



THE POLITICS OF REDRESS: AFFIRMATIVE ACTION IN SOUTH AFRICA'S PRIVATE SECTOR

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ABSTRACT

This study examines the politics of redress in South Africa's private sector and the implication of race based affirmative action for a society in the throes of national reconciliation. Renewed racial classifications to eliminate the legacy of past racism seem to contradict the official state ideology of colour-blind nonracialism. Resentment among some whites on whose skills and loyalty a growing economy also relies, makes affirmative action a most divisive issue. Unlike most other countries in which minorities are targeted, in South Africa a previously disenfranchised majority is the beneficiary of preferential labour policies. Quite distinct from North American quotas for minorities, South African unions aim at transforming the workplace of the undertrained majority, which contrasts with business visions characterised by black advancement in management and ethnic diversity on company boards. However, even this initial window-dressing exercise for political expediency encounters resistance among a colonial establishment that still equates promotion of the previously disadvantaged with lowering standards. The changing discourse about affirmative action is probed through written surveys among two hundred business executives, focus groups, more in-depth personal interviews, and participant observation at selected companies in South Africa between 1992-97.

An increased readiness to broaden the recruitment pool emerged among white male executives and would seem to have been triggered by the changed political power relations. This “anticipatory compliance” to potential legislation is justified with different motivations but is still driven by economic considerations rather than moral

concerns about past neglect. Keeping up with the “black image” of competitors in securing government contracts or penetrating a township market with higher purchasing power spurs even traditionally conservative firms to vie for black managers. They are poached and head-hunted with generous inducements, at the expense of training the broader spectrum of black workers at a lower level.

The unique current South African debate about redress is compared with its historical precedents of Afrikaner job reservation and “civilized labour policies”, as well as the international experience with preferential hiring in the US, Canada, India and Malaysia. The recent backlash against affirmative action in the US, together with the assertion of counter-productive effects on beneficiaries, is evaluated against the South African case. The literature is divided as to what extent recipients of affirmative action experience self-doubt and low self-esteem. The label “affirmative action beneficiary” is said to stigmatize minorities not considered as having achieved status on merit. However, the vast majority of recipients of affirmative action probed in this research did not consider themselves passive recipients of company largesse, but instead perceived themselves as having rightly earned their place in the accelerated business training program. Far from victimising themselves by claiming compensatory preferential treatment, the respondents in this sample of black management students proudly insist on their past individual achievements as entitlement to their career. This finding contradicts the conventional wisdom among critics, that appointees on merit differ from affirmative action appointees in their approach to work.

While a new rapidly growing black elite who least needs affirmative action, nonetheless benefits most from racial preference policies in senior management, the

majority of impoverished and unemployed are not affected by these policies at all. To avoid the danger of racialised competition, a policy of non-racial, class-based affirmative action is suggested as the most feasible way to facilitate reconciliation.

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SECTION I

THEORETICAL, HISTORICAL AND COMPARATIVE PERSPECTIVES

INTRODUCTION

Overview of Current Debate

Racial affirmative action policies as a form of state-sponsored social mobility have emerged as one of the most controversial and divisive issues in post-apartheid South Africa. Singled out for preferential treatment in job allocation and government contracts are members of “formerly disadvantaged groups”. This official euphemism for discredited racial classifications applies in theory to the African, Coloured and Indian sections of the population, but in practise is often interpreted as bestowing advantage on Africans as the previously most discriminated against and now politically dominant group of the three disenfranchised apartheid victims¹. Hence, new rivalries are triggered among the middle groups, Indians and Coloureds, some of whom again feel excluded from equal opportunities.

However, affirmative action is most resented by the beneficiaries of previous legislated advantage. They now consider it “reverse racial discrimination”, contradicting the ANC promise of colourblind nonracialism. While the ANC government views more equitable representation through affirmative action policies as a precondition for successful nation-building, opponents perceive the policy as undermining national

¹ While I am conscious of the socially constructed and contested nature of racial/ethnic categorisations, given South Africa's history, it remains difficult to avoid such problematic labels as "Whites" (13%) for South African residents of various ethnic backgrounds, "Coloured" for people of mixed historical origin (9%), "Indians" or "Asians" for descendants of migrants from the Indian subcontinent (3%), and "Africans" or "blacks" for the indigenous majority of the population (75%). The ethnic use of the term "Africans" is not meant to imply the exclusion of other residents of South Africa as Africans in the political sense of citizenship. The political label "black" sometimes also refers to the three "non-white" groups in recognition of their common discriminated status. The use of such ethnic and racial terms is not meant to uncritically reiterate legal classifications ascribed under apartheid, but is made necessary by the historical legacy of inequality among the four racial groups.

reconciliation. “Any indication that affirmative action and national unity can walk hand-in-hand is totally ridiculous”, states a leading South African sociologist². This opinion is shared by other conservative analysts who point to white skilled professionals being driven out of the country. John Kane-Berman, the executive director of the liberal South African Institute of Race Relations, asserts that South Africa risks damaging its growth prospects if affirmative action policies “chase professionals out” of a country that suffers from chronic skills shortages. “This reverse discrimination has caused many whites in the public sector to take early retirement, while white males in particular find it difficult to get jobs in the private sector”³. As Denis Beckett puts it, “in depriving a skills-short nation of what skills it has, affirmative action cripples South Africa”⁴. Other critics point to the devastating effect on morale and productivity of a non-African workforce that is merely tolerated because of the absence of black skills, rather than appreciated in its own right.

Paradoxically, while affirmative action policies are widely perceived as enjoying unanimous African support, more blacks, even a majority of ANC voters, apparently prefer to see appointments made strictly on merit. When the issue was first tested by R.W. Johnson and Lawrence Schlemmer⁵ in a 1994 representative national sample, 61% of all voters, including 52% of Africans, felt that “even if some people do not make progress, it is necessary that people compete for jobs based on their qualification and

² Lawrence Schlemmer qtd. in SouthScan 12.15 (18 Apr. 1997): 115.

³ Freedom Today (August 1995): 20.

⁴ Denis Beckett, “Neo-Racist Sabotage,” Sidelines 10 (Autumn 1997): 58.

