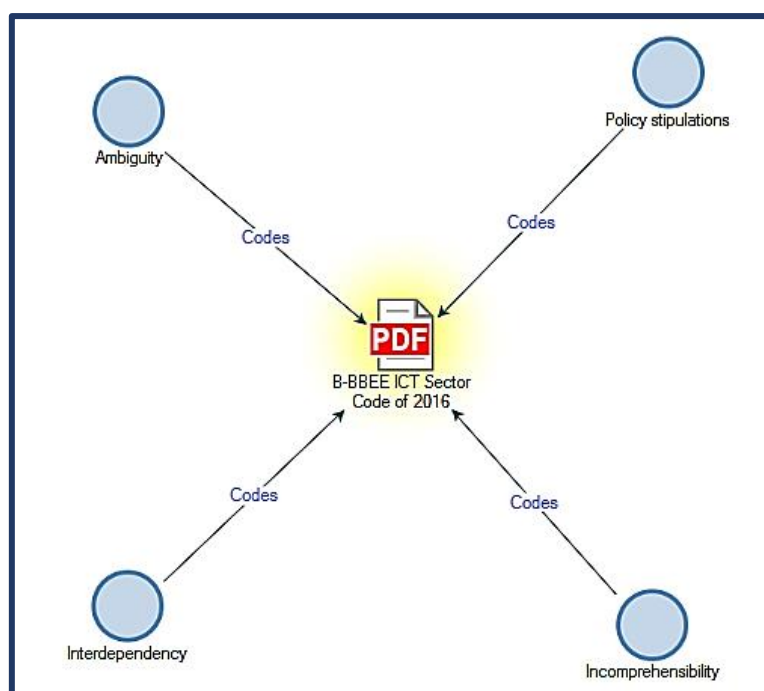


Figure 5.8: NVIVO coding sample at the policy level

We extended the analysis to the policy discourse elements such as implementation, policy network from B-BBEE reports and other policy actors as observed during the public policy hearing. For the latter, we critically read observation notes to identify themes that emerged from the presentations.

5.5.2.3. Phase 3: Searching for themes

The main goal of this phase is to identify themes that moves the researcher towards answering the research questions (Devitt & O'Neill, 2017). Phase 3 involves reading through the codes to search for themes that reveal explanations about the phenomenon. An example is the analysis we conducted on the ONAs to identify ideological discourses that ICT organisations employed to justify their minimal compliance behaviour. Braun and Clarke (2019b) recommend that the output of phase 3 must be a thematic map or table that shows themes with their relevant data extracts. In Appendix I is a table that illustrates the move from data extracts to the themes that became ideological discourses. Noteworthy, combining phase 3 with ideological discourses was instrumental in embracing critical theory aspects such as maintaining hegemonies. This is because ideological discourses used as themes show how actors justify their behaviour to maintain the status quo.

5.5.2.4. Phase 4: Reviewing potential themes

In this phase, the developed themes are reviewed to eliminate theme repetition. While reviewing the themes, researchers must ask reflection questions such as (Braun & Clarke, 2019b):

- is this a code or a theme?
- what are the inclusions and exclusions of the theme? and
- do the themes capture the richness of data collected?

Answers to these questions may result in researchers collapsing duplicated or under-developed themes (Maroun, 2018). Because thematic analysis relies on linguistics resources such as semantics, it might be that there are themes that mean the same thing. For example, during phase 2, the current study had two recurring themes: goal incongruence and organisational dissonance. However, while reviewing the themes, the sentiments on both themes were the same. Both organisational dissonance and goal incongruence are a consequence of misalignment of goals between two parties. It became apparent that we had to choose one theme to capture entropy that emerges when the regulatees' and regulators' goals conflicted.

5.5.2.5. Phase 5: Defining and naming themes

Phase 5 is where the researchers conceptualise identified themes. In this phase, researchers ensure that the identified themes are given names and they are defined within the boundaries of the research (Maroun, 2018). This is done to reduce ambiguity for readers while interpreting meaning of the overall study. For example, adoption in a psychology study may mean something different to adoption in ICT contexts. This level of thematic analysis involves using statements that are compelling in telling the overall story of the study. The output of analysis at this level is the key claims that the qualitative researcher has about the phenomenon within its context. Table 5.8 is an example of a claim and evidence regarding the perception of B-BBEE implementation context.

Table 5.8: Sample analysis for Phase 5 demonstrating data claim and evidence

The claim	Evidence
ICT organisations are pragmatic in their approach to B-BBEE compliance activities	"Business wants to make money. It is probably taking long for companies to comply because they see immediate benefits from complying with BEE" [ICT Exec 2].
Organisations with a higher B-BBEE status perceive B-BBEE compliance as a moral obligation to accelerate transformation.	"Obviously sitting as a previously marginalized individual I feel like it is the right thing to do" [ICT Exec 1].

Essentially, phase 5 is central to answering the “so what” questions about the study (Braun & Clarke, 2019a, p. 67). For this reason, most qualitative researchers tend to combine the tasks of phase 5 and phase 6.

5.5.2.6. Phase 6: Producing the report

Through theoretical elaboration, phase 6 is the highest level of analysis where qualitative researchers elucidate the implications of the study (Braun & Clarke, 2006). In the current study it means rigorous explanations of how contextual factors that affect minimal compliance with the of B-BBEE ICT Sector Code. We used this phase to reveal dominance, bias, and hegemonic nuances that strive to maintain the status quo regarding the South African affirmative action discourse. For instance, a statement such as *“if the government forces business to comply with B-BBEE, they will make South Africa unattractive to trade”*. While it is not explicit, the statement reveals the power of attractiveness for the South African economy. It also reveals the national bias often echoed in the media that B-BBEE compliance is anti-FDI (Thabela-Chimboza & Chigona, 2019).

5.5.3. Content analysis

The current study used content analysis to examine key trends from online news stories regarding B-BBEE compliance. Content analysis is a systematic method of analysing data by categorising aspects of the corpus (Elo et al., 2014). This method analyses qualitative data by identifying specific trends that tell a story about the phenomenon. Content analysis refers to the process of counting and making comparisons (Hsieh & Shannon, 2005). Table 5.9 presents our application of the three approaches to content analysis as introduced by Hsieh and Shannon (2005); these are:

- **Conventional content analysis:** involves classifying and deriving directly from the text data (Elo et al., 2014).
- **Direct content analysis:** entails starting the analysis process with a relevant theoretical framework.
- **Summative content analysis:** involves quantifying frequencies and key concepts over a certain period. This approach to content analysis captures changes in perspectives about a phenomenon over time (Hsieh & Shannon, 2005).

Table 5.9: Application of content analysis in the current study

Data source	Content approach	Analysis	The function of content analysis
Online news articles	Summative analysis	content	<ul style="list-style-type: none"> To identify the prominent objective of storylines and their frequency over eight years; and To identify the frequency of storylines overtime concerning B-BBEE compliance.
Websites of ICT organisations	Conventional analysis	content	<ul style="list-style-type: none"> To identify and group concepts used to conceptualise B-BBEE compliance; and To identify and group the departments or divisions responsible for B-BBEE compliance in organisations.
Online news articles	Direct content analysis (through the ideological discourse theoretical concept)		<ul style="list-style-type: none"> To identify major ideologies formed about B-BBEE regulations in the context of the ICT organisations; and To identify positive and negative framing that formed ideological discourses about B-BBEE compliance.
Policy documents	Conventional analysis	content	<ul style="list-style-type: none"> To identify areas of contradiction between policy statements and implementation. To identify ambiguous definitions of the policy stipulations; and To identify policy actors and institutional arrangements that facilitate B-BBEE compliance in the ICT sector.

Qualitative content analysis is instrumental for understanding the meaning of secondary data (Elo et al., 2014). For example, through content analysis, we identified meta ideologies dominating the B-BBEE discourse in the ICT sector during the different periods of policy amendments. To achieve this, we grouped 105 articles according to positive or negative sentiments. This relates to interpreting and quantifying overall views in terms of aspects that represent attractiveness (positive attitudes towards B-BBEE) and aversiveness (negative attitudes towards B-BBEE).

5.6. Achieving validity and reliability in the study

To address issues of validity and reliability in the study, we used some of Lincoln and Guba's (1985) components of trustworthiness in qualitative research. These are credibility, transferability, dependability, member checking, and peer debriefing (Pandey & Patnaik, 2014). Literature in qualitative research often presents validity alongside reliability. Validity in qualitative research deals with issues of validity by asking the question of how the truth claims emerge from an inquiry. Validity requires the researcher to critically reflect on the

appropriateness of selected ontology, epistemology, and methodological procedures employed to answer the research questions (Healy & Perry, 2009). (Whittemore et al., 2001) consider validity to be solely concerned with presenting the truthfulness of the inquiry, whereas reliability indicates the dependability of the study. In critical research, validity and reliability are achieved “when the researcher rigorously follows several verification strategies in the course of the inquiry” (Alheide & Johnson, 1998, p. 582).

5.6.1. Credibility

Credibility relates to an acceptable interpretation of the social reality of the phenomenon under investigation (Zhang & Wildemuth, 2009). Credibility is also known as internal validity because it lies at the centre of the researcher’s data collection activities (Morse, 2015). Credibility is an aspect of trustworthiness that requires researchers to show rigour and transparency in the data coding process (Elo et al., 2014). This study achieved credibility by following the three techniques as outlined by (Pandey & Patnaik, 2014): persistent observation, as well as theoretical and data triangulation.

5.6.1.1. Persistent observation

Persistent observation entails the investigator’s protracted engagement with aspects of the phenomenon that makes it manifest the way it does (Morse, 2015). These aspects could be human behaviour or norms established in specific contexts. Persistent observation is concerned with the rigorous process followed, and the time spent while collecting data to answer the primary research question. To intensify persistent observation of B-BBEE compliance, the following are the details of the approach to data collection:

- through news media, we observed ICT sector reaction (attitudes) toward the B-BBEE policy for a period of eight years (2012 -2020). This enabled us to capture reactions to the B-BBEE regulations during the multiple amendments of the B-BBEE Act;
- we observed B-BBEE compliance activities of the 33 JSE listed ICT organisations on Empowerdex Top 100 Empowered Company reports for a period of three years (2016 -2019); and
- we opted for in-depth interviews for deeper probing to gain more insight about B-BBEE compliance from respondents who engage with the policy daily.

Persistent observation also requires the researcher to provide richer descriptions of the case under investigation (Pandey & Patnaik, 2014). We dedicated Chapter 2 to describing the B-BBEE ICT Sector and the stakeholders that influence compliance activities. Moreover, we

engaged with the South African political economy to zoom into contextual factors that led to the establishment of B-BBEE regulations. Furthermore, we engaged with various policies to identify the relevance of B-BBEE regulations in the South African national ICT policy.

5.6.1.2. Triangulation

Qualitative researchers turn to triangulation when they seek to reveal multiple perspectives about the phenomenon (Morse, 2015). Through triangulation, the researcher makes efforts to answer the research question through multiple lenses (Bowen, 2017). The study was executed through two types of triangulation; theoretical triangulation, and data source triangulation (Turner, 2010).

When it comes to theoretical triangulation, the researcher uses multiple theoretical perspectives to explain the phenomenon (Pandey & Patnaik, 2014), using multiple theoretical lenses is instrumental when studying a complex phenomenon such as the B-BBEE ICT Sector Code. This study developed a conceptual framework that allowed us to identify contextual factors that influence minimal compliance with the B-BBEE ICT Sector Code from three perspectives: organisational perception of policy implementation context, organisational logic of action, and organisational legitimisation. The framework also uses multiple concepts such as goal framing, instrumental rationality, and ideological discourses to explain conditions that make minimal compliance with affirmative action thrive.

5.6.1.3. Data source triangulation

Data source triangulation refers to using multiple sources to collect data (Yin, 1999). Qualitative researchers use data source triangulation to achieve richness and “confluence of evidence” that answer the primary research question (Bowen, 2009, p. 28). We had two types of data sources. Our primary data sources included interviews with policymakers, ICT executives, and verification agents; and we observed public policy hearing proceedings about the B-BBEE ownership element. Our secondary data sources are news media, websites, B-BBEE reports, policy documents and B-BBEE certificates.

Data triangulation is consistent with the goals of a critical research paradigm because it allows researchers to examine the consistency of data obtained from varying periods through different methods to seek contrast of the findings on the same phenomenon (Patton, 1999). For example, we compared the views of public policy hearing regarding the 30% Black ownership and interviews. Both shared the view that it was not fair that the ICT sector’s Black ownership quota was more than the B-BBEE CoGP. Moreover, we compared views about overall B-BBEE compliance activities from news media and interviews; there was an

overwhelming sense that B-BBEE compliance is a complex process. Each of these data sources was able to outline the source of complexity and this was useful in explaining minimal compliance. Data source triangulation is instrumental in qualitative research because each source has a certain narrative about the phenomenon.

5.6.2. Transferability

Transferability is concerned with achieving external validity by ensuring that the findings of the study are transferable from one context or setting to the next (Morse, 2015). Proponents of qualitative research methods acknowledge that it is challenging to demonstrate the transferability of findings (Denzin & Lincoln, 2006a; Pandey & Patnaik, 2014). However, it is the responsibility of the researchers to ensure the potential applicability of their findings in other contexts.

In the current study, we demonstrate the conditions which lead to minimal compliance with B-BBEE. These conditions can be investigated across all economic sectors in South Africa. Transferability grants that the findings of the study should offer valuable and practical lessons for other contexts (Zhang & Wildemuth, 2009). From the current study, policy actors in other countries that wish to implement affirmative action and enforce organisational compliance may learn about common factors that may influence regulatory resistance.

Transferability requires the researchers to articulate the boundaries of their study to manage the expectations of the readers (Pandey & Patnaik, 2014). Boundary articulation is important given the linguistic or ambiguity issues associated with research titles and objectives which may interpret varying expectations.

5.6.3. Dependability

The dependability of the study may be achieved by a clear description of methods followed to collect and analyse data to arrive at the findings of the study (Elo et al., 2014). To ascertain readers the dependability of the study, researchers dedicate the methodology section to articulating the strategies employed to systematically identify the research samples, collect, and analyse data. Moreover, dependability relates to showing the audit trail of the research design process. In the current research, we have sample emails to some of our respondents, proof of ethics approval as well as sources of secondary data.

5.6.4. Peer debriefing

Peer debriefing refers to the process of identifying persons who are unbiased to provide impartial reviews of the research and its subject matter (Morse, 2015). We followed three

strategies of peer debriefing; writing and publishing papers in conferences; consultations with senior academics, and presentation at the University of Cape Town's (UCT) School of IT.

5.6.4.1. Writing papers from the inquiry and presenting research design at a PhD symposium

We have written two papers from the thesis. The first paper "A diagnosis of complexities inherent in the B-BBEE ICT sector" was presented at the African Conference on Information Systems and Technology (ACIST) in 2017. The main objective was to gain insight from senior academics about the significance of B-BBEE research in the ICT sector, and how it gets to be positioned in the IS field. The outcome of this presentation shaped the research paradigm employed in the research. Most comments emphasized that it was best to approach the B-BBEE as a political factor that affects doing ICT business in South Africa. Moreover, there was a consensus that although B-BBEE is a primary economic strategy in South Africa, it will be best to position it in affirmative action for the international audience to understand the study.

The second paper titled **"How does the South African ICT sector frame B-BBEE"** was presented at the South African Institute of Computer Scientists and Information Technology (SAICSIT) conference. The goal of this exercise was to identify whether it was sufficient to use online news as data sources to capture the aspect of minimal compliance with B-BBEE. One major comment emphasized the notion of bias relating to how people framed B-BBEE compliance. We were advised that the primary data collection instrument must include questions about contextual factors that are unique to South Africa which may hinder compliance with B-BBEE. A further recommendation was the online news data should be analysed critical theory concepts to appreciate the power nuances from the media discourses.

We presented the research design at the International Federation for Information Processing (IFIP) 9.4 - Social implications of computers in developing countries PhD symposium. IFIP is one of the biggest IS and computer science conferences that attract researchers from all over the world. The objective here was to consult the peers about selected research methodologies. One of the senior academics highlighted that the study must highlight national economic issues that hinder the achievement of B-BBEE compliance goals in South Africa. To achieve this, they further advised that we look for aspects that talk about the national economy in the secondary data. We coded news stories with these concepts in mind and these economic challenges are highlighted in the findings.

5.6.4.2. Consultations with senior academics in IS research

Senior academics were instrumental in explaining the relevance of the study in IS research. A majority of the highlighted that the data probing process must engage with aspects of the B-

BBEE regulations that may compete with certain goals of ICT organisations. Table 5.10 presents all academics consulted regarding the inquiry.

Table 5.10: Senior IS academics consulted

Academic	Field and Institution	Feedback
Brian T. Pentland	Business and Social analytics. Michigan State University	A literature review of the study must recognise that regulatory compliance is influenced by institutionalism. In that way, the study can capture how organisations react to regulations from an institutionalist perspective.
Suprateek Sucker	Qualitative research and Socio-technical systems. University of Virginia	The findings must also show how organisations reacted to the regulation as changes were affected by the B-BBEE policy. Moreover, findings must also present path dependence activities of B-BBEE compliance in the ICT sector. For example, as the government emphasized Black ownership, the discourse on Black ownership shaped the compliance behaviour of organizations.

5.6.4.3. Presenting at the UCT's School of IT

At the end of the write-up, we presented the findings of the study at the UCT's School of IT. The School of IT is a combination of the Department of Information Systems and Computer Science at UCT. The audience at this presentation were senior academics, post-doctoral fellows, senior researchers and PhD students from both departments. Moreover, the audience was a combination of researchers with both technical and sociotechnical backgrounds who offered feedback from a neutral perspective. Presenting on this platform allowed us to obtain feedback about the findings regarding B-BBEE compliance before we finalised the thesis for submission. The significant theme of the feedback from the presentation highlighted the need to position the B-BBEE ICT Sector Code within the context of the South African ICT policy. This aspect was addressed and is discussed in the case description chapter under Section 2.6.

5.7. Ethical considerations

The four primary ethical considerations in qualitative research include; obtaining informed consent, ensuring confidentiality and anonymity of respondents, and protecting respondents from potential harm (Orb et al., 2001). We obtained ethics approval from UCT (See Appendix B). Furthermore, we sent a consent letter (See Appendix C) to all respondents who accepted

the interview invitation. As shown in Appendix E, a letter of request was sent to ICASA to ensure that they are aware of the research objectives when we attend the public policy hearing.

In the South African context compliance with B-BBEE is a sensitive matter. A study of this nature required confidentiality for the respondents and accurate presentation of secondary data. Throughout the data presentation, we did not name organisations which our respondents came from. Moreover, our respondents were coded according to their roles in their organisations. There was no need for organizational permission as we were solely interested in individuals' perspectives on organizational compliance behaviours. For secondary data ethical considerations, we ensured that there was the accuracy of reporting with free exaggeration of statements (Irwin, 2013). Moreover, considering the use of news stories, there are no misinterpretations of quotes from the subjects – the statements were reported verbatim free from misinterpretations (Tripathy, 2013).

5.8. Chapter summary

The current chapter discussed the research design principles followed in the study. As summarised in Table 5.11, the primary research question was answered through the principles of the critical research paradigm.

Table 5.11: Summary of research design decisions

Topic	Description
Research area	Contextual factors affecting minimal compliance with the B-BBEE ICT Sector Code.
Research paradigm	Critical research
Research purpose	Explanatory
Philosophical assumptions	Ontology: Subjectivism Epistemology: Critical interpretivism Axiology: Ethics
Approach to Theory	Deductive
Conceptual framework of minimal compliance	Sensitizing concepts: <ul style="list-style-type: none"> • Policy implementation context • Goal framing • Instrumental rationality • Ideological discourses
Research strategy	Qualitative research
Unit of observation	ICT organizations
Unit of analysis	Minimal compliance
Data sources	<ul style="list-style-type: none"> • Primary sources: Eight members of the ICT sector and one ICT sector public policy hearing proceedings • Secondary sources: Online news stories, websites, B-BBEE reports, B-BBEE certificates, B-BBEE policy documents

Data collection	In-depth interviews, observations, and document reviews.
Data analysis	TA and content analysis
Components of validity	<ul style="list-style-type: none"> • Credibility • Transferability • Dependability • Peer debriefing

The research was informed by critical interpretive assumptions. We followed the principles of subjective ontology, and our axiology is ethics. We employed data triangulation and analysed data through TA and content analysis. Our approach to theory is deductive reasoning which embraces the availability of prior concepts with the potential of explaining minimal compliance. validity was achieved through employing aspects of credibility, transferability, dependability, and peer briefing.

6. ICT organisations' perceptions towards the B-BBEE policy implementation context

6.1. Introduction

This chapter reports findings on the question of; *how do ICT organisations perceive the policy implementation context of B-BBEE regulations?*. The primary data sources used to answer this research question were interviews, policy documents, and B-BBEE reports. In policy studies, perceptions, or attitudes that regulatees have towards the policy implementation context are instrumental for compliance enforcement (Gillwald, Mothobi, & Rademan, 2018b).

This chapter is organised as follows: The regulatory burden associated with B-BBEE compliance is discussed in Section 6.2. Aspects of the incomprehensible institutional arrangements that affect B-BBEE compliance are discussed in Section 6.3. In section 6.4. We explain the ambiguity of the B-BBEE ICT Sector Code regulatory definitions. Section 6.5. discusses the aspects associated with the difficulty of obtaining beneficiaries to comply with certain B-BBEE elements. Uncertainty of the B-BBEE regulatory environment is discussed in Section 6.6. The summary of perceptions towards the B-BBEE implementation context is covered in Section 6.7.

6.2. Regulatory burden inherent in B-BBEE compliance activities

The majority of the respondents perceived the regulatory burden inherent in B-BBEE compliance as a factor that may influence the degree of compliance. Regulatory burden refers to the cost of compliance that is incurred by regulatees (Peck, 2012). The regulatory burden is not only limited to administrative costs to the regulatees but also includes psychological costs - "anxiety generated by the threat of litigation" (Peck, 2012, p. 6). Our finding is consistent with (Buchak et al., 2018a) who concluded that regulatory burdens exacerbate non-compliance in the fintech contexts. The broader literature indicates that most of the compliance burden emanates from the regulations themselves, or the policy network that is overwhelmed by multiple actors (Buchak et al., 2018b).

6.2.1. Administrative cost

The administrative cost relates to the cost implications emanating from the initial analysis of the investment required for B-BBEE compliance. Most respondents echoed that the cost is the most complicated aspect because; *"businesses are pragmatic in their approach to legislation. They will comply if it makes economic sense for the organisation"* [VA 3].

The cost of compliance differs according to the size of the organisation. For QSEs, cost implications emanate from complying with each element. For example, QSEs need to allocate funds for complying with skills development to implement training activities. Cost implications for large organisations emanate from appointing a B-BBEE verification agency or consultancy to assist in the development and execution of the B-BBEE strategy. In addition, the bigger the organisation is, the bigger the budget for complying with the B-BBEE elements will be. For example, large entities also incur costs from head-hunting and training Black candidates to comply with the management control element.

"At number one I will put the cost as a challenge for SMEs [QSEs]. While they want to comply, their cash flow cannot handle the cost. The cost of getting a verification alone is a big expenditure" [VA 2].

"I heard our Managing Director complaining about the cost. She said they had incurred immense costs from the verification agency..." [ICT Exec 3].

The rating agency also performs B-BBEE consultancy which increases the cost. In most cases, the larger the organisation, the bigger the budget for a rating agency. This is because large entities have more B-BBEE activities to assess since they are expected to comply with all B-BBEE elements.

In addition to a budget for the B-BBEE consultant or a rating agency, there ought to be funds available to execute the B-BBEE strategy. This pertains to a budget for complying with each of the five B-BBEE elements. Some executives reflected on the cost associated with employing Black people which is instrumental to meeting management control requirements. Complying with the EE aspect of management control was perceived to be costly due to the expenses attached to hiring Black People, for example contracting head-hunters to find ICT-skilled Black People.

"Earlier, I mentioned that Black people don't stay long in employment. So we once had a software engineer who stayed for two months. This includes two weeks of training him on our software. I later heard that he was headhunted. So, we are talking about recruitment costs and his big salary for two months and left without any change in the company through his role. I think that's why they are passive in employing Black people at a higher role here" [ICT Exec 3].

"I don't really work in talent management, but a close friend of mine was stressed because they paid head-hunters a lot of money to get a Black guy to do business

intelligence and analysis. But the person did not stay more than three months and moved to a multinational that paid two times for with even more packs” [ICT Exec 1].

To increase their chances of obtaining Black candidates, organisations advertise with a direct call for EE candidates (meaning employment equity candidates). Figure 6.1 is an example of such advertisement from Amazon South Africa as retrieved from the main website.

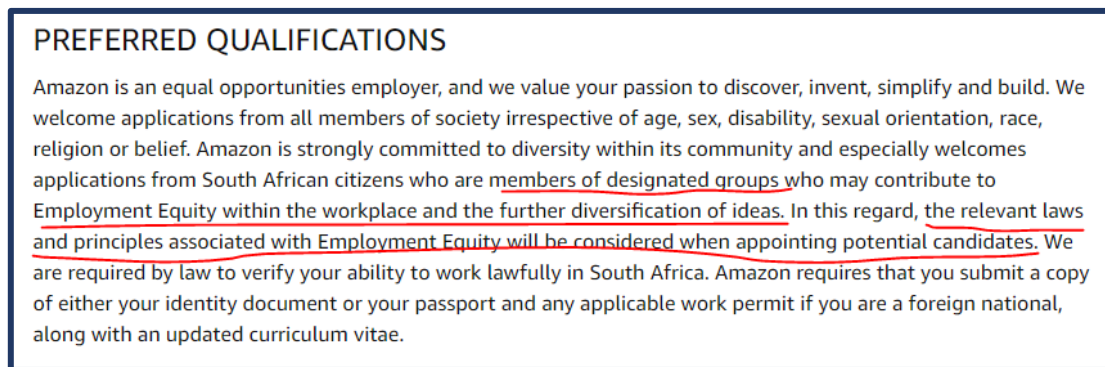


Figure 6.1: A sample job advertisement from Amazon showing EE criteria

Given the scarce skills situation in the ICT sector, a normal job advertisement may not be sufficient to find black candidates with specific skills. Therefore, organisations tend to commit a budget to headhunt. In some cases, an organisation may take the risk and hire a candidate who will need training, and this translates to another budget for skills development elements. Data shows that the cost in the skills development element is not only in cash, but there are opportunity costs incurred from:

- i. Time spent untangling the complexity of the MICT SETA skills development levy, employment active population that need to be considered when allocating training funds. Essentially, to comply with the skills development element, organisations must engage with the cost requirements stipulated in MICT SETA. The implication of doing this process wrong may result in complying with the element incorrectly. For example, learnership to the wrong population may translate into the non-allocation of points on the skills development elements.
- ii. The risk of training people who may leave the organisation, in turn, affects business productivity and profitability (Krüger, 2016). This was indicated by one of the ICT executives who highlighted the misalignment of goals between a recruiting organisation and a Black candidate who might be looking for a bigger salary package who job hops until the goal is met.

6.2.2. Psychological costs

Psychological costs emanate from the dissonance that emerges from the organisational realisation of contradiction between perceived cost and benefits of compliance (Peck, 2012). The contradiction in this context speaks to the aspect of return on investment which is not guaranteed while complying with B-BBEE regulations. For instance, when marketing B-BBEE compliance, the government promises to reward compliant organisations with government procurement contracts. Moreover, compliant organisations are said to be attractive to trade with based on their B-BBEE scores.

“The legislation has no regard for the cost of implementation on the part of the companies. In a parliamentary sitting in 2013 presenting on BEE in front of the portfolio committee for BEE, my opening statement was “my scorecard of x level cost me 2.5. Bn. The chairperson of the committee looked at Minister Davis and said why were we not told about this? Why are not told about the cost of implementing B-BBEE. If you think, if I’m investing R2bn for a Level 3 or 4, that investment is made to the economy and not to my back pocket. Why then can’t you recognize the cost of doing B-BBEE as one of the contributors to the economy because I spend so much money on other businesses to get points” [ICT Exec 1].

The sentiments above also point to dissonance that increased because of the government’s ignorance of the cost of implementing B-BBEE on the part of the regulatees. Moreover, the sentiments also indicate a lack of transparency among policy actors where committee members are not made aware of the cost of B-BBEE compliance.

This inconsistency is apparent in the cost of funding B-BBEE deals. These deals are almost equated to gambling because they often fail with both parties losing their financial assets (Rainier, 2017). B-BBEE deals involve organisations partnering with Black-owned businesses to comply with the ownership element. Although B-BBEE compliance is a corporate imperative, ICT businesses indicate that the cost of compliance is not good for their profitability.

“BEE deals are very expensive and are largely funded by debt. The legislation around BEE changes every two years and has in turn increased the cost of doing business” [VA 2].

For elements such as the enterprise and supplier development where businesses are expected to procure from Black businesses and empower black suppliers, companies may run at a loss looking for black suppliers for specific technologies. This finding was featured in report that assessed the reasons why most B-BBEE deals fail (Rainier, 2017). High equity prices, the cost

of debt to fund the deals, and difficulty of finding a market which affects dividends repayments were some of the reasons found.

