

## **Employment Equity – Are we still on target?**

Barend Röges Odendaal (Cape Peninsula University of Technology, Cape Town)

[odendaalb@cput.ac.za](mailto:odendaalb@cput.ac.za)

021 959 6734/ 082 350 8188

### **Abstract**

*The Employment Equity Act, 1998, Act 55 of 1998 was created in order to bring about a paradigm shift in South Africa's labour relations, transforming it into a system based on equality. This change in the political life of all South Africans has brought about huge challenges to employers and employees alike. Seen as a threat to some, others view it as a positive beacon. If the Act was correctly implemented, South Africa will be heading towards a better competitive market and the workforce should be equally representative of the population. This paper aims to illustrate whether the Act has achieved its goals over the past 13 years by means of analysis and assessment of reports and statistical reviews. An overview is offered in the form of a literature review of the Act and defining the current legislation thereof in conjunction with management theory. The paper challenges the perceptions of all South Africans and finding possible solutions to areas in which the Act has failed. The paper further proposes action steps for the effective implementation of the legislation and for the process to follow to ensure that is fair in the sense that all employees can compete on equal terms.*

### **1.1 Introduction**

*“Affirmative action is corrective action. We shall not be discouraged by the sirens of self-interest that are being sounded in defence of the privileged and the insults that equate women, Africans, Coloureds and the disabled with a lowering of standards” – (1998, Address to Parliament by President Nelson Mandela.)*

When the first democratically elected president of the Republic of South Africa (RSA), President Nelson Mandela, uttered these words, he signalled a new age in labour relations within the South African nation. It had always been his yearning to see South Africa adopt a policy of change that would promote equality and fairness, which could only be achieved by means of a parliamentary government. Owing to his very strong political convictions, he was incarcerated by the previous Apartheid government, serving 27 years behind bars and away from his family. Even after this, he continued with his mission to bring about a remarkable change in South Africa, aiming at equality and fair treatment for every citizen.

Integrated in the speech that was delivered by Mandela in 1993 was a statement that affirmative action must be entrenched in the principles of justice and equality. Seen in this light, affirmative action should be used as a tool to rebuild South Africa in a just and humane manner. Although inequalities of the past are addressed in affirmative action, it can also be regarded as a strategy to fight poverty by providing employment for the previously disadvantaged groups.

Madi (1993: ix), postulates that Mandela summed up the debates surrounding the highly explosive and emotive nature of affirmative action by describing it as a positive symbol of hope to millions of South Africans. For others, affirmative action is seen as a threat to the integrity of public life and personal security. This change in the political life of South Africa brings great challenges to employers and employees alike.

It is against this background that the Employment Equity Act, 1998, Act 55 of 1998, was finally drafted in October 1998 as a primary piece of legislation that strove to bring about a paradigm shift in South Africa's labour relations, transforming it into a system based on equality. The Act requires designated employers to set employment equity goals and time frames for the elimination of barriers to employment and the advancement of designated employees. All employers in South Africa are affected by the significant challenges of the Employment Equity Act, 1998, and they are challenged to play an integral part in the change process.

Change has become the way of life in organisations today. At the same time they are also faced with maintaining their own identity in order to survive and reach their primary goals. It is very important for organisations that are managing change to deal with it very critically. According to Harvey and Brown (1996: 3), affirmative action can be viewed as part of the change management programme. Herbert (1994:10), who stated that affirmative action terminology is open to interpretation, supports this view. To this he adds that, depending on the way in which it is viewed, affirmative action could mean the lowering of standards, tokenism and a new form of discrimination. This implies that skilled white employees are replaced by less skilled Black employees in the workplace.

The public sector essentially employed white Afrikaners under the rule of the previous National Party government. When the African National Congress (ANC) was voted into power in 1994, they immediately endeavoured to establish a public sector that reflects the demographics of South Africa. Due to the fact that many white Afrikaners dominated the white-collar workforce, the need arose to reduce their number by retrenchments or offering severance packages. This in turn would allow the previously disadvantaged groups a chance to enter the workforce. The dilemma that was faced, and is being faced at present, is the fact that the newly appointed candidates often do not possess sufficient skills, qualifications or experience that are required to fulfil their work requirements effectively.