⁵ R.W. Johnson and Lawrence Schlemmer, eds., Launching Democracy in South Africa: The First Open Election April 1994 (New Haven: Yale UP, 1996) 370.

skill”, and only 38% believed that “it is necessary for people oppressed by apartheid to get special treatment, even if some businesses and offices will be less efficient until people are trained”.

The same authors probed the issue in more depth three years later with five different opinion items⁶. They found, somewhat surprisingly and more speculatively, “that black opinion has hardened against affirmative action since September 1994”. The five graded statements on which the respondents in a national survey could express approval/disapproval (with the proportion agreeing in brackets) were:

1. For a long period only Africans/blacks should be appointed to good jobs (9%).
2. Only Africans/blacks should be appointed until their numbers in the organisations employing them reflect the population as a whole (14%).
3. Among job applicants with equal qualifications preference should be given to Africans/blacks; but if there are others with better qualifications they should get the job (22%).
4. There should be special training for Africans/blacks but the best applicants for jobs should be appointed whoever they are (16%).
5. There should be no such policies - and jobs must go strictly on merit (38%).

While obviously the shorthand label affirmative action means different things to different people, the first two items clearly endorse commonly understood preferential treatment policies (23%), while the last two (54%), and even the more neutral third statement (22%) express various degrees of opposition to affirmative action. With majority opinion against commonly understood affirmative action policies, the question arises why do preferential racial hiring policies figure so prominently on the national agenda? It is only a partial answer that the main beneficiaries of affirmative action, an

⁶ R.W. Johnson, "The South African Electorate at Mid-Term," Focus Letter 6 (February 1997): 1-13.

elite of civil servants, African business executives and black journalistic opinion makers, also disproportionately shape the discourse on appropriate policies.

The strongest support for affirmative action is embedded in an “Africanist” vision, encapsulated in the view that “South Africa is mainly a country of Africans, and although others should not be treated badly, they will have to take second place”. However, this statement is endorsed by only a minority of 19% of all South Africans and 24% of Africans while the great majority of voters of all races back the ANC official line that all South Africans, regardless of race, be treated equally and that all should have exactly the same opportunities⁷.

It is interesting to note that the Africanist view, and also support for affirmative action is strongest among IFP voters and from the KwaZulu-Natal region in general (48%), while it is weakest among ANC voters, particularly Asians and Coloureds. This raises another paradox, namely why an ANC dominated government pushes for state-sponsored mobility through preferential treatment when its own philosophy and constituency seem to endorse a more liberal and individualistic principle of colour-blind equal opportunities? Alternatively do the survey responses merely echo a politically correct but unpopular merit-based nonracialism?

There is an important conceptual difference between race-based, quota-driven, preferential treatment of historically disadvantaged groups and equity policies that strive to eliminate existing systemic discrimination. South Africa’s official policy proposals focus on equity in bias-free employment practices. Eliminating discrimination in the

⁷ Johnson, "Mid-Term," Focus Letter 10.

labour market in order to achieve equal opportunities must be distinguished from the more radical goal of compensating racial groups for historical disadvantage with legislated racial preferences, although both measures may overlap in practice.

Employment equity, as elaborated in a Government Green Paper⁸ and based on the Labour Market Commission Report⁹, aims at redressing unfair discrimination in the labour market. It wants to encourage, and to a certain extent coerce, employers “to undertake organisational transformation to remove unjustified barriers ... and to accelerate training and promotion for individuals from disadvantaged groups”¹⁰. Critics are opposed to private firms and institutions being held accountable to the public by having to reveal their progress in achieving a more representative profile of employees. Opponents reject proposed government intervention and investigation to foster equality. Imposing fines and shifting the burden of proof from the accuser to the employer is said to discourage job creation by making recruitment and promotions too hazardous¹¹. However, very similar problems of more efficient and more broadly representative, bias-free recruitment procedures are discussed by Human Rights Commissions in many Western democracies.

Since repealing apartheid legislation on its own will not redress its legacies, affirmative action has been embraced by both the ANC and sections of business as the

⁸ South Africa, “Green Paper: Policy Proposals for a New Employment and Occupational Equity Statute,” Republic of South Africa Government Gazette 373.178303 (Pretoria: 1 July 1996).

⁹ South Africa, Report of the Presidential Commission to Investigate Labour Market Policy, “Labour Market Commission,” Restructuring the South African Labour Market (Cape Town: Government Printer, June 1996): 41.

¹⁰ South Africa, “Green Paper,” Government Gazette Section 1.5.2.

¹¹ See Jill Wentzel, “Recycling Race in the Rainbow Nation,” Frontiers of Freedom (Fourth Quarter 1996): 22-26.

most feasible remedy and restitution in the post-apartheid era. In the context of South Africa's past, affirmative action is not merely the corrector of certain perceived structural injustices, but as Albie Sachs suggests, it becomes “the major instrument in the transitional period after a democratic government has been installed, for converting a racist oppressive society into a democratic and just one”¹².

Scope and Focus of Dissertation

In the American discourse, “affirmative action” refers to all intentional efforts to increase the representation of disadvantaged groups in a wide range of institutions and occupations. Policies of affirmative action may be voluntary or mandated by laws and court orders, or affirmative action may be achieved through financial incentives provided by state agencies, boycotts or other means of political pressure. Since the South African debate on affirmative action so far lacks the legal and political force to implement respective policies, this analysis will not concern itself with the legal and administrative problems so prominent in controversies elsewhere.

This study is also confined to one specific area of affirmative action, namely senior management in the private sector. Obviously the civil service in South Africa is equally in need of a more balanced composition. Various new programmes of training in public administration now attempt to address the historic monopoly of male Afrikaners in the senior positions of the state bureaucracy. The ANC has admitted that the temporary shortage of professional skills in its ranks is one of the reasons for a transitional power-

¹² Albie Sachs, Protecting Human Rights in a New South Africa (Oxford: Oxford UP, 1990) 13.

sharing arrangement of national unity. However, once these skills are more readily available and with the unconstrained jurisdiction of the ANC over public service appointments, the historical legacies can be easily corrected by government fiat.