6.3. Incomprehensible institutional arrangements

Most respondents echoed that the B-BBEE policy implementation context consists of incomprehensible institutional arrangements that increase complexity in the compliance process. The incomprehensibility of institutional arrangements manifests in three ways:

- interdependent regulatory instruments;
- multiple policy actors; and
- the complexity of the formula used to calculate B-BBEE points.

The B-BBEE ICT Sector Code consist of interdependent regulatory instruments that are backed up by multiple legislations that make the compliance process burdensome. This means that a measured entity must ensure that they understand the underlying legislative framework that constitutes each B-BBEE element.

In some cases, an organisation must follow principles in multiple policies to achieve compliance with one element. Both management control and the skills development elements require compliance with affirmative action legislation such as Employment Equity Act No. 55 of 1998; Skills Development Act No. 97 of 1998; Labour Relations Act No. 66 of 1995; Basic Conditions of Employment Act No.75 of 1997, to mention a few. To comply with the ownership element, measured entities must ensure that their efforts are consistent with Companies Act No. 71 of 2008 (Recall Section 2.5.2.1).

The B-BBBEE ICT Sector Code consists of multiple policy actors involved in implementation which often makes the compliance process long and costly. As discussed in Section 2.6.7, an ICT organisation may not complete compliance with the skills development element without consulting MICT SETA to ensure consistency with the skills levy. Through MICT SETA, the ICT sector also adheres to the national skills levy regulation, which is concerned with overall skills development for Black people. In essence, a transformation practitioner is required to understand accompanying legislation and professional bodies to develop a strategy to achieve an attractive B-BBEE status.

“To put it simply, you can find that there are at least three bodies that are responsible for regulating each element, and of these, you must be very knowledgeable of their requirements. So you cannot comply with the skills element without knowing the relevant SETA, skills levy, and some aspects of the Employment Equity Act...” [VA 2].

This incomprehensibility also stems from the process followed to comply with the B-BBEE ICT Sector Code. This involves identifying a BEE consultant who engages with the organisation's transformation efforts and is followed by a rating agency (Recall 2.6.4) that assesses and quantifies those efforts to produce a B-BBEE certificate. Most of the respondents accepted that an organisation cannot do the process by itself. One of the respondents indicated that a process is more difficult for an organisation that has subsidiaries.

"Ok, take our company. It's just that there are too many things to do when you have other subsidiaries. We have other small subsidiaries who need to be verified, that means, the process of getting a verification agency, and getting each HR [Human Resource] division to compile all compliance indicators become a long process" [ICT Exec 2].

The formula for calculating points to make up the final score for the B-BBEE certificates is incomprehensible. Most respondents mentioned that they found these calculations to be difficult because one needs to consider many aspects while calculating each element. For example, to measure the aspect of employment equity of the management control element, one must follow the formula in Figure 6.2. This formula takes account of final data from Statistics South Africa that indicates the total number of EAP of Black people both at the national and provincial level. This formula also requires organisations to have a racial composition that matches information from Statistics South Africa. For example, there are more Black people than Coloured people in the Limpopo province; therefore, the organisation's workforce in this location must have more Black people.

$A = \left(\frac{\frac{AM}{C} + \frac{CM}{C} + \frac{IM}{C} + \frac{AF}{C} + \frac{CF}{C} + \frac{IF}{C}}{6} \right)$	<p>AM – African Male CM – Coloured Male IM – Indian Male CF – Coloured Female AF – African Female IF – Indian Female</p>
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Figure 6.2: B-BBEE formula for calculating management control element

Regarding the complexity of B-BBEE elements, the majority of the respondents suggested that the ownership element was the most difficult to comprehend. In addition to its complexity, the ownership element may potentially not empower Black people.

"In my view it is ownership element. Let me explain why. You see the Black ownership is not straightforward at all. For example, the calculation of voting rights for Black women weighs more than other genders. Yes - it is necessary. But it makes it easy to front. You can easily have women who are independent director but be very compliant. Remember the point of this thing. How are women empowered - but how will this be possible when

you have few women at the top who do not really have activities at the company? Also, this is usually old women or very well-known or connected people” [VA 3].

The complexity of the ownership element rests on the formula used to quantify Black ownership. Firstly, the measured entity has to calculate Black ownership where:

- 1% of the equity in the hands of Black people is equivalent to 0.32 points;
- 1% of the equity in the hands of a Black woman is equivalent to 0.72 points.
- if the Black woman is a new entrant, a youth, lives in rural areas or with a disability, this would translate to 2.72 points.

Once the measured entity has identified Black ownership, it must calculate the points in terms of the three categories as stipulated by Section 2 of the B-BBEE ICT Sector Code as shown in Table 6.1. Beyond confirming that the black beneficiaries do fit the Black people parameters, the measured entity must ensure due diligent when it comes aspects such as prior ownership or historical equity debts (DTI, 2016).

Table 6.1: Characteristics of Black ownership used to calculate ownership points

Ownership indicator	Description	Weighting points
Voting rights	Exercisable voting rights in the hands of Black people	4
	Exercisable Voting Rights in the Entity in the hands of Black women	2
Economic interest	Economic Interest in the Entity to which Black people are entitled	4
	Economic Interest in the Entity to which Black women are entitled	2
	Economic Interest of any of the following Black natural persons in the Measured Entity.	3
New entrants	Black people who have any rights (voting or economic) but who never held equity instruments with the value of R50 million.	2

The B-BBEE Commission’s approach to achieving transformation with the Black ownership formula remains contentious in the B-BBEE discourse. The idea that one Black woman can increase the status of an organisation without notable empowerment raise concerns about the intention of the policy. This discrepancy is an example of how the complexity of institutional arrangements can have an adverse reaction to regulation. The B-BBEE ICT Sector institutional arrangements, specifically the ownership calculations and the scorecards, have made it easy for organisations to manipulate their ownership numbers (Empowerdex, 2017).

6.4. Ambiguous regulatory definitions

Regulatory ambiguity occurs when policy frameworks are unclear and lack predictability which has unexpected consequences for organisational competitiveness (Juan et al., 2017). The lack of a clear definition of the B-BBEE elements in various business contexts often results in multiple interpretations. The ambiguity could have arisen, partly, from having multiple policy actors regulating different elements in the ICT Sector Code. When there are too many policy actors regulating the same social phenomenon, there tend to be multiple interpretations of the same regulation (Kvalnes, 2019b).

An example of regulatory ambiguity arising from a B-BBEE element being regulated by multiple actors is Black ownership; it was regulated by ICASA and the ICT Sector Code Council. To clarify the confusion caused by this regulatory ambiguity, ICASA organised a public policy hearing for organisations in the ICT sector. Prominent industry players such as Vodacom, MTN, Telkom, and Cell C were present. During the discussions, ICT organisations echoed regulatory ambiguity that emerged from the difference between the two regulatory bodies. The discussions revealed that the regulatory ambiguity was entrenched in three major differences between ICASA and the ICT Sector Council regarding aspects of regulating Black ownership:

- the difference in reasons for regulating ownership between the two institutions.
- the two institutions require different documentation as proof of compliance
- difference in the classification of ownership beneficiaries.

ICASA and the ICT Sector Council had different reasons for regulating ownership. The former regulates Black ownership to grant the license to electronic communications and broadcasting organisations. In contrast, the ICT Sector Council regulates Black ownership to accelerate transformation by opening opportunities for Black people to be included in ICT organisations' ownership structures.

ICASA and the ICT Sector Council require different documentation as proof of compliance. The ICT Sector Council requires a B-BBEE certificate showing black shareholding and voting rights in the hands of Black People, and the rest of the B-BBEE elements to indicate overall B-BBEE performance. For ICASA, identity documents of individuals who are included in Black ownership of the entity are sufficient proof of compliance. However, ICT organisations felt that a B-BBEE certificate was sufficient as a monitoring system for B-BBEE compliance.

"It is not clear why the regulator cannot simply consider the B-BBEE certificate as a proof of compliance so that we do not go through the admin of getting all IDs. This is very complicated for large organisations with hundreds of people with shares" ... [ICT Exec 1]

Table 6.2: National Association of Broadcaster's response to how ICASA should monitor licensees' compliance with B-BBEE

3.9. How should the Authority apply and monitor compliance by the licensees with the ICT Sector Codes

The NAB believes this issue is easily addressed. The Authority can require licensees to submit copies of their B-BBEE certificates on an annual basis.

Another distinction fuelling ambiguity rests on their different classification of ownership beneficiaries. ICASA has three classifications of equity ownership beneficiaries; HDIs, HDPs, and Historically Disadvantaged Groups (HDGs), (ICASA, 2019) – see Figure 6.3.

- 1.3.22. HDI** – means historically disadvantaged individuals, a term commonly used in the stakeholder submissions although undefined and understood to mean an HDG and/or HDP;
- 1.3.23. HDG** – means historically disadvantaged group, referred to in the ECA and the Telecommunications Act, 1996;
- 1.3.24. HDP** – means historically disadvantaged persons, a term defined, albeit differently, in the 2003 Regulations and 2010 Licensing Regulations;

Figure 6.3: ICASA's classification of Black equity ownership

ICASA follows classification from other policies, for example, the ECA of 2005 and the Telecommunication Act of 1996. The B-BBEE ICT Sector Code uses the principles of ownership as defined in the B-BBEE Act no. 46 of 2013, which focuses on Black People. While the definitions explain one category of beneficiaries, they are defined differently from one regulatory body to the next. ICASA's classification neglects the complexity of the racial aspects of disadvantaged people. This is apparent in the definition of HDIs that does not mention Black people or any race whatsoever (see Figure 6.4). HDI does not mention Black people but considers beneficiaries as anyone disadvantaged (that is, actively oppressed) by the apartheid regime.

"Historically Disadvantaged Individual" (HDI) is defined as a South African citizen –

- 1) who, due to the apartheid policy that was in place, had no voting rights in the national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No. 100 of 1983) or the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993) (*"the interim Constitution"*), and/or
- 2) who is a woman, and/or
- 3) who has a disability

Figure 6.4: HDI definition and description of disadvantaged individual

The B-BBEE Act No. 46 of 2013 considers African, Indian, and Coloured people as legitimate beneficiaries of Black ownership (ICT Sector Council, 2017). To highlight the ambiguity of ICASA, MultiChoice's position was that they could not understand why ICASA adopts multiple classifications of Black equity ownership when the B-BBEE ICT Sector Code has a clear stipulation. In their discussion document, they mention that:

"Before its amendment in 2014, the ECA focused on equity ownership by persons from HDGs (Black people, women and people with disabilities although the terms are not defined in the ECA or the underlying statutes). On the other hand, the B-BBEE ICT Sector Code adopts a broad-based approach to the empowerment of "Black" people through a holistic range of measures of which ownership is only one factor – ultimately resulting in a B-BBEE contributor status level reflected as an output from compliance levels into balanced scorecard" (Multichoice, 2018, p. 3).

Ambiguous regulatory instruments breed poor policy coordination in established institutional arrangements. There is a lack of coordination between ICASA and the ICT Sector Council regarding regulating Black ownership in terms of entity size. To highlight this discrepancy, Internet Solutions mentioned that:

"ICASA should take cognisance of the B-BBEE ICT Sector Code in addressing this question [size of the entity]. The ICT Sector Code exempts micro-enterprises which meet the 10 million thresholds and below. Such enterprises are deemed to have B-BBEE status of Level 4 contributor with a B-BBEE recognition of 100%" (Internet Solutions, 2018, p. 4).

The B-BBEE ICT Sector Code stipulates that Black ownership is voluntary and that there is an exemption to this element for EMEs. However, ICASA overlooked this provision and requires HDI ownership across all sizes of entities. Most organisations expressed concern given that they have solely compiled compliance documents based on the stipulation in the B-BBEE ICT Sector Code only to be rejected by ICASA.

The inconsistency between ICASA and the ICT Sector Council in interpreting and enforcing compliance of Black ownership reveals a challenge at the policy implementation level that may discourage compliance. When there are regulatory overlaps between agencies regulating the same social problem, the regulatory environment becomes burdensome and inefficient. Given that the agencies have different purposes of regulating, with different proof of compliance and varying interpretations of legislative provisions, regulatees often remain conflicted on how best to comply. In Figure 6.5, MTN raises concerns regarding the involvement of two regulatory powers for a single regulation. MTN suggests ICASA seem to be imposing different regulatory requirements than those stipulated in the B-BBEE ICT Sector Code.



Figure 6.5: MTN's sentiments regarding ICASA'S regulatory power on B-BBEE

The involvement of more than one regulatory body may cause regulatory duplication. The latter occurs when multiple agencies regulate the same phenomenon but do so differently, to achieve the same regulatory goals (N. S. Abdullah et al., 2010). Although the two regulatory bodies hope to accelerate transformation, their respective approaches to transformation differ. There was also confusion regarding ICASA's blanket approach, which necessarily disregards the complexity of equity ownership requirements by the B-BBEE ICT Sector Code that is different for local and international entities. International organisations operating in South Africa are expected to use the EEIP as a vehicle for ownership. Therefore, they may not have IDs of Black ownership beneficiaries, given that they should only produce their proof of EEIP. For example, the American Chamber of Commerce, a representative of some multinationals highlighted that:

"When companies employ equity equivalent schemes (such as phantom share schemes) for employees, it is not recognised (by ICASA) towards the ownership target -even though these schemes are often lucrative for the employees and are more broad-based than pure

ownership deals. Recognition needs to be made for the equity equivalent scheme and its implementation” (American Chamber of Commerce, 2018, p. 6).

Essentially, ambiguity in policy documents is a loophole that increases creative compliance because of multiple interpretations (Mcbarnet, 2001). Ambiguous definitions of beneficiaries open a window for including groups that are already historically empowered. For example, an organisation may choose to include White women, who are also considered previously disadvantaged by the apartheid regime (Hall, 2016). This act in turn has negative consequences on Black women, who remain distinctly disadvantaged in corporate South Africa to date (Irene, 2017).

6.5. Difficulty to obtain beneficiaries for certain B-BBEE elements

The difficulty of identifying beneficiaries for prioritized elements such as management control, ownership and enterprise and supplier development was mentioned as one of the challenges influencing minimal compliance. This relates to the perceived scarcity of black skilled ICT candidates for the management control element; and the scarcity of ICT Black-owned organisations to be included in ownership and enterprise and supplier development.

The scarcity of black skilled ICT candidates was echoed to be exacerbating the challenge of filling EE positions in the ICT sector. In position advertisements, organisations are required to prioritise black employees. However, in the ICT sector, beyond identifying black skills, there has been a significant deficit of skills, which is fuelled by the dynamic nature of ICT technologies (ICASA, 2019).

“Skills or IT skills are not easy to get, sometimes companies have to get IT skills in India because not even White people have the skills. But you know what, I think the ICT industry has a bigger problem, the industry is too fast, and roles easily get extinct there” [ICT Exec 3].

“You know it is quite scary and funny when you hear even politicians speaking of digital migration when they don’t even know what it means. I think majority of jobs in 10 years’ time will be technology, and most African countries are not investing in the training or appreciating the new tech takeover” [ICT Exec 2].

The need to fill up EE positions has an impact on the organisation as they may spend time and money on head-hunting black candidates. Moreover, the scarcity of Black expertise in the ICT sector has also created an environment where skilled candidates job-hop constantly in search

of better packages. It might be that organisations provide better packages as a retention strategy.

"Yes, it does affect talent management processes, if we can't find a Black person we move on because business has to go on" [ICT Exec 1].

"I find that Black people who are skilled tend to be very expensive and mobile – which is the unintended consequences of B-BBEE compliance" [ICT Exec 3].

Most respondents accepted that the problem was not the lack of black skills in ICT, but that there was a national education crisis. This pertains to the tertiary qualifications that struggle to meet the competency demand across races.

"By the time people finish their IT degrees, a lot would have changed. And if they're not willing to learn new things, they become unattractive to employ" [ICT Exec 3]

The tertiary programmes provide students with a foundation, but to keep up, students must proactively learn new technologies. The ICT sector is highly technical and requires highly skilled individuals. The dynamic nature of the technology also makes it difficult to keep up with the skills demand.

Most VAs suggested that their clients were frustrated by the lack of Black-owned ICT organisations to include in their ownership structure or their supply chain. This frustration also emanates from the ability of Black-owned businesses to deliver on their business commitments. Most studies echo that Black-owned businesses underperform because they lack the leadership to steer the organisation to a profitable environment (Mafundu & Mafini, 2019). In the current study, we found that the challenge of capacity emanates from modest mentoring and Black-owned business limited services, which are required by both the government and large entities.

The South African government envisaged that the enterprise and supply development element would grant access to Black-owned businesses to participate in the industry. Furthermore, another component of complying with enterprise and supply development is mentoring Black-owned businesses, equipping them with the necessary knowledge to grow. This mentorship may include opening opportunities for networking to contribute toward development. However, this has not been the case for most organisations. ICT organisations may limit their contribution to Black-owned businesses to office infrastructure as opposed to business mentorship.

“Actually, I think it is sad that, but this has much impact on Black businesses. enterprise and supply development is in the centre of Black business empowerment, but sometimes this can be limited to the ones that large organisations can benefit from. So not everyone get to be mentored, some may just get office space or get to use our printers and phones”
[VA 2]

Most ICT Black-owned businesses are in the supply chain of large entities supported by enterprise and supply development. However, Black-owned businesses across all economic sectors remain marginalised (Ngcobo & Ladzani, 2019), due to historical barriers that excluded them from knowledge about financing business, as well as from developing beneficial business relationships.

Most Black-owned businesses have limited technological products. They generally offer services such as professional services, offsite development, enterprise resource planning implementations, and occasionally call centre services. However, they tend to lack the capital to manufacture tangible technologies. Older organisations have established relationships with manufacturing organisations, or they also have their manufacturing plants.

“So I’d say there are up and coming ICT Black-owned companies. However, from where I am standing, it is very easy for these black companies to provide services than products since they don’t have them often. They mostly procure to Black businesses in the form of third-party supplier. This is because most Black businesses do not have manufacturing facilities or the capital to venture in that” [VA 2].

Enterprise and supply development has been at the forefront of elevating Black-owned businesses by being included in the supply chain and on mentorship. Lack of capacity to handle other services or product requests from large organisations affects the lifespan of Black-owned companies in the supply chain. This is an indication that lack of capacity associated with business financing, limited manufacturing knowledge and plants, affect the success of enterprise and supplier development in the transformation process.

6.6.Uncertain B-BBEE regulatory environment

An uncertain regulatory environment is characterised by uncoordinated political developments that affect the policymaking and implementation process (Fourie et al., 2018a). Regulatory uncertainty has implications on overall corporate strategy, especially for operations that are solely dependent on specific regulations (Engau & Hoffmann, 2009). The primary source of uncertainty in the regulatory environment was perceived to be multiple amendments to the B-BBEE ICT Sector Code. Besides the fact that organisations must keep

up with changes in the actual B-BBEE legislation, they also need to keep abreast with the changes in the actual regulatory tools. When DTI amended the B-BBEE ICT Codes from 2012 to 2016, they increased the minimum requirement for recognition level from 100 to 135 (matching the actual B-BBEE Act No. 46 of 2013) and reduced the number of BEE elements from seven to five. They merged management control and EE elements into one element called management control, and preferential procurement with enterprise development into enterprise and supplier development. In addition, more points were allocated to priority elements such as ownership, skills development and enterprise and supplier development.

The implications of these changes were reflected in the ICT organisation's B-BBEE compliance performance in Empowerdex reports, i.e., Empowerdex Most Empowered companies. These reports show a ranking of organisations from 1 to 100 (1 being top performer, and 100 being non-compliant) in terms of their B-BBEE statuses or recognition levels across all South African economic sectors. A closer look into the reports of 2015, 2016, and 2017 (post amendment) indicates a drastic change in status, which was a consequence of the B-BBEE ICT Sector Code 2016 amendment. Between 2015 and 2016, ICT organisations complied with B-BBEE in terms of their B-BBEE ICT Code of 2012, which had not been amended per B-BBEE Act No. 46 of 2013. However, large entities were encouraged to align their compliance with the former while they wait for new codes.

As shown in

Table 6.3, while ICT organisations performed poorly (as shown in the ranking column), at least 10 organisations were making efforts to comply with the regulation.

Table 6.3 also presents that based on approximately 1,000 organisations that subject themselves to this survey, only 10 ICT organisations were found to be making efforts to comply with B-BBEE. For the years 2016 and 2017, this number continued to decrease, due to the changes in the regulatory environment (see

Table 6.3, Table 6.4 and Table 6.5). The changes in the legislation make it hard for visible transformation to take place.

“Businesses are complying, is just that the legislation makes it difficult for this to be visible. For example, when the legislation changed in 2016, many companies fall from higher levels to lower to non-compliance” [VA 3].

Table 6.3: Ranking of ICT organisations featured in 2015 Top Empowerdex Report in terms of B-BBEE scores

Company	B-BBEE Level	B-BBEE Ranking	B-BBEE Score
Gijima Group Ltd	2	20	88,49
EOH Holdings Ltd	2	22	87,78
Vodacom	2	23	87,73
Datacentrix Holdings Ltd	2	26	87,22
Mustek Ltd	2	27	86,71
MTN	2	32	85,72
Business Connexion (Pty) Ltd	2	36	85,23
TELKOM SA SOC Ltd	3	55	79,72
Adapt IT Holdings Ltd	3	72	75,16
Pinnacle Holdings Ltd	3	76	75,04

Table 6.4: Ranking of ICT organisations featured in 2015 Top Empowerdex Report in terms of B-BBEE scores

Company	B-BBEE Level	B-BBEE Ranking	B-BBEE Score
Vodacom	1	1	98,25

Company	B-BBEE Level	B-BBEE Ranking	B-BBEE Score
Adcorp Holdings Ltd	1	10	90,01
Allied Electronics Corporation Ltd	1	20	87,5
Mustek Ltd	1	23	86,79
Ansys Ltd	1	24	86,57
Datacentrix Holdings Ltd 2	1	29	85,14
Telkom SA SOC Ltd	1	40	80,54
Jasco Electronics Holdings Ltd	2	49	78,33
Mobile Telephone Networks (Pty) Ltd	2	53	76,6
Pinnacle Holdings Ltd	3	54	76,58

Table 6.5: Ranking of ICT organisations featured in 2017 Top Empowerdex Report in terms of B-BBEE scores

Company	B-BBEE Level	B-BBEE Ranking	B-BBEE Score
Ansys Limited	Level 1	1	124,55
Mustek Limited	Level 2	7	117,54
Naspers Limited	Level 3	12	111,57
Vodacom Group Limited	Level 4	20	101,91
Hudaco Trading (Pty) Limited	Level 9	62	45,34

The changes had implications on the scorecard for the three years. For example, for the 2012 codes, an organisation could be Level 1 with anything above 100 points. However, Table 6.5 presents that anything from 100 points and below can be placed at Level 4 (e.g., Vodacom has 101.91 at Level 4). Given that a B-BBEE status is an important part of business development, the drop from a level for Vodacom in 2016 to Level 4 in 2017 can have implications on their trading activities. Businesses that only do business with Level 1 organisations may turn Vodacom down.

6.7. Chapter summary

This chapter listed and described aspects which shape ICT organisations' perception of the B-BBEE ICT Sector Code compliance. Our data indicate that B-BBEE policy implementation context is largely perceived negatively. For example, aspects related to the cost of compliance, and lack of Black people in the areas of employment and business were cited as one of the reasons why ICT organisations may be discouraged to comply with control management and ownership elements. On the other hand, elements of the policy such as institutional arrangements and ambiguity in policy stipulations are echoed as aspects which increase the complexity of complying with the B-BBEE ICT Sector Code. Our findings are consistent with (Gillwald et al., 2018a)) that contextual factors such as lack of or clearly defined institutional capacity may affect satisfactory regulatory response.

7. Organisational logics of action shaping minimal compliance behaviour

7.1. Introduction

Once actors have shaped their perception towards a phenomenon, they devise behavioural response towards it. This chapter reports findings about how ICT organisations responded compliance requirements with the B-BBEE ICT Sector Code given their perceptions towards it. Therefore, chapter answers the question of; ***how do ICT organisational logics of action influence minimal compliance with the B-BBEE ICT Sector Code?*** ICT organisational behavioural decisions towards B-BBEE compliance are shaped by two logics of action: goal framing and instrumental rationality. Goal framing facilitates goal prioritisation while instrumental rationality is used as a tool to protect the achievement of organisational goals. Data sources for the current chapter include interviews, ONAs, policy documents, B-BBEE reports, and websites.

We organised this chapter as follows: Section 7.2 consist of a discussion on manifestation of goal prioritisation in ICT organisations. This section also outlines and discusses the three competing goals that ICT organisations prioritise while engaging with the B-BBEE ICT Sector Code. Section 7.3. provides details on how instrumental rationality is used to protect the achievement of organisational goals. We covered the summary of organisational logics of action in Section 7.4.

7.2. Manifestation of goal prioritisations through goal framing

Goal framing is an approach to goal prioritisation that accepts that regulatees have heterogeneous and competing goals (Etienne, 2011). Regulatees may pursue a goal of pleasure (hedonic goal), increasing profit (gain goal) and at the same time seek to achieve contextual appropriateness (normative goal). Regulatees use goal framing as a mechanism to interpret the goal of the regulation, and that of their organisations. The details of these goals are discussed in subsequent subsections.

7.2.1. Gain goals

Gain goals are motivations used to increase or protect one's utilities(Lindenberg et al., 2018). The gain goal frame is like Lunenburg's (2013) concept of calculative involvement, which suggests that regulatees engage objectively with the regulation to identify the 'what's in it for them'. Calculative involvement with regulations enables regulatees to evaluate the negative

effects of the sanctions on their resources. In most cases, if the sanctions have minimum impact on these resources, regulatees may gravitate towards non-compliance. This is common in capitalist contexts, where the need to increase economic gains takes precedence (Etienne, 2011). We identified three common gain goals that shape minimal compliance with the B-BBEE ICT Sector Code. As illustrated in Figure 7.1, these are global competitiveness, domestic B2B attractiveness; and securing government contracts.



Figure 7.1: Gain goals shaping B-BBEE ICT Sector compliance

7.2.1.1. Global competitiveness in the context of FDI and ICT offshoring

Global competitiveness is one of the primary determinants for countries to be involved in international trading (Schwab & Zahidi, 2020). In the ICT sector, global competitiveness may attract FDI and offshoring opportunities. Regionally, due to connectivity, technological advancement and a thriving ICT sector, South Africa is considered one of the most attractive destinations for FDI and offshoring (Omoju, 2017). This study indicates that most ICT organisations prioritised the goal of being attractive to international markets. In this instance, ICT organisations focus on what makes them globally attractive while deserting domestic regulatory responsibilities.

“The sector also wants to compete globally but not always play catch up with other countries. For this reason, global competitiveness takes precedence over the need to keep up with local regulatory compliance” [VA 3].

A major concern for the most organisation was the conflict between keeping abreast of global technological advancement and aligning themselves with rapid changes in the domestic regulatory environment. The uncertainties in the B-BBEE regulatory environment are a consequence of inadequate coordination among the multiple policy actors involved in the policy process. One of the factors affecting global competitiveness attractiveness is the

national coordination of regulations and other public sector agencies that harmonise business operations (Kearney, 2019). If the coordination of domestic regulation takes a long to make policy decisions, ICT organisations tend to focus on other regulations that would make them attractive to compete in the global market. Therefore, attention to domestic regulations takes a back seat and collective compliance with domestic regulations such as the B-BBEE ICT Sector Code declines.

7.2.1.2. Securing government ICT contracts

The findings of the study show that the need to secure government procurement contracts was one of the factors that shaped minimal compliance with the B-BBEE ICT Sector Code. There has been an increase in government procurement contracts due to South Africa's digitalisation process. Therefore, to obtain these contracts, ICT organisations strive to achieve high B-BBEE levels (for example, Level 1). Most government contracts advertisements require B-BBEE-compliant organisations.

"I'd say people just want tenders [government procurement contracts]. They want to do business with the government...don't you wonder how a company that was struggling with compliance suddenly become Level 1 or 2?" [VA 1].

Having an attractive B-BBEE scorecard increase the chance for ICT organisations to secure government contracts. Level 1-4 B-BBEE status or recognition level is considered sufficient to trade with the government. For this reason, ICT organisations develop strategies that are targeted at increasing the points for attractive B-BBEE status.

VAs believe that most SMEs would not comply with B-BBEE if it were not for government procurement contracts. Despite these sentiments, SMEs are viewed to have the potential for elevating sectoral transformation.

"On the other hand, SMEs may be the hope for transformation. But is solely because they make from government tenders – so most of them comply to secure these contracts. Otherwise, they would not" [VA 3].

SMEs are prominent in the IT tender space because government contracts are their main source of revenue (Statistics South Africa, 2020). The goal to secure government contracts by increasing B-BBEE points has implications for solving the intended social problems of the regulation, where *"It is mostly for getting government and SOE businesses. There aren't any other social reasons that I know of from what I have observed in the industry"* [VA 2]. This sentiment indicates industry actors' detachment from the social reason for B-BBEE compliance.

7.2.1.3. Domestic business-to-business (B2B) attractiveness

Domestic B2B attractiveness relates to achieving an attractive B-BBEE status to attract business from local organisations that trade with B-BBEE-compliant organisations. It was noted that: *“if the client wants a good BEE score, then the organisation would do anything to get a better score”* [VA 3]. This goal is imperative for businesses with few government contracts, or without international business activities. ICT organisations strive to comply as a response to the growing pressure from large entities that require a B-BBEE certificate at the door before any business transaction. Essentially, B-BBEE scorecards have become an important part of the business development process.