The retrenched employees are often re-employed as consultants to assist the newly appointed candidates by providing training and guidance. A fee that is approximately three times higher than the former salaries can be charged. The predicament with this situation is that it is not cost effective to employ the retrenched employees on a contract basis as well as paying the newly appointed candidates a full salary. The public in turn becomes irate when they require a service and they cannot be assisted as they might have been used to in the past. They are not interested to hear that the newly appointed candidates are still learning and therefore might not have sufficient experience to take charge of a problem situation. They are paying for a service and would like to enjoy the benefits of it.

Against this background, South Africa has had to face the challenge of making available the opportunity for all its citizens to be treated fairly and to compete on equal terms with each other. For moral reasons, South Africa was obligated to eradicate all forms of discrimination and racism. South African citizens in turn are faced with the daunting task of allowing candidates from the previous Apartheid regime to participate and be represented in the workplace. However, this level of equality cannot be achieved immediately, as those citizens who were advantaged by Apartheid possess many years of experience and cannot simply be dismissed in order to provide employment for those disadvantaged. Therefore, it was necessary for a legislation to be drafted in order to provide employers with guidelines to achieve their employment equity plans.

## **1.2 Objective**

This situation of implementing employment equity legislation effectively underlies the objective of this study.

The specific objective of this study is to gain an insight into the implications of the Employment Equity Act, 1998, Act 55 of 1998 and other legislations that were created in order to bring about a paradigm shift in South Africa's labour relations, transforming it into a system based on equality. Originally the employment equity plan was set for a limited time period of three years for employers to address inequalities within organisations. It is 13 years later and the question needs to be answered whether the Act and other affiliated legislations have achieved its set goals. An overview will be offered in the form of a literature review of the Act and defining the current legislation thereof in conjunction with management theory. The paper serves to challenge the perceptions of all South Africans and finding solutions to areas in which the Act has failed. Proposals will be made for the effective implementation of the legislation and for the process to follow to ensure that it will be fair in the sense that all employees can compete on equal terms.

## **1.3 Historical review**

Over a period of 45 years, Black South Africans were denied opportunities and devalued due to discriminatory Apartheid legislation. This is the reason why the Employment Equity Act, 1998, was introduced as a primary piece of legislation that will strive to bring about a paradigm shift among South Africa's workforce in order to transform it into one based on the principles of equality. The Act will require designated employers to set employment equity goals and time frames for the elimination of barriers to employment and the advancement of designated employees. The significant challenges of the Employment Equity Act, 1998, will affect all employers in South Africa and challenge them to play an integral part in the change process.

*The Economist* (1999: 45) stated that under the Apartheid government most labour intensive and unskilled employment was reserved for Black people. Throughout most of the past half-century skin colour was the single most important determinant of a person's future. State-owned firms could guarantee, secure positions for Whites even if they were lazy or of lower skills. Blacks, on the other hand, were prohibited from certain desirable forms of employment, even if they were extremely bright or energetic. In the new South Africa the previously disadvantaged groups of people such as Africans, Coloureds, Indians, women from all race groups and disabled people are being given preferential treatment in hiring, promotions, university admissions and the awarding of government contracts. The dilemma being faced at present, however, is that many Black people are being recruited to positions that are far too advanced for their limited experience and they are left to cope with the responsibilities of the position. Whites often don't feel inclined to support them as their own positions are threatened.

Lyndon Johnson, who became the American president in 1963, stated on the 4<sup>th</sup> of June 1965 in his Commencement Address at Howard University, that no one should take a person who has been crippled by chains and liberate him by placing him on the starting line and then expect him to compete with all the other trained athletes. In the light of what has previously been said about the inequalities in employment of the past, it is clear that the African National Congress (ANC) had to implement legislation prohibiting unfair discrimination. This was to enable those who were left out of the race to be given an equal opportunity to catch up and compete fairly. (<http://www.lbjlib.utexas.edu>)

After South Africa became a democratic state a process had to be embarked upon to ensure that those management positions, which were mostly dominated by white males, received attention. Although companies had already made progress in appointing Black people in order to restore the imbalances of the past, they seem to place them in positions, which have no real decision-making requirements, nor needing to take responsibility.