This is not necessarily the case in the private sector, even if the new administration were to employ such American incentives as contract compliance, whereby government contracts would be discontinued for firms that fail to meet set targets of minority employment. It is also in the private sector that the South African debate on affirmative action has advanced furthest with seminars, conferences and statements by Chambers of Commerce, the former Urban Foundation, the Afrikaanse Handelsinstituut and other business organisations exploring the rare pros and more frequent cons of affirmative action during the past decade, particularly since February 1990. While some more farsighted business leaders actively endorse black advancement and many others pay lip service to the noble goal, middle management often blocks well-sounding company policy or circumvents it with a variety of new rationalisations. This thesis aims at exploring the formal discourse surrounding affirmative action, as well as the informal praxis of implementing or circumventing stated policies. Above all, it explores the daily reality of a white male dominated corporate culture behind the public statements of its alleged transformation.

Another aspect of affirmative action concerns actual ownership or at least control of major sectors of the South African economy. This debate revolves around the label “black empowerment”. White owned conglomerates “unbundle” by selling parts of their holdings to black consortiums, similar to Anglo-American explicitly offering Afrikaner-owned General Mining, now Gencor, a stake in its empire in 1963. For example Nthato

Motlana's National Empowerment Consortium's (NEC) successful bid for Jonnic, with the former ANC General Secretary Cyril Ramaphosa as CEO, or African Mining's takeover of Johannesburg Consolidated Investment (JCI) stand out as the most spectacular black entrance into white economic monopoly since 1994. However, the rapid rise of major black companies does not mean ownership, as the acquisitions have been purchased with loans, even though at advantageous interest rates. The black consortiums have to make a profit or risk their investments reverting to the institutional funders, similar to private homes with mortgages owned by banks if regular repayments are missed. It is another question whether the giant conglomerates Anglo American Corporation, Sanlam and the Rembrandt Group, who have taken the lead in sell-offs, could politically afford the failure of their black offsprings. Black and white holdings are now so inextricably locked in with each other that a bailout by the institutional funder (or even the state) could be envisaged in case of failure. Black empowerment through acquisitions will be a focus of this study only insofar as it can be compared with Afrikaner precedents earlier. The same applies to state contracts awarded to "Affirmative Business Enterprises"¹³. While the 10% black-controlled firms should be expected to be exemplary affirmative action employers, this analysis probes the 90% white controlled companies that still dominate the South African economy.

Group specific preferential policies are not new in South African history. Present day discussions both for and against affirmative action policies of the ANC, need to be viewed in this historical context. While mainly concerned with more recent debates

¹³ In April 1997 it was reported that nearly 360 contracts worth R182 million were awarded by the Public Works Department to Affirmative Business Enterprise construction firms in the past eight months of a total of 744 contracts worth R488 million. See Southern Africa Report (25 April 1997): 12.

about the post-apartheid order, this thesis will sketch the historical precedents of affirmative action policies. It examines to what extent precedents are used to justify a mere reversal of policies along similar racial lines or whether non-racialism has transcended racial privileging. The historical record on racial employment can be used for both advocacy as well as rejection of affirmative action policies.

This thesis will also trace the major arguments in the international debate, particularly in North America, India and Malaysia and explore the implications for South Africa. The astute hypothesis of Vincent Maphai justifies close scrutiny, namely that affirmative action “can easily widen rather than narrow the inequality gap, especially where weak and unqualified blacks are used by institutions to offer a token of non-racism”¹⁴.

Two unique South African features make an application of U.S., Canadian or Indian affirmative action policies problematic. First, “positive discrimination” stands accused of being apartheid-in-reverse. The dominant ideology of nonracialism is said to be incompatible with racial preferential treatment. Secondly, the major beneficiaries of the policy would be a numerical majority while the debate elsewhere focused mainly on how discriminated minorities could be incorporated into the mainstream, although affirmative action in favour of women resembles the arguments about preferential treatment of black South Africans. Likewise, Malaysia is the only country where affirmative action targets a majority of the population.

The debate on the role of affirmative action in black advancement programmes

¹⁴ Vincent Maphai, "Affirmative Action in South Africa - A Genuine Option?" Social Dynamics 15.2 (1989): 1-24.

has been under way in South Africa's private sector for some years. An emphasis on training and recruiting potential black managers stems from the realisation among some companies that future managerial talent must be representative of South Africa's population¹⁵. It has also been found increasingly difficult to maintain management needs by recruiting from a limited pool inside South Africa or importing expertise from outside the country. Future growth is dependent on utilising South Africa's entire population - having employees in senior positions of South Africa's private sector reflect the entire South African population - although quotas along U.S. lines are almost unanimously rejected in South Africa. This study will explore the priorities developed by progressive companies toward achieving equality of outcome. How do they allocate a declining budget toward these ends? Whom do they succeed in recruiting? How do they conduct the search for qualified black executives? What role do training and education actually play in the reality of companies realising designated goals expressed in their public statements?

In conceptualising this study initially, as well as throughout the process of conducting the research (1992-1997), several central questions and issues seemed to recur:

1. What has motivated companies to implement particular affirmative action strategies?

Which rationale lies behind particular programmes? Why have various organisations

¹⁵ See Affirmative Action in a Democratic South Africa ed. Charl Adams (Kenwyn: Juta and Co., 1993); Affirmative Action and Transformation eds Blade Nzimande and Mpumelelo Sikhosana (Durban: Indicator Press, 1996); Phinda Mzwakhe Madi, Affirmative Action in Corporate South Africa (Kenwyn: Juta and Co., 1993); and Reversing Discrimination: Affirmative Action in the Workplace eds. Duncan Innes et al. (Cape Town: Oxford UP, 1993) for discussion of affirmative action as a concept and its role in transforming SA society.

implemented affirmative action programmes when they could have continued without? Have international and local pressures given South African organisations little choice but to address the role of blacks in their operations or have specific companies wanted to capture black consumer markets by “window dressing” high profile positions with blacks? Is there a difference between firms with a predominant Afrikaner corporate culture and English institutions? To what extent are firms motivated by the affirmative action policies of their competitors, who may thus seem advantageously positioned?