An announcement of a new and attractive B-BBEE status that explains how the status was achieved gives the said organisation a competitive edge.

“AYO’s primary competitive advantages is its B-BBEE ownership credentials and its ability to leverage global relationships to deliver both local and international services and products to multinationals” [ONA 104].

The unintended consequence of chasing B-BBEE points is that organisations that do not do business with the government or other organisations that require a B-BBEE certificate may choose not to comply with B-BBEE regulations. Essentially, if they can be competitive in their market without a B-BBEE certificate, they see no need to comply.

“But that’s not the problem – the problem is the goal of it – getting points to get tenders [government procurement contracts]. If this point story could stop, people will see the importance of complying and the government could succeed” [ICT Exec 2].

7.2.2. Normative goals

Normative goals refer to “acting pro-environmentally” (Lindenberg & Steg, 2007a, p. 117). To achieve these goals, regulatees consciously make efforts to comply with the regulation as per the established norms. Figure 7.2 illustrates some major themes that emerged regarding normative goals. These themes summarise some normative goals for complying with the B-BBEE ICT Sector Code.



Figure 7.2: Major themes for normative goals that shape B-BBEE ICT Sector Code compliance

Figure 7.2 demonstrates that the pursuit of normative goals has a higher chance of addressing social issues. One of the policymakers emphasised that organisations that view B-BBEE compliance as the primary tool of empowerment tend to go the extra mile to improve transformation indicators. *“Others will go beyond the minimum requirement and try to solve the transformation problem”* [PM 1]. Organisations seeking to satisfy this goal view B-BBEE as the right thing to do both for their business and the beneficiaries of the regulation, i.e., Black people.

“We are doing it because it is the right thing to do for South Africa. Additionally, the strategy is informed by ethics – the need to do the right thing” [ICT Exec 1].

“Since the government formalised its expectations of empowerment in the private sector, we have exceeded them – not by chasing after statistics, but by embracing the ethos and intent of B-BBEE” [ONA 12].

“We have a moral issue. Do we proceed and continue doing what we think is right or do we now start thinking of reducing that cost because the codes say so, and stop contributing to the upliftment of Black people?” [PM 1].

Normative goals manifest through B-BBEE compliance strategies. Organisations that viewed B-BBEE compliance as a moral obligation, designed empowerment-targeted strategies that were embedded in their corporate strategy. *“In Company A (pseudonym), B-BBEE is part of life, it is interwoven in the business strategy”* [ICT Exec 2]. Regulatees seeking to achieve this goal may feel a sense of responsibility to contribute to the betterment of others, particularly in the case of affirmative action policies such as B-BBEE.

Other ICT organisations simply comply with B-BBEE to respond to domestic regulatory requirements. *“For our company, I think it is simply to respond to the regulatory requirements of South Africa”* [ICT Exec 3]. This is similar to responding to coercive powers out of fear of punishment. Although the punishment of non-compliance is not explicit, most ICT

organisations are becoming aware that B-BBEE compliance is imperative for operating business in South Africa.

The normative goal prompts regulatees' need to develop compliance structures and strategies to best fulfil the regulatory requirements in each context. A compliance department in ICT organisations is an example of such a structure. In addition, As illustrated by Pinnacle Holding statement in Figure 7.3: Pinnacle Holding B-BBEE statement, organisations may also integrate normative goal frames with their organisational culture where, for example, the need to comply with certain policies will be placed in their mission statements to imply that regulatees value complying with prescribed rules. This is common practice for large and/or high-profile organisations such as Vodacom, Accenture, Telkom, and Pinnacle Holdings.

Pinnacle is fully committed to the empowerment and transformation within our organisation as we continuously work towards the upliftment of previously disadvantaged groups within South Africa, by providing equal opportunities to all employees regardless of their gender and or ethnic origin as we recognise the value of diversification in the workforce. We also encourage historically disadvantaged resellers and resellers by means of support, mentoring and incentives.

Figure 7.3: Pinnacle Holding B-BBEE statement

To achieve the normative goal, organisations also determine a department or division which facilitates B-BBEE compliance. Appendix E shows how organisations conceptualise B-BBEE compliance within their business activities, and also shows departments that are responsible for compliance. At Telkom, B-BBEE compliance is viewed as transformation and sits within the corporate citizenship function. A details discussion about how ICT organisations conceptualise B-BBEE compliance is in Section 7.3.1.

7.2.3. Hedonic goals

Hedonism is a psychological pursuit of pleasure or feeling good about a given behaviour (Gerow et al., 2013a; Myyry et al., 2017). Of the three goals, the hedonic goal is the most emotive and it tends to be an emotional response to regulatory requirements. However, due to its emotive aspect, hedonic goals are challenging to identify at the organisational level (Van Wijk & Six (2014). Despite this assumption, we found that hedonic goals manifest in the context of reputation management. Through B-BBE status announcements in the media, organisations are made to appear like those that are involved in the transformation. As one of the ICT executives indicates below, an attractive status makes organisations appear involved in the transformation.

“May be to look good for the government. I think it is a good think to have a Level 1 status because people think you are a progressive organisation so it’s good for the business” [ICT Exec 2].

Noteworthy, aspects of hedonic goals were insignificant from the analysed data. ICT organisations have overlapping goals.

“But I think the strategy is also driven by the need to remain competitive in the ICT sector. So that’s why we ensure that we make it on the Empowerdex list of empowering companies” [VA 3].

Some organisations may comply with the B-BBEE ICT Sector Code to maintain a good perception of their brands. A good reputation is equivalent to achieving a competitive edge; hence we are arguing the overlap between the gain and hedonic goals.

7.3. Protecting achievement of goals through instrumental rationality

This section demonstrates how instrumental rationality manifests as a logic of action used to protect prioritised goals. Throughout the empirical analysis, we established that instrumental rationality affords regulatees various tactics to go around the regulation. We argue established that instrumental rationality manifests through:

- the steps followed to comply with the B-BBEE ICT Sector Code;
- programmes employed to comply; and
- culture of compliance that prevails in the ICT sector.

7.3.1. Steps of the B-BBEE ICT Sector Code compliance process

Understanding the scorecard is a major task in initiating the B-BBEE compliance process (Chopra, 2017). This is because the scorecard varies across sectors based on transformation targets as stipulated by DTI. LFP Group, one of the largest B-BBEE and transformation consultancy, identified seven generic steps followed by organisations to comply with B-BBEE. In no specific order, these steps are consistent with the stipulation on the B-BBEE ICT Sector Code regarding compliance (see Table 7.1). We demonstrate aspects of this process and how they influence minimal compliance with the B-BBEE ICT Sector Code.

Table 7.1: Steps of B-BBEE compliance process (LFP Group, 2019)

Step	Description
1	The internalisation of the B-BBEE policy in the organisation.
2	Understanding the scorecard.
3	Pre-analysing the organisational gaps regarding transformation, e.g., ownership, number of Black people employed, supply chain profiles, or current CSI initiatives.
4	Identifying a B-BBEE rating agency
5	Collate relevant company documents and identify all stakeholders to be involved in the compliance process, e.g., MICT SETA.
6	Developing a B-BBEE strategy.
7	Converting organisational compliance efforts into points for B-BBEE certificate/scorecard

7.3.1.1. Internalisation of B-BBEE policy by ICT organisations

Internalisation is both a psychological and sociological process where social actors integrate new values and beliefs into their system (Fairclough, 2012). From the websites of 33 ICT organisations, eight did not have any information regarding B-BBEE compliance beyond their B-BBEE certificate. Internalisation involves using the power of language to give the regulation a name (conception) and identifying a department or business function for B-BBEE compliance. A summary of how these organisations conceptualise B-BBEE compliance activities can be viewed in Appendix E. Majority of organisations conceptualised B-BBEE compliance activities as B-BBEE verification and transformation (

Table 7.2). In these organisations, B-BBEE compliance was the responsibility of the social and ethics committee and corporate governance (

Table 7.3). Few organisations conceptualised B-BBEE compliance as a ‘ethics’ or ‘governance’ and place the compliance activities as human resources, diversity and inclusion, sustainability, and legal and investor relations.

Table 7.2: Conceptualisation of B-BBEE compliance activities in UCT organisations

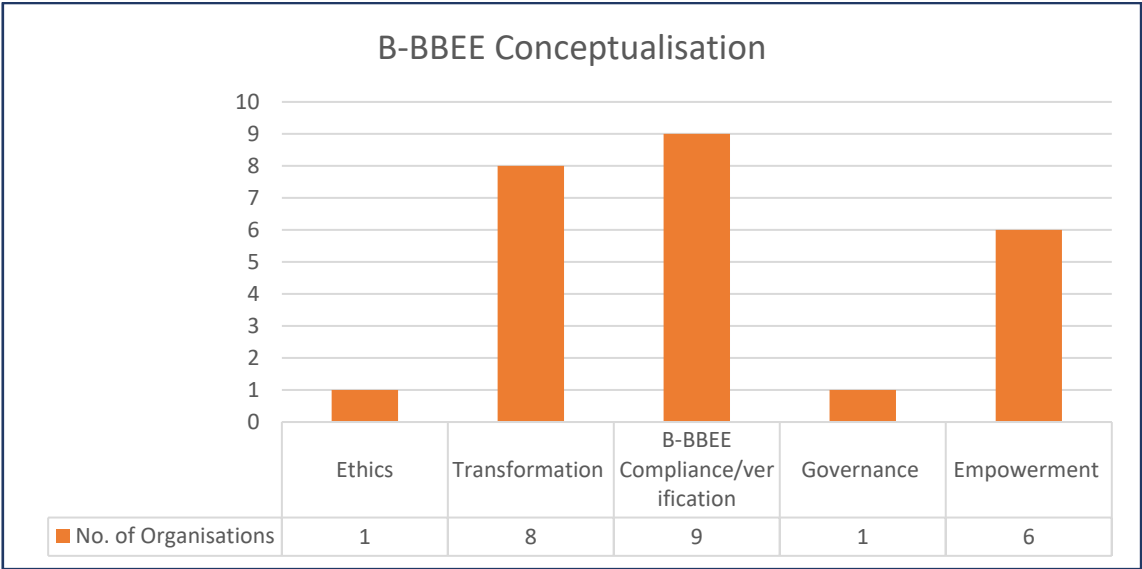
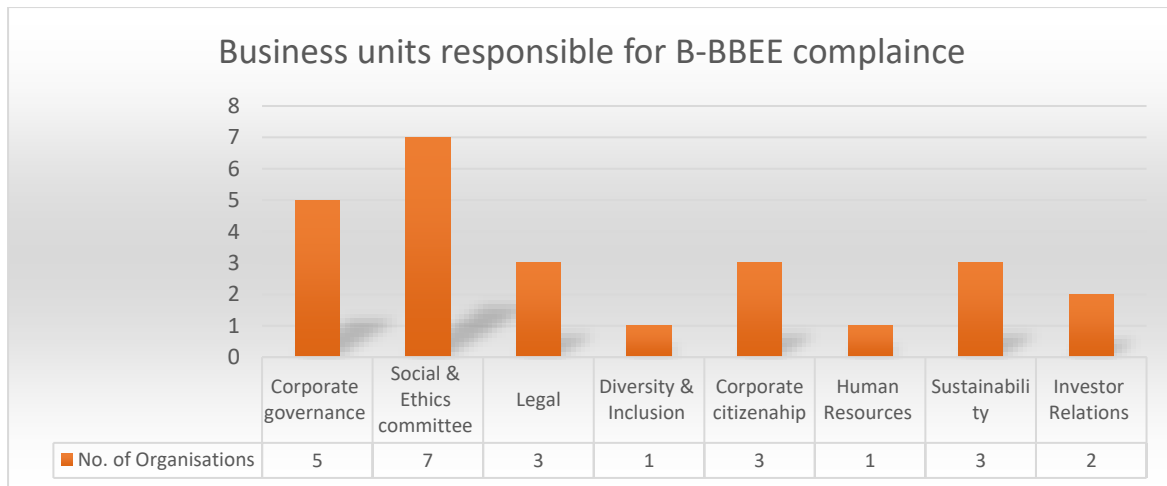


Table 7.3: Business units responsible for B-BBEE compliance activities in ICT organisations



Social and ethics and governance committees are structures introduced by King IV and the Companies Act 71 of 2008 to oversee organisations' commitment to socio-economic development, corporate citizenship/corporate social investment (CSI), sustainability, and stakeholder relations amongst other things (BDO South Africa, 2017; Dzingai & Fakoya, 2017). The overall responsibility of the Social, Ethics and Sustainability Committee is to establish and oversee all relevant institutional arrangements of the organisation. At the B-BBEE compliance level, these committees are given powers to assess the status of B-BBEE compliance. They work closely with functions such as:

- procurement – for enterprise and supplier development;
- human Resources – for all employment equity, management control, and skills development activities; and
- corporate governance.

These functions have a dual responsibility of implementing resolutions of the social and ethics committee and facilitating compliance in conjunction with a designated B-BBEE rating agency. These committees are also responsible for developing internal compliance representatives to look after the compliance of each element. For example, the Human Resource department usually takes care of modifying recruitment practices and developing skills plans to meet the requirements of management control and skills development elements. Here is an example of a statement from Altron's committee that deals with B-BBEE compliance matters:

"The committee continued to address Broad-Based Black Economic Empowerment during the year under review. While there remains room for improvement in terms of the Altron group's employment equity statistics, Altron's standing in terms of the amended

Department of Trade and Industry Codes of Good Practice remains satisfactory” (Altron, 2018, p, 4).

Social and ethics committees are also responsible for facilitating the process of identifying credible rating agencies to facilitate the compliance process. Rating agencies are responsible for quantifying all B-BBEE compliance activities. In other words, the agencies are assisting with integrating compliance activities into the formula of each element as provided in the B-BBEE ICT Sector Code. In some cases, the rating agencies also provide advice concerning the best strategies to meet the requirements of the regulation. Organisations in this category echo commitment to solving national problems, such as inequalities and unemployment:

“They are established viable initiatives, with measurable outcomes, such as the Altron Youth Development Programme, to actively target specific skills and educational initiatives to grow and maintain talent pipelines” (Altron, 2020)

Social ethics and sustainability committees play an important role in shaping the culture of B-BBEE. Though these committees, organisations may clearly indicate the social ills they hope to address through their B-BBEE initiatives.

“EOH acknowledges and accepts that it has an important role to play in normalising our society through a positive intervention programme, to re-dress the imbalances created by previous practices, arising from all forms of discrimination, including race, gender and disability” (EOH Group, 2019).

While it is not explicit, the government assumes that all organisations operating in South Africa have a legal duty to comply with B-BBEE. In organisations where B-BBEE activities sit with the corporate governance and legal departments, B-BBEE compliance was conceptualised as a pure legal requirement or B-BBEE verification.

“All BEE statistics (especially Supplier information) were collated in a comprehensive information gathering initiative to allow accurate scoring on all objectives and themes. With the increased emphasis by Government on broad-based BEE, such figures must remain accurate and easily available for future measurement and reporting initiatives. The measurement period used for all financial information is 1 April 2017 to 31 March 2018” (Ansys Limited, 2019, p, 7).

These organisations have a legal team overseeing all regulatory activities of the organisation. The legal team also takes the responsibility of marketing all relevant regulations internally.

The language used to talk about B-BBEE compliance activities tend to be legal emphasising key aspects of meeting targets.

“A key focus of the Labat strategy is growth by acquisition and we have developed a BEE model that targets specific sectors where companies and clients alike are under pressure to conform to the mandated BEE requirements” (Labat Africa Group, 2019)

“Two governance committees, the broad-based Black economic empowerment (B-BBEE) forum and the skills development forum, developed the B-BBEE improvement plan with targets for implementation. These forums are mandated to advocate transformation as a strategic imperative when making business decisions. Telkom applied to the Department of Trade and Industry for the government shareholding to be classified as a B-BBEE facilitator status”(Telkom, 2020, p, 11).

Part of this legal team included internal forums that took care of each B-BBEE element as was the case with the Telkom Group. It might be possible that the Telkom Group uses a multi-forum approach to take care of the B-BBEE compliance activities of their three subsidiaries, i.e., BCX, Trudon, and Gyro Group.

7.3.1.2. Understanding the scorecard and how organisations can earn points

Generally, the initial stages of B-BBEE compliance involve organisations figuring out how they can meet the requirements of the scorecard. Understanding the scorecard is important because B-BBEE requirements differ across sectors. For example, the ICT Sector requires 30% Black ownership, while the rest of the sectors require 25%. Failure to understand the scorecard may have detrimental effects on the overall B-BBEE status of an organisation. For example, organisations may spend money on elements or B-BBEE initiatives that lack a positive impact on their scorecards. A participant said that their organisation had spent a large amount of money on B-BBEE compliance activities but was still below Level 3.

“For example, when the legislation changed in 2016, many companies fell from higher levels to lower to non-compliance” [ICT Exec 1]

Although it was important to understand the scorecard, earning points was the main aspect of B-BBEE compliance. Throughout the triangulated data, we established that obtaining a flamboyant scorecard takes precedence over transformation. The information on the steps uses phrases such as *“earning points”, “earning additional points”, “start earning points”*. Furthermore, while there is a transformation that needs to take place at the end of the process, the language used in this context spoke little about the matter. One article recommended that;

“You need to know what can be done to earn additional points to improve your overall score. While there’s manual processes which can be undertaken, a free BEE Management Tool has now been created to help you input and assess all aspects of your scorecard in an informed and efficient way.” [OA 79].

Throughout the data, accumulating B-BBEE points took precedence over realising visible transformation. There was more discussion around getting more points to get businesses than to transform the economy that can afford Black people to flourish in the mainstream economy.

“But you know what, I can tell you that there is little talk about empowerment. Companies that do not do business with government do not even bother having a strategy, that’s why you see in their B-BBEE section they just say their working hard to be compliant.” [VA 3].

The focus of the organisations on accumulating B-BBEE points to have good scorecards influence minimal compliance with B-BBEE. One of the consequences of chasing points is ignoring the agenda of B-BBEE compliance. This finding corroborates Wallace (2017, p. 29), who notes that “filled out scorecards were taking precedent over actual merit and performance.”

7.3.1.3. Pre-analysing the organisational gaps regarding transformation

Understanding the scorecard extends to analysing the organisation’s standpoint regarding transformation. Beyond identifying ways to have a high recognition level, this step allows organisations to contribute toward transformation Internal bodies, such as transformation forums or social, ethics, and sustainability committees, zoom into current recruitment, procurement, and training practices to identify the gaps. These bodies may compile a report, which is given to the verification agency identified in the next step. The report includes the number of Black employees in management control, training, internships, or any employee share schemes. In addition, the report will also show the CSR initiatives supported by the organisation and relevant aspects of the business ownership structure.

Although compliance is voluntary, this step moves organisations towards addressing the moral challenge introduced by the previous regime. However, data indicates that the pre-analysis step restricts the sector from transforming when organisations only focus on covering the gaps with direct benefits to the business. One of the executive respondents mentioned that *“there is a TV celebrity that owns our sister company” [ICT Exec]* because they needed a Black woman ownership percentage to do work for the government. However, if they

do not perceive any benefit or pressure to change the ownership structure, they simply do not comply with the ownership element.

“It is voluntary, so of course, companies will comply when there is gain or some benefit for them. But if management is also passionate about really moving this country forward, they will do what’s right with Black people” [PM 2]

Uncertainty in the B-BBEE policy environment often affects plans emanating from the organisational pre-analysis stage. This relates to changes that may take place during a financial year that the government expects organisations to implement.

“It is difficult to map out a long-term plan to improve one’s score because there’s an unknown the following year with regards to the regulation” [ICT Exec 3].

An evaluation of initial organisational status may also reveal areas of B-BBEE compliance with which organisations can align their business strategies. For example, most organisations combine their supply chain with efforts towards complying with the supplier development and enterprise development element.

7.3.1.4. Identifying a B-BBEE rating agency

In Step 4, organisations identify rating agencies to assist with the compliance process. Section 7 of the B-BBEE ICT Sector Code specifies that all B-BBEE verifications and reporting must be done by verification professionals (see Figure 7.4. The government entrusts verification professionals to produce accurate reports, which are a true indication of their transformation.

7. Framework for Reporting by Measured entities and B-BBEE Verification Professionals

The verification of B-BBEE compliance is encouraged and to this end, the B-BBEE ICT Sector Council will from time to time issue guidelines on the Framework for Reporting by Measured Entities and Verification Professionals.

Figure 7.4: Section 7 statement about verification statements in B-BBEE compliance

Most VAs possess accounting and auditing qualifications. *“Majority of us have some accounting or auditing qualification, but we also have to do some B-BBEE specific training” [VA 3].* A major loophole with rating agencies is that ICT organisations tend to leave the verification to the last minute. As a result, some information may not be accurate. Moreover, this may

influence minimal compliance, because organisations would just structure themselves to appear on the surface as compliant.

“How do you explain that at every financial year-end, well-known companies in the IT industry call us to come and scramble for points, and some even try to ‘cook books’, just for points and not for Black people? I am not saying they all do this, but most medium companies do this” [VA 2].

Most verification officials echo that the sentiments above may be an indication that this behaviour is a result of B-BBEE compliance as just the other thing. Furthermore, most of the research respondents also highlighted that fronting was most prevalent for organisations that left their B-BBEE compliance to the last minute. Despite the challenge of fronting, some respondents felt that the involvement of B-BBEE verification agencies has positively impacted transformation:

“I know people criticise B-BBEE, but you know what I think there have been some positives about B-BBEE compliance. Especially for Black small businesses. In our company, we have managed to increase the number of small Black businesses in our supplier database” [VA 1].

7.3.1.5. Collating all relevant company documents

The success of the verification process rests on the correct documents as well as the stakeholders involved in achieving compliance with all B-BBEE elements. These documents serve as evidence of the organisation’s structures, and to a certain extent influence the B-BBEE strategy. This step influences minimal compliance due to the complexity of documents that need to be compiled. This complexity emanates from the number of documents needed for verification. Documents required for B-BBEE compliance may vary amongst organisations depending on the size of the entities. For example, for EMEs, the owner’s ID and company registration documents are required. However, for medium to large entities, these documents include income tax certificates, certified copies of everyone in the ownership structure, e.g., shareholders, employee details (numbers and racial profiles), share certificates, certificates of incorporation, supplier lists, training documents, and company organograms (Empowerdex, 2019). For international organisations, this step requires them to include an ownership exemption certificate which is applied through DTI to show that they would use instruments from the EEIP to comply with B-BBEE.

Most of the respondents perceived the number of documents and the process followed to obtain them to be cumbersome. For example, both Vodacom and MTN have employee share schemes for their hundreds of employees.

“Both the DTI and ICASA require us to proof Black shareholders, so imagine the process of getting everyone to certify their ID in time for reporting. Of course, it is a once thing, but every time the number increases, documents also have to be updated” [ICT Exec 3].

The skills plan documents were highlighted as some of the most difficult ones to compile. Most respondents cited aspects related to MICT SETA requirements as a pain;

“With skills development, my pain is converting training costs and hours for MICT SETA, I think I should just go back to Empowerdex. It is still not clear how they add on us hours etc. Most of this I just let it be done by the verification agency and hope that they report correctly” [ICT Exec 2].

While it is not the only stakeholder, MICT SETA is crucial because it facilitates compliance with one of the priority elements i.e., the skills development element. The role of MICT SETA is to keep track of sector-specific skills and develop skills plans according to current competency trends in the context of the B-BBEE ICT Sector Code, MICT SETA facilitates the establishment of internships and leadership programmes that address youth employment. It also serves as an incentive provider for organisations that comply with the skills development element.

Furthermore, it provides a list of competencies that are needed for the ICT sector to compete globally. In 2018, MICT SETA introduced the top five competencies; software developer, computer network and systems engineer, ICT systems analyst, programmer analyst, and ICT security specialist (Schofield, 2018). When the organisations have established the correct training for the competencies above, they are required to subject them to quality assurance at the MICT SETA (MICT SETA, 2018). Given the sense of urgency during the reporting period, some verification agencies feel that the MICT SETA process gives a lot of room for organisations to misrepresent their skills plan information.

7.3.1.6. Developing/formulating a B-BBEE strategy

This step involves developing B-BBEE strategies that will help the organisation during the transformation process. These strategies tend to be aligned with organisational corporate strategies.

“From most of the organisations I consult for, I noticed that they would have resources that are allocated on an annual basis specifically towards transformation. I have also noticed that, in the majority of these companies, B-BBEE is part of the companies’ corporate strategy” [VA 1].

“The strategy is normally based on the business strategy” [VA 3].

Each B-BBEE strategy consists of a combination of plans of how to comply with each of the five B-BBEE elements, and this differs across the organisation:

“For example, there are companies that have a forecast. Maybe they want to increase the number of training activities to increase points in skills development element, so they would put more resources there” [VA 1].

An organisation may have:

- recruitment or talent management strategy for the management control element;
- procurement strategy for supplier and enterprise development element;
- CSI strategy for socio-economic development element;
- employee training strategy for skills development element; and
- B-BBEE partner strategy for sourcing black shareholders to comply with the ownership element.

The choice of strategies developed is influenced by specific organisational goals for complying with the B-BBEE ICT Sector Code. Figure 7.5 summarises these organisational goals.

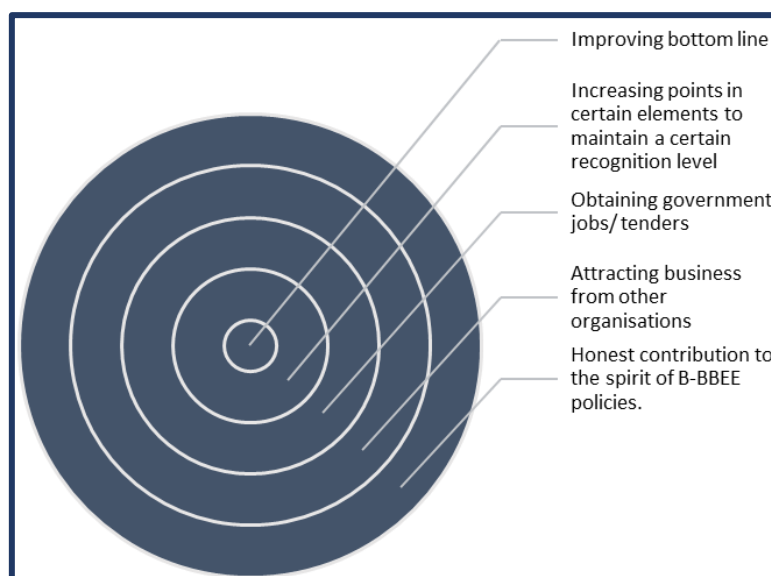


Figure 7.5: Organisational goals influencing B-BBEE compliance strategy formulation

The majority of the respondents acknowledge that B-BBEE strategies are mostly developed with the bottom line in mind. This means that a B-BBEE strategy is formulated such that it helps in meeting organisational ends, whether directly or indirectly.

"I think that deep inside most companies want transformation, However, if businesses are operating in an environment with legislations that are contradicting and conflicting each other, and where the businesses are overburdened by regulations, at the end of the day, they want to make money" [ICT Exec 3].

In most cases, the goal is to increase points in certain elements to contribute toward the overall B-BBEE recognition level. B-BBEE compliance and/or high recognition levels, i.e., Level 1 puts organisations at a competitive advantage:

"Oh, yes so recently we started GIS consulting for retail companies, so if you have anything lower than Level 4 other companies don't want to do business with you. I think it is called empowered supplier" [ICT Exec 2].

Some organisations simply want to obtain government contracts: *"I think to have high-level recognition to be able to do work for the government is the main goal" [ICT Exec 1].* There are organisations whose goal is in line with the true spirit of B-BBEE policies, which is to empower Black people.

"Our company mostly do verification for big IT players in South Africa. I have observed that most of these companies see it as the right thing to do in our context. So, their choice of strategy is influenced by a moral issue attached to the policy. Our company as an example, when we started on empowered, we were ranked no 65, and within 4 years, we were number one. If you are to say we don't support B-BBEE, how did we then move to Level 1 in 2016" [ICT Exec 1].

In terms of entity sizes, data indicates that EMEs do not have a B-BBEE strategy because they simply must produce a B-BBEE affidavit as part of business development documents. QSEs, on the other hand, must have strategies for complying with priority elements. The lack of B-BBEE strategies at the level of QSEs can be attributed to the cost of compliance. VAs confirmed that organisations at this level often complain about the cost associated with Black suppliers or businesses with which to partner. Beyond the bottom line and committing to the spirit of B-BBEE policies, large organisations' B-BBEE strategies are also influenced by maintaining a good stakeholder perception (Alternative Prosperity, 2019).

7.3.1.7. Converting compliance efforts into points for the B-BBEE certificate.

Once the B-BBEE strategy is executed, the main task is to convert organisational compliance efforts to create the B-BBEE certificate or scorecard. This involves applying the various formula for calculating points for each B-BBEE element. Most VAs indicated that calculating B-BBEE points was the most difficult step given the complexity of the legislation.

"It is not simply one Black person equals 1 point; it is much more complex. I needed to go for extra training beyond my accounting degree to understand the formulas [VA 1].