Adam (2000: 1) states that the 2000 National Statistics indicate that Whites still dominate 96.4% of top managerial positions held in South Africa. There has only been an increase of 2.3% regarding the appointments of Black people to senior management positions. South Africa has the most unequal distribution of income in the world. The bottom 20% of income earners receive 1.5% of national income and at the same time the wealthiest 10% earn 50%. Poverty is overwhelmingly concentrated in the African and Coloured population. Amongst the Africans, 95% are poor and 33% of the Coloured population live in poverty. According to the annual mid-year estimates from Statistics South Africa, in July 2010 the country's population was 49 991 300 inhabitants, of which 25 662 300 (51.3%) were female and 24 329 000 (48.7%) male. Africans are in the majority at 39.7-million, making up 79.4% of the total population. The white population is estimated at 4.6-million (9.2%), the coloured population at 4.4-million (8.8%) and the Indian/Asian population at 1.3-million (2.6%). There have been two official censuses since South Africa's first democratic election in 1994, the first in 1996 and the second in 2001, with a third scheduled for 2011. The population increased from 40.6-million in 1996 to 44.8-million in 2001 – a growth of 10%. From 2001 to 2010, the population has grown by an additional 11.54%. (<http://www.southafrica.info>) [10 April 2011]

Seen in this light, it was necessary to pass laws that prohibit any form of unfair discrimination. On 19 October 1998 the Employment Equity Act, 1998, Act 55 of 1998 came into effect to promote equal opportunity and fair treatment for all South Africans. In addition to the Employment Equity Act, 1998, another significant piece of legislation was drafted. The Constitution of the Republic of South Africa, 1996, Act 106 of 1996, was accepted as supreme and is relevant to all South African citizens. Any form of legislation must be read in conjunction with the Constitution of the Republic of South Africa, 1996.

#### **1.4 Research problems and hypotheses**

In terms of the guidelines provided by Brynard and Hanekom (1997: 12), this research was conducted as a literature review. Furthermore, it was set out as an inductive study of the current reality of the effectiveness of the Employment Equity Act, 1998, and other legislations on human resource planning. The problem that most businesses are faced with today is to achieve a level of representation in their workforce that reflects the demographics of the various regions. There is a shortage of skilled staff to be placed in management positions and at the same time the criteria of the employment equity plan have to be met over a short period of time. The dilemma is that there is a large discrepancy between the existing vacancies and the suitability of candidates for the said positions. The lack of skilled, experienced and qualified Black people in many of the regions leads to “head-hunting”, where better remuneration packages are offered. This in turn leads to their salaries becoming very competitive and the organisation that originally recruited the candidate suffers huge financial losses, incurred by transfer costs. In addition to this, there is the problem of having to deal with candidates who were previously advantaged by Apartheid legislation who are now experiencing “white fears”.

It is important to ensure that employers take up the challenge of ensuring that the employment equity legislation is implemented correctly. Before the implementation can be successful, it is important for employers and employees alike to understand the principles surrounding affirmative action. Insight into these issues can be gained by taking cognisance of the definitions provided on the topic.

## **1.5 Affirmative action defined**

There are many definitions and viewpoints on affirmative action. Examining the possible definitions will provide an insight into the rationale behind affirmative action and the various motives for the implementing of the programme. According to Herbert (1994:10), the way in which affirmative action terminology is defined could lead to different interpretations of the process. By this he implies that, depending on the way in which affirmative action is viewed, it could mean that there is a reduction in standards, tokenism and a new form of discrimination. This could mean that skilled white people are replaced by less skilled Black people in the workplace. It is in view of this difficulty that the role and definitions of affirmative action are addressed and clarified.

### **1.5.1 The role of affirmative action**

Affirmative action plays a vital role in South Africa for all employers. This is due to three primary reasons. The first is the history of economic and political marginalisation of the Black majority in South Africa. Apartheid legislation enforced an economy that was biased towards the white population. The second issue is the under-education of Black people, due to the fact that Apartheid deprived them of a formal education. Finally, the introduction of the Employment Equity Act, 1998, Act 55 of 1998, projected the concept of employment equity to the forefront of the concerns of employers who are affected by the requirements of the legislation.

### **1.5.2 Affirmative action versus employment equity**

It is important to distinguish between employment equity and affirmative action, as these terms seem to be used interchangeably in South Africa. Employment equity is intended to achieve equity in the workplace through the elimination of unfair discrimination through affirmative action strategies. Affirmative action is, therefore, the targeted action that is taken to redress the disadvantages experienced by designated groups in the workplace.

Barker and Holthauzen (1996: 3) claim that affirmative action is a set of specific and results-orientated procedures aimed at redressing the historically generated imbalances of the past. This is achieved by creating appropriate opportunities through the education, training, development and advancement of Africans, Coloureds, Indians, women and disabled people to enable them to operate at all levels in the organisation.