2. To which extent is an ethnic division of management implemented? The American conservative black economist Glenn Loury¹⁶, has argued against affirmative action, that it leads “employers to patronise minority workers” by holding them to a different standard. In a similar vein, South African companies that do employ blacks in senior management seem to assign them disproportionately to specific “natural” responsibilities, such as handling industrial relations with black unions or looking after an expanding township market. Ordinary management tasks, such as accounting or strategic planning remain largely in traditional hands. Is this hypothesis confirmed by black managers and the informal expectations of South African corporate culture?
3. Is the impression of renewed discrimination for different reasons justified? Does the white business establishment buy itself legitimacy by promoting members of a new

¹⁶ Glenn Loury, "Incentive Effects of Affirmative Action," The Annals (London: Sage Publications, September 1992): 19.

demands for restitution stemming from a racist society may be met through an inclusive emphasis on class. For example, instead of making bridging programmes an all black affair by sponsoring only black students, business could grant scholarships to all educationally disadvantaged but promising candidates, regardless of race. In praxis this will lead to a non-racial learning environment in which blacks are in a majority and whites in a minority, reflecting the South African reality to the benefit of disadvantaged members from all groups.

In short, through a close analysis of the practice of affirmative action in post-apartheid South Africa, this study will also reflect on whether there are better alternatives to address historical disadvantage. It will problematise whether race should be the only or main marker or whether socio-economic considerations should be taken into account. With a focus on equity, socio-economic disadvantage could perhaps be a more reliable and ethically justifiable criterion than colour-coded affirmative action interventions, as Mamphela Ramphele and some other dissenting voices towards a new racialisation have argued¹⁷. Such colour-blind measures would prevent new rifts and rivalries being entrenched. Equity programmes based on actual socio-economic disadvantage would certainly not benefit a new black bourgeoisie but would effectively address a much wider inequality without establishing new forms of discrimination.

This analysis is interdisciplinary in nature. It applies different conceptual foci as they address the central issues raised in the study:

¹⁷ Mamphela Ramphele, "Treading the Thorny Path to Equity," Now That We Are Free: Coloured Communities in a Democratic South Africa eds. W. James, D. Caliguire, and K. Cullinan (Cape Town: IDASA, 1996) 89, 91.

1. The theoretical mainstay is located in the literature on social justice and equality. This study serves to illustrate a case where the elusive goal of equality is being advanced not by pressure groups of the disadvantaged minorities but by a majority party that controls the state, yet is constrained by the real economic power of established minority interests.
2. The sociology of race relations is drawn upon in addressing the salience of race, at the expense of class and gender inequality in South Africa. The study illuminates the evolving meaning of nonracialism in the ensuing racial competition for scarce resources. Increased class inequality within the black majority is obscured by slogans of racial solidarity, black empowerment and hierarchies of historical disadvantage to legitimate racial preferences.
3. The third locus is that of political sociology. The way in which capitalist business organisations respond to political transition and adapt organisational cultures to fundamental political transformation is explored. This may also be relevant to organisational management studies.
4. The specific South African case being investigated is located historically within a comparative framework of different affirmative action initiatives. The current discourse is compared not only with the historical precedent of Afrikaner ethnic patronage but with different ethnonationalist mobilisation in other multi-ethnic societies around the world. This focus locates the study in comparative politics.

CHAPTER I

THEORIES OF SOCIAL JUSTICE AND EQUITY

Individual versus Group Rights

Whether and how public institutions should recognise historical gender subordination and the identities of ethno-cultural groups or promote disadvantaged minorities, forms an inescapable debate in most liberal democracies today. Within the liberal tradition two opposing views vigorously argue for different strategies from similar premises. Walzer¹ has labeled the two strands liberalism I and liberalism II. A better description may be laissez-faire economic liberalism versus social-democratic liberalism. Traditional economic liberalism insists on recognising only individual rights while social liberalism readily embraces group rights in addition. Traditional economic liberalism sees the notion of collective or group rights as inherently dangerous and oppressive. It perceives a fundamental clash between individual and group rights. On the other hand, North American social left-liberalism has severely criticised public institutions for failing to recognise the special needs of groups such as African-Americans, Asian-Americans, First Nations People and women. In South Africa, the controversy focuses on whether and how preferential treatment should be allocated to a historically disadvantaged black majority. A parallel debate invokes liberal principles for a previously advantaged minority of white Afrikaners who now seek to secure protective minority rights. The similar controversy in many multi-ethnic liberal states raises a series of potentially

¹ Michael Walzer, "Comment," Multiculturalism ed. Amy Gutmann (Princeton: Princeton UP, 1994).

divisive questions. Chantal Mouffe speaks for many social liberals in a post-modern age when she challenges universalist citizenship as inadequate to meet new demands of group recognition:

“Modern citizenship was formulated in a way that played a crucial role in the emergence of modern democracy, but it has become an obstacle to making it wider and more pluralistic. Many of the new rights that are being claimed by women or ethnic minorities are no longer rights that can be universalized. They are the expression of specific needs and should be granted to particular communities. Only a pluralistic conception of citizenship can accommodate the specificity and multiplicity of democratic demands and provide a pole of identification for a wide range of democratic forces. The political community has to be viewed, then, as a diverse collection of communities, as a forum for creating unity without denying specificity.”²

In his acclaimed essay “The Politics of Recognition”, Charles Taylor³ considers whether liberal democracies can refuse to respond to the demands of citizens that they be recognised for their distinctive cultural identities. Not recognising survival needs of ethno-cultural groups, misrecognising or ignoring their specific exigencies amounts to a denial of fundamental rights, according to Taylor. Liberal democracies are committed in principle to equal representation of all. Apart from allocating the same rights to all citizens, questions concerning the recognition of persistent collective inequality or cultural security of minorities dominate the political agendas of liberal democracies. What does it entail for people with various identities based on ethnicity, race, gender and religion to be respected and recognised as equals?

The first strand of contemporary liberalism reacts to such questions by arguing that the very goal of representing differences in the public sphere is misguided. Instead,

² Chantal Mouffe, “Towards a Radical Democratic Citizenship,” *Democratic Left* 17.2 (1989): 6-7.