The main idea of the scorecard beyond a mere status level is to interpret the degree of empowerment of Black people that is taking place in an organisation. It is not clear how empowerment takes place in the greater scheme of economic transformation given the few Black people, and their passive involvement in the businesses. Furthermore, the scorecard calculation has also made it easier for organisations to misrepresent their transformation indicators:

"Now if you look at the broader picture of what is happening actually across the board in terms of genuine transformation, the difficulty is in the underlying culture as opposed to the legislation" [PM 2].

The challenge of converting the compliance to points for the scorecard is that it limits the empowerment process to a few people. The mechanism used in the scorecard to arrive at a B-BBEE status has often been criticised for affording opportunities to empower people who are already empowered (Horne, 2015). For example, there are more points allocated to ownership, but the actual number of Black people owning are independent directors. These findings show that few Black people at the ownership level afford a company more opportunities.

"So if I have a company of any size, that has three Black people at the top, and the entire rest of the company can be White, it can still get its Level 1 and 2" [PM 2].

The quote above is an indication of the significance of looking good in the books which does not translate to transformation in the organisation. This contradiction is influenced by the value placed on the B-BBEE certificate during the business development process. It is easier to get a contract to supply information systems to the government when the organisation is Level 1. Furthermore, for large entities, a good B-BBEE Level serves as long-term financial security.

"If your company has good recognition level, you can easily have your contracts renewed because sometimes the government if the system we provided them is functioning well, they are reluctant to terminate it" [VA 3].

The use of a scorecard to accelerate empowerment has received sufficient criticism from certain researchers (Kruger,2016). This is because Level 1 does not necessarily guarantee that an organisation is transformed. In many cases, it simply means that their numbers in terms of the B-BBEE formulas make sense.

"So, you will notice that there are many Black people who sadly don't make many decisions are at Level 1 because in B-BBEE terms, entry level manager also belongs to management and control. So, companies get more Management control points there. The higher you go in the management hierarchy their Whiter it becomes" [VA 1]

In this step, factors that influence minimal compliance rest on the government's oversight when using scorecards to measure empowerment and transformation activities. This loophole has made it easier for the scorecard to be good for business profitability and not so good for overall transformation.

7.3.2. Common programmes employed to comply with the B-BBEE ICT Sector

Along with the strategy, organisations select programs for complying with each element. The findings identified four common programmes ICT organisations employed:

- ownership schemes;
- training and development initiatives;
- mentoring EMEs; and
- placing Black people in management control.

The programmes organisations identified often stem from strategy itself.

"The strategies we develop for our clients, especially large entities often include suggestions of programs they can use to get to a B-BBEE happy place much faster" [VA 1].

To understand these programmes, we paid attention to respondents' reflections on sectoral B-BBEE strategies, i.e., the programme used to execute the strategies. Mostly cited programmes include ownership schemes; internships and learnerships; training and development; and EME mentorships. Furthermore, the majority of the organisations aligned

their programmes in terms of the three priority elements (ownership, skills development, and enterprise and supplier development) as stipulated in the 2016 ICT Sector Codes amendment.

7.3.2.1. Ownership schemes

Ownership schemes are strategies used to increase Black people in the ownership structure of organisations. The ICT Sector Code obligates ICT organisations to have at least 30% of Black ownership (Irene, 2017). We found two main forms of Black ownership i.e., direct ownership, and indirect ownership. Direct ownership takes place when an organisation gives ownership to identified Black people through employee ownership schemes. This form of Black ownership empowers Black people by allowing them to be actively involved in the growth and profitability of the organisation. Indirect ownership involves an organisation availing a percentage of shares to the public and allowing a sale of shares through mandated investments. The latter relates to the sale of shares that are funded by trusts or business financing consortiums such as the Industrial Development Corporation. Indirect Black owners may have shares in the entity but are passive in the operation of the organisation.

Directorship by Black people in the ICT sector emanates from Employment Share Ownership Plans. The B-BBEE reports showed an increase in Black women getting involved in direct ownership schemes.

“Ownership, especially Black women who are previous or current or putting Black women at executive or director level” [VA 2].

While there is no data on how women were good for a B-BBEE scorecard, most respondents mentioned putting women at the top was a quicker way of getting good ownership points.

“We [BBD] therefore take a deliberate strategic approach to recruiting, developing, retaining and promoting diversified talent. We continue to prioritise the inclusion of Black females in senior positions in the group” [ONA 11].

In some cases, a direct ownership scheme is the result of a mentoring relationship between a large entity and an EME. For example, Adapt IT outsourced all its business intelligence to its EME supplier, and converted it onto a business unit through a B-BBEE deal that envisaged benefiting both parties, where it was noted that:

“Adapt IT has confirmed that effective 1 July 2017, its Business Intelligence (BI) resourcing division now falls within the Uyandiswa stable, in a transaction fully funded by Adapt IT” [ONA3]

Since the 2016 amendment, indirect ownership schemes have been opening access to Black people into organisational control. Examples include MTN's Zakhele Futhi, Vodacom's Yebo Yethu, and MultiChoice's Phutuma Nathi. Despite their success in increasing black shareholding and ownership, ownership schemes are complex. Causes of complexities in ownership schemes include complex holding company structures and rules for voting rights (DTI, 2015). This involves organisations that have multiple layers of shareholding in numerous subsidiaries that belong to one group. Organisations such as Altron Group, EOH, and Telkom Group (as illustrated in Figure 7.6) are some examples of organisations with many entities, whose ownership and shareholding structures are not explicit. Figure 7.6 illustrates the organisational ownership structure of Telkom as found on their website.

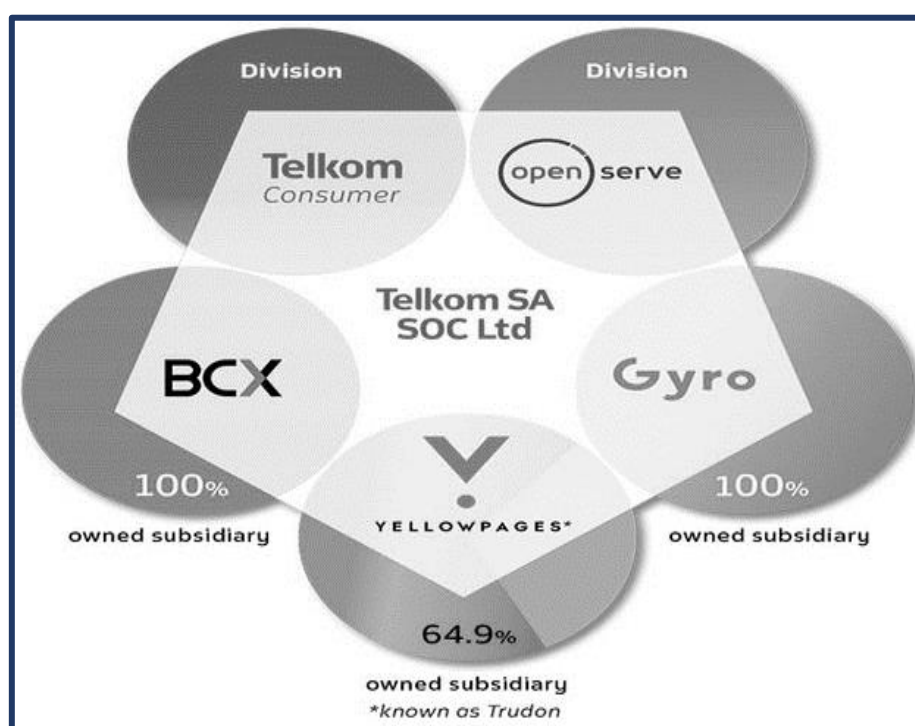


Figure 7.6: Example of a complex holding company structure (Telkom, 2020)

Black ownership transactions for groups of this nature may be complicated when it is done at a group level (B-BBEE Commission, 2017). It may also happen that all entities in the group have varying goals regarding B-BBEE compliance. For this reason, they would rather employ programmes that will help them achieve their goals. Complex holding structures may affect the verification process if other subsidiaries are not performing. For example, a weak B-BBEE performance by Open Serve may affect Telkom's scorecard. To avoid this, organisations may choose to be measured independently. Consequently, the organisations in the group may not have the same percentage of Black ownership. For example, BCX was Level 2 with 18.96 points on Black ownership, which translates to 35.07% Black ownership. On the other hand,

Telkom was Level 3 with 15.91 Black ownership points which translates to 27.84% of Black ownership. Another major complexity stems from the funding structures of the ownership deals (Kassnerf, 2016).

“At number one I will put cost, followed by the complicated BEE partnerships that often fall apart and people do not gain anything. Black people have to get into massive debts through SPVs and sometimes BEE deals fall apart without them paying the debt and it remains in their company” [VA 2].

In 2020, it was reported that most B-BBEE transactions were financed by bank loans (B-BBEE Commission, 2020). In most cases, black owners must fund these deals from debts that, if not paid properly may affect the organisation’s cash flow.

7.3.2.2. Training and development initiatives

Some organisations participated in B-BBEE activities by training Black people in various roles. Under the B-BBEE terms, an organisation cannot claim that an employee is incapable of performing their duties without subjecting them to sufficient training. Training and development are avenues that the government hopes to address severe IT skills scarcity in South Africa. These initiatives take place through internships and learnerships, and employee formal training. Internships and learnerships are early career placements for graduates and matriculants for upskilling purposes. Employee in-house training may involve awarding bursaries to employees or sending them to an accredited body for training.

“I have seen an increase of companies sending their employees to various instructions to train for internet security, business intelligence and networking stuff” [PM 2].

Increasing the number of Black people through internships and learnerships is consistent with the requirements of the skills development element. It involves including the youth in the workforce for a certain period: *“We are taking on interns every 6 months”* [ICT Exec 1]. In the ICT sector, interns perform assistance tasks in software development, testing, customer support, and any role that would allow them to learn. Learnerships, on the other hand, may take the form of structured on-the-job learning activities that show the learner practical applications by SETA-accredited organisations (Koaho, 2016). A learner can be taught how to develop a website from scratch.

Since 2018, ICT organisations have participated in the YES by employing youths as interns (BusinessTech, 2018). Moreover, internships and learnerships were viewed as easy ways of collecting B-BBEE points:

“I find internships and learnerships to be easy points. And at least you know somehow your organisation can get tax benefits” [VA 2].

Despite their effectiveness in increasing points for the skills development element, most respondents pointed out the importance of assessing financial viability before rolling out internships and learnerships.

“Often people look at what is financially feasible for their organisation. But we have invested in learnerships and enterprise and supplier development...” [ICT Exec 1].

However, some respondents felt that internships and learnerships are viable because they have explicit benefits in the form of various tax benefits paid from the skills levy and MICT SETA (Maririmba, 2017).

7.3.2.3. Mentoring Exempt Micro Enterprises (EMEs)

Mentoring EMEs is a programme that allows organisations to comply with enterprise supplier development, which is one of the priority elements of B-BBEE. The enterprise supplier development element provides that a measured entity can mentor an EME by including them in the supply chain, contributing financially to the EME, as well as providing infrastructure to enable the growth and sustainability of the EME. Most organisations focused on providing business mentoring and donating infrastructure. Most respondents viewed these mentoring programmes as the most effective for empowering black entrepreneurs:

“For the few small companies that supply us with catering or office stationery, I realised that a mere meeting to show them how to get new customers can go a long mile ” [ICT Exec 2].

“We take a closer look at our supply chain to see which organisations are struggling to make their services available. Tiny organisations have challenges relating to paying stuff, availability of technology or mere copy or printing machine, so we also provide these to them” [ICT Exec 3].

Mentoring EMEs involves designing support strategies that are relevant for each EME. The participant above alludes to another example of mentoring that focuses on providing equipment to the EME.

7.3.2.4. Placing Black people in management control

Most ICT organisations increase their points by placing Black people in management control increasing economic participation and empowerment by allowing them to be involved in the operations of the organisations.

From company websites of selected organisations, we observed that a majority of Black people in board participation are on social and ethics committees. Despite the dominance of White males on the boards, there was a significant increase of African males in ICT organisations. However, there is still a significantly low representation of African females on the boards of ICT organisations. Only 17% of the top-level executive in the ICT sector is women (B-BBEE ICT Sector Council, 2020). However, as the B-BBEE ICT Sector 2016 amendment emphasises the importance of including women who were the most disadvantaged, organisations also started increasing their recruitment of female candidates.

“For the longest time, like any other technical sector, the IT industry was dominantly for men. But since women are starting to give organisations more points, people are now leaning towards recruiting them into top management.” [VA 1]

We found that black candidates are highly likely to be included in middle and junior management roles.

“At entry level which B-BBEE calls it junior management, Black candidates are matched with a development that introduces them to our global competency model. Here the candidate is shown the career path in terms of business needs and in some cases personal career aspiration” [ICT Exec 1].

The statement above alludes to the organisation’s cognizance of individual aspirations which pave way for emancipation. In other words, if the organisation does not have such values, empowerment is likely to suffer. Furthermore, the participant suggests that empowerment is embedded in their operational ethos, and hence it is easier for the empowerment of Black candidates to take place.

7.3.3. The culture of compliance

The study found that the culture of compliance influences the degree of involvement with B-BBEE regulation. A culture of compliance involves practices developed by the organisation to respond to regulatory requirements (Burdon & Sorour, 2020). In most organisations, the compliance culture tends to be consistent with the firm’s culture (e.g., clan, adhocracy, market, and hierarchy) (Amankwa et al., 2018). Compliance culture is an integral part of operations that reflects how organisations engage with regulatory activities (Burdon & Sorour, 2020).

Regarding B-BBEE compliance culture, three themes are voluntary compliance culture and 'tick-box' compliance culture. These observed cultures of compliance are because of regulatory loopholes that are not thought through in the policymaking process, which in turn affect the degree of compliance.

7.3.3.1. Voluntary compliance culture

Voluntary compliance takes place when the government believes that regulatees will corporate with regulatory requirements with utmost honesty (Cloete, 2009). From its inception, the South African government made B-BBEE compliance voluntary. This was done to ensure a harmonious redistribution process. However, while compliance is voluntary, non-compliance may have negative effects on an organisation's competitive advantage (Kloppers, 2014). The voluntary nature of B-BBEE compliance has been the centre of corporate citizenship (Mahomed, 2015). Organisations that adopt this culture of compliance are those that proactively developed compliance strategies that correspond to the transformation principles of the B-BBEE framework (Horwitz & Jain, 2011). Furthermore, organisations in this category tend to be large entities, with domestic dominance. For instance, Vodacom, EOH or Adapt IT are likely to feature in most top empowered organisations given their large investments in B-BBEE (Empowerdex, 2019).

Voluntary compliance also gives rise to minimal compliance. One of the respondents alluded that its voluntary nature has influenced organisations to be pragmatic in their compliance approach. Organisations may comply with B-BBEE only when it is necessary to do so.

"One of the biggest pinnacles to B-BBEE legislation is the fact that it is voluntary, and businesses are pragmatic, in any market businesses are pragmatic" [PM 2]

"I am saying that, because it is voluntary, companies have a choice and they also want to make money and respond to various global pressures" [VA 3].

Voluntary compliance also means the absence of punitive measures for non-compliance. Often, lack of compliance or minimal compliance has been attributed to the lack of punitive measures (Bruce, 2014). Organisations that feel no impact from non-compliance are likely not to engage with the regulation. This is the case with B-BBEE ICT Sector Code, where responding to global pressures was more important than complying with the B-BBEE ICT Sector Code.

The unintended consequence of the voluntary compliance culture is that regulatees often divorce the original goal of the regulation. The ICT sector continues to suffer from under-transformation because few organisations are aligned with the spirit of the B-BBEE ICT Sector

Code. Several respondents complained that the voluntary nature of B-BBEE has exposed the moral ethic of ICT organisations.

“The truth is, while I wish I could prove it, most ICT companies would just choose to do as minimal as required to secure their gains. Very few organizations like the one in question will go beyond the minimum requirement and try to solve the transformation problem” [VA 2].

Despite the challenges discussed above, most B-BBEE compliance success stories in the ICT sector can be attributed to the voluntary compliance culture. The 2019 B-BBEE performance indicator revealed that large ICT organisations have voluntarily made efforts in increasing Black ownership, putting more Black people in management control (B-BBEE ICT Sector Council, 2019). For example, MTN is one of the first organisations to respond to the YES initiative that saw 1,000 youths getting employment opportunities (ITWeb, 2018). During the same period, Vodacom committed R16,4 billion (\$USD 9.6 billion) to a B-BBEE transaction that saw 85,000 ordinary Black people, with its 8,500 staff members becoming shareholders (McKane, 2019).

7.3.3.2. Tick-box compliance culture

A more recent report from the B-BBEE Commission indicates that, although there is an increase in the number of organisations complying with B-BBEE regulations, indicators in scorecards do not translate to economic transformation (B-BBEE Commission, 2020). The contradiction between the scorecard and the transformation can be attributed to minimal compliance embedded in the tick-box compliance culture in the sector. The tick-box compliance culture refers to the involvement with a regulation to solely satisfy the set target as opposed to solving the social issues (Boyle, 2020). This compliance culture allows regulatees to present well publicly, while they fail internally to address the social problem intended by the regulation.

The issue of the tick-box culture of B-BBEE compliance remains a political and sensitive one in boardrooms. In 2019, a count of racial representation of leadership teams of the 33 ICT organisations from their websites indicated that White males are still at the helm of ICT organisations (see Figure 7.7). The study also found an increase of Black women on boards and non-executive directors or serving on social and ethics committees. Positions at C-level remain with White males and Black males in politics or the elite.

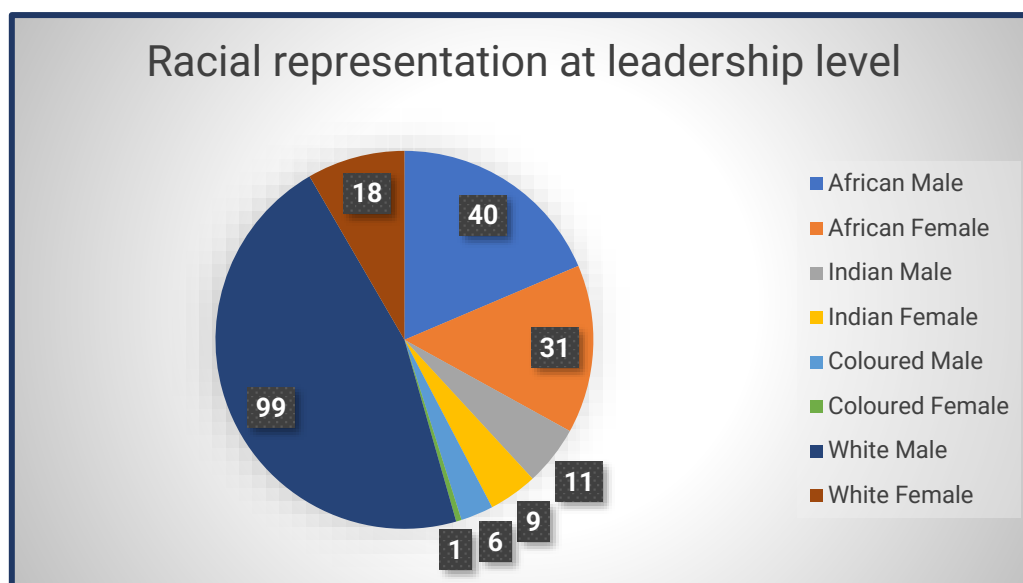


Figure 7.7: Racial representation at the leadership level

While there was a significant increase in the number of African females in ICT organisations' leadership teams, female representation across races was still very low. Figure 7.7. demonstrates that leadership teams consist of 73% males with only 27% female leaders. While it was developed to rectify these gender and racial disparities, how ICT organisations have responded to the B-BBEE regulation has not changed the status quo. The following comment is an example where there is consensus that the prevailing culture of B-BBEE compliance is affecting transformation:

"The difficulty is in the underlying culture as opposed to the legislation. The legislation is the best we could manage under the circumstances" [PM 2].

The tick-box compliance culture is a consequence of bad policy design, and the way regulation is communicated. In addition to the complex regulatory structure, B-BBEE compliance communication is driven more by accumulating abstract points. Most communication from the government was about encouraging organisations to stick to meeting the compliance targets as stipulated in the B-BBEE scorecard, with less emphasis on transformation.

"If the government says you must be a minimum of Level 4 to be able to tender for government business, then you'll be able to do what you need to be at that level." [PM 1]

The way the scorecard pervaded the B-BBEE discourse influenced how organisations perceive B-BBEE compliance. From the results, it was clear that most organisations invest effort in increasing the B-BBEE points, rather than in economic transformation because the sole purpose of the scorecard is to have favourable points. Furthermore, the B-BBEE consultants who develop B-BBEE strategies echo 'increasing points' as opposed to accelerating

empowerment. This indicates that tick-box culture introduced a point-driven compliance behaviour, where B-BBEE points served to gain business, rather than achieving societal transformation:

"I honestly think companies are just doing this to tick a box - even with these two - they are not invested in empowering them as they, but they do get the points, I am sure. Towards the reporting time, we don't do it ourselves, we have a service provider that does it. I hardly hear anything about empowerment or transformation - it is about the points"
[VA 1]

Tick-box compliance behaviour resembles coercive isomorphism where involvement with regulation is a response to pressure from other organisations (Dimaggio & Powell, 1983). As noted in the previous subsection, a non-compliant organisation may have negative effects on trading. Also, as the B-BBEE certificate has become part of the business development documents, organisations may comply to improve their competitive advantage by ensuring that they have an attractive scorecard.

Tick-box compliance is consistent with what Mcbarnet (2001, p.6) called creative compliance to refer to an involvement with a regulatory obligation in a manner that looks "perfectly legal" but does not have an impact on the intention of the law. Creative compliance is connected to committing to the letter of the law, but not to the spirit of the law (Mcbarnet, 2001). Creative compliance is the primary answer to the question of why organisations have great scorecards but remain under-transformed.

A common practice of creative compliance in the B-BBEE context is tokenism (Koaho, 2016). This refers to a practice where organisations circumvent regulation by using certain actors for collecting points. ICT organisations have the largest number of fronting cases where Black people are placed in positions without actual responsibilities (B-BBEE Commission, 2017). This form of creative compliance thrives when regulatees learn the loopholes in the regulation. The mechanism on the B-BBEE scorecard makes it easy to tick the boxes by appointing a few Black people with limited decision-making power in control.

"B-BBEE compliance is slowly becoming a place of putting Black people as placeholders for the B-BBEE reporting season to decorate the scorecard, I heard that the commission is developing a law to punish this, but I don't know how they will determine the criminality of fronting" [PM 1].

The study found that organisations performed creative compliance by focusing on priority elements. They sought to increase the three compulsory B-BBEE elements i.e., ownership,

skills development, and enterprise and supplier development to look good on their scorecards. For all B-BBEE certificates studied for this research, we noticed an increase in the focus on Black ownership. The latter remains the most controversial element, given the context surrounding relinquishing entity ownership. Moreover, we noticed that management control and socio-economic development elements have become the least attended to.

7.4. Chapter Summary

In this chapter, we learnt that ICT organisations' response to B-BBEE compliance requirements is shaped by two primary logics of action. These are goal framing and instrumental rationality. Moreover, we established that goals are central to forming a pro-compliant behaviour towards regulations. The study found that organizations seek to protect the achievement of various overlapping goals (gain, normative, and hedonic). The chapter also discussed mechanisms by which instrumental rationality manifests as a logic of action that shapes the degree of compliance. It highlighted the process followed to comply with the B-BBEE ICT Sector Code. The analysis in this chapter was based on the proposition that organisational logic of action influences the degree of compliance. Further, the chapter presented the programmes employed to comply with the B-BBEE ICT Sector Code to achieve more points. Indirectly, the chapter showed the significance of points and high recognition levels in the discourse of B-BBEE discourse. The culture of compliance was discussed to highlight practices that propel minimal compliance with the B-BBEE ICT Sector Code.

8. Legitimisation of the minimal compliance behaviour and its outcome

8.1. Introduction

This chapter answers the questions of; *how do ICT organisations legitimise minimal compliance and its outcome?* The majority of this chapter was reported in one of the publications¹⁰ that were produced out of this thesis. The data sources to answer this research question were N=105 ONAs. Each ONA was analysed through content and thematic analysis. Moreover, the concept of ideological discourses was used as a sensitising concept to reveal discursive practices used by ICT organisations to justify and legitimise their compliance behaviour. Ideological discourses are aspects of language or cognitive shortcuts used by actors to shape reality (Daghigh et al., 2018). “When group members explain, motivate or legitimise their actions, they do so through ideological discourses” (van Dijk, 2006b, p. 121). Ideological discourses are discursive aspects that enable people to construct their preferred social reality. In most cases, this preferred social reality is constructed to protect the achievement of individual goals.

- B-BBEE compliance affords ICT organisations a competitive advantage edge;
- B-BBEE compliance is an ethical obligation;
- B-BBEE compliance is a complex process;
- B-BBEE compliance is anti-economic growth;
- B-BBEE compliance deters FDI; and
- B-BBEE compliance is a form of minority discrimination

This chapter is organised as follows: 8.2. discusses the prominent objectives or central ideas or objectives of the stories. Section 8.3. lists and explains the ideological discourses that ICT organisations used to legitimise overall minimal compliance behaviour.

8.2. Prominent objectives of B-BBEE compliance stories

The prominent objectives of the B-BBEE compliance stories were identified from news titles. Figure 8.1 presents information about prominent objectives of N=105 stories published

¹⁰ Thabela-Chimboza, T., & Chigona, W. (2019). How does the South African ICT sector frame B-BBEE?. In Proceedings of the South African Institute of Computer Scientists and Information Technologists 2019 (pp. 1-10).

between 2012 and 2020. Of the stories, 31% (N=32) were about status announcements, i.e., organisations announcing the level of B-BBEE recognition they have achieved at a given verification period. Furthermore, the content of these stories announced the achievement of Level 1 B-BBEE recognition, as well as how they achieved it (see example below).

“Westcon-Comstor Sub-Saharan Africa, a value-added distributor of leading ICT solutions, has attained a Level 1 B-BBEE (Broad-Based Black Economic Empowerment) rating in South Africa, moving from Level 3 to Level 1 in just under two years. The company’s commitment to development, diversity and equity representation has paved the way for this milestone. Not only is the business more than 51% Black-owned, but it also boasts more than 30% Black woman ownership, exceeding all requirements” ...[ONA73]

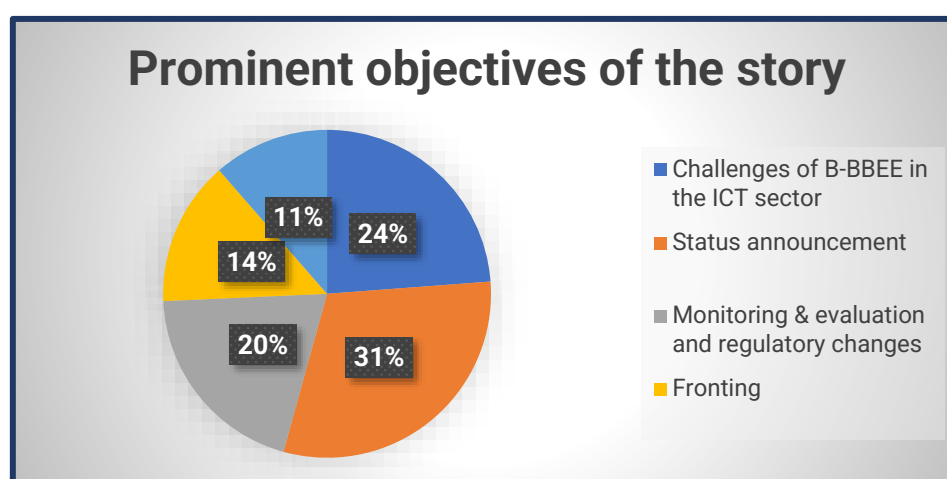


Figure 8.1: Prominent objectives of B-BBEE news stories between 2012-2020

Status announcements are slightly similar to the 11% (N=12) of stories that announce B-BBEE deals, and initiatives done by organisations to commit to their B-BBEE compliance efforts. These initiatives and deals include partnering and/or acquiring Black-owned organisations to modify ownership structure. B-BBEE initiatives are specific projects that are designed to empower Black people through mentoring, skills development, internships, or learnership. In 2018, the government required that all internships and youth employment activities be done through the YES initiative. This prompted organisations to establish YES initiatives in their organisations. Some examples of story titles that show this objective are:

“Dell to develop Black ICT professionals” ... [ONA30]

“MTN Group commits to creating 1,000 jobs in support of the YES initiative” ... [ONA75]

The results portray that 24% (N=25) of the stories aimed at highlighting challenges posed by the B-BBEE ICT Sector Code regulation. These challenges emanate from the cost of compliance, the complexity of B-BBEE transactions, skills shortage, uncertainty in the regulatory environment, and scarcity of Black IT professions and Black-owned businesses with which to partner. In addition, 14% (15) of the headlines reflected on the challenge presented by fronting, which plagued the ICT sector since the inception of the B-BBEE ICT Sector Code in 2012. In these articles, fronting was echoed as an unethical process of accumulating B-BBEE points to achieve a higher recognition status. Articles about fronting were published by the ICT Sector council, the B-BBEE Commission and some rating agencies. For example, in preparation for the B-BBEE ICT Sector Code 2016 amendment, the B-BBEE Commissioner Zodwa Ntuli warned that *“the commission would take a hard stand against companies found in violation of B-BBEE codes if found fronting”* [ONA35].