It would be inappropriate to treat unequal people as if they are equals when they are still discriminated against. The process to achieve equality should entail action that is more than just gaining fair employment. The employer must facilitate the process which achieves equal representation at all levels within the organisation.

### **1.5.3 Affirmative action legislation**

Affirmative action has been included in the Constitution of the Republic of South Africa, 1996, Act 108 of 1996 and it will, therefore, reflect on all people from all walks of life living within the borders of South Africa. Section 9 of the Constitution of the Republic of South Africa, 1996, states that everyone has a right

International Educative Research Foundation and Publisher © 2013 pg. 73



to be equal, share equal protection and not to be discriminated against on grounds of race, gender, creed and language. (<http://www.info.gov.za/documents/constitution>) [5 April 2011]

The process of employment equity is enforced all over South Africa. The public sector is more affected by the legislation than the private sector due to its size. However, both private and public sectors have to abide by the legislation applied to them and their employees. It is with this in mind that Nzimande and Sikhosana (1996: 12) claim that affirmative action can also be seen as a strategy that is set to redress the inequalities brought about by past discrimination and to transform the socio-economic environment. Black people, females and people with disabilities form part of the previously disadvantaged group. This corrective process is often viewed as a short-term, immediate strategy that is one step in the longer process of social transformation.

The promulgation of employment equity legislation was introduced to redress the historical imbalances of the past for specific members of the society. Affirmative action legislation was therefore promulgated, as part of the process towards achieving employment equity, in order to deal with imbalances and to repair the destruction that was caused by Apartheid.

Israelstam (1999: 40) states that employment equity is based on achieving fairness in the workplace with regards to race, gender and the state of health of the employees. The Employment Equity Act, 1998, aims to address workplace equity and fairness by means of legislation to act against discriminatory practices in situations such as wage disputes and the imposing of affirmative action requirements on all employers. The implementation of affirmative action is to introduce special measures to make up for the disadvantages that certain groups experienced due to Apartheid legislation. These measures will aim at specific areas such as recruitment, selection, promotion, training and development.

Human (1993: 1–2) claims that affirmative action is intended to create equal opportunities in the workplace and not to introduce reverse discrimination, as perceived by many previously advantaged White South Africans. This temporary intervention proposes to achieve equal employment opportunities to bring about equality in society.

#### **1.5.4 Equality in society**

In its report on Group and Human Rights, the South African Law Commission (1989:445) defined affirmative action to be a recognised way of promoting the principle of equality of opportunity in societies. This principle of equality had previously been violated as a result of discrimination, where less developed employees had to compete with more developed employees. Affirmative action is recognised in international law as being non-discriminatory; so long it is temporary and not enforced against the will of the minority. In appropriate cases this does not amount to discrimination, since the fact that those who have lost their positions in a programme of affirmative action properly executed do not actually lose anything they would have had in a fair competition. Owing to the fact that affirmative action terminology carries both narrow and wide connotations, great care must be taken if reverse discrimination is to be prevented.

#### **1.5.5 Narrow and wide connotations**

According to Maphai (1993: 6), affirmative action in South Africa carries both narrow and wide connotations. There seems to be a great deal of confusion at both levels. The narrow connotation involves the recruitment of members of designated groups into positions to which they previously had limited access. Traditionally, this

seldom went beyond a temporary process of repairing any possible damage. Affirmative action should be government's way to promote democracy. The wide connotation of affirmative action can be regarded as an instrument of national transformation, which should at least attempt to eliminate or reduce the inequalities that had been brought about by past discrimination. This strategy is aimed at alleviating poverty. Gerber *et al.* (1998: 154) also state that it seems that affirmative action will be an instrument of reconstruction in South Africa. Joubert (1993: 1) argues that if affirmative action is viewed as the substitution of White with Black labour in order to redress the imbalances of the past, there will not be any chance of an improvement in South Africa's competitiveness.

Affirmative action candidates are often placed in positions that they are not qualified or trained for. This is due to the acceleration caused by the short-term strategy. If the candidates do not fulfil the duties for which they are employed, they might view themselves as failures and also be regarded as inadequate by the other employees. The current employees in turn seem to lose their motivation as the promotional opportunities become reduced.

Although various viewpoints have been debated regarding the definitions of affirmative action, it can be concluded that affirmative action is intended to enhance equity. Furthermore, it stands to correct past discrimination as to develop and empower members of disadvantaged groups to create a diverse yet effective workforce which will strive to achieve the organisation's goals.