³ Charles Taylor, “The Politics of Recognition,” *Multiculturalism: Examining the Politics of Recognition* ed. Amy Gutmann (Princeton: Princeton UP, 1994).

public institutions should emphasise neutrality in protecting the universal needs of freedom and equality for all citizens. Gender or ethnic identity should be irrelevant in treating people as free and equal citizens. Critics argue that only a secure cultural context gives meaning to peoples lives. Liberal democratic states are obligated to help disadvantaged groups preserve their culture in the face of majoritarian cultures. As Amy Gutmann suggests:

“Recognizing and treating members of some groups as equals now seems to require public institutions to acknowledge rather than ignore cultural particularities, at least for those people whose self-understanding depends on the vitality of their culture. This requirement of political recognition of cultural particularity - extended to all individuals - is compatible with a form of universalism that counts the culture and cultural context valued by individuals as among their basic interests.”⁴

In response to the homogenising tendency of Rousseauian politics which seeks to prescribe the common good - reflecting the universal identity of all citizens - Taylor⁵ argues, that public institutions cannot refuse to respond to the demand of citizens to be recognised for their particularity. Liberal democracies cannot regard citizenship as a comprehensive universal identity without acknowledging that people are also unique, self-creating individuals as recognised by classical liberal theorists such as John Stuart Mill and Ralph Waldo Emerson. The diverse cultures and identities of individuals depend on various identifications both past and present.

The discourse on affirmative action flows from identity politics. It translates different identities based on different group histories into differential entitlements. It

⁴ Amy Gutmann, Multiculturalism: Examining the Politics of Recognition (Princeton: Princeton UP, 1994) 5.

⁵ Taylor, "Politics," Multiculturalism 25-73.

furnishes arguments for group-differentiated rights for minorities. While many of the arguments outlined in this chapter centre primarily around the rights of cultural minorities, this legitimization of group recognition provides the justification for affirmative action. Affirmative action discourse more narrowly argues about the degree of collective disadvantage, but group rights nonetheless.

Taylor discusses how the Enlightenment politics of equal individual recognition has come to mean two different things. On the one hand a “politics of universalism” emphasises the equal dignity of all citizens and the equalisation of rights and entitlements. This principle of equal citizenship has come to be universally accepted despite differences in its interpretation. By contrast, argues Taylor, the development of the modern notion of identity, has given rise to a politics of difference in which we are asked to recognise the unique identity and distinctness of an individual or group. It is this distinctness which traditional liberalism has ignored and assimilated into a dominant or majority identity.

Where the politics of universalism sought forms of nondiscrimination that were “blind” to the way citizens differ, the politics of difference redefines nondiscrimination to require that these distinctions are made on the basis of differential treatment. In practice, for instance, this means that First Nations or aboriginal people will obtain certain rights and powers not enjoyed by other Canadians. To many, such measures are perceived as a betrayal of the original politics of equal dignity, a reverse form of apartheid, with the only difference being that its North American beneficiaries impose differential treatment on themselves.

The most apparent departures from “difference-blindness” therefore include “affirmative action” policies, justified on the grounds that historical discrimination placed some groups in a pattern of disadvantage and persistent inequality. While it is possible to defend rectifying measures as temporary - eventually allowing the old “blind” rules to reinstate themselves without disadvantaging anyone - it cannot justify measures which seek to maintain and cherish distinctness permanently. Will Kymlicka⁶ argues for a type of politics of difference in relation to aboriginal rights in Canada, within a theory of liberal neutrality. In certain disadvantaged populations, under specific circumstances, cultural needs may require that we accord more resources or rights than others. Taylor points out however, that Kymlicka's argument fails to justify demands made by groups concerned (eg. First Nations People, or French speaking Canadians) with respect to their goal of ensuring survival through indefinite future generations.

These two notions of equal respect outlined above conflict with each other. While one demands the treatment of people in a difference-blind fashion, the other seeks to recognise and highlight difference. As Taylor⁷ examines, the reproach the first makes to the second is that it violates the principle of nondiscrimination. The second offends the first because it assumes a homogenous mould which negates individual identity. The critics of such “universal politics” argue that the assumption of a neutral set of difference blind principles assumes one hegemonic culture into which minority or suppressed cultures are forced to assimilate. Consequently the implication is that such a society not only suppresses identities, but is itself discriminatory in the most subtle and unconscious

⁶ Will Kymlicka, Liberalism, Community and Culture (Oxford: Clarendon Press, 1989).

⁷ Taylor, “Politics,” Multiculturalism.

way. As Taylor puts it:

“The charge leveled by the most radical form of the politics of difference is that “blind” liberalisms are themselves the reflection of particular cultures. And the worrying thought is that this bias might not just be a contingent weakness of all hitherto proposed theories, that the very idea of such liberalism may be a kind of pragmatic contradiction, a particularism masquerading as the universal.”⁸

The controversy surrounding the recognition of identity in the Western world translates within South Africa into the meaning of nonracialism. Nonracialism has been adopted as the core ideology of the post-apartheid state by the ANC as well as its Afrikaner nationalist opposition. However, the later reborn liberals ascribe to nonracialism universal values of merit regardless of race. Many, but not all, of the ANC ideologues of nonracialism on the other hand, insist that it cannot mean colour-blindness in light of the South African history of colour discrimination. The new constitution explicitly exempts racially based affirmative action from its non-discriminatory prescriptions. The critics charge that such policies of racial preferential treatment give the lie to the principle of nonracialism. Is this a real or spurious contradiction?

The liberal perspective that individual rights should always precede collective goals in conjunction with nondiscrimination provisions is widely entrenched in western classical literature. This view stems largely from the US and is espoused by such well-known philosophical and legal minds as John Rawls⁹, Ronald Dworkin¹⁰ and others who formulate this idea in a number of ways. Nathan Glazer¹¹ suggests that the dilemma of

⁸ Taylor, “Politics,” Multiculturalism 44.

⁹ John Rawls, A Theory of Justice (Cambridge: Harvard UP, 1971).

¹⁰ Ronald Dworkin, Taking Rights Seriously (London: Duckworth, 1977).

¹¹ Nathan Glazer, “Individual Rights Against Group Rights,” Ethnic Dilemmas: 1964-1982 ed. Nathan Glazer (Cambridge: Harvard UP, 1983) 254-73.

justice for discriminated minorities is whether the problems of group discrimination can be solved by using the language of individual rights. Habermas¹² also opposes Taylor by insisting that group rights can be achieved through political organisation by individuals. Therefore, Habermas argues, individual rights of political association also guarantee group rights.