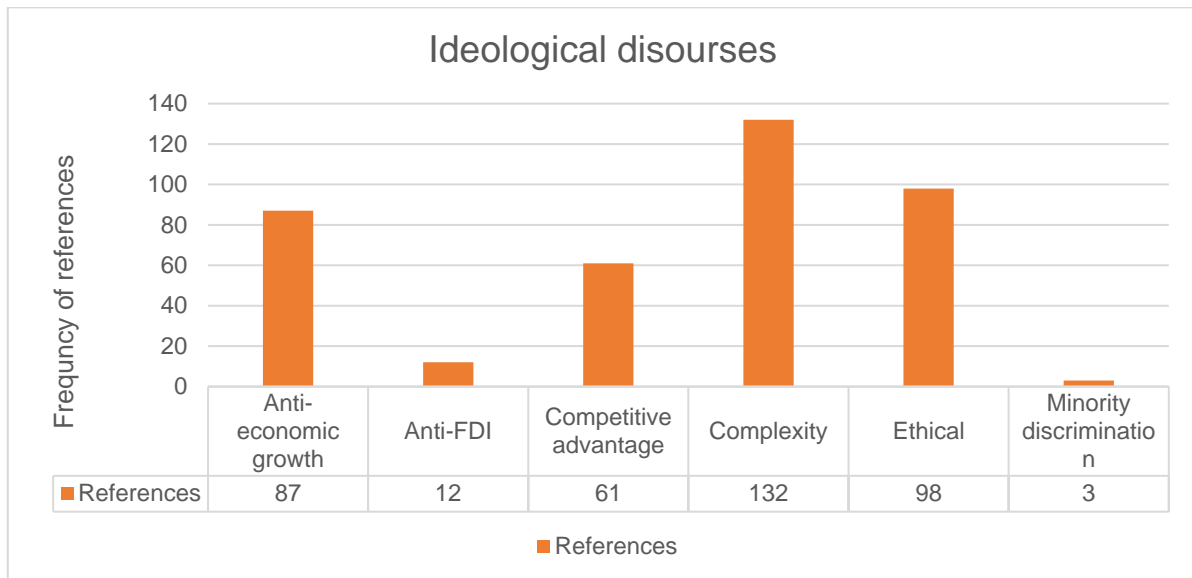
Monitoring and evaluation systems are considered some of the critical success factors of public policy implementation (Cloete, 2009). Through DTI and ICT Sector Council, the government has established a monitoring and evaluation system to periodically assess levels of B-BBEE compliance. This was apparent with the 20% (N=21) articles to inform the public about the status of compliance in the sector. These articles also served as alerts for organisations to get an insight into regulatory changes, for example, when there is an amendment to the Act or on the regulatory instruments.

8.3. Ideological discourses that legitimise minimal compliance with the B-BBEE ICT Sector Code

The ideological discourses were derived inductively from specific media texts, i.e., quotes in the news articles. For example, a statement such as *“The new rating is excellent news for Hitachi Data Systems as it will benefit both our customers and our network of partners”* ... [ONA36] was conceptualised as a *competitive advantage* given what the new rating affords the organisation [Hitachi Data Systems]. However, statements such as *“My principals in North America are not going to approve of us essentially having to give away equity to raise our B-BBEE rating”* ... [ONA1] is conceptualised as *anti-FDI* as it claims that B-BBEE regulations deter international investors.

Table 8.1 presents the six main ideological discourses that emerged from the ONAs.

Table 8.1: Identified ideological discourses



Major ideological discourses are complexity, ethical and anti-economic growth, respectively. While literature echoed that affirmative action policies such as B-BBEE were framed as minority discrimination, very few articles reached such a conclusion. As shown in

Table 8.1, their minority discrimination has few references. An interesting insight is the significant number of references that frame B-BBEE as a competitive advantage. This ideological discourse may indirectly encourage other organisations to comply given what higher B-BBEE scorecards can afford them in the market. A detailed discussion of these ideological discourses appears in the next sub-section.

8.3.1. B-BBEE compliance affords ICT organisations a competitive edge

The majority of organisations with attractive B-BBEE certificates suggested that B-BBEE compliance affords them a competitive edge. As an ideological discourse, competitive advantage legitimises ICT organisations' level of engagement with the B-BBEE ICT Sector Code. For example, there are news stories that show how and why, and that the organisation's status is high, that is, which B-BBEE elements they prioritise to accumulate more points, and attract more business.

A major component that propels the competitive advantage ideological discourse is empowering suppliers.¹¹ An empowering supplier is an organisation that is in full compliance with B-BBEE i.e., with an attractive B-BBEE scorecard that has a positive impact on the supply chain (Lewis & Gasealahwe, 2017). For example, an organisation buying business intelligence software from a Level 1 organisation can be considered as procuring from an empowering supplier. Consequently, an organisation whose procurement spend comes from an empowering supplier earns points from the enterprise and supplier development element. To determine the fitness of the supplier, the organisation also considers the level of compliance. Competitive advantage in B-BBEE discourse manifested through B-BBEE status announcements, announcements of transformation initiatives, and B-BBEE deals announcements.

8.3.1.1. B-BBEE status announcements

B-BBEE status announcements are news stories that passively advertise the organisations' new B-BBEE status. They indicate the organisation's efforts to comply with all five B-BBEE elements. This exercise of publishing statuses is a reputation management mechanism. This finding corroborates (Horwitz & Jain, 2011) who earlier predicted that announcements of B-BBEE statuses would be mere public relations strategy. In this manner, organisations "could earn a reputation as a responsible corporate citizen" (Viviers & Mans-Kemp, 2017, p. 82)

The timeline of status announcements as illustrated in Figure 8.2 reveals that most stories about competitive advantage were published in 2018, 2019, and 2020, respectively. We argue that the increase in announcements is due to the decrease in dissonance which occurred as ICT organisations identified what they can gain from complying with B-BBEE. Before 2018, ICT organisations were experiencing high levels of dissonance as they realised organisational goals that would be threatened by complying with certain elements in the policy.

¹¹ Empowering Suppliers are B-BBEE compliant organisations that adhere to all regulatory requirements of the country and meet the following criteria: At least 25% of cost of sales, excluding labour costs and depreciation, procured from local producers or local suppliers in SA.

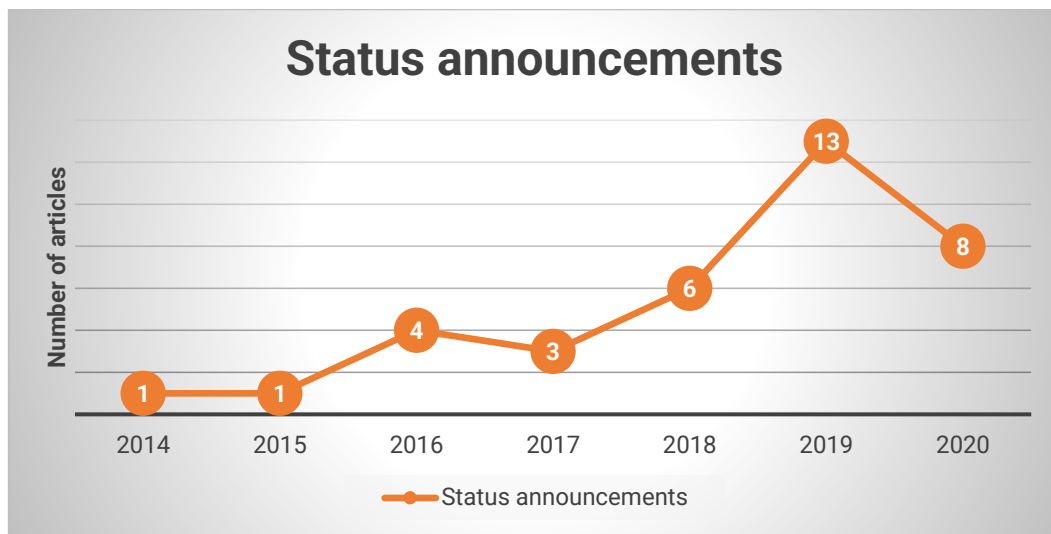


Figure 8.2: Timeline of B-BBEE status announcements

Through status announcements, this study identified elements that organizations prioritised when they comply, which in turn legitimises their overall engagement with the regulation. For example, an executive was quoted highlighting the significance of having more points on management control, ownership, and procurement. Through these announcements, it became apparent that a B-BBEE-compliant organisation has a higher competitive advantage over a non-compliant one.

“At Datacentrix, we find that some of our customers look quite closely at the different elements of the scorecard, with management control, procurement and ownership being especially important. From a strategic perspective, it is nearly impossible to grow a business if you are not accredited at the highest level, as clients only want to deal with the most empowered companies” [ONA28].

These statements are indications of how announcements may unintentionally promote some B-BBEE elements while neglecting others. Throughout the data, it became apparent that organisations prioritised B-BBEE elements that mostly benefited organisations.

“AYO’s primary competitive advantages is its B-BBEE ownership credentials and its ability to leverage global relationships to deliver both local and international services and products to multinationals” [ONA54].

Consequently, the other two elements, i.e., socio-economic development and skills development did not receive satisfying attention from ICT organisations. Essentially, B-BBEE

announcements shaped an ideological discourse that presented B-BBEE compliance as a good thing (beneficial) for ICT organisations.

8.3.1.2. BEE deals and transformation initiatives announcements

BEE Deals are from all transactions that include establishing Black-owned equity partnerships and developing Black share ownership schemes and equity equivalent programmes (Nduli & Rowan, 2019). Generally, an announcement of this deal from an organisation reveals its commitment to elevating Black ownership. Here are a few examples:

“Datanomix has signed a Black economic empowerment (BEE) transaction with AIH Northwind Holdings (ANH), a majority Black-owned B-BBEE investment firm” [ONA15]

“Vodacom Group in ground-breaking R17.5bn BEE ownership transaction” [ONA99].

Despite providing Black people with access to business ownership, B-BBEE deals have some shortcomings. Fronting in B-BBEE compliance is often attributed to the lack of transparency in organisations involved in these transactions (Kassnerf, 2016). In many cases, they become too complex to the extent that most organisations find it challenging to wind down and pay out the dividends to the Black owners. MTN Group is one of the first organisations to experience this challenge with their black share scheme called Zakhele.

“It has been nearly seven months since the Zakhele scheme expired and several shareholders are yet to receive their pay-outs. This is despite a Zakhele circular, which noted that the majority of shareholders would be paid by December 13” [ONA 76].

Minimal due diligence and lack of transparency contribute to some of the challenges experienced by organisations that enter BEE deal relationships (Hay, 2019). Beyond the ICT sector, there has always been a debate regarding BEE deal governance (Thomas, 2014). It may be the case that the questionable activities of BEE deal governance affect organisational confidence to embark on these transactions.

Transformation initiatives are programmes that are designed by organisations internally to comply with B-BBEE. Through transformation committees, organisations develop strategies for transformation initiatives. They are usually aligned with organisational business strategy. For example, an organisation may introduce a sales mentoring initiative for its black entrants with the hope of promoting them to its sales team. These initiatives include but are not limited to mentoring EMEs, black entrants’ mentorship, community computer labs, etc.

Of note is that some of these transformation initiatives are embedded in CSR activities. As part of their enterprise development commitment, AdaptIT, a software organisation acquired Uyandiswa which is a project management start-up. Two years later, AdaptIT decided to support the start-up so that it can operate independently. Their announcement *“AdaptIT mentors Uyandiswa to be independent”* [ONA3] was made in the media to confirm the mentoring initiative.

8.4.B-BBEE compliance is an ethical obligation

The ethical obligation is an ideological discourse that presented B-BBEE compliance as a good thing for South African society to move beyond the persisting inequalities. This ideological discourse manifested through statements that referred to B-BBEE compliance as an ethical duty or where an ICT member emphasised that it is consistent with the norm of doing business in South Africa.

Ethics is a theory of morality that governs the goodness or badness of behaviour in a specific context (Haugh, 2017). The ethical ideological discourse is consistent with Kantian deontological ethics which emphasise the moral obligation or moral duty that a social actor has towards their immediate environments (Devitt & O’Neill, 2017). Moreover, the ethical frame presents that the logic of compliance is entrenched in the theory of ethics.

Literature accepts that in contexts where the regulatees recognise their ethical obligation towards a policy, it needs to comply (Devitt & O’Neill, 2017). This ideological discourse emerged from all articles which referred to B-BBEE compliance as the right/good thing to do, for both the organisation and the citizenry. In most of the articles, there was an emphasis on the words “comply” and “ethos”. In addition, the majority of the articles used phrases such as “must comply”, “full compliance”, and “not chasing statistics” to emphasise that B-BBEE compliance is an ethical component of doing business in the ICT sector and South Africa as a whole. The quote below demonstrates the ethical nature of B-BBEE compliance, with some organisations including it in their organisational culture. It is noteworthy that the majority of the organisations that announced a high B-BBEE status framed B-BBEE compliance as an ethical act.

“Transformation and empowerment remain at the core of MTN’s ethos and culture”
[ONA92].

“This is not just for the sake of the country we do business in and the reputation-building benefits of CSI initiatives, but because adopting skill-building programmes, like corporate learnerships, makes good business sense” [ONA31].

Most ICT members framed B-BBEEE compliance as an ethical obligation of any organisation operating in South Africa given the complexity of an unequal society. As noted in the quote below it is the moral obligation to comply with the legislation to accelerate transformation in the ICT sector for the good of the citizenry.

“Since the government formalised its expectations of empowerment in the private sector, we have exceeded them – not by chasing after statistics, but by embracing the ethos and intent of B-BBEE. We’re proud of our commitment to empowerment and of the way we do business with suppliers, partners and customers, and we are pleased to receive the Level 1 status” [ONA2].

Indirectly, the ethical ideological discourse also revealed unethical acts that are prevalent in the B-BBEE compliance discourse. These unethical activities relate to fronting and what many ICT members echoed as “ticking boxes” or “chasing statistics”. As a result, there were several articles with warnings and consequences for organisations found with evidence of fronting.

“Fronting, in the end, is not a victimless crime. The perpetrators of fronting practices often target the vulnerable, the poor, and the uninformed in our country. They deprive those most in need of opportunities that should rightly be theirs” [ONA12].

Fronting is when organisations put Black people in positions where they do not have any responsibilities. For example, employing a Black person as a manager without any active key performing indicators. In some cases, organisations would elect a Black person to be part of the ownership structure who is completely unaware of their role in the ownership. Fronting is an indication of the regulatees act of trying to circumvent regulation to achieve compliance. While there are companies that are brought to book for such acts, many get away with fronting and still appear compliant.

8.5. B-BBEE compliance is a complex process

Through the complexity ideological discourse, ICT organisations legitimise minimal compliance by claiming that the multiple and interdependent compliance process may discourage compliance. This ideological discourse also presents the perceived heterogeneity of policy actors and networks that one needs to navigate to achieve a compliant status. A lack of linear processes of compliance with a clear network may encourage minimal compliance. Throughout the news stories analyses here, ICT organisations echoed that they experience complexities in the entire compliance process.

The multiple amendments to the policy coupled with ambiguous definitions of BEE elements and complex formulas make the compliance process a complicated one. Moreover, the B-BBEE ICT Sector Code consists of independent affirmative action legislation, which are B-BBEE elements on which businesses are measured. This complexity is true for QSEs with small compliance budgets.

"The complexity of B-BBEE codes makes it almost impractical for small and medium-sized businesses to organise their scorecard returns and implement the strategy" [ONA7]

"The new Codes add complexity to the process, so for medium, to large companies, it's advisable to implement automated systems tailored to handle this" [ONA96].

ICT organisations also legitimised minimal compliance by raising concerns about rationality, thereby interpreting the instant economic gains of complying with B-BBEE. Due to the interdependence of stakeholders involved in B-BBEE compliance, economic resources are often wasted while trying to fulfil the requirements of the scorecard. This is because there are complexities which make the policy too stringent to make the industry attractive for international policy actors. This relates to some of the crucial tasks to be performed by businesses, which include, but are not limited to:

- appointing transformation committee members who will dedicate their efforts and develop transformation strategies;
- allocating a 'B-BBEE budget' to cater for all five BEE elements;
- performing an internal B-BBEE audit;
- identifying a credible accredited B-BBEE verification agency, and most of all
- ensuring that all BEE elements requirements are met (independently).

Most articles echoed that the interdependent nature of the policy and its scorecard system is counterproductive causing confusion, which makes it difficult to manage the compliance process.

"Measurement is carried across scorecards and assessments, and these can be complex, time-consuming, and challenging. To comply with B-BBEE, the business has to redefine how it engages with it" [ONA39].

This finding parallels (Cairney, 2012; Göktuğ Morçöl, 2012; Robert Geyer and Paul Cairney, 2015) who found that public policies resemble any complex system which consists of heterogeneous levels of interdependencies that affects policy outcomes.

8.6. B-BBEE compliance deters FDI

The anti-FDI ideological discourse legitimises minimal compliance by presenting B-BBEE compliance as an FDI prevention. This assessment is similar to many researchers who have concluded that the majority of policies in Global South nations tend to discourage FDI (Alkali et al., 2016). This ideological discourse emerged from the idea that, if there is a vigorous regulation that makes it difficult to do business in an industry, most investors are likely to take their capital elsewhere (Ellyne & Yu, 2017). B-BBEE compliance is often cited as a factor unique to the South African context where affirmative action policies are part of the national ICT policy (Ellyne & Yu, 2017). As noted in the following quote, the B-BBEE policy is presented as an anti-FDI policy considering its effects on global trading attractiveness.

“Steady foreign investment is critical for the South African economy in years to come, and despite several conducive factors in the country, the extra regulations that accompany the Broad-Based Black Economic Empowerment (B-BBEE) Act have traditionally deterred international firms from the market” [ONA9].

For ICT sectors in developing nations, FDI is the primary contributor to new technology (Manyuchi, 2017). African countries have reformed their economic structures to attract more FDI (Manyuchi, 2017). More than other sectors, the ICT sector is part of the global technology economy that is affected by disruptive changes in the environment. To cope with this, it must keep abreast of new technology, and often this will be imported or in a form of investment. Some articles confirm that the nature of the B-BBEE policy consists of regulations that are anti-FDI, which often contradict organisations' need to compete globally. For example, the racialised employment practices affect the skills pool that the industry depends on to cope with the skills shortage in the industry (Goodman-Bhyat & Hammer, 2016).

8.7. B-BBEE compliance is anti-economic growth

This ideological discourse forwards the idea that B-BBEE compliance is a constraint to economic growth. Since its inception, businesses across all South African economic sectors have complained that B-BBEE hinders economic growth (Kassnerf, 2016; Krüger, 2016; Ngcobo & Ladzani, 2019). While there is a consensus for such an argument, there has not been a study that proves it, and the specific anti-economic growth factors are not explicit. A major factor cited under the anti-economic growth ideological discourses is the cost implications associated with B-BBEE compliance. The cost of complying with B-BBEE was also identified as a major contextual factor influencing minimal compliance in Chapter 6. In this ideological discourse, ICT organisations legitimise minimal compliance by accentuating challenges emanating from the cost implications.

Cost implications entail the cost of complying with overall affirmative action policies. The cost of compliance affects both beneficiaries (job losses and skills scarcity) and organisations (profitability). While it was designed to create opportunities for Black people, data shows that there are aspects of its design and the policy discourse that has unintended consequences for its beneficiaries. For example, when the government amended the B-BBEE ICT Sector Code 2012 with 2016 one, it was predicted that it was going to affect the jobs and skills development of Black people:

“The amended Broad-based Black Economic Empower (B-BBEE) Act of 2013 that came into effect on 1 May 2015 could potentially wipe out more than R20-billion in direct skills development and training investments and cost Black South Africans many thousands of job opportunities” ... [ONA80].

The news media in this category highlighted that it is becoming too expensive to comply with B-BBEE. In 2016, it was reported that.

“The B-BBEE Amended Codes of Good Practice have resulted in increased costs for almost two-thirds (65%) of South African businesses according to second-quarter research from Grant Thornton’s International Business Report for 2016” [ONA105].

In addition to paying a rating agency, businesses need to engage external procurement specialists to assist with the supply chain process and ensure that it is in line with B-BBEE. Considering the urgency to increase Black ownership to meet the 30% ownership requirement, companies are incurring huge debts, solely for B-BBEE compliance. Some of the reasons for the increased cost were cited to be:

“More than three quarters (76%) of the businesses that reported increased costs have had to employ outside consultants; 44% appointed an in-house B-BBEE team; and 41% enlisted specialist service providers to assist with procurement as well as enterprise development requirements” [ONA13].

The cost of compliance was also mentioned as a challenge in the context of BEE deals.

8.8. B-BBEE compliance enables perpetual minority discrimination

Despite literature suggesting that affirmative action policies are synonymous with minority discrimination, the findings of this ideological discourse were not overwhelming. There were very few articles that echoed this sentiment. Where B-BBEE was viewed as minority discrimination, the government was highlighting aspects that are only concerned, with non-White people. Between 2014 and 2017, few articles emphasised phrases such as “non-White”,

“disqualifying White-owned businesses” and “restricted to Black investors” which may indicate the discriminative nature of B-BBEE compliance. Furthermore, non-Black business owners were often portrayed as victims of B-BBEE exclusion as shown in the quotes below:

“The new B-BBEE ICT Sector Code and the generic B-BBEE code for South Africa will see many non-Black-owned businesses struggle to achieve high BEE ratings” [ONA78].

The minority discrimination frame mirrors the inevitable politicisation and racialisation of the economic transformation agenda within the ICT sector and South Africa in general. This is the predominant frame that has been largely accepted as an emerging systematic exclusion of White minorities from the ICT roles. The implication of politicising compliance with this policy is apparent in how B-BBEE has become a racial agenda more than a remedial strategy. For this reason, the impact here goes beyond the industry, but the minority group that has been part of the sector for a long time. Moreover, the race agenda seems to suppress the other inequalities that this policy seeks to address, such as gender and physical disability.

8.9. Chapter Summary

Through news articles, we identified ideologies which are paddled to legitimise minimal compliance with the B-BBEE ICT Sector Code. Throughout our analysis, we established that B-BBEE ICT Sector Code is largely perceived negatively. There were few positive aspects of the regulation than there were negative ones. Through a large number of B-BBEE status announcements, we established that most ICT organisations use B-BBEE compliance indicators for reputation management purposes. Despite the negative perception that surrounds B-BBEE compliance, some organisations perceived it as an ethical action which could lead to transformation in the ICT sector. Noteworthy, of the six ideological discourses, identified, we noticed that the ideology of minority discrimination was not overwhelming. Throughout the analysis, we established that majority of ICT sector members felt that B-BBEE compliance is a complex process.

9. Discussion of findings

9.1. Introduction

This chapter discusses the findings of the study. The study used triangulated data to answer the main research question: ***'How do contextual factors affect minimal compliance with the B-BBEE ICT Sector Code?'***. We employed a conceptual framework for minimal compliance to identify factors at the organisational level, policy level, and national level. Our findings reveal that aspects of the national socio-political context and regulatory loopholes in the policy implementation context propel ICT organisations to use utilitarian logic for a regulatory response which in turn leads to minimal compliance. Essentially, ICT organisations leverage loopholes in the policy implementation context while responding to the B-BBEE ICT Sector Code. Their understanding of these regulatory loopholes informs their logic of action (goal framing and instrumental rationality) for forming a pro-compliant behaviour with the B-BBEE ICT Sector Code. Moreover, ICT organisations form ideological discourses to legitimise minimal compliance behaviour and its outcome in the context of regulatory goals. On the part of ICT organisations, we established that protecting the achievement of their business goals is essential in shaping pro-compliant behaviour.

The rest of the chapter is organised as follows: Section 9.2. revisits the research problem. The summary of research questions and findings is discussed in Section 9.3. Section 9.4 discusses the primary of the research by providing the answers to the primary research question of 'how do contextual factors affect minimal compliance with the B-BBEE ICT Sector Code? The chapter summary is covered in Section 9.5.

9.2. Revisiting the research problem

The study highlighted the significance of B-BBEE compliance in the context of ICT policy, sectoral growth, and overall economic transformation. Except for the ICT sector, the majority of the sectors saw an increase in B-BBEE compliance between 2004 and 2015 (Dreyer et al., 2021). Despite the call from the government for all ICT organisations to respond to the B-BBEE ICT Sector Code, compliance remains low, and the ICT sector remains one of the most under-transformed sectors (Independent Communications Authority of South Africa, 2021; Mda, 2010a; Perumal et al., 2012). The study was launched in the context of the following problems associated with B-BBEE compliance in the ICT sector:

- passive resistance to comply with B-BBEE regulations;

- contradictory compliance behaviour; and
- touchy-feely race relations element that deters attention from IS researchers.

The first problem is associated with the passive resistance to comply with the B-BBEE regulations by ICT organisations. Between 2015-2016, of the over 20, 000 ICT organisations in South Africa, only 1% subjected themselves to B-BBEE verification (Schofield, 2016). Of this 1%, the majority of this was large entities that are in the government spotlight. Between 2016 and 2020, only less than 15 ICT organisations were appearing on the Empoweredex Most Empowered Companies list. Moreover, the majority of the organisations that appeared on this list were the same for four years. It was imperative to investigate factors that discourage satisfactory response to the B-BBEE ICT Sector Code.

The second problem is that, for the few companies demonstrating compliance, their behaviour was not helping the government achieve transformation in the ICT sector. During the period of data collection, ICT organisations were still largely in the hands of White people, with their workforce, particularly upper management, retaining a majority of White males. Moreover, the majority of the boards consisted of majority-White males. Aspects of this paradox between compliance behaviour and intended policy outcomes had to be investigated to unpack factors that influence minimal compliance.

The third problem was the sensitive subject of race relations that may be deterring IS researchers from the B-BBEE compliance discourse. Figure 9.1 illustrates a timeline of studies that have been conducted related to B-BBEE in the ICT sector. It further presents the number of studies that are an indication of the little attention that is given to B-BBEE compliance activities by IS researchers. The research topics listed in Figure 9.1 also indicate the lack of attention given to factors that influence minimal compliance with B-BBEE in the ICT sector.

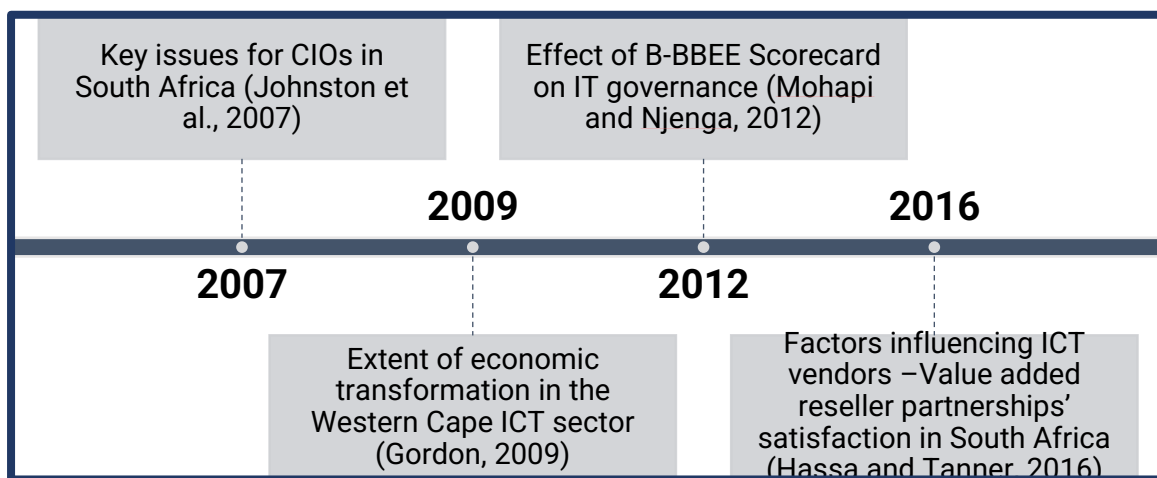


Figure 9.1: A timeline of information systems studies that investigates some aspects of B-BBEE

We attribute a lack of information systems research on the B-BBEE ICT Sector Code to race relations aspects that emerge from the redistributive nature of B-BBEE regulations. Race relations in the South African ICT sector are still problematic, and they manifest covertly. For example, where organisations fall short on employment equity, this was mainly because of the claim that there were no black candidates to fill the position (Ngcobo & Ladzani, 2019). The time has come for information systems researchers to investigate any aspect that influences the IS research enterprise such as the subject in this study. Research in this subject expands knowledge on the interaction between socio-political factors and the IS enterprise.

9.3. Summary of research questions and findings

The study sought to explain contextual factors that affect minimal compliance with the B-BBEE ICT Sector code in South Africa. Table 9.1 summarises research questions with corresponding theoretical propositions and findings. While some of these factors might be external to ICT organisations, they are pertinent in shaping the ICT sector B-BBEE discourse.