In the implementation of any programme there are often arguments in favour or against from the parties concerned. The following section will address the arguments in favour of affirmative action.

## **1.6 Arguments in favour of affirmative action**

The arguments that mitigate the negative aspects of the implementation of affirmative action are presented in this section. These include by discussing the dismantling of discrimination; the reparation provided and the way perceptions are to be changed.

### **1.6.1 Dismantling of discrimination**

South Africa's political and economic history has been characterised by the marginalisation of the Black population, women and the disabled. It is in the light of this situation that the initial process of affirmative action was intended to dismantle and eradicate all forms of discrimination.

Against this backdrop Marshall *et al.* (1980: 528) state that discrimination cannot be dismantled instantly by simply getting rid of discriminatory legislation. Over a long period of time those who were discriminated against would have fallen far behind in terms of ownership of the wealth of the country and the filling of skilled occupations.

Goldstone (1989: 69) agrees with this argument by stating that he has no doubt it will take many decades to amend, let alone to demolish, the many negative consequences of centuries of racial oppression in South Africa. If positive steps to bridging the racial gap are not taken, then South Africans will never live in harmony with each other and the economy will not have the manpower so necessary to drive it efficiently.

In the line with the above, South Africans need to embark on a process of reparation of the damage that was caused by Apartheid legislation. This process is necessary to allow all South Africans the opportunity to face the hurts of the past and to take up the challenges of the future. The following section takes this discussion further.

### **1.6.2 Reparation provided**

The previous section discussed the dismantling of discrimination, which leads to the process of repairing the damage, inequalities and hurts that Apartheid legislation had caused. In order to create a basis of equality, positive steps need to be taken towards allowing every South African the same opportunity, without discriminating against anyone on the grounds of race, gender or language.

Khoza (1986:19) states that all South Africans should be provided with the same boots and straps as was done for Whites before anyone shouts to those who neither had been given boots nor straps that they must pull themselves up by their bootstraps. This implies that not everyone in South Africa had been given the same opportunities to develop and therefore it will be unjust to expect a person to achieve the same as someone who had been provided with better opportunities. Faundez (1994: 4) suggests that affirmative action is not a form of reverse discrimination, but a method of providing reparation to benefit members of a group that has been discriminated against on the account of race. In order to provide reparation to the previously disadvantaged groups, the perceptions of all South Africans need to be changed, as discussed by the following section.

### **1.6.3 Perceptions changed**

The way in which affirmative action is perceived varies from person to person and negative perceptions need to be dealt with in order for affirmative action to be effective. To ensure that affirmative action is implemented successfully, a paradigm shift in perceptions needs to take place amongst all South Africans. Barker (1999: 255) suggests that when affirmative action is seen from an economic point of view, the markets don't seem to be functioning as required. If discrimination is the result of, for instance, perceived reality, intervention by government in the form of affirmative action must bring about a change in employers' actions towards individuals from certain groups. These arguments can be countered also by the debate that, although intervention to

Eliminate discrimination is needed, this does not necessarily require affirmative action. It is in this light that the arguments in favour of the implementation of the affirmative action programme and the counter-arguments are addressed.



## **1.7 Arguments against affirmative action**

It is also necessary to take cognisance of the arguments against the implementation of the affirmative action programme in order to build a better basis for argument. The latter arguments will be presented here in terms of the lowering of standards; increase in wages; racial criteria and labelling.

### **1.7.1 Lowering of standards**

The first argument against the implementation of the affirmative action programme is that it entails the lowering of work standards. Barker (1999: 255) implies that the implementation of affirmative action programmes reduces economic efficiency because the best person for the job is not necessarily appointed. This implies that recruitment standards are lowered and that competition, the basic principle of the market, is negated. On the other hand, if these standards are reduced only in the short term to enable the previously disadvantaged to compete on equal basis, this will not necessarily be detrimental to the economy. Depending on the period and manner in which standards are relaxed, it might even be beneficial, as the productive potential of the disadvantaged has not been unlocked.

According to Qunta (1995:21), business people argue that their employee numbers should reflect their client base instead of the population at large. Although affirmative action is often opposed, a limited number of business people would take a stand against its implementation. She further postulates that Judge Goldstone suggested at the 1991 Labour Law Conference that affirmative action should not be based on racial criteria, but on temporary and non-racial criteria.