The fundamental equality that Rawls deduces from his premise is ideally an equal distribution of primary goods, which include incomes, wealth, opportunities, and the social bases of self-respect. Rawls modifies this equality to allow an unequal distribution when everyone benefits and when differential contributions merit differential rewards. For example, doctors may be rewarded with more income and status for “slaving” through medical school. Equity requires recognition of unequal efforts as fair. Rawls’ well known “difference principle” establishes equality as the base line of primary good distribution¹³.

However, even Rawls’ masterpiece of twentieth-century liberal moral theory, *A Theory of Justice*, tends to fail to address the problem of justice for groups. As Vernon Van Dyke argues:

“[Rawls] stipulates that those in the original situation ‘should care about the well-being of some of those in the next generation’ ... but he does not make a comparable stipulation about racial, linguistic, religious or national groups that are weak or disadvantaged or that cherish or want to preserve their distinct characteristics and identity ... I do not see in the book a single reference to differences of language. Race is mentioned mainly to be ruled out as a ground of discrimination. Religion is mentioned at a

¹² Jürgen Habermas, "Struggles for Recognition in the Democratic Constitutional State," Multiculturalism: Examining the Politics of Recognition ed. Amy Gutmann (Princeton: Princeton UP, 1994).

¹³ Rawls, Theory 60.

number of points, but almost always with the individual believer in mind rather than the collective body of the faithful.”¹⁴

Traditional liberal theory is mainly concerned with the idea of formal equality rather than paying attention to substantive equality. Yet standard lines of liberalism and conservatism are not helpful in discerning clear viewpoints. Dworkin¹⁵ argues that a liberal society is one which centres around a strong procedural commitment to treat people with equal respect rather than adopt a specific substantive view about the ends of life. As there is no consensus about what constitutes "happiness" it must be left to the individual to define the good life unless an illiberal state imposes its version of the common good on reluctant subjects. This conception of the "procedural republic" as the liberal communitarian Michael Sandel¹⁶ has called it, dominates the US political agenda in particular. It is largely responsible for the US emphasis on the judicial system and constitutional texts, the concern with rights at the expense of responsibilities, formal equality of opportunity rather than outcome. Yet within this “procedural commitment” lies an inherent contradiction between liberalism and affirmative action. As Nathan Glazer reports:

“The American people, raised on the language of individual rights, are remarkably uniform in their views. The Gallup poll has shown that huge majorities of whites and substantial majorities of blacks are against preferential treatment on the basis of race. Individualism, one may say, is still strong in America.”¹⁷

¹⁴ Vernon Van Dyke, “Justice as Fairness: For Groups,” American Political Science Review 69 (1975): 607.

¹⁵ Dworkin, Rights 223-240.

¹⁶ Michael Sandel, “The Procedural Republic and the Unencumbered Self,” Political Theory 12 (1984): 81-96.

¹⁷ Nathan Glazer, “Individual Rights Against Group Rights,” The Rights of Minority Cultures ed. Will Kymlicka (Oxford: Oxford UP, 1995) 132.

In short, traditional liberalism is committed to a strictly neutral state without cultural or religious projects or collective goals beyond the personal freedom and physical security, welfare and safety of its citizens. Liberal revisionists such as Taylor and other "communitarians" allow the state to be committed to the growth of particular nations, cultures and religions as long as the basic rights of citizens who have different commitments, or no such commitments at all, are protected. Michael Walzer raises the issue of when liberalism I or liberalism II is chosen. He argues that policies are adapted to fit specific circumstances. With liberalism I there is no privileged majority and there are no exceptional minorities. Walzer's own inclination favours liberalism I chosen from within liberalism II. As he puts it:

*"From within: that means that the choice is not governed by an absolute commitment to state neutrality and individual rights - nor by the deep dislike of particularist identities (short of citizenship) that is common among liberals of the first sort. It is governed instead by the social condition and the actual life choices of these men and women."*¹⁸

Because a liberal democracy's most basic commitment rests on the freedom and equality of its individual citizens, the notion of group differentiated rights is viewed as inimical to liberalism. Group-differentiated rights appear to treat individuals as the mere carriers of group objectives and seem to reflect a communitarian or collectivist outlook rather than the liberal values of individual freedom and equality. Social liberals, however, argue that this is a serious misconception and that certain kinds of collective rights for minority cultures are consistent with liberal democratic principles¹⁹. The

¹⁸ Walzer, "Comment," Multiculturalism 103.

¹⁹ See Will Kymlicka, Multicultural Citizenship: A Liberal Theory of Minority Rights (Oxford: Clarendon Press, 1995).

liberal social-democrat Taylor, for example, grants the Quebec state in Canada the right to restrict the individual freedom of parents to have their children instructed in English-medium schools in order to preserve the survival of French culture. By the same token Afrikaner insistence on mother-tongue education in exclusive Afrikaans-medium institutions became a serious sticking point in the negotiations about the final South African constitution²⁰. Standard liberal objections to recognising such rights on grounds of individual freedom, social justice and national unity are due to popular misunderstandings about the nature of group-differentiated rights.

The broad term “collective rights” refers to the rights allocated and exercised by collectivities where these rights are distinct from, and perhaps in conflict with, the rights accorded to individuals who compose the collectivity. However, the category of collective rights is large and heterogeneous and ranges from the social right of all citizens to fresh water or shelter to the rights of free associations of trade unions. The term “collective rights” therefore remains quite ambiguous²¹. Kymlicka²² argues the need to distinguish between two meanings of “collective rights”. He outlines two types of claims an ethnic or national group might make. The first, which he deems “internal restrictions”, is intended to protect the group from the destabilising impact of internal dissent. In this case, a minority culture demands rights against its own members to

²⁰ In the interest of reconciliation the issue was fudged like many other contested principles. A right to exclusive mother-tongue education was not constitutionally entrenched but allowed where numbers and circumstances warrant it. Ironically all opinion surveys show that concern with cultural language rights consistently ranks low among Afrikaner anxieties dominated by physical safety and material/economic concerns. Affirmative action ranks above cultural worries. See H. Giliomee, Address to the Afrikaanse Taal - en Kultuurvereniging, “Being Afrikaans in the new (multilingual) South Africa”, 15 August 1996.