Table 9.1: Summary of research questions and corresponding findings

	Research questions	Propositions	Key findings
Main question	How do contextual factors affect minimal compliance with the B-BBEE ICT Sector Code?	The study assumes that contextual factors are central to how organisations respond to regulatory requirements.	Factors that affect minimal compliance with the B-BBEE ICT Sector Code are the organisational perception of the policy implementation context, organisational logics of action, and organisational legitimisation. ICT organisations leverage regulatory loopholes (e.g., point-system compliance) in the B-BBEE ICT Sector Code to comply with it in a manner that does not add value for the beneficiaries but allows them to achieve their organisational goals.
Sub research questions	How do ICT organisations perceive the policy implementation context of B-BBEE regulations?	Proposition 1: Regulatees form perceptions about the B-BBEE policy implementation context that shape their attitudes towards the B-BBEE ICT Sector Code, and in turn influence the behavioural decision	<ul style="list-style-type: none"> • The regulatory burden inherent in the B-BBEE policy implementation context affects compliance; • The B-BBEE policy implementation context has incomprehensible institutional arrangements that make compliance a cumbersome process; • The B-BBEE regulatory stipulations are ambiguous; • There are challenges associated with identifying beneficiaries (Black people) for certain B-BBEE elements; and • The B-BBEE policy implementation context consists of regulatory uncertainties.
	How do ICT organisational logics of action influence minimal compliance with the B-BBEE ICT Sector Code?	Proposition 2: Organisations use goal framing and instrumental rationality as their logic of action to employ minimal compliance with the B-BBEE ICT Sector Code	<p>The logic of action of goal framing enables ICT organisations to prioritise goals that are consistent with their business goals. These goals are;</p> <ul style="list-style-type: none"> • Gain goals • Global competitiveness • Securing government ICT contracts • Domestic B2B ICT attractiveness • Normative goals • Responding to the regulatory requirement • Obeying domestic laws • Hedonic goals • Managing organisational reputation

	Research questions	Propositions	Key findings
			<p>ICT organisations use the logic of action of instrumental rationality to protect the achievement of prioritised goals. Instrumental rationality manifests through:</p> <ul style="list-style-type: none"> • Steps followed to comply with B-BBEE ICT Sector Code; • Common programmes employed to comply; and • Culture of compliance.
	How do ICT organisations legitimise minimal compliance and its outcome?	Proposition 3: ICT organisations use ideological discourses to legitimise their compliance behaviour and its outcomes	<p>ICT organisations use the following ideological discourses to legitimise their minimal compliance behaviour and its outcome:</p> <ul style="list-style-type: none"> • B-BBEE compliance affords ICT organisations a competitive advantage edge • B-BBEE compliance is an ethical obligation • B-BBEE compliance is a complex process • B-BBEE compliance is anti-economic growth • B-BBEE compliance deters FDI • B-BBEE compliance is a form of minority discrimination

Chapter 6 discussed the aspects of how ICT organisations perceive the B-BBEE policy implementation context. Majority of the ICT organisations perceived the B-BBEE policy implementation negatively. Chapter 7 was instrumental in demonstrating the utilitarian logic used by ICT organisations while responding to B-BBEE compliance requirements. Chapter 8 revealed the ideological discourse formed by ICT it was interesting to see that the negative sentiments that were highlighted in Chapter 6 such as the cost of compliance and the complexity of the compliance process also emerged as a point of justifying why there was minimal compliance in the ICT sector. organisations to justify their minimal compliance behaviour and its outcomes.

9.4.Contextual factors affecting minimal compliance with B-BBEE ICT Sector Code.

Having analysed how ICT organisations respond to B-BBEE compliance requirements, this section discusses the factors that shape minimal compliance behaviour. To report these contextual factors, we group them into three categories:

- macro-level factors: national socio-political instability;
- meso-level factors: regulatory loopholes; and
- micro-level factors; organisational logics of action.

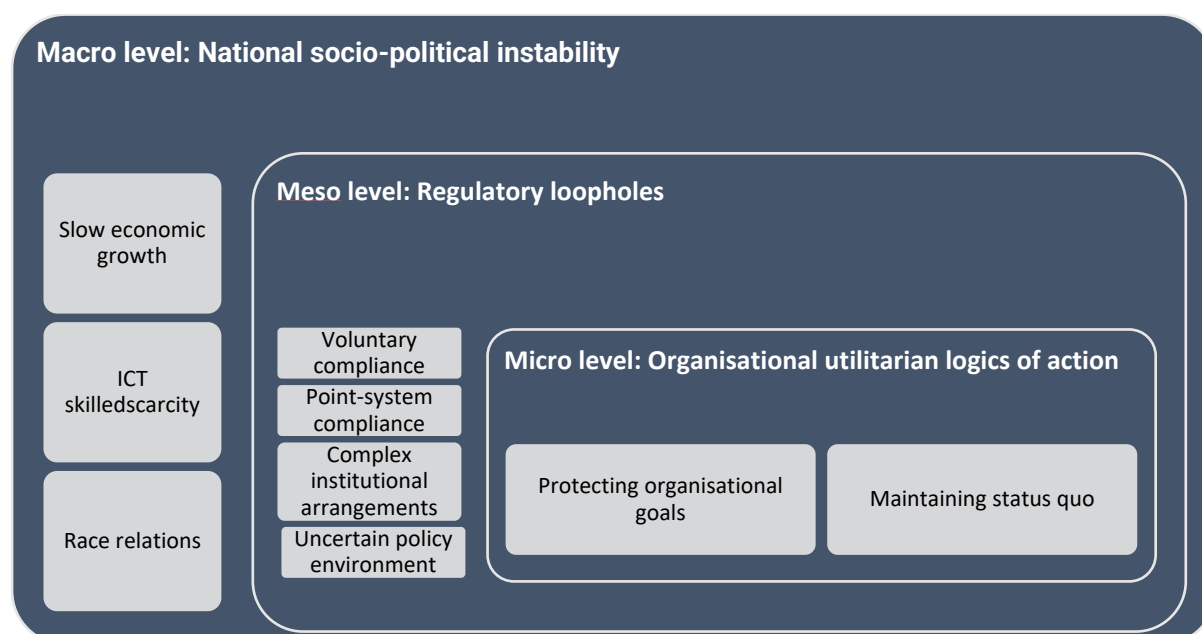


Figure 9.2: Contextual factors affecting minimal compliance with the B-BBEE ICT Sector Code

9.4.1. Macro level: National socio-political instability

Macro-level factors are those that influence minimal compliance at the national level. These include aspects such as slow economic growth, ICT skills scarcity, and race relations.

9.4.1.1. Slow economic growth

South Africa is experiencing economic stagnation and has not been able to make any meaningful impact on unemployment (Francis & Webster, 2019). ICT organisations' passive resistance toward B-BBEE regulations was influenced by the perceived slow growth of the South African economy. Reference to businesses being pragmatic entities was used to accentuate the need to protect organisations' bottom line during an economic downturn.

"There are many other regulations and there are other factors that come in play. It is economics 101 that legislation has to look both at the macro (global) economy and the micro economy to see viability of a regulation. It is also difficult to implement regulations if an economy is not growing, for example with ours that is growing at 1% per annum" [PM 2].

ICT organisations felt that B-BBEE compliance was an anti-economic growth policy based on the cost associated with responding to it: *"The cost of BEE implementation is too high and the return on this investment is unknown and not guaranteed" [ICT Exec 1]*. The majority of the respondents saw aspects of embarking on B-BBEE deals as a gamble. This sentiment was based on the idea that B-BBEE transactions were mostly funded by large unsecured debts which are sometimes never paid.

The cost of compliance differs according to the size of the organisation. For QSEs, cost implications emanate from complying with each element. For example, QSEs need to allocate funds for complying with skills development to comply with training activities. Cost implications for large organisations emanate from appointing a B-BBEE verification agency or consultancy to assist in the development and execution of the B-BBEE strategy. In addition, the bigger the organisation is, the bigger the budget for complying with the B-BBEE elements will be. For example, large entities also incur costs from head-hunting and training Black candidates to comply with the management control element.

For large organisations, responding to international regulations superseded the need to comply with B-BBEE regulations. This was apparent for the organisations that were operating beyond the South African borders. Respondents echoed that some aspects of the B-BBEE ICT Sector Code overlook the fact that ICT organisations operate in a global economy, and as such,

the regulatory environment should be harmonised to safeguard economic growth: *“because these organisations also operate in a global economy, they are likely to respond to the pressures of the global economy and with less attention costly regulative instruments” [ICT Exec 3].* Noteworthy, the relationship between B-BBEE compliance and economic growth has not been sufficiently studied. However,

9.4.1.2. ICT skills scarcity

While ICT competencies are listed as critical skills, South Africa is in a deficit of 70, 000 ICT skills ranging from security specialists, software engineers, architects and analysts (Kirlidog et al., 2018; van der Westhuizen, 2022). The South African ICT skills shortage challenge is trifold. Firstly, there is a limited number of Black people acquiring technocentric qualifications. Secondly, similar to many countries in the Global South, the country has few females participating in ICT business (Kundu & Mor, 2017). Thirdly, there is a deficit in all ICT skills related to responding to the demands of Industry 4.0 regardless of any social parameter. ICT organisations find themselves struggling to fill up vacancies as required by their clients.

“The ICT sector is highly technical in nature which requires fairly highly skilled individuals. The dynamic nature of the technology also makes it difficult to keep up with the skills demand” [PM 2].

The ICT skills shortage challenge influenced ICT organisations to do trade-offs between committing to B-BBEE regulations and meeting the demands of the dynamic digital economy. In this manner, responding to the transformation agenda became secondary.

In the context of B-BBEE compliance, skills shortage was cited as a barrier to complying with both management control and skills development elements. South Africa’s ICT skills deficit may continue to influence B-BBEE compliance behaviour based on the country’s educational legacy.

“In South Africa, the pool of black talent – particularly in some disciplines – is limited because of the country’s educational legacy” (Altron, 2020).

Training and hiring Black candidates were considered to be a costly and uncertain decision. This was based on the idea that Black people weighed more and benefitted the ICT organisations more in the B-BBEE scorecard. Respondents echoed that black skilled candidates moved jobs more frequently which makes it difficult to retain them. As a result, ICT organisations opted to focus on obtaining the appropriate ICT skills for the job instead of increasing the number of Black people in their workforce.

The government has not been proactive in improving the quality of education, especially in areas of STEM subjects that can equip students with technical skills. Moreover, the lack of collaborative efforts between the industry and academia creates a mismatch between ICT qualifications and industry needs (Calitz et al., 2015).

“Lack of skills is a major constraint, and the education system is struggling to give the talent the market is constantly searching for” [PM 1].

Universities stick to teaching an ICT curriculum that changes every four to five years. By the time a student completes a three-year qualification, the industry needs would have moved ahead. To resolve this misalignment, ICT organisations have been proactive in introducing skills development initiatives.

9.4.1.3. Race relations

The South African ICT Sector remains racially stratified, with White people owning and managing the majority of organisations. Racial stratification emanates from the legacy of apartheid that still lingers in corporate South Africa. Efforts by the B-BBEE ICT Sector Code to rebalance race in the ICT sector have exacerbated race relations. Race relations manifest through social structures that strive to maintain the social order that favours one racial group (Oosthuizen et al., 2019). The B-BBEE ICT Sector Code is explicit about who should be prioritised in recruitment processes, and training activities, and who should be beneficiaries of corporate social responsibility (CSR) activities. The sensitive aspects of ICT sector race relations emanate from prioritising Black people in opportunities that emerge in the organisations. Furthermore, the idea of sharing ownership with Black people is a sensitive issue. The groups that are excluded from B-BBEE categories (White people) consequently consider themselves excluded in the ICT sector. As a result, they use covert resistance to B-BBEE compliance requirements as a mechanism to protect their status/position in the ICT sector.

Some ICT organisations see B-BBEE regulations as an aspect of “you took from me, I take back” that pervades the South African transformation discourse. White business owners have mostly viewed giving equity to Black people as an act of expropriation, rather than economic transformation (Madi, 2015). Moreover, while it has empowered some, B-BBEE has had broadly adverse outcomes for Black people. In the ICT for instance, a fresh Black graduate is considered a “middle manager”, while a White male is equivalent to being a foreigner. For the lower class Black people, “...B-BBEE, in general, is associated with “tenderpreneurship” where the only way to benefit from it is by winning tenders [government contracts] ...” [VA 1]. This

assessment is consistent with the longstanding debate that B-BBEE regulations have generally failed Black people (Horne, 2015).

The requirement for ICT organisations to achieve demographic presentation is a sensitive issue. For example, while Ansys is one of the top B-BBEE compliance performers in the sector, they noted that achieving Black majority ownership has posed challenges in their organisation (Empowerdex, 2017). A sensitive challenge in this context pertains to trust issues associated with Black owners whose businesses are often funded by bad debts (Thomas, 2014).

In most cases, the dominant group finds a mechanism for legitimising the status quo (Ramasubramanian & Martinez, 2017). The sensitivity of the discourse emanates from the race relations agenda that is embedded in the B-BBEE policy. Unlike in the majority of the developing world, South African affirmative action policies have an explicit racial agenda. For the South African government, any economic sector must resemble the racial makeup of the population. While there are ICT organisations that involve Black people for the spirit of B-BBEE, there are others that use them as simply means to the end.

Despite multiple training and upskilling initiatives from the MICT SETA, industry stakeholders echo that it remains difficult to increase the number of Black IT skilled candidates. As the core element using which to elevate economic transformation, ownership and management control have not improved Black people's participation in the ICT sector (Dreyer et al., 2021). This was apparent in the number of White executives and board members in the ICT sector (Wachira, 2020). For example, compared to other sectors, ICT sector ownership remains largely in the hands of White males. Moreover, highly technical skills are still more common in White and Indian males than they are in Black people. Race relations in the ICT sector overlap with national unemployment, which solely affects the majority of Black people. Aspects such as 'lack of Black skilled IT candidates' continue to legitimise mechanisms excluding Black people from satisfactory entry to the ICT sector.

The fundamental goal of B-BBEE was to change the racial makeup of the South African economy. This fundamentally meant that there would be racial groups that would prioritise others. However, even after multiple amendments to the B-BBEE regulation, this has not been achieved in all economic sectors.

9.4.2. Meso level: Regulatory loopholes

Meso-level factors are those emanating from the regulatory loopholes in the policy implementation context. Regulatory loopholes are associated with bad policy design where the policy development actors undermine the complexity of the social issue. These regulatory

loopholes are point-system compliance, and complex institutional and uncertain policy environment.

9.4.2.1. Voluntary compliance

South African affirmative action policies operate on the principle of voluntary compliance without any explicit punitive measure for non-compliance. B-BBEE regulations were launched in good faith – with the idea that ICT organisations would cooperate given the need to transform the economy. Literature indicates that voluntary compliance works well when regulatees choose to comply with regulations at their own will without any pressure (Mackay et al., 2018a). In addition, regulatees may volunteer to comply with a regulation when the benefits and punitive measures are explicit (Mackay et al., 2018b).

In the case of the B-BBEE ICT Sector Code, voluntary compliance increased the likelihood of minimal compliance because of lack of punitive measures. The most echoed punishment for non-compliance is that it would be difficult to trade without a B-BBEE certificate. However, this would not be the case for an organisation that trades with international entities where a B-BBEE certificate is not required.

The influence of voluntary compliance on minimal compliance was apparent for organisations that were the only ones with specific technological services. These organisations have a monopolistic advantage in the market and would get business whether they comply with the B-BBEE ICT Sector Code or not.

“And some do not care because you find that they have specific products which other companies don’t have, and they are the only providers in the market so whether they comply or not other businesses will still buy from them because they have nowhere to go and buy. So they have some sort of a monopoly in the industry, so even if they don’t comply it will not matter” [VA 2].

9.4.2.2. Point-system compliance

A major loophole with the B-BBEE policy implementation context is the point-system of compliance that makes ICT organisations focus on increasing B-BBEE points. This compliance mechanism had two fundamental unintended consequences. Firstly, organisations that did not depend on B-BBEE certificates did not see the need to comply with the B-BBEE ICT Sector Code. VAs confirmed that the majority of the organisations with good B-BBEE status were those that trade with the government:

“Most companies that do business with the government are the ones that comply more. And if the client wants a good BEE score, then the organisation would do anything to get a better score” [VA 3].

Secondly, the point-system compliance, i.e., the B-BBEE scorecard as proof of compliance results in tokenism and commoditisation of gender and race. Tokenism refers to the practice of recruiting Black people specifically women for organisations to appear diverse, or as embracing racial equality (Ramasubramanian & Martinez, 2017). In the current research, the commodification of gender is beyond objectification, as is the case in advertising theory (Zimmerman & Dahlberg, 2008). We use commoditisation as a metaphor to interpret ICT B-BBEE regulations’ representation of certain gender and race as means to a desirable end.

Early studies in B-BBEE predicted that tokenism would continue to be the source of regulatory circumvention; and this would influence the outcome of B-BBEE compliance (Booyesen, 2007; Tanski, 2011). Our finding of the prevalence of tokenism in affirmative action policy compliance parallels the US practices, where Black people have been placed in leadership positions solely as a manner of façade of inclusion, but not to allow them to function as leaders in their roles (Ramasubramanian & Martinez, 2017).

The need to increase B-BBEE points gave rise to the commoditisation of race and gender in the ICT sector. Our conception of commoditisation here is consistent with capitalist principles of using weaknesses in social structures for increasing utilities (Ratuva, 2016). Commoditisation manifested through the placement of Black people in roles in which they were not functional, African females on boards and in top-level management positions.

“If you have legislation that commoditise a gender and a race it becomes complicated. We are not the telko in 2000” [PM 1].

A count of leadership racial representation on 33 websites indicated that there 14% of the boards were African females after African Males (19%), and White Males (46%) (see Figure 9.3). ICT organisations only placed the number of Black women who could help them achieve a certain status. In this manner, the idea of transformation disappears, and the beneficiaries became a means to a desirable end. We also noted that most Black women who were targeted to be included would be from the elite, politically connected or celebrities. One of the ICT Exec mentioned that their company had recently appointed a Black woman who was a TV personality with the hope of increasing points in the ownership element.

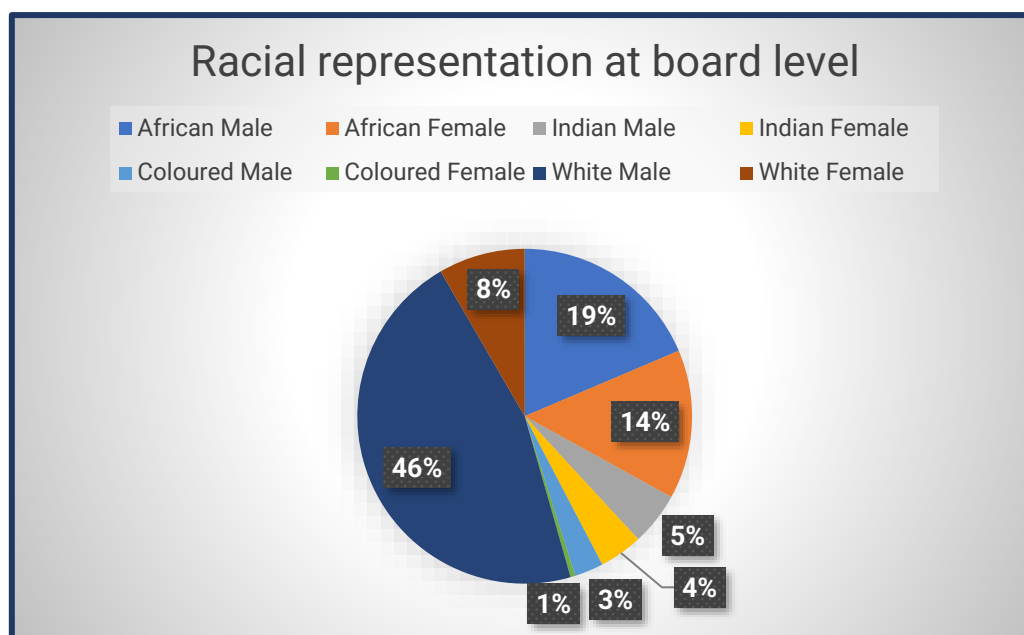


Figure 9.3: Racial representation in ICT organisations at board level

Figure 9.3. illustrates another peculiar issue emanating from the obsession with African females which results in neglecting Coloured people. This is contradictory to the requirements of EAP where the workforce must be consistent with the national composition. In Section 2.2, we learnt that Coloured people were the second largest population group in South Africa. It would make sense that we see more Coloured people participating in the ICT sector. This is an indication of the adverse relationship between point-system compliance and rectifying exclusionary elements in the ICT sector.

An unintended consequence of tokenism and commoditisation of gender and race is the phenomenon of fronting. Fronting is a technique of regulatory circumvention that stems from high levels of tokenism and commoditisation. The majority of the cases of fronting featured in the B-BBEE Commission reports from the ICT sectors involved unknowing Black women placed on boards or owners who could not benefit in any way from the profits of organisations (B-BBEE Commission, 2018).

The other complexities that come with using gender to collect points are the weight placed on one woman which does not translate to empowerment. This study noted that Black women had become a much more attractive commodity for achieving a desirable B-BBEE status than other races and genders. Black women weighed significantly more than any other gender in the B-BBEE certificate, which affords organisations with trading attractiveness. We established that hiring a woman gives more points – so an organisation can do with just one woman on the board if they have achieved a certain level of B-BBEE recognition. The

unintended consequence of this practice is that it restricts more Black women from accessing and participating meaningfully in the ICT sector.

9.4.2.3. Complex institutional arrangements

The B-BBEE ICT Sector Code is regarded as complicated because of the complex institutional arrangements designed to enforce compliance. Most specifically, the multiple policy actors and formulas used to quantify compliance emerged as elements that encouraged B-BBEE minimal compliance. ICT organisations felt that these institutional arrangements increased the regulatory burden. The fact that each of the elements requires an independent strategy and resource allocation increases the burden which may deter compliance from organisations that do not see transformation as a necessity.

Failure of DTPS to be decisive regarding which regulatory body (ICASA or ICT Sector Council) must determine how the B-BBEE ICT Sector Code should be enforced increases confusion and multiple interpretations of the regulation. The study found that ICT organisations adopted different interpretations of the B-BBEE beneficiaries depending on how they will benefit from it. For example, those that used ICASA's HDI classification would include White people in their ownership structures and still claim transformation points. On the other hand, ICT organisations that used the broad-based definition of Black people would simply add a few African women to their ownership structures and earn points.

Another challenge of having multiple regulatory powers was the documentation used to prove compliance. Across the board, the B-BBEE certificate is used as the sole proof of compliance with affirmative action. However, when ICASA introduced transformation in spectrum licence applications, they verified the 30% ownership through the IDs of everyone in the ownership structure of the entity. ICT organisations considered this as an impediment because of the process that it takes to obtain IDs for all owners. This was also said to be a complicated process for the organisations that acquired Black ownership through employee ownership or public share schemes. ICT organisations felt that this requirement was not thought through given the hundred individuals included in the share schemes.

The calculations for quantifying B-BBEE compliance to arrive at the final B-BBEE scores are prone to error and manipulation which may lead to circumvention. This is a loophole because organisations may misrepresent their B-BBEE scores numbers while not making any positive contribution to transformation. In this regard, minimal compliance with the B-BBEE ICT Sector Code manifests through fronting where Black people are placed in positions where they do not execute any activities or make any impactful decisions. Using the formula prescribed by

the DTI perpetuates minimal compliance with the B-BBEE ICT Sector Code. The formula increases gains for ICT organisations more than the beneficiaries.

“So if I have a company of any size, that has three Black women, and the entire rest of the company can be white, it can still get its Level 1 and 2. That means we will be ... essentially getting an opportunity for enriching a small elite small shareholder who will be a front for many White-owned enterprises” [PM 2].

In the statement above, an ICT may simply get 2-3 Black women and gain Level 1 B-BBEE status that affords them a competitive advantage (e.g., government procurement contract).

Complex institutional arrangements increase regulatory uncertainty that increased the likelihood of minimal compliance with the B-BBEE ICT Sector. Our finding is consistent with (Fourie et al., 2018b) who observed that regulatory bodies such as ICASA and the Competition Commission increased regulatory uncertainty in the telecommunication industry because of a lack of clarity on their regulatory jurisdiction. In addition to increasing regulatory burden, ICT organisations said that these uncertainties make South Africa an unattractive business destination.

“The world bank publishes the top 100 and cost analysis of doing business in the world. In the report, South Africa is a country with one of the highest costs to do business in. they break down in terms of the formal economy, stable government, stable economies, etc. 1 Unstable government, 2. Uncertainty in law. 3. The volatility in labour. They won’t invest if labour force goes on strike every 2 minutes” [PM 1].

ICT organisations found themselves having to keep abreast of the changes introduced by the DTI, ICASA, through to the ICT Sector Council. The majority of the respondent echoed that the B-BBEE regulations changed too many times with negative implications for their organisation. For example, when the CoGP was amended in 2013, the number of B-BBEE elements decreased from seven to five. Moreover, the ICT sector was given a target of 30% Black ownership which was more than the 25% for the other economic sectors. For the ICT organisations that had already gone through verification at the time of the amendment, this meant that they had to go through another process – increasing their Black beneficiaries to match the new requirements.

9.4.3. Micro level: Organisational utilitarian logics of action

Micro-level factors are those that are located within ICT organisations that influence minimal compliance. The study found that ICT organisations’ response to B-BBEE ICT Sector Code

compliance is entrenched in utilitarian logic of action. In this logic, actors seek to increase utility through the most cost-effective means. In a BBEE regulatory compliance context, we observed that while engaging with the regulation, ICT organisations keep their goals insightful to ensure that compliance does not threaten their existence. To achieve this, goals are framed and protected through instrumental rationality. Therefore, in the context of compliance with the study finds that utilitarian logic through protecting organisational goals and maintaining the status quo.

9.4.3.1. Protecting organisational goals

The study found that protecting the achievement of organisational goals influenced how organisations responded to the B-BBE ICT Sector Code compliance requirements. Most of these goals are associated with what organisations perceive to be the most effective in enhancing business attractiveness (profitability and competitiveness) and sustainability advantage in their relevant markets. As shown in Figure 9.4, these goals are **competitiveness goals** (gain goals) and **contextual appropriateness goals** (normative and hedonic goals). Noteworthy, we combined hedonic goals with normative goals to argue that they are both affording ICT organisations contextual appropriateness. This is because hedonism, i.e., brand reputation in the context of this study is associated with how ICT organisations gain a good reputation for their pro-transformation behaviour. Furthermore, contextual appropriateness or 'looking good' (normative and hedonic goals) in the eyes of the regulator influenced the compliance preferences that could easily make these goals achievable.

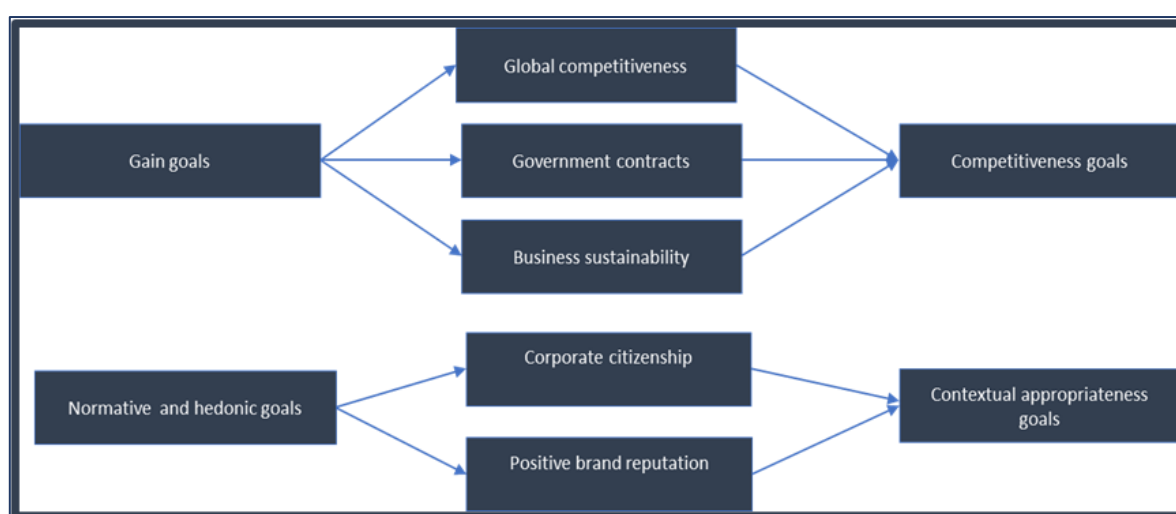


Figure 9.4: Two primary goals pursued by ICT organisations in the context of B-BBE compliance

Our point of departure is that minimal compliance is a consequence of perusing these two competing goals. The majority of the respondents agreed that organisational goals influence their decision to comply with the B-BBEE ICT Sector Code, as well as the degree of compliance. Although some organisations complied fully with these regulations, they did so consistently with their goals.

Minimal compliance with B-BBEE is a consequence of ICT organisations' pursuit of global competitiveness goals by ICT organisations. Global competitiveness relates to the organisation's need to compete globally and attract international investment (Krüger, 2014). In the latest global competitiveness fact sheet, the South African regulatory environment, especially B-BBEE policies were cited as one of the factors negatively affecting economic growth (Schwab & Zahidi, 2020).

Global competitiveness was perceived to have good benefits to the ICT organisations. In addition to improving IT competency and adapting to new technologies quicker, global competitiveness allows organisations to expand their businesses to new markets. B-BBEE regulations on the other were viewed to have little or no relationship with global competitiveness. Throughout the data, ICT organisations showed an explicit need to attract international businesses. Various factors such as technology adoption and time difference with Europe make South Africa a potential destination for ICT offshoring activities. However, the goals of B-BBEE are perceived to be contradictory to global competitiveness.