If the implementation of affirmative action is to be successful, the aspects surrounding the reduction of standards need to be carefully dealt. At the same time; employers need to participate wholly in the process in order to eliminate any form of labelling.

### **1.7.2 Labelling**

A further possible detrimental effect might be that the previously disadvantaged groups might use affirmative action as a way of claiming entitlement, as in the past when the Whites enjoyed privileges under the system of Apartheid. Labelling could occur and those who actually deserve to be in the position will be seen as having being employed because of being Blacks and not appointed on the grounds of merit. Their self-esteem will be undermined and the myth of racial inferiority will be reinforced.

Marshall *et al.* (1980: 529) suggest that affirmative action could give rise to problems when it is applied in such a way that individuals are deprived of existing rights, although there might be ways of avoiding this problem. This can occur when a Black person might be given preference above an equally qualified white person. The white applicant should, therefore, not be deprived of pre-existing rights. As far as meeting quotas is concerned, where people from a disadvantaged group must fill certain skilled positions, they don't always fulfil the requirement of possessing the correct qualifications nor do they have the necessary experience. In addition to

this, the demographics of South Africa indicate that Black people form the majority of the South African population, and so implementing the quota system would be an extremely difficult task.

Affirmative action in South Africa is viewed as an instrument of reconstruction and not just a superficial adaptation of the system. In whatever way the definitions of affirmative action are understood, they all refer to equal employment opportunities and the correction of past injustices. Different kinds of terminology were used in the definitions of affirmative action and these needs to be clarified.

## **1.8 Terminology**

A review is offered of the relevant literature on affirmative action.

This will define the different terminology related to affirmative action which will be discussed.

### **1.8.1 Inequality**

For approximately 45 years in South Africa Black people were discriminated against in accordance with official government policy. This was done by way of legislation such as job reservation, which reserved jobs for Whites only; influx control, which limited access to urban areas; the Group Areas Act, which limited the availability of housing for Black people; and the restrictions on social interaction, which resulted in the entrenchment of discriminatory practices such as Apartheid.

Barker (1999: 258) explains that until the early 1980s Black people were excluded from the provisions of the Labour Relations Act, 1995. This meant that they could not even bargain for wages and conditions of employment. The largest inequalities being faced at present is between those with work and those without; between persons of colour and Whites; and between men and women. If these inequalities are not dealt with, this could have major financial implications for an already overburdened and underperforming economy.

According to Israelstam (1999: 19), it seems that white males have become victims of the employment equity legislation. Although the majority realises that affirmative action is necessary, this still does not place food on the tables of the retrenched employees. Many Whites leave South Africa to pursue their careers in other countries, where their expertise is given credit. Those who remain employed by the organisation might continue until retirement and secretly resist the implementation of the employment equity plan. This reaction might damage the goals of affirmative action and also affect the skills base of South Africa.

Care must be taken to reduce and not increase racial tension. For many decades to come Whites will form a critical component of the labour force and any action aimed at reducing inequalities should not result in skilled Whites leaving the country. If this happens, it will reduce the availability of human capital and consequently cripple the economic system.

## **1.8.2 Black people**

In order to understand the term Black it is important to indicate who belong to this race category. These people include Africans, Coloureds, Indians and Chinese collectively.

## **1.8.3 Discrimination**

According to Stone ((1991: 3), discrimination can be defined as giving preference to a person over another. Conrad and Maddux (1988: 67) confirm this definition by stating that when favouritism or injustice is shown towards employees, this results in discrimination. Discrimination is, therefore, the restriction of opportunities based on race, gender, religion, genderual orientation, disabilities and political preference.

## **1.8.4 Reverse discrimination**

According to Conrad and Maddux (1988: 67), reverse discrimination is the recruiting, promoting and selecting of unqualified candidates over White males, who might have been more qualified or experienced. Previously preference was given to White males only which led to an imbalance.

## **1.8.5 Historically disadvantaged**

Previously certain race and gender groups were excluded from certain positions and promotions in companies. This historically disadvantaged group include Africans, Coloureds, Indians, Chinese, women and persons with disabilities.

## **1.9 Equal employment opportunity**

The main objective of employment equity is to take remedial action to offset past employment discrimination. Managers have an essential role to play in making affirmative action effective. Good interpersonal skills and not being judgmental go a long way towards equipping managers for this important task. Where preference was given to Whites in the past, the doors have now been opened to other races. Groups of employees across the spectrum of races and ranks in the organisation work their way past stereotyped beliefs about each other. In this way incorrect assumptions are broken down, which in turn paves the way to better relationships. This prejudice reduction process also results in better insight into understanding of the cultures of other races, along with greater acceptance and respect of differences between people.