²¹ See Michael Hartney, “Some Confusions Concerning Collective Rights,” The Rights of Minority Cultures ed. Will Kymlicka (Oxford: Oxford University Press, 1995) 202-228.

²² Kymlicka, Citizenship.

protect its traditional way of life against individual opposition from within. The second, intends to protect the group from the impact of external economic or political decisions of the larger population and Kymlicka refers to them as “external protections”. While both fall under the banner of “collective rights” they each have very different implications.

The first involves the use of state power by an ethnic or national group to restrict the liberty of its own members in the name of survival or group solidarity, raising the danger of individual oppression. External protections on the other hand involve inter-group relations in which ethnic or national groups may seek to protect their distinct existence and identity by limiting decisions of the larger society. While the danger of individual oppression is not raised in this instance, groups may be marginalised or segregated to protect another group's distinctiveness. In this sense, South Africa's system of apartheid is often cited as an example of “collective rights” and what can occur when minority groups demand special protections. However, as Kymlicka argues:

“... external protections need not create such injustice. Granting special representation rights, land claims, or language rights to a minority need not, and often does not, put it in a position to dominate other groups. On the contrary ... such rights can be seen as putting the various groups on a more equal footing, by reducing the extent to which the smaller group is vulnerable to the larger.”²³

Kymlicka argues for liberals to endorse certain external protections where they promote fairness between groups, but rejects internal restrictions which limit the right of group members to question and revise traditional authorities and practices. What distinguishes a liberal theory of minority rights is precisely that it accepts some external protections for ethnic groups and national minorities - but is very skeptical of internal restrictions.

²³ Kymlicka, Citizenship 6-7.

A shift from group specific minority rights to universal human rights is evident post WWII when many liberals sought a new emphasis on “human rights” in resolving minority conflicts. Cultural minorities were to be protected by ensuring basic civil and political rights to all individuals, regardless of group membership, rather than designating special rights for the members of vulnerable groups. The question of national minorities, therefore, was subsumed under the responsibility of guaranteeing basic individual rights such as freedom of speech, association and conscience to all human beings. Liberals assumed that specific rights for members of ethnic or national minorities, was not necessary where these individual rights were sufficiently protected.

While the expression of ethnic or cultural identity was not opposed in the private realm, the state could not be expected to nurture such expression, and instead it responds with “benign neglect” as Nathan Glazer²⁴ argues. This separation of state and ethnicity thwarts the use of ethnic criteria in distributing rights, resources and duties. Only in a few liberal democracies that have officially adopted multiculturalism such as Canada and Australia, does the state recognise and subsidise ethnic groups.

The policy of affirmative action has been another exception from the benign neglect principle, particularly by liberals on the political left. However, because affirmative action is defended as a temporary measure essential as a prerequisite in advancing towards the end goal of a “colour-blind” society, it is “in a sense the exception that proves the rule”²⁵. Affirmative action is one method of trying to achieve the ideal of the separation of state and ethnicity. Affirmative action programmes are endorsed by the

²⁴ Nathan Glazer, Affirmative Discrimination: Ethnic Inequality and Public Policy (New York: Basic Books, 1975) 25; and Glazer, “Individual Rights,” Dilemmas 124.

²⁵ Kymlicka, Citizenship 4.

UN Convention on Racial Discrimination only where they display a temporary and remedial nature. Yet are affirmative action measures likely to be temporary? While advocates of group-rights claim it is a temporary solution to problems of inequality until an approximate proportional representation of equality and inequality indicators between groups has been achieved, others such as Nathan Glazer counter:

“... it is inconceivable to me that benefits given in law on the basis of group membership will not strengthen groups, will not make necessary the policing of their boundaries, and will not become permanent in a democratic society, where benefits once given cannot be withdrawn.”²⁶

Liberals to the right view policies that take race into account as counter-productive as a means of pursuing a “colour-blind” society. Instead they argue, they highlight group differences and perpetuate inequality²⁷. What is universally rejected by most liberals, both on the right and the left, is the idea of permanent differentiation in the rights or status of particular ethnic or national groups. That group-specific rights are required to accommodate enduring cultural differences, rather than remedy historical discrimination, is rejected in particular.

Affirmative action in this regard differs in many fundamental ways from self-government rights for national minorities (eg. Quebec, First Nations) since it is redressing very different kinds of injustices. Affirmative action seeks to aid the integration of disadvantaged groups into society by dismantling unjust barriers to full integration. Self-

²⁶ Glazer, “Individual Rights,” Minority Cultures 137.

²⁷ See Thomas Sowell, Preferential Policies: An International Perspective (New Haven: William Morrow and Co., 1990) and Michael Rosenfeld, Affirmative Action and Justice: A Philosophical Constitutional Inquiry (New Haven C.T.: Yale UP, 1991), for this debate amongst liberals.

government rights for minorities, on the other hand, are intended to help cultural communities maintain their distinctiveness by protecting them against external decisions to the contrary. Therefore one major distinction between the two is that affirmative action (in theory) is temporary, while self-government and other rights for minorities are largely permanent. As well-known critics of affirmative action, Glazer²⁸ and Walzer²⁹ on the other hand tend to magnify its anti-integrationist or “corporatist” elements³⁰.

Demands for affirmative action programmes, instead of being evidence of a desire to be treated as a national minority, are an attempt to integrate into a particular society's mainstream institutions, not a desire for separate and self-governing institutions. By seeking affirmative action, ethnic groups seek inclusion not self government.

Competing Visions of Equality

To reconcile affirmative action with nonracialism and nonsexism in a way which is theoretically coherent and morally defensible must come to terms with the meaning of equality. Proponents of affirmative action view it as a means to attack inequalities generated within an exclusivist society and overcome discriminatory effects of the past. Proactive interventions are directed towards ensuring not only formal procedural

²⁸ Glazer, Affirmative.

²⁹ Michael Walzer, Spheres of Justice: A Defence of Pluralism and Equality (Oxford: Blackwells, 1983).

