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BEE sector codes awareness may help tame construction mafias

SOUTH Africa faces infrastructure setbacks and is starved of much needed investment to drive the economic reconstruction and recovery outlook.

Despite an arsenal of legislative provisions aimed at driving transformation, our economy remains concentrated in the hands of a few, exacerbating inequality and resulting in an economic landscape where gross domestic product growth can never grow to materially change the conditions of the majority.

While the State has targeted infrastructure-led economic recovery among others, impatience with the declining attitude to transformation and empowerment both in the state and private sector, all manner of upheaval and even criminal conduct are emerging in the ecosystem.

Key among these is the rise of the phenomenon of construction mafias. These collectives are often referred to as "forums".

Speaking at a recent webinar, the Minister of Public Works stated that the general complaint laid by these groupings is "that contracts in the government are given to one and the same companies".

According to the Global Initiative against transformational organised crime report on "the construction mafia in South Africa", "this often starts with a smaller group of people with a specific identity, and who are capable of inflicting violence, from which a 'broader group identity' may emerge, serving to band disparate agents into a recognisable network that ensures their loyalty". Most famous among these are the 'Amadela ngokubona', emerging out of KwaZulu-Natal.

TRANSFORMATION



DR SIBONGILE VILAKAZI

There have been numerous calls for regulating business forums or collectives representing interest groups. This open sea of malicious actors loosely labelled as forums potentially hamper the work of organisations like Black Management Forum (BMF), whose proven track record can be conflated with these emerging trends.

While commitments are made to confront this scourge of criminal elements in some of these groupings, we have to also assess the extent to which knowledge of our transformational laws and specific sector codes (built-environment in this context) can equip black entrepreneurs and professionals with needed understanding of how to navigate an ever-changing market with innovative strategies to unlock new economic opportunities for their businesses.

The BMF regularly embark (as per the mandate of developing managerial skills) on a series of webinars to engage these important questions. These include the state of South Africa's forums, presented by Dr Ongama Mtimka, whose doctoral thesis looks into the "political economy of transformation in Nelson Mandela University Bay: a critical analysis of the



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construction sector".

The BMF also frequently provides engagements aimed at better understanding of Broad Based Black Economic Empowerment (BBBEE) sector codes. It wouldn't be surprising if the rise of lawlessness in the construction sector will soon be blamed on BBBEE.

The existence of a policy is not the problem in spaces where law enforcement needs to be heightened.

However, we are beginning to suspect that there is limited awareness of these provisions in the BBBEE Act and as another form of literacy challenges

in South Africa, there may be too many professionals and entrepreneurs who navigate socio-economic South Africa today without having read any of these laws.

If Professor Marwala's "those who do not read should not lead" dictum is anything to go by, it then must be said that black businesses and professionals will not lead their own agenda for economic development and empowerment if they do not read the same texts that are intended to aid this in the form of the BBBEE Act.

Nothing demonstrates this more

than the case before court between Sanral and a host of construction sector entities who filed an interim interdict to the awarding of tenders on road stabilisation at the Eastern Cape High Court.

Sanral have elected to use the powers given to them by the Treasury regulations to make shifts in how they allocated preferential procurement scores to tenderers. This has resulted in what the applicants call the relegation of BBBEE level rating and the elevation of black ownership and subcontracting to targeted enterprises.

This is bound to be an instructive case in an environment where legislation needs to be transformative to defeat inequality and high concentration of markets.

The spectre of violence in the construction sector must be assessed against this shifting legislative environment.

The "real forums" working with the government and other stakeholders of development and empowerment must put these laws to the test through innovative entrepreneurial undertakings for the benefit of the black players who continue to languish on the fringes of the South African economy.

It will not be an ignorance of these laws that will end violence, but a better and deeper understanding and engagement of them that will steer us all towards a turnaround path.

We in the BMF will continue to promote awareness of sector specific codes to inspire a value creating agenda for transformation. Those who must lead must therefore read!

Dr Sibongile Vilakazi is the president of the Black Management Forum.