Innes *et al.* (1993:54) suggest that the effects of discrimination in terms of class, race and gender should be eradicated. Discriminatory obstacles, such as excluding certain race groups from training and development should be removed. This does not imply that race is the only determining factor, but also gender and class distinction.

Reducing prejudice, however, is only part of the solution. Managers do not automatically interact more effectively after going through such a process. Many still, without realising it, interact with their employees in ways that leave them feeling unfit and unaccepted. Management must change its attitudes about protecting employees and

assisting all employees to adjust to the changes that equal employment opportunities are bringing into the workplace.

Individuals within racial groups differ greatly in spite of their common culture. Understanding each other's cultures is not enough without individual understanding.

The pressures placed upon organisations to comply with the rules of the legislation have increased. They have to employ candidates from the previously disadvantaged groups and at the same time need to deal with the restructuring of employees who are currently employed. The implementation of affirmative action is intended to reflect the demographics of South Africa within organisations. The definitions of affirmative action, regardless of the terminology adopted, all refer to equal employment opportunities and the correction of past injustices to develop and empower members of the previously disadvantaged groups. Affirmative action is, therefore, a process to ensure that Black people, women and anybody else who was previously discriminated against should be allowed to have a real chance in life.

In short, Apartheid and its laws have left South Africa with a legacy of inequality. It is therefore imperative that South Africa take the best possible solutions towards economic equalisation and this will determine the success or failure of the democratic transformation. Although Apartheid legislation is no longer in effect, the post-Apartheid era has to face the challenges of the legacy of Apartheid.

## **2.0 The South African workplace**

According to Thomas and Robertshaw (1999: 3), there are still adversarial relationships amongst colleagues in the South African workplace. There is a lack of trust, and the commitment of and the morale amongst Whites have declined drastically. In a survey conducted by the International Survey Research it was found that out of a group of 23 000 employees' attitudes have been influenced negatively since the 1994 democratic election. The problem is that if employees have a low morale, this will negatively influence productivity in the long run.

## **3.0 Implications of implementing the Labour Relations Act, 1995**

Section 5 of the Labour Relations Act, 1995, (Annexure B) which deals with the protection of employees or potential employees, has certain implications for employers. All organisations have to be aware that employees' wishes must be respected, as per the provisions of the Act, to be affiliated to trade unions and to take part in workplace forums.

Section 14 of the Act indicates that trade union representatives are permitted to perform certain functions. They should be allowed the right to represent trade union members and at the same time be given the freedom to do so. Furthermore, trade union representatives have the authority to confront the employer if the requirements of the Act are not adhered to. Section 16 of the Act obligates the employer to supply trade union representatives with the necessary information when in the process of consultation. This is supported by Sections 79, 84, 85, 86, 89 and 90, which permit employees to participate in workplace forums and allow them to consult with employers on issues affecting employees. The employer must consult with the

workplace forum in the case of non-compliance with the requirements of the Act. This implies that members from designated groups are excluded from certain job requirements.

Education and training form part of the development programme and employers must consult the workplace forum on these issues. When it comes to joint decision making, the employer is obliged to supply the workplace forum with any information it might require that affects the decision-making process. All documents such as the employment equity plan and affirmative action policy must be made available to the workplace forum.

Schedule 7 of the Act, which deals with unfair labour practices, implies that all employees and employers must have a thorough insight into what constitutes unfair and discriminatory labour practices. Besides the requirements of the Labour Relations Act, 1995, enforce strong principles on employers and at the same time provide employees with certain guidelines to function within.

#### **4.0 Conclusion**

The most difficult task of changing a nation is such a mammoth one that it seems to have a gloomy and endless feeling to it. Looking at South Africa's history, it seems that the task is even more challenging. Pressure increases as limited areas of failure are permitted. There was a peaceful transformation to attain democracy, but an even larger challenge lies ahead for South Africa to prove to other nations that racial discrimination can be reversed and equity attained. There are sufficient tools made available by government. These are presented in the labour legislation such as the Employment Equity Act and the Employment Equity policies. The Act provides a clear set of guidelines and directs compliance.