Minimal compliance is a consequence of organisational contradictory goals of achieving global competitiveness and transforming the ICT sector. The latter requires organisations to look inward to remove any aspects that can restrict them from transforming and allowing the majority of Black people to participate. However, global competitiveness requires organisations that have IT skills that can meet global demands. It also requires organisations that can keep up with the dynamic nature of the technology environment.

Another major factor that affects global competitiveness is the perceived socialists' aspirations that contradict most capitalist multinational organisations. When seeking IT competencies, multinational organisations require skilled people, regardless of their race. However, B-BBEE regulations require them to hire based on race. These practices are perceived to be racialised and inefficient for most multinationals. One of the respondents echoed that this practice has also influenced many skilled White people to leave South Africa to seek employment elsewhere.

Domestic competitive advantage is achieved by having attractive B-BBEE status that allows organisations to do business with the government and other domestic entities that require a B-BBEE certificate to trade. Towards this goal, there is minimal compliance in terms of the number of organisations that are complying with the B-BBEE ICT Sector Code at a time. We observed that this goal to achieve domestic competitive advantage influenced compliance in two ways. Firstly, large organisations that are constantly in the government's spotlight were the compliant ones. This means that the rest of the organisations that did not do business with the government did not engage with the regulations, or even if they did, they were only complying to achieve the bare minimum. This was apparent in the Empowerdex lists, where the majority of the organisations featured under the ICT sectors were large entities. Secondly, organisations were only complying to attract other businesses. The unintended consequence of this was that; businesses that did not require B-BBEE certificates to trade would actively resist B-BBEE compliance.

Pursuit of contextual appropriateness by ICT organisations influenced minimal compliance with the B-BBEE ICT Sector Code. The pursuit of contextual appropriateness is associated with organisations' response to institutional pressures (DiMaggio & Powell, 1983). Achieving contextual appropriations is also related to establishing legitimacy to exist in a certain context. One of the visible pressures in operating an ICT business in South Africa is to deracialise the sector through B-BBEE compliance.

To achieve contextual appropriateness ICT organisations performed discursive practices that would legitimise their existence in South Africa. These discursive practices included:

- developing strategies to increase Black people at the ownership level, for example, employee ownership schemes;
- regularly reporting on their B-BBEE compliance performance; and
- including B-BBEE compliance activities in the business strategy.

The majority of organisations with good B-BBEE status sought to look appropriate in the watchful eye of the regulator because they get more business from the government. Moreover, these are organisations that aspired to be perceived as those that are performing appropriately in the context of the South African transformation process.

"So out of 20,000 entities in the sector, only a maximum of 200, which is only 1% are subjected to verification agencies. And they are measured because they have to be if they want to meet the expectations of their clients who are mostly the government" [PM2].

The implication of the regulator's focus on the large organisations that only do business with the government was more apparent on the Empowerdex list of the topmost empowered companies. On this list, only large entities that are listed on the JSE were making efforts to comply with the B-BBEE ICT Sector Code. Organisations that do not provide business to the government or those whose clients did not need a B-BBEE certificate for trading used covert tactics to neglect B-BBEE compliance requirements. Consequently, the number of organisations decreases with implications for the overall sectoral compliance levels.

Through instrumental rationality, ICT organisations complied with B-BBEE in a manner which only achieves their goals but neglect that of the regulator. There are many instances in the data emanating from both the government and ICT organisations that demonstrate that, in B-BBEE compliance, Black people are used as means to a desirable end. From the offset, the policy documents talk of increasing B-BBEE points by including Black people in areas of the business. When advising organisations on the best B-BBEE strategies, VAs placed emphasis on elements that can increase points. In one of the interviews, an ICT Exec confirmed that they had increased the number of internships and learnership given that they are easy to obtain B-BBEE points.

Essentially, instrumental rationality as an alternative for organizational behavioural preference had unintended consequences on the beneficiaries of the B-BBEE regulations. For example, given the culture of compliance that organisations form, empowerment only takes place minimally. Moreover, B-BBEE elements with the most points received more attention from organisations hoping to increase their likelihood of attracting more business. Secondly, organisations established a culture of compliance that focused on maximising points rather than transformation. Some policymakers suggested that this behaviour was a consequence of the point system placed in the regulation to measure transformation.

9.4.3.2. Maintaining the status quo

At a time of radical change, maintaining the status quo becomes the ultimate logic of restricting transformation. Maintaining the status quo translates to unethical but pro-organisational behaviour. Pro-organisational behaviour refers to behaviours that safeguard organisational effectiveness with no effect on institutional change (Mishra et al., 2021). ICT organisations are aware that their compliance behaviour minimally impacts sectoral transformation. The study found that organisational legitimisation is an instrument of maintaining the status quo (Maroun, 2018). In this context, organisational legitimisation maintains the status quo by answering these two:

- how do we continue doing the wrong things we are doing without impacting our effectiveness?
- how do we convince the authority that our behaviour should be acceptable because of the circumstances that surround it?

ICT organisations pointed the outcomes of their minimal compliance behaviour to the problems inherent in the policy implementation context of B-BBEE regulations. This is to suggest that if the government solves problems highlighted in Chapter 6 such as the ambiguity of policy stipulations or the complex formulae for calculating B-BBEE points, the degree of compliance would improve. However, there are a plethora of factors that may maintain the status quo. From Chapter 2, we learnt that ICT organisations are still largely owned and controlled by White people. Transformation reports about the ICT sector indicate that not much has changed since the promulgation of the first B-BBEE ICT Sector Code in 2012 (ICASA, 2021). Chapter 7 demonstrated the mechanisms that ICT organisations employ to restrict the meaningful participation of Black people in the ICT enterprise. Restricting Black IT business owners to providing non-technical services such as call centres and human capital and using Black women as tokens for collecting B-BBEE ownership and management control points are some of the unethical but pro-organisational effectiveness behaviours used to maintain the status quo.

To safeguard their gains (global competitiveness and contextual appropriateness) and existence, ICT organisations formed ideological discourses that legitimise minimal compliance behaviour. The ideological discourses were formed in terms of attractiveness and averseness of B-BBEE compliance in ICT business. Where B-BBEE compliance had a positive impact on their businesses; for example, a B-BBEE certificate affording them government contracts, B-BBEE compliance was portrayed as a good thing. However, ICT organisations that were struggling with compliance activities portrayed B-BBEE compliance as a hardship of doing business in South Africa.

Ideological discourses were used to navigate the organisational dissonance that emerged from the perceived threat of including Black people in the ICT enterprise. Organisational dissonance is a component of cognitive dissonance theory from the seminal work of Festinger (1962). The theory holds that social actors aspire to remain in harmony (consonance), and when there are inconsistencies in their key elements such as attitude, beliefs, and behaviour; social actors experience disharmony (dissonance). Consistent with this theory, organisational dissonance refers to the tension that arises when there is a misalignment of key elements in the system; for example, the goal to make a profit and

maintain the status quo versus sectoral transformation (Keith, 2004). Where there is a visible lack of Black representation, such as in software architecture or management control of ICT business, it was associated with the difficulty to navigate the complex process of B-BBEE compliance. The discourse of deracialising the entire ICT sector was often countered by ideologies such as *"B-BBEE compliance deters FDI"*.

The increase in compliance requirements which most articles referred to as "tougher requirements" also present a sense of dissonance for organisations. For example, when ownership, skills development and enterprise development came with increased minimum compliance points, the industry viewed this as a punitive measure than a motivation to accelerate economic transformation. This is because, to achieve these points, organisations would have to invest more in BBEE compliance strategy.

As pragmatic institutions, when they cannot interpret the immediate benefits of a regulation, they used negative frames (e. g economic growth) as strategies to legitimise their move towards consonance (comfort). From the interviews, we established that being pragmatic entities translated to complying with the regulation only if it was necessary or if the benefit to their organisation was explicit. Therefore, it can be argued that, when confronted with a new public policy, regulatees may propagate adversities inherent in it as a strategy to achieve consonance (comfort). Essentially, maintaining the status quo is a consequence of ICT organisations' need to avoid disharmony at all costs.

9.5. Possible solutions for minimal compliance with B-BBEE regulation

9.5.1. Communicating policy compliance

The communication aspect encourages minimal compliance in two ways: little campaigns to encourage compliance, and the way B-BBEE compliance activities are communicated. From inception, B-BBEE policies have been communicated in context of points and status levels. This has encouraged organisation to focus on achieving the points in order to increase competitive advantage of their businesses. The government needs to change the way they communicate this policy such that it does not sound like increasing points takes precedents over empowering black people. In one of the interviews, it was revealed that the government place very little funding on roadshows or any marketing activity to encourage compliance. For this reason, only those that are compelled to comply due their respective market conditions end up complying with B-BBEE policies.

9.5.2. Refine policy enforcement mechanisms

The current enforcement mechanism includes quantifying compliance through scorecards. Furthermore, the B-BBEE Commission has paid more attention to the activities of larger ICT organizations rather than all sizes of organizations in the sector. Consequently, the larger organizations focus on increasing points in whatever way given that they are constantly under the spotlight of the B-BBEE commission. There is a need to develop enforcement mechanisms that require all organizations to comply with all elements of B-BBEE. Currently, the government placed emphasis on priority elements which affects transformation indicator of the other elements.

9.5.3. Public participation in policy processes

As noted by Musabayana and Mutambara (2022: 80) "South Africa has the capacity to avert the situation and break the apartheid jinx, but it lacks the cutting edge in reaching out for the poor black people". Despite the many ICASA public hearing concerning B-BBEE implementation, these events focused on business owners and not the public. The reason why an ordinary South African in the street may not know that they are beneficiaries of the policy is because of government's assumption that it is only business owners.

9.6. Chapter Summary

This chapter discussed the findings of the study. The chapter answered the research question by demonstrating the three contextual level factors that affect minimal compliance with the B-BBEE ICT Sector Code. At the organisational (micro level), utilitarian logics such as goal prioritisation and maintaining the status quo were central to shaping minimal compliance behaviour. At the Meso-level, we established that the government as the regulator is also responsible for perpetual minimal compliance. Regulatory loopholes such as the voluntary compliance system, point-system compliance, and complex institutional arrangements influence how ICT organisations responded to B-BBEE compliance. Macro-level factors are entrenched in national socio-political instabilities. Because of the ICT skills that persist globally, obtaining Black people with ICT skills was indicated as a challenge in complying with many B-BBEE elements. Aspects such as race relations and slow economic growth were some of the macro-level factors that shape minimal compliance.

10. Conclusion

The thesis investigated how contextual factors affect minimal compliance with the B-BBEE ICT Sector Code. It demonstrated how ICT organisations minimally comply with affirmative action such as the B-BBEE policy. The chapter is organised as follows: In Section 10.1. we provide the research overview. The four research contributions are discussed in Section 10.2. Section 10.3. Explains all limitation we experienced during the research process. We dedicated Section 10.4. to detail aspects of reflexivity in qualitative research. Future research is discussed in Section 10.5. The final words regarding the research and its subject are discussed in Section 10.6.

10.1. Research Overview

The study followed a qualitative critical interpretive paradigm to answer the primary research question “How do contextual factors affect minimal compliance with the B-BBEE ICT Sector Code?” To lay the foundation of the field of study, the study explored literature on compliance behaviour, affirmative action policies and public policy implementation. The study situated the B-BBEE ICT Sector Code within the context of South Africa’s ICT policy. We position discourses of B-BBEE compliance within the area of sociotechnical aspects of information systems – particularly how socio-political factors influence ICT business or the IS enterprise in the Global South.

In post-colonial contexts such as South Africa, compliance with affirmative action is imperative. Affirmative action remains the primary resource for restoring social justice in these contexts. Moreover, ICT organisations are expected to participate in this institutional transformation by including non-Europeans in the business of their entities. Therefore, the work of this thesis is a call for information systems researchers to investigate the interaction of these socio-political factors with the IS enterprise and how ‘IS’ manifests in the Global South as shaped by these factors. Furthermore, the subject of this thesis may be part of the IS research on intersectional analysis that is gaining momentum as capitalism and digital ethics continue to raise social justice questions (Aanestad & Kankanhalli, 2022; Cassan, 2019; Mda, 2010b).

We developed the conceptual framework for minimal compliance to interrogate contextual factors in the various touchpoints of the B-BBEE ICT Sector Council. The basic premise of the conceptual framework was that policy implementation context, organisational logic of action, and organisational legitimisation are key contextual factors that affect minimal compliance.

We collected data through interviews, observations, and document analysis. Primary data sources included policymakers, ICT executives, and B-BBEE verifications agents. Secondary data was collected from online news articles, websites of ICT organisations listed on the JSE, B-BBEE reports, policy documents, and B-BBEE certificates. We used thematic and content analysis to analyse the triangulated data. Although organisational goals were central to compliance with behavioural preferences, the regulation itself, particularly the implementation context had various factors that affected minimal compliance. The weaknesses in B-BBEE ICT Sector Code were used to shape the minimal compliance behaviour, and to legitimise it.

10.2. Research contribution

The overarching contribution of the current study is new knowledge regarding the dynamics of how ICT organisations responded to B-BBEE or affirmative action regulations in South Africa. The study has three primary research contributions: knowledge contribution, theoretical contribution, methodological contribution, and practical contribution.

10.2.1. Knowledge contribution

The study contributes to the knowledge of minimal compliance in a field where compliance and non-compliance behaviours are immensely studied. This means that most compliance studies view compliance as a binary behaviour, i.e., compliance or non-compliance. Nuances of behaviour between compliance and non-compliance are unrecognised. The current study focused on illuminating unrecognised compliance behaviour that looks perfectly normal from a conformity perspective but does not achieve the goal of the regulation.

Arguably, aspects of compliance with B-BBEE regulations have received little attention in the IS research community. The majority of studies in information systems research have studied compliance with information security policies, but few investigated the compliance with policies such as B-BBEE. The study interrogated how contextual factors that affect minimal compliance with B-BBEE regulations in the ICT Sector. In so doing, the study also demonstrated why B-BBEE compliance fails the government in achieving transformation.

The study embraced the multidisciplinary nature of information systems research by demonstrating the interaction between socio-politics and ICT business. The strategies used to comply with B-BBEE regulations outlined in the findings chapters demonstrated how ICT organisations navigate and respond to affirmative action policies. The study is an example of why social aspects ought not to be overlooked in the development and ICT business.

10.2.2. Theoretical contribution

The study combined five sensitising concepts (policy implementation context, goal framing theory, instrumental rationality, and ideological discourses) to develop the conceptual framework to explain factors that influence minimal compliance. The policy implementation context allowed us to interrogate aspects of the policy implementation situation of the B-BBEE ICT Sector Code that shaped minimal compliance behaviour. We propose that any study hoping to unpack minimal compliance ought to add context as a construct to understand the heterogeneity of minimal compliance behaviour in different localities. In Germany, minimal compliance towards gender quotas manifested through passive resistance, where male-led institutions ignored gender policies (Lang, 2015). However, in South Africa, we found that ICT organisations did not ignore the regulations but engaged with them in a manner that does not yield the intended results. A detailed appraisal of different contexts will contribute new knowledge in providing a better explanation for minimal compliance behaviour.

Goal framing theory provides three constructs (gain goal, normative goal, and hedonic goal) that posit that actors have certain competing motivations that influence their compliance behaviour. Through these constructs, we proposed that minimal compliance is because of goal prioritisation. All interviews allude to the fact that organisational goals influence how they respond to B-BBEE regulation. Moreover, empirical data also showed that organisational goals determine the strategies used to comply with B-BBEE regulation.

We made two major contributions to the goal framing theory. Firstly, our empirical findings show that both normative and hedonic goals achieve the same goal of contextual appropriateness. The latter is a positive aspect of B-BBEE compliance with the likelihood of helping governments to achieve regulatory goals. Empirical evidence indicated that organisations that pursue this goal engaged with B-BBEE somewhat satisfactorily. For example, top telecommunication organisations such as Vodacom, MTN and Telekom mostly feature in top empowered companies' lists, showing their efforts to transform the sector. These entities also subject themselves to scrutiny to show that their B-BBEE compliance efforts are indeed translating to transformation (McKane, 2019).

Secondly, the use of instrumental rationality to understand minimal compliance presents how actors leverage loopholes in a policy to comply with a policy in a manner that maximises their utilities while neglecting the goals of the regulation. Ambiguity in policy stipulations influences regulatees to have their interpretation, and in turn, comply in a manner that protects the achievement of their goals. Instrumental rationality is central to understanding the strategies that organisations use to respond to regulations such that it becomes minimal compliance.

For example, prioritising B-BBEE elements with the highest points and the likelihood of an attractive B-BBEE status was a strategy that was employed by most organisations.

Ideological discourse is a concept from the critical theory that allows us to see how dominant powers justify the passive rejection of new norms (Prasad, 2020). In a minimal compliance context, ideological discourses help us understand how regulatees justify the way they respond to regulation and the outcome of their behaviour.

10.2.3. Practical contribution

Beyond being an academic inquiry, the thesis has compiled information regarding the B-BBEE ICT Sector compliance activities that may be helpful for the industry. For example, in the research context chapter, we highlighted all the stakeholders that organisations need to comply with B-BBEE. We also demonstrated the position of B-BBEE in the context of South African ICT policies. Through this, we outlined all the regulatory elements that organisations may encounter to comply with B-BBEE. Featuring the MICT SETA in the report may clarify the status of the ICT skills deficit, and how this affects B-BBEE compliance. International organisations may gain insight into programmes for complying with B-BBEE. For example, in the literature review chapter, we explained how transformation activities of multinational companies are regulated through the Equity Equivalent Investments Programme. Essentially, the IS research community and industry will gain insight into the processes involved in B-BBEE compliance.

10.2.4. Methodological contribution

The study has three methodological contributions:

- combining thematic analysis with content analysis to analyse triangulated data;
- longitudinal observation of the phenomenon; and
- embracing the critical interpretivism paradigm.

The study followed a critical interpretive paradigm, which is relatively new in information systems research (Pozzebon et al., 2014). It followed this paradigm to reveal the significance of context in interpreting the meaning of the phenomenon, and the mechanisms that dominant powers use to maintain the status quo. Following the critical interpretive paradigm propelled us as scientists to exhaust every data associated with our unit of analysis and the phenomenon of concern. B-BBEE compliance activities were investigated at three levels, viz. the policy level, the organisational level, and the media discourse level.

Multiple data sources were also analysed through thematic and content analysis. Thematic analysis was instrumental in engaging critically with the data to uproot discursive practices that maintained the status quo. Content analysis was useful in providing some descriptive data from secondary data sources. Both analytical methods contributed to the critical interpretive paradigm that guided the study. Combining content analysis and thematic should be considered when studying complex phenomena such as minimal compliance. Online news allowed us to observe B-BBEE compliance activities from the year 2012 to 2020. This longitudinal approach to interrogating a phenomenon enabled us to capture how ICT organisations reacted to the many changes that took place in the B-BBEE regulatory environment.

10.3. Limitations of the study

The study experienced numerous limitations related to the choice of methodology. The topic of B-BBEE in the ICT sector and South Africa, in general, remains a sensitive one. We observed that there were few people interested to talk about B-BBEE without fear of losing their jobs or having people change perceptions about them in their workplaces. As a result, collecting data was challenging. We targeted at least 30 people from various organisations with different roles in the B-BBEE compliance arena. This forced us to change from semi-structured interviews informed by the goal framing theory to in-depth interviews with the critical theory perspective of interrogation. During these interviews, it was challenging to convince the respondents that the information recorded would be kept confidential. The respondents showed immense fear of revealing information, such that they asked to remain anonymous. The majority of the respondents directed us to publicly available data as a supplement to things they cannot say on the record.

A further methodological challenge was associated with selecting the paradigm of the study. The research commenced following an interpretive paradigm. However, two years into the study, we realised that our phenomenon was entrenched in socio-politics and would be best understood by following a combination of both interpretivism and critical research paradigm. The limitation of the latter paradigm is that there is little literature regarding its deployment and principles that guides its research process (Pozzebon et al., 2014).

10.4. Reflexivity in qualitative research

Reflexivity involves critical and analytical attention to qualitative researchers' role in social research (Palaganas et al., 2017). Reflexivity refers to the process of introspection by the researchers on their role in the inquiry and their subjective involvement with the phenomenon (Pandey & Patnaik, 2014). This is because in critical research, the researcher, through the research process transforms or emancipates the social actors in one way or the other. Where necessary, a critical researcher must declare their researcher bias through reflexivity (Norris, 1997). Because it is a personal story, it is often reported in the first person. Researchers use "I" to make the reflexivity process much more personal (Kleinsasser, 2000).

There are four components of reflexivity in qualitative research (Berger, 2015). These include researchers' biographical data (e.g., gender, race, age), personal experience with the phenomenon, political opinions, and professional beliefs. Reflecting on these aspects is crucial for bringing researcher bias to light. This section covers the researcher's bias, and it is written in the first person to represent an appropriate reflection of the researcher regarding achieving emancipation via B-BBEE compliance.

10.4.1. Experience of data collection for a sensitive topic

This subsection includes some reflection on my lived experience of collecting data in the study given the sensitivity of the B-BBEE subject. A critical reflection on the qualitative methods followed to collect data is useful for appreciating the research journey, but most of all, future researchers on a similar topic may gain insight on its methodological complexities. A critical reflection is also important given that qualitative researchers mostly use "personal judgments" to select their data sources (Bahn & Weatherill, 2012: 19).

I want to acknowledge that my pre-judgement of the subject and how people would respond to it was of a reductionist perspective. Aspects of B-BBEE are sensitive – they involve a painful past the citizenry feel:

- beneficiaries of redistribution are undeserving;
- people who must redistribute are greedy and refuse to share the wealth of the economy;
- the majority of corporate South Africa's inclusivity and diversity challenges are entrenched in race relations;
- B-BBEE policies are a form of reverse discrimination;
- politicians use B-BBEE policies to increase their wealth; and

- certain genders and races weigh more than others in the context of South Africa's transformation agenda.

The above mentioned are discourses that surrounds B-BBEE or the transformation agenda in South Africa that I had not critically reflected on before embarking on my data collection journey. As a result, I experienced multiple challenges associated with my de I consider the current topic very sensitive because it rests on redressing a painful past for a South African. Firstly, I will reflect on the data collection aspects. As mentioned in the methodology chapter, the initial stages of collecting data were very challenging. I experienced challenges ranging from getting people to talk about B-BBEE and convincing them to answer certain questions. This was exacerbated by the fact that most businesses owners in the ICT sector were White. I remember while I was asking one of the ICT Execs about why they thought contributed to minimal compliance in the ICT sector. Before answering this, the respondent asked if I thought they has the correct race to answer questions about minimal compliance. They further explained that it was a difficult question given that they were a White male and that all B-BBEE catastrophes are blamed on them.

Engagements with VAs was particularly emotionally taxing as it revealed aspects of B-BBEE compliance that indicated that the policy would never empower Black people in its current form. This was apparent when the VAs reflected on the B-BBEE elements that organisations prioritised. I found it difficult to fathom the idea that B-BBEE compliance is not for black empowerment but more for getting government contracts. This much more difficult because for the longest time – I have been an advocate of the policy.

While collecting data from online news to see how ICT organisations frame B-BBEE compliance activities, I noticed a pattern where they were only publishing stories about status announcements. When ICT organisations commented on why they were in bad place with B-BBEE, they blamed the policy processes, corruption or bad economic conditions in South Africa. While this might be true, it also exposed the bias that most organisations have on the transformation agenda. Moreover, by 2021, there were very few to little stories that talked about anything further than B-BBEE levels achieved by organisations. It then dawned on me that the bias could be emanating from fact that media house ownership in South Africa is polarised.

Despite these challenges, it witnessed the consistency between the stories emerging from interviews and online with aspects of the B-BBEE policy. I could easily map minimal compliance to the B-BBEE ICT Sector Code. For example, a strategy of focusing on B-BBEE

elements with the most points can be mapped back to the policy statements in the regulatory instruments that talked more about points than empowerment. Essentially, the many aspects of the policy which had the potential of working against Black people just revealed the moral hypocrisy (Lindenberg et al., 2018) that is embedded in policy processes which maintains the status quo and not result in any social change. It is the moral hypocrisy that I grappled with throughout the study as a qualitative researcher.

10.4.2. Researcher bias

Throughout the research, my gender, age, race, and political affiliation were critical sources of bias. I was interrogating the space where the government was regulating the involvement of Black people, youths, and Black women in the business of ICTs. Globally, women are excluded from the technology industry (Aanestad & Kankanhalli, 2022). The gender representation is much more severe for women coming from rural backgrounds where I also come from (Joseph, 2012). I embarked on this research process in 2017 with the idea that a Black woman remains the most marginalised person in the process of economic transformation. In the early days of the research, my political beliefs were entrenched in the ideologies of the ANC associated with Black people's emancipation. Taking the critical stance to see why there was minimal compliance with B-BBEE allowed me to see both the ICT organisations and ANC's involvement in restricting the transformation process in South Africa.

10.4.3. The paradoxes that threatened my ideology of emancipation

As I joined the workforce in a technology company in Cape Town in 2012, my political ideology was threatened by four paradoxes.

- Black people, particularly Africans' lack representation in IT organisations;
- silence about B-BBEE in ICT organisations;
- the complexity of translating B-BBEE compliance into emancipation; and
- involvement of politicians in restricting emancipation.

The first paradox relates to the lack of Black representation in most IT organisations. In the organisations I worked at, the majority of employees were White, followed by Coloured people. In IT events, I was always one of the few Black women in the room. Sadly, this has not changed much.

The second paradox pertains to the silence about the B-BBEE policy in organisations. I could not understand why there was no sense of urgency in these organisations to comply with the policy. Two years later, I was elected to be part of the Employment Equity forum in the

organisation. The Committee was responsible for designing a transformation strategy and assisting with B-BBEE reporting. It was during my services in this forum that I realised the complexity of translating the legislation into an implementable policy that can achieve remedial goals. I realised that increasing the number of Black people in the ICT sector was not straightforward.

The third paradox pertains to the complex structure of B-BBEE compliance measurements. I took a B-BBEE training course that gave me insight into the complex structure of regulatory measurements. Although I hold a certificate as a B-BBEE transformation officer, the changes in this legislation made it difficult for one to know how best to encourage organisational compliance and achieve Black emancipation. For example, I discovered that Black ownership can be achieved by simply having four Black women with voting rights, which does not directly translate to the empowerment of a large group. Moreover, a closer look into the profiles of Black people with voting rights in large corporations also revealed that most of them were political elites.

The fourth paradox was associated with the degree of fronting activities in the ICT sector, where Black people were used for earning points. These are instances where White business owners would invite Black people in as part-owners, with little decision-making powers. At this point, there was little talk about Black people taking part in ownership as White people did not trust Black people in managing technology businesses. Where Black people were placed at the board level, they were political elites. As a result, there were claims that the policy was not designed to empower the majority Black, but the minority Black elite (Krüger, 2014).

The paradoxes discussed above encouraged me to embark on this inquiry with an acknowledgement that translating policy implementation to compliance with solving the social wrong is a much more complex process (Dente, 2014). My political ideology has not changed. However, my view of achieving emancipation of Black people has moved from a reductionist perspective of seeing the policy process as linear. I have grown to appreciate the multiple policy networks and actors who influence compliance behaviour. I also realised how both the government and private sector use their powers to maintain the status quo.

10.5. Future research work

It is still the early days of B-BBEE research in the IS domain. There is ample opportunity to contribute knowledge about ICT organisations' response toward B-BBEE compliance. While this study ends by attributing minimal compliance towards organisational "selfishness" i.e., protecting the achievement of their goals, I also believe that ICT organisations do experience

real challenges while engaging with B-BBEE. For this reason, I recommend that others can conduct research that focuses on investigating the challenges experienced by ICT organisations in B-BBEE compliance. Future work on this aspect could use a Delphi method, which gathers data from industry experts in a form of a forum.

There is a need for information systems researchers to investigate B-BBEE beneficiaries' perspectives on B-BBEE compliance in the ICT sector. This study focused on explaining minimal compliance through data that was collected from an organisational perspective. This means that the study removed the involvement of B-BBEE beneficiaries as contributors to minimal compliance. However, there are aspects in our data that indicated beneficiaries used their positions to restrict transformation. For example, one of the verification agents attributed the scarcity of Black people in IT jobs to job-hopping looking for the highest bidder, as organisations are looking for Black candidates to earn EE points.

Our empirical observation revealed that many policy networks and stakeholders are involved in the B-BBEE ICT Sector Code compliance. A future study could use document analysis and interviews to understand how the interaction of the many policy networks and stakeholders influences B-BBEE compliance in the ICT sector. In this manner, the research would also capture the role of the government as the regulator in the compliance process.

The current study conducted qualitative longitudinal research to capture the B-BBEE ICT Sector Code regulatory response for eight years (2012 -2020). Quantitative sentiment analysis would be beneficial in providing updated data regarding how ICT organisations perceive B-BBEE regulations especially while dealing with pressures of operating business during the COVID-19 pandemic.

10.6. Final word

“When elephants fight, the grass gets trampled” (African Proverb)

B-BBEE regulations continue to be the centre of transformation in South Africa. The B-BBEE framework is the only policy that the government places at the centre of its remedial action. However, various factors associated with implementation, i.e. compliance, have made it difficult to achieve the remedial action goals. A critical stance towards understanding B-BBEE compliance activities in the ICT sector reveals that minimal compliance is not only the fault of the ICT organisations, as was envisaged.

