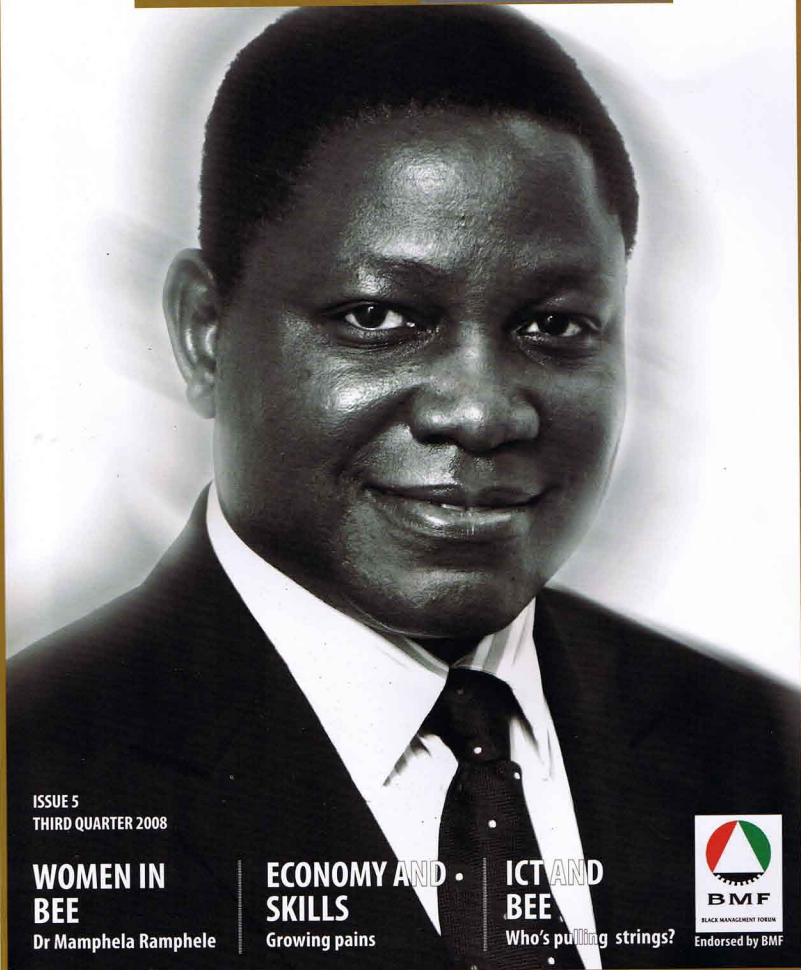


# BBO SCORE CARD



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BEE**

Dr Mamphela Ramphela

**ECONOMY AND  
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Who's pulling strings?



# Our rainbow of black

## Chinese South Africans win the struggle for BEE status

**C**hinese South Africans have been included in the Employment Equity, Skills Development and BEE legislation.

This came after the government's reluctance to clarify the Chinese as inclusion in the definition of "black" (African, coloured and Indian) under the legislation.

The Chinese Association of South Africa (CASA) was given the "green light" and afforded the black status, making them eligible for BEE initiatives.

This follows an eight-year struggle by CASA to obtain clarity on their status. They requested to be included for the benefits of the Employment Equity Act and the Broad-Based Black Economic Empowerment Act after being classified as "coloured" during the apartheid era. "The history of legislative and opportunistic discrimination against people of Chinese origin in this country is extensive, and it intruded on all facets of their lives. It seems extraordinary that their suffering over decades should be disregarded now."

CASA's Patrick Chong said his organisation took up the campaign when Chinese employees started differing with their employers over their classification under the Employment Equity Act, and whether they were entitled to affirmative promotion. "We had meeting upon meeting with the Department of Labour," said Chong, "but they refused to give an official interpretation of the Act."

Chong said he confronted department officials at a public launch of the BEE codes and was told the question was "difficult,

because there is the sense that the Chinese were not as discriminated against as coloureds and blacks".

The legal opinion given to various firms, including the BEE ratings agency Empowerdex, is that South African Chinese should be regarded as black. Confident that their status in South Africa is not only clear to them, but to the rest of South Africa, they are hoping to afford employment opportunities for South Africa's unemployed.

### The history of the South African Chinese community

They are South African citizens who are of Chinese origin. The community, now recognised as previously disadvantaged, consists of less than 10 000 people. Cape Town has a community of less than 500.

The majority are third and fourth generation South Africans, whose ancestors arrived in the early 1900s.

Their ancestors were drawn to South Africa by the discovery of gold and the prospect of a better life, with the majority becoming traders and shopkeepers. The early communities were hard working and supportive of one another. They placed community centres and schools in the major cities (other than Durban), and including Kimberley and East London. These schools and centres were built from donations made by communities in South Africa.

The community realised that the black and coloured education provided under the apartheid system was inadequate and decided to start their own schools.

The combination of the work ethic taught by their parents and the education provided, meant that the Chinese became assets to any employer, an advantage that aided the fight against job reservations under apartheid.

However, this meant that many Chinese employees were being exploited, which resulted in many graduates deciding to emigrate to Australia, Canada and the UK.



Since they were denied voting rights, they formed a national association to look after their community's interests.

The offer for a seat in the President's Council, and the decision to refuse participation (on the grounds that the majority of South Africans were excluded), resulted in the formation of the Chinese Association of South Africa. The association arranged voter education meetings and allowed all political parties to address the community around the country before 27 April 1994. It was the first time that the Chinese would participate in any elections.

When the affirmative legislation was introduced, many employers were confused regarding the treatment of Chinese employees under the act. Although companies like Nedbank, Absa and Old Mutual recognised them as previously disadvantaged individuals, many others like Standard Bank and Liberty Life did not, which led to confusion in the market place. A doctor at Groote Schuur

Hospital, who lectured at the University of Cape Town's medical school, was regarded as a "black" by the university, but as "non-black" by the hospital.

The promulgation of the black economic empowerment legislation created even more confusion, as Chinese employers were not considered "black" and BEE scorecards became major problems for their employers and suppliers. To aggravate the problem, the Department of Labour and the Department of Trade and Industries would not give any guidance as to how Chinese should be treated and categorised. Casa presented the matter to the Labour Portfolio Committee in 2003, but it remained under consideration until December 2007 when Casa finally presented their papers in the Pretoria High Court to get a ruling on the position of South African Chinese.

Casa avoided going to court because they believed there was no need to prove that Chinese were non-white under apartheid

and that they were disenfranchised until 1994. It was the government's lack of interest in their concerns and the remarks that they should seek clarity in court, but the Minister of Labour forced them to take the matter to the Pretoria High Court.

Since the court ruling, no mass empowerment deals have taken place and the majority of South African Chinese are either professional doctors, accountants, architects, engineers or small business owners, therefore empowerment deals are not a priority. The court ruling gave the Chinese the recognition that they were discriminated against under apartheid. The ruling means that their ancestors who faced terrible discrimination and those who died in prison because of the laws of apartheid, can now rest in peace.

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