Concerted efforts will have to be made in order to move towards a truly representative workforce. The affirmative action strategy will be successfully implemented, provided that businesses in RSA aggressively source the appropriately skilled candidates from the various institutions with the first wave of implementation. The issues of African employment and gender inequality will be addressed as part of the second wave. All future appointments will be based on the required gender and race requirements. Natural attrition will further allow the region to balance its employees to the required targets.

Newly appointed employees should be given enough scope to develop and also receive support from the management team. This will ensure that a pool of available candidates can be selected for recruitment and placed in the appropriate vacancies. The experience that existing employees have gained can be of importance for the internal recruitment process, as they already know the policies and modus operandi within their organisations.

Employment Equity cannot be achieved in merely a short term. Although change is apparent, patience with the process will be required to maintain economic and employment growth.

## References

- Adam, K. 2000. Affirmative action and popular perceptions: The case of South Africa. *Society*. January/February 2000. Vol.37. Issue 2. p.48.
- Barker, F.S and Holtzhauzen, M.M.E. 1996. *South African labour glossary*. Juta & Co., Cape Town.
- Barker, F.S. 1999. *The South African labour market*. 3rd edition. Van Schaik, Pretoria.
- Brynard, P.A and Hanekom, S.X. 1997. *Introduction to research in Public Administration and related academic disciplines*. 1<sup>st</sup> edition, J.L van Schaik Publishers, Pretoria.
- Faundez, J. 1994. *Affirmative action: International perspectives*. ILO report, Geneva.
- Gerber, P.D; Nel, P.S and Van Dyk, P.S. 1998. *Human resources management*. 4<sup>th</sup> edition. International Thomson Publishing. Halfway House, Johannesburg, South Africa.
- Goldstone, R.J. 1989. *Affirmative action*, Centre for International Affairs, Harvard University.
- Harvey, D.F and Brown, D.R. 1996. *An experiential approach to organization development*, 5<sup>th</sup> edition, Prentice-Hall, U.S.A.
- Herbert, T. 1994. *Affirmative action in the South African work place*. 1<sup>st</sup> edition. Salty Print, Salt River.
- (<http://www.info.gov.za/documents/constitution>) [assessed on 5 April 2011]
- <http://www.lbjlib.utexas.edu> [assessed on 12 April 2011]
- <http://www.southafrica.info> [assessed on 10 April 2011]
- Human, L. 1993. *Affirmative action and the development of people*. 1<sup>st</sup> edition. Juta & Co., Kenwyn.
- Israelstam, I. 1999. Why affirmative action and how to make it work for our businesses. *People Dynamics*. 17(5), May, 40 –42.
- Joubert, D. 1993. Affirmative action – creating social harmonisation, *Human Resource Management*, 9 (5) 22 - 23.
- Khoza, R. 1986. Challenges facing African leadership, *Business in Africa*, URL: <http://www.businessin africa.net/thoughtleadership>.



- Madi, P.M. 1993. Affirmative action in corporate South Africa. 1<sup>st</sup> edition. Juta & Co., Kenwyn.
- Maphai, V.T. 1993. One phrase, two distinct concepts. *Die Suid-Afrikaan*, May/June, no. 44, pp 6 –8.
- Marshall F.R.; King A.G. and Briggs C.M., 1980, *Labour economics: wages, employment and trade unionism*, Homewood, Illinois.
- Nzimande, B and Sikhosana, M. 1996. *Affirmative action and transformation*. Indicator Press. Durban
- Qunta, C. 1995. *Who's afraid of affirmative action: A survival guide for Black professionals*. National Book Printers. 1<sup>st</sup> edition. Cape Town.
- South Africa (Republic). 1996. *Constitution of the Republic of South Africa, Act 108, 1996*. Pretoria: Government Printer.
- South Africa (Republic). 1998. *Employment Equity Act, Act 55, 1998*. Pretoria: Government Printer.
- South Africa (Republic). 1995. *Labour Relations Act, Act 66, 1995*. Pretoria: Government Printer.
- South African Law Commission. 1989. *Project 58: Group and Human Rights*, South African Law Commission. Pretoria.
- Stone, P. 1991. *Cape Town City Council Industrial Relations audit: Equal employment opportunity and affirmative action programmes*. Andrew Levy and Associates, Johannesburg.
- The Economist. 1999. *Race law and poverty in the new South Africa*. Volume 353 (8139), 2 October, 47.
- Thomas, A. and Robertshaw, D. 1999. *Achieving employment equity: A guide to effective strategies*. 1<sup>st</sup> edition. Knowledge Resources, Pinetown.