Minimal compliance with the B-BBEE ICT Sector Code and its implications on the transformation process is the problem of both the government and ICT organisations. The

government is responsible for promulgating the badly designed policy (B-BBEE) with loopholes that ICT organisations leveraged to protect the achievement of their goals. It can be argued that the government or B-BBEE policymakers did not think through the complexity of redistribution given the South African historical context. Moreover, the policymakers developed this policy with marginalised groups in mind but introduced regulatory instruments that favour the regulatees more. Whether ICT organisations comply with the policy or not – they can thrive in their businesses. However, Black people remain disempowered.

One would expect ICT organisations to be empathetic about Black people's plight of many years of institutional exclusion through the apartheid regime. One of the respondents gave an example of Microsoft in Saudi Arabia and the United Arab Emirates – mentioning that these multinationals do not negotiate equity ownership. They are told that the government would own, for example, 49% of the business for them to operate in the country or nothing else. It is unique to African countries such as South Africa that the involvement of nationals in the business of large multinationals is considered problematic. Nevertheless, Black South Africans, who are the majority in the country remain marginalised due to these policy discrepancies.

I agree with previous researchers that in their current form, B-BBEE regulations are less likely to transform the ICT sector (Van Scheers, 2016). I attribute this failure to policy development and implementation failure. When the policy is badly designed, regulatees may find ways of going around it, and this affects both policy goals and beneficiaries. Through the point system, Black IT professionals unintentionally look for the highest bidder i.e., positions with the most money, and this sudden movement makes it difficult to see whether they have been empowered or not in a particular organisation. Furthermore, the point system has enabled tokenism and commoditisation of gender and race to thrive as the accepted practice of complying with the B-BBEE ICT Sector Code. ICT organisations, on the other hand, may continue to resort to box-ticking and window-dressing to increase these sought-after B-BBEE points, unless the policy is redesigned with instruments to evaluate real empowerment and not the number of points collected.

By far, this study has been the most challenging endeavour. Studying a policy that is meant to emancipate you and seeing how it works against you is a painful process. Every engagement with respondents made me realise that policy processes are complex. The policy and its regulatory instruments must be synchronised with the social ills they are deemed to resolve. Moreover, the beneficiaries of the policy need to be involved in policy development. Apart from the public policy hearings about the ownership element as hosted by ICASA, I do not

remember coming across public participation in the B-BBEE ICT Sector Code Policy. The ICT Sector Code Council itself consults with industry – but there is very little mention of the beneficiaries of B-BBEE.

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12. List of appendices

12.1. Appendix A: Research instrument



UNIVERSITY OF CAPE TOWN
FACULTY OF COMMERCE
Igniting Knowledge and Opportunity



Interview schedule: ICT Executives, policymakers and verification agents

Interviewing procedure

- ❖ Establishing rapport with the participant
- ❖ Informing the participant about the interview duration
- ❖ Justification of the interview
- ❖ Explaining details of the ethical obligations for both the interviewer and the participant
- ❖ Requesting permission to record the interview
- ❖ Allowing the participant to sign the content letter
- ❖ Explaining some theoretical definitions for the participant

Optional demographical data

Gender

Female Male Prefer not to answer

Race

African ☐ Indian ☐ White ☐ Coloured ☐ Prefer not to answer ☐

Optional occupational data

In-depth questions guided by the literature on contextual factors affecting minimal compliance with the B-BBEE ICT Sector Code public policy compliance, main research question and the three concepts from the conceptual framework for minimal compliance

The concept from the conceptual framework	Interview questions
Organisational perception of policy implementation context	1.1. What would you say are the unique factors of B-BBEE compliance in the ICT

	<p>Sector when compared to other economic sectors?</p> <p>1.2. What is an overall perception about the B-BBEE policy and its regulatory tools, i.e., the B-BBEE CoGP to the B-BBEE ICT Sector Code?</p>
Organisational logic of action	<p>1.3. Which goals do ICT organisations prioritise in the context of B-BBEE compliance?</p> <p>1.4. In your view, what is the status of B-BBEE compliance in the South African ICT Sector?</p> <p>1.5. What are the primary drivers of transformation regulatory compliance in the sector?</p> <p>1.6. What are your views about B-BBEE compliance and actual transformation in the ICT sector?</p> <p>1.7. What are the primary challenges of managing B-BBEE compliance?</p> <p>1.8. In your view, what would deter B-BBEE compliance?</p> <p>1.9. Reflect on any factors that affect the business performance positively or negatively regarding B-BBEE compliance.</p> <p>1.10. What are the common strategies used to comply with B-BBEE in the ICT sector?</p> <p>1.11. Which factors influence the choice of these strategies?</p> <p>1.12. How do ICT organisations typically perceive the government requirements</p>

	<p>to comply with the B-BBEE ICT Sector Code?</p> <p>1.13. Which division/department takes care of B-BBEE compliance in ICT organisations? Why is this division/department?</p>
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Thank you | End of the interview

12.2. Appendix B: Ethics approval



Faculty of Commerce

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2.26 Leslie Commerce Building, Upper Campus
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@Commerce_UCT



UCT Commerce Faculty Office

05/01/2018

Ms Tendani Chimboza
Department of Information Systems
University of Cape Town

REF: REC2018/001/004

Dear Tendani Chimboza

Project : The Influence of B-BBEE Compliance on ICT Organisations in South Africa.

It is a pleasure to inform you that the EIRC has **formally approved** the above-mentioned study.

Approval is granted for the period of 12 months. Should you require an extension or make any substantial changes to the research methodology which could affect the experiences of participants, you must submit a revised protocol to the Committee for approval.

Please note that the ongoing ethical conduct of the study remains the responsibility of the principal investigator.

Your sincerely

Litha Tyulu
Administrative Assistant
University of Cape Town
Commerce Faculty Office
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12.3. Appendix C: Individual participant consent letter



Department of Information Systems

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OR
Private Bag X3 - Rondebosch - 7701
Tel: +27 (0) 21 650 2261 Fax: +27 (0) 21650 2280
Internet: <http://www.commerce.uct.ac.za/informationssystemsf/>

10 May 2018

Request to conduct research and interview participation consent form

Dear Sir/Madam,

In terms of the requirements for completing a [Ph.D.] Degree in Information Systems at the University of Cape Town, a research study is required.

The researcher, in this case [Tendani Mulanga Chimboza], has chosen to conduct a case study entitled [ICT ORGANISATIONS MINIMAL COMPLIANCE WITH AFFIRMATIVE ACTIONS REGULATIONS: CASE OF THE B-BBEE ICT SECTOR CODE IN SOUTH AFRICA]

The objective of the research is to:

The primary objective of this research is to investigate how ICT organisations employ minimal compliance. I intend to achieve this by answering the following research questions:

- How do ICT organisations perceive the policy implementation context of B-BBEE regulations?
- How do ICT organisations prioritise goals while engaging with the B-BBEE ICT Sector Code?
- What logic of action informs ICT organisations' pro-compliant behaviour towards the B-BBEE ICT Sector Code?

- How do ICT organisations legitimise their compliance behaviour and its outcome?

Your participation in this research is voluntary. All information will be treated in a confidential manner and used exclusively for the purpose of this study. No individual names will be recorded or published. You will not be requested to supply any identifiable information, ensuring anonymity of your responses. You can choose to withdraw from the research at any time for whatever reason, in accordance with ethical research requirements.

The data collection method will be one-on-one interviews with individuals responsible for B-BBEE compliance activities. The interview will be conducted at a location of your convenience and will last 45 min. If you are willing to participate in this study, kindly sign the attached form and return to me at your earliest convenience.

Should you have any questions regarding this research, please feel free to contact me on [076 698 6725] or email: THBMUL001@myuct.ac.za

Your participation in this study would be greatly appreciated, but is entirely voluntary.

Sincerely,

Tendani Mulanga Chimboza [signature]

Researcher \ PhD Student, (UCT)

Department of Information Systems

University of Cape Town

Email:

Prof Wallace Chigona [signature]

Research Supervisor

Department of Information Systems

University of Cape Town

Email:

Research Participant Consent Form

I, _____, consent to participate in the research on **[The influence of B-BBEE compliance in the ICT sector of South Africa]**

I am aware that participation is voluntary and that I may choose to withdraw from this study at any time, should I choose to do so.

Date _____ Signature _____

12.4. Appendix D: ICT organisations listed in the JSE between 2016 - 2019

Company name	Industry
1. Adapt It Holdings Limited	Software & Computer Services
2. Allied Electronics Corporation Limited	Software & Computer Services
3. Alviva Holdings Limited	Technology Hardware & Equipment
4. Amalgamated Electronic Corp Limited	Electronic & Electrical Equipment
5. Ansys Limited	Industrial Transportation
6. Avior Capital Markets Holdings Limited	Software & Computer Services
7. AYO Technology Solutions Limited	Software & Computer Services
8. Cartrack Holdings Limited	Technology Hardware & Equipment
9. Cognition Holdings Limited	Fixed Line Telecommunications
10. Datacentrix Holdings Limited	Software & Computer Services
11. Datatec Limited	Technology Hardware & Equipment
12. Delta EMD Limited	Electronic & Electrical Equipment
13. Ellies Holdings Limited	Technology Hardware & Equipment
14. EOH Holdings Limited	Software & Computer Services
15. Huge Group Limited	Fixed Line Telecommunications
16. ISA Holdings Limited	Software & Computer Services
17. Jasco Electronics Holdings Limited	Electronic & Electrical Equipment
18. Labat Africa Group	Technology Hardware & Equipment
19. M-FiTEC International Limited	Software & Computer Services
20. Metrofile Holdings Limited	Software & Computer Services
21. Moneyweb Holdings Limited	Software & Computer Services
22. MTN Group Limited	Mobile Telecommunications

23. Mustek Limited	Technology Hardware & Equipment
24. Net 1 UEPS Technologies Inc	Technology Hardware & Equipment
25. Vodacom Group Limited	Mobile Telecommunications
26. Silverbridge Holdings Limited	Software & Computer Services
27. South Ocean Holdings Limited	Electronic & Electrical Equipment
28. Stellar Capital Partners Limited	Software & Computer Services
29. Telemasters Holdings Limited	Fixed Line Telecommunications
30. Telkom SA SOC Limited	Fixed Line Telecommunications
31. Torre Industries Limited	Support Services
32. Total Client Services Limited	Software & Computer Services
33. Pinnacle Holdings Ltd	Electronics

12.5. Appendix E: Conceptualisation of B-BBEE regulations in ICT organisations

Company name	B-BBEE function & conception in the company
1. Adapt It Holdings Limited	Function: Social & ethics committee Conception: Empowerment
2. Allied Electronics Corporation Limited	Function: Social & ethics committee Conception: Transformation
3. Alviva Holdings Limited	Function: Corporate governance Conception: B-BBEE verification
4. Amalgamated Electronic Corp Limited	Function: B-BBEE Conception: Transformation
5. Ansys Limited	Function: Diversity & Inclusion Conception: Governance
6. Avior Capital Markets Holdings Limited	Function: CSI Conception: Empowerment
7. AYO Technology Solutions Limited	Function: B-BBEE Compliance Conception: Ethics
8. Cartrack Holdings Limited	Function: B-BBEE Verification Conception: No information
9. Cognition Holdings Limited	Function: Investor Relations Conception: Transformation
10. Datacentrix Holdings Limited	Function: Human Resources Conception: Empowerment
11. Datatec Limited	Function: Social & Ethics committee Conception: Transformation

12. Delta EMD Limited	No information
13. Ellies Holdings Limited	Function: Social & Ethics committee Conception: B-BBEE Compliance
14. EOH Holdings Limited	Function: Legal Conception: Transformation
15. Huge Group Limited	Function: Social & Ethics committee Conception: B-BBEE Verification
16. ISA Holdings Limited	Function: Corporate Governance Conception: B-BBEE verification
17. Jasco Electronics Holdings Limited	Function: Governance Conception: B-BBEE verification
18. Labat Africa Group	Function: Investor relations Conception: Empowerment
19. M-FiTEC International Limited	No information
20. Metrofile Holdings Limited	Function: Sustainability Conception: B-BBEE verification
21. Moneyweb Holdings Limited	No information
22. MTN Group Limited	Function: Sustainability Conception: transformation
23. Mustek Limited	Function: Social & Ethics committee Conception: Transformation
24. Net 1 UEPS Technologies Inc	No information
25. Silverbridge Holdings Limited	Function: No information Conception: B-BBEE Verification

26. South Ocean Holdings Limited	Function: Corporate citizenship Conception: B-BBEE compliance
27. Stellar Capital Partners Limited	Function: No information Conception: B-BBEE compliance
28. Telemasters Holdings Limited	No information
29. Telkom SA SOC Limited	Function: Corporate citizenship Conception: Transformation
30. Torre Industries Limited	No information
31. Total Client Services Limited	No information
32. Vodacom Group Limited	Function: Corporate governance Conception: Empowerment
33. Pinnacle Holdings Ltd	Function: Sustainability Conception: Empowerment

12.6. Appendix F: Public policy hearing on ICASA's position on historically disadvantaged persons and B-BBEE will be held in May.



[By Paula Gilbert, ITWeb telecoms editor.](#)

[Johannesburg, 24 Apr 2018](#)

Read time 2min 10sec

Comments (0)



Public hearings on ICASA's position on historically disadvantaged persons and B-BBEE will be held in May.

The Independent Communications Authority of South Africa (ICASA) will hold public hearings to discuss "the review and development of the authority position on historically disadvantaged persons and broad-based black economic empowerment (B-BBEE)".

The notice was published in a [Government Gazette](#) yesterday and the public hearings will be held on 16 and 17 May in Sandton.

This after the authority last March published a [discussion document](#) on equity ownership by historically disadvantaged groups or individuals (HDGs or HDIs). This was the beginning of [an inquiry](#) to determine how the authority should approach the implementation the ICT sector code in light of the existing HDG/HDI ownership requirements.

ICASA was also looking for comment on how it can promote broad-based economic empowerment and equity ownership of HDGs, as required as part of the Electronic Communications Act, 2005 (ECA).


Submissions were due by 8 June 2017 and the public hearings will begin next month, after which the consultative process will conclude with the publication of a "findings document".

According to the programme, for the two days, those expected to attend include all the major telcos and a number of media houses and broadcasters as well as industry groups. Those on the list to present at the hearings include: Telkom, MTN, Vodacom, Cell C, Liquid Telecom, Internet Solutions, the Wireless Access Providers' Association, the Internet Service Providers' Association, Primedia, MNet, Kagiso Media, the South African Communications Forum, the National Association of Broadcasters, American CC, and the Business Carrier Coalition.


Last year, ICASA said the inquiry would consider, among other things, whether the minimum legislated requirement of 30% equity ownership by HDGs should be increased; whether licensees should be required to seek ICASA's prior approval in instances where a change in shareholding will result in a reduction of equity ownership by HDGs below 30%; whether ICASA should consider income levels and the size of the entity as criteria for differentiation in the imposition of HDG requirements; how the HDG equity ownership requirement should be applied to publicly traded entities; how compliance with the HDG requirements should be verified; and what constitutes ownership versus what constitutes control in terms of the ECA.

12.7. Appendix G: ICASA public policy hearing proceedings attendance request

Request to participate in **ICASA** Public Hearings | B-BBEE ICT Sector Code

 Tendani Chimboza
To: pmaleka@icasa.org.za

Wed 25/04/2018 23:11

 Ethics Approval letter of Tendani C...
Saved to OneDrive

Dear Paseka Maleka,

I hope this email finds you well.

I'm writing to inquire about attending the **ICASA** Public Hearing for the B-BBEE ICT Sector Code scheduled for the 16th and 17th of May 2018. My participation in this hearing will be beneficial in collecting data for my thesis. I would really appreciate if you inform me about how I can attend the hearing, i.e. where I can apply or who I should contact to put my name as a participant.

I am currently studying towards a PhD in Commerce (Information Systems) at the University of Cape Town. My thesis is titled "**Conceptualizing factors influencing compliance with the B-BBEE ICT Sector Code in South Africa**". **The study seeks to understand the influence of B-BBEE compliance on ICT organisations.**

In addition to data analysis, the hearing will allow me to engage with the B-BBEE ICT Sector Code and contribute meaningfully as a young academic. I have attached my research ethics approval as evidence for the research commissioned by UCT.

I look forward to your feedback.

12.8. Appendix H: ICASA B-BBEE public policy hearing discussion questions

- a) In your opinion, how should the equity requirement be implemented on class licenses?
- b) Should the Authority [ICASA] consider income levels and size of the entity as criteria for differentiation on the imposition of HDI requirements?
- c) Should the minimal legislated requirements remain at 30% or should they be increased? If so, to what targets do you propose?
- d) Should the Authority [ICASA] require licensees to seek prior approval in instances where:
 - i. A change in shareholding results in the reduction of equity ownership by HDIs below 30%.
 - ii. Where the licensee does not meet the 30% minimum requirement, and change in shareholding affects the percentage of equity ownership?
- e) How should the HDI equity requirement be applied to publicly traded entities without discouraging HDIs from participating in the share schemes?
- f) What proof should the Authority [ICASA] consider appropriate to confirm compliance with the HDI requirement (in terms of the difference in terminology between Black people and HDIs)?
- g) What proof would, in your view, be appropriate to confirm the compliance of publicly traded entities provided with the HDI equity/ownership requirements?
- h) Considering the foregoing, and taking into account the Companies Act No. 71 of 2008 and Competition Act No. 89 of 1998:
 - i. Is the definition of controlling interest as set out in Section 7.3 of the Discussion Document still valid?
 - ii. In your view, what constitutes control and should the Authority [ICASA] define it?
 - iii. Are you of the view that the Authority [ICASA] should define ownership?
 - iv. What constitutes ownership and should the Authority [ICASA] define it?
 - v. Are you of the view that the transfer of 100% share capital in license amounts to a transfer of control or ownership?
- i) The ECA requires the authority to promote B-BBEE, and the B-BBEE Act compels all organs of state and public entities to apply the relevant Sector Codes. How should the Authority [ICASA] go about doing this?
- j) Should the Authority [ICASA] apply the Codes to all applications, i.e., including service, spectrum, type-approval and numbers of applications?

- k) Should the Authority [ICASA] require B-BBEE certificates to be submitted as part of the licensee's annual compliance requirements?
- l) What should be the minimum level of B-BBEE certification?
- m) Should the HDI requirement of the application of the Codes be made mandatory and not be triggered only by the application of some other regulatory processes?
- n) Should the authority impose timeframes for compliance by all of its licenses for the requirement of empowerment?

12.9. Appendix I: Summary of themes that represent ideological discourses

Themes	Dictionary meaning	Source quote
Complexity	A state of being intricate. Often characterized by interdependency, non-linearity between input and outcome, sensitivity, multiplicity, incomprehensibility, uncertainty, and ambiguity.	"The tenders are linked to strict B-BEEE compliance, which is a complex and onerous process which many companies prefer to avoid.
Ethical	Pertains to principles of morality that govern whether an act is right or wrong.	"The academy aimed to promote the inclusion of Black people into mainstream technological economic activity and also teach them critical ICT skills and knowledge centred on HPC", said Van Graan.
Anti-economic growth	Activities that hinder economic growth.	"The impact of black economic empowerment is not positive when seen in the context of economic growth. According to The Economist Intelligence Unit, BEE is a contributing factor to this slow growth".
Anti-FDI	Activities that deter foreign direct investment into the country or business sector.	"Steady foreign investment is critical for the South African economy in years to come, and despite several conducive factors in the country, the extra regulations that accompany the Broad-Based Black Economic Empowerment (B-BBEE) Act have traditionally deterred international" firms from the market. EY explains how this need not be the case".
Minority discrimination	Discrimination against minority groups.	"Telkom explains 'no white-owned businesses' tenders. Some of Telkom's tenders require a

		minimum effective Black ownership of 50.1%, disqualifying any white-owned businesses from the tender process”.
Competitive advantage	A condition or circumstance that puts a company in a favourable or superior business position.	“As HDS’s business plan is closely linked to our business goals and strategies, compliance is not a hindrance but an opportunity for us to grow,” says Becker.

12.10. Appendix J: All online news articles harvested in for the study.

Article Code Name	Story title	Date of the story
ONA1	2016_a turbulent year for ICT	2016/12/12
ONA2	Accenture reaches B-BBEE Level 1 status	2016/11/15
ONA3	AdaptIT mentors Uyandiswa to be independent	2017/09/21
ONA4	AWS Achieves level 1 B-BBEE status	2020/03/10
ONA5	Amended B-BBEE Act could cost jobs	2015/03/21
ONA6	ANC conference resolutions_ On communications and the battle of ideas	2012/12/16
ONA7	BBBEE compliance gets harder for SA firms	2016/07/15
ONA8	B-BBEE ICT Sector Council set up	2015/10/29
ONA9	B-BBEE need not deter foreign investment to South Africa, says EY	2017/12/27

ONA10	BBD achieves level 2 B-BBEE rating using education to uplift South Africa's ICT skills	2018/07/20
ONA11	BBD now majority black	2016/03/01
ONA12	BEE frontiers can be fined up to 10% of their annual turnover	2016/09/08
ONA13	B-BBEE amended codes mean higher costs for SA business	2016/08/18
ONA14	BEE rules are getting stricter	2015/04/03
ONA15	BI firm Datanomix inks BEE deal	2017/07/12
ONA16	Big BEE deals expected as ICT sector code kicks in	2017/02/02
ONA17	BITF takes Vodacom to task over transformation	2017/06/14
ONA18	BIZCOMMUNITY_Commission releases annual report on BBBEE trends 07_2020	2020/07/20
ONA19	Black lobby group threatens to derail ICASA hearings_05_2018	2018/05/15
ONA20	Blue Pencil Consulting wins level 3 B-BBEE after restructuring	2018/04/18
ONA21	BusinessTech_New BEE regulations for South Africa's ICT sector_02_2020	2020/02/19
ONA22	BusinessTech_What the new BEE changes for ICT_02_2020	2020/02/15
ONA23	Consultancy SA_Ulwembu bolsters automation segment_06_2018	2020/02/19
ONA24	Council to monitor transformation in ICT sector	2016/11/08
ONA25	Datacentrix achieves level one B-BBEE status	2017/10/18
ONA26	Datacentrix named SA's most empowered listed IT company	2014/08/26
ONA27	Datacentrix receives Oliver Top Empowerment accolade	2018/04/16
ONA28	DatacentrixTop empowerdex Awards Finalist 04_2019	2019/04/11
ONA29	Delayed shareholder payouts still haunt MTN Zakhele	2017/05/22
ONA30	Dell to develop black ICT professionals	2015/04/13
ONA31	Doing good is good for business	2017/04/06
ONA32	Don't revert to BBEEE fronting to get tenders	2018/01/18
ONA33	ENGINEERINGNEWS_ICT Council elected for second term 09_2019	2019/10/03
ONA34	How much your business could be fined for not following SA's employment equity laws	2017/05/16

ONA35	Fines, prison on the cards for fronting	2018/11/09
ONA36	Hitachi Data Systems achieves Level 3 B-BBEE rating	2015/05/15
ONA37	ICASA plans public hearings on BBBEE regulations	2018/04/24
ONA38	ICASA reviewing BEE onwership in ICT	2017/05/11
ONA39	ICT codes bring new challenges for SA firms	2016/11/23
ONA40	ICT sector code for BEE gazetted	2016/11/08
ONA41	ICT Sector Codes prompt big B-BBBEE deals	2017/02/20
ONA42	Indra obtains level 2 B-BBEE certification in SA	2016/09/12
ONA43	IOL_4Sight and Unplugg partner to form B-BBEE firm_07_2020	2020/07/07
ONA44	IOL_ATIO awarded level one B-BBEE status for the second year in a row	2020/11/28
ONA45	IOL_Cell C awarded Level 3 B-BBEE status 04_2019	2019/04/24
ONA46	ITWEB_ICT Sector Council welcomes announcement on Telkom shares_05_2019	2019/05/16
ONA47	IT News Africa Vodacom harnesses ICT to empower learners, farmers and teachers 04_2019	2019/04/24
ONA48	ITNECell C awarded Level 3 B-BBEE status 04_2019	2019/04/24
ONA49	ITNEWSAFRICA_ACS achieves Level 1 B-BBEE rating 06_2019	2019/07/17
ONA50	ITONLINE_AppCentrix attains top B-BBEE rating_10_2019	2020/10/09
ONA51	ITONLINE_Cell C gains Level 2 B-BBEEE status 1_03_2020	2020/03/19
ONA52	ITONLINE_Vodacom achieves BEE Level 1 05_2019	2019/05/31
ONA53	IT-Onile_Westcon-Comstor achieves Level 1 B-BBEE rating	2019/06/04
ONA54	ITWEB_AYO declares maiden dividend amid robust earnings 11_2018	2018/11/12
ONA55	ITWEB: AYO shows excellent growth in profits and job creation	2019/04/02
ONA56	ITWEB_4Sight and Unplugg partner to form B-BBEE firm 07_2020	2020/07/07
ONA57	ITWEB_B-BBEE – more than just points_07_2020	2020/07/06
ONA58	ITWEB_BBBEE ICT sector council set to review transformation plan_06_2020	2020/06/15

ONA59	ITWEB_DAC Systems achieves next level B-BBEE grading_01_2020	2020/01/29
ONA60	ITWEB_Datacentrix maintains level one empowerment rating11_2019	2019/11/26
ONA61	ITWEB_DatacentrixTop Empowerment Awards finalist 04_2019	2019/04/11
ONA62	ITWEB_ICT Council elected for second term_09_2019	2019/09/26
ONA63	ITWEB_ICT lobby group challenges Vodacom's empowerment rating	2020/06/04
ONA64	ITWEB_MCI Consultants achieves level one B-BBEE status 09_2019	2019/09/09
ONA65	ITWEB_New BEE regulations for South Africa's ICT sector_01_2020	2020/02/17
ONA66	ITWEB_SGT Solutions achieves Level One BB-BEE status_03_2020	2020/05/21
ONA67	ITWEB_Sharp decline in black ownership rankles the dti_02 2019	2020/02/18
ONA68	ITWEB_SURVEY Economic uncertainty is top concern for ICT channel_10_2019	2020/10/17
ONA69	ITWEB_TSystems SA achieves level one 03_2019	2019/03/06
ONA70	ITWEB_Puleng Technology announce new CEO 12 Nov	2020/11/12
ONA71	ITWEB_Tarsus Technology Group receives level one, black-owned, black female-owned and designated group status 27 Aug 2019	2019/08/27
ONA72	ITWEB_Unsurpassed! Samsung timely B-BBEE verification good for transformation_07_2019	2020/06/14
ONA73	mbb_Westcon-Comstor achieves Level 1 B-BBEE rating 05_2019	2019/06/04
ONA74	MTN Business set to back emerging ICT entrepreneurs	2015/04/21
ONA75	MTN Group commits to creating 1000 jobs in support of the YES initiative	2018/04/29
ONA76	MTN Zakhele to de-list this week	2016/12/12
ONA77	New BEE code for South Africa's ICT industry launched – the details	2016/11/08

ONA78	New BEE regulations in South Africa “unworkable”	2017/04/07
ONA79	New threshold for major BEE transactions	2017/06/14
ONA80	New, tougher BEE rules are hitting SA companies hard	2016/08/18
ONA81	NOW IN SA _Samsung SA on a mission to identify future ICT_07_2020	2019/08/02
ONA82	R1bn invested in DTI’s Equity Equivalent programmes	2015/04/10
ONA83	Radical Economic Transformation will hurt South Africa’s ICT industry	2017/04/18
ONA84	Revised ICT sector code what you need to know	2016/03/10
ONA85	Ricoh SA's BEE drive takes shape	2017/08/17
ONA86	RSPH strikes strategic partnership to become B-BBEE compliant	2018/03/01
ONA87	SA faces ICT skills crisis	2016/07/19
ONA88	Sharp decline in black ownership rankles the DTI	2019/02/18
ONA89	Shot in the arm for Finfind	2017/03/29
ONA90	Softline Pastel launches BEE portal	2012/02/01
ONA91	South Africa gazettes ICT Sector Code for BEE	2012/06/14
ONA92	South Africa MTN launches a 9 billion BEE initiative	2016/08/22
ONA93	South African Business slow to embrace innovation economy	2016/08/30
ONA94	TECHCENTRAL _Court gives ex-minister bloody nose over Telkom BEE_07_2020	2020/07/20
ONA95	Telkom explains ‘no white-owned businesses’ tenders	2012/03/20
ONA96	Revised ICT sector code: what you need to know	2015/05/25
ONA97	T-Systems embraces enterprise supplier development in line with new BBBEE codes of practice	2015/05/06
ONA98	T-Systems SA achieves level one B-BBEE rating_03_2019	2019/03/23
ONA99	TWST_Vodacom Group in ground-breaking R17.5bn BEE ownership transaction 06_2018	2018/07/20
ONA100	Vodacom coy on multibillion	2017/01/26
ONA101	What is IT sourcing	2016/08/31
ONA102	Why we need accurate B-BBEE certification	2016/08/19
ONA103	ZTE SA set for growth with new B-BBEE Partner, move to impressive headquarters in Johannesburg	2017/05/03

ONA104	Engineering New Ten Steps to Becoming a BEE Compliant Business	2019/05/09
ONA105	New ICT sector codes to prompt new era for BEE	2017/02/14