³⁰ Michael Walzer, "Pluralism in Political Perspective," The Politics of Ethnicity ed. Michael Walzer (Cambridge: Harvard UP, 1982) 23-24 notes however, that a comprehensive quota system within mainstream institutions reduces ethnic corporatism, since it reproduces within every group the same educational and employment patterns, whereas 'historically specific cultures necessarily produce historically specific patterns of interest and work'.

equality, but substantive equality or equality of results. The specific implications of equality in an emerging democratic South Africa however, are far more difficult to determine than its previous role *vis-à-vis* the blatant inequalities of the old apartheid South Africa.

Proponents of affirmative action programmes argue that they are essential to ensure genuine equality. In this sense many advocates of the policy assert that “the accommodation of differences is the essence of true equality”³¹. Since all citizens are not identically situated, equal treatment does not necessarily imply “identical treatment”. Differentiation may be a moral necessity and not necessarily demeaning or unjust. Equal treatment, however, of those who were previously excluded or included under a new dispensation requires us to claim, despite all evidence to the contrary, that these groups are situated similarly. Equity often dictates differential treatment.

Those who advocate what Nathan Glazer³² calls “benign neglect” maintain that individual rights already allow for the accommodation of differences and that true equality requires equal rights for each individual regardless of race or ethnicity³³. At the heart of the matter is the idea that nondiscrimination or, to put it another way, equality of treatment, is in itself and self-evidently just. The very idea of justice, it has been said,

³¹ See Canadian Supreme Court explanation of its interpretation of equality guarantees under the Canadian Charter of Rights (*Andrews v. Law Society of British Columbia* ISCR 143;56 DLR (4th) 1) and Government of Canada, “Shared Values: The Canadian Identity,” Ottawa, Supply and Services, 1991.

³² Glazer, *Affirmative* 25; and Glazer, “Individual Rights,” *Ethnic Dilemmas* 124.

³³ See for instance Rawls, *Theory* 88, 93; Glazer, *Affirmative* 220; and Glazer, “Individual Rights,” *Ethnic Dilemmas* 124. For liberal endorsements of the position that it is not the place of public agencies to attach legal identities or disabilities to cultural membership, that the separation of state and ethnicity precludes the use of ethnic criteria in the distribution of rights and resources see Glazer (as above), van den Berghe 1981, M. Gordon, “Toward a General Theory of Racial and Ethnic Group Relations,” *Ethnicity, Theory and Experience* eds. N. Glazer and D. Moynihan (Cambridge MA: Harvard UP, 1975) and J. Porter, “Ethnic Pluralism in Canadian Perspective,” *Ethnicity, Theory and Experience* (Cambridge MA: Harvard UP, 1975).

implies a principle of "presumptive equality"³⁴. However, as theorists such as Kane³⁵ point out, if inequality of treatment has to be morally justified, it is no less true that so does equality of treatment. Equal treatment is only just if the treatment is equally deserved, and this can never be assumed as a priori principle. As Rosenfeld³⁶ suggests, the issue of who is equal and who is not must go beyond formal principles to investigate particular substantive equalities and inequalities.

Given the existence of vast inequality of opportunity in South Africa, affirmative action is viewed as a means to establish a firm bond between formal and actual equality of opportunity within an egalitarian position. Compelling arguments have been put forth for differentiation of treatment in the interests of social justice. However, at the same time, as Albie Sachs³⁷ warns, the need for a "principled application of affirmative action according to law" is crucial as a means of avoiding constitutionalised banditry in the form of arbitrary confiscation, self help and "warlordism" or a privatised "redistribution" through nepotism, corruption, protection and "jobs for pals". In order to be defensible affirmative action must demonstrate that it is in the interest of the "public good". This depends however, not only on how affirmative action is conceptualised and implemented, but on how the "public good" is perceived and defined.

In South Africa, judgments about the justice of affirmative action will rely on decisions which are made with regard to which inequalities and equalities are tolerated,

³⁴ S.I. Benn and R.S. Peters, Social Principles and the Democratic State (London: Allen and Unwin, 1959) 111.

³⁵ John Kane, "Justice, Impartiality and Equality: Why the Concept of Justice Does Not Presume Equality," Political Theory 24. 3 (August, 1996) 375-393.

³⁶ Rosenfeld, Action and Justice 14.

³⁷ Albie Sachs, Protecting Human Rights in South Africa (Cape Town: Oxford UP, 1990) 103-110.

for whom and for what purposes³⁸. While some proponents of affirmative action advocate it as a policy to advance equality through creating equality of opportunity, others are skeptical of whether equality of opportunity does indeed result in meaningful, substantive equality.

The principle of equal opportunity endorses individualism as well as competitiveness within the context of a meritocratic value system. It has however been criticised as an inherently conservative strategy which operates to reinforce established social values and offers no challenge to the status quo. Others have suggested that equality of opportunity is (1) impossible to achieve, given natural and environmental differences among humans³⁹; (2) impossible to achieve because it requires programmes which are too costly and represent excessive governmental interventions in the workings of a free enterprise economy⁴⁰; and (3) difficult to maintain should it be achieved⁴¹.

Rather than examining the structural reasons for and the consequences of unequal cultural capital, income and resource distribution, equal opportunity merely sets up a context for fair competition. In this vein Gross⁴² argues that the idea of “perfect equality where all enjoy the same means and all prospects are equally sweet” cannot be realised. Real equality of opportunity can only prevail,

³⁸ Rosenfeld, Action and Justice.

³⁹ See John Charvet, "The Idea of Equality as a Substantive Principle of Society," Political Studies (1969) 1-13.

⁴⁰ See Nathan Glazer and Daniel Bell, "Meritocracy," in The Coming of Post-Industrial Society by Daniel Bell (New York: Basic Books, 1973) 408-455.

⁴¹ See M. Schaar, "Equality of Opportunity and Beyond," Equality: Nomos IX eds. J.R. Pennock and J.W. Chapman (New York: Atherton, 1967).

⁴² R.B. Gross, "Real Equality of Opportunity," Equal Opportunity eds. E.G. Paul, F.D. Miller Jr., J. Paul and J. Ahrens (Oxford: Blackwells, 1987).

“... when careers are open to talents, when the legal and social structure does not condone but actually forbids the raising of irrelevant impediments to advancement like race, religion, sex, ethnicity, and social background, and when the way is open to try for those who have the will, and to succeed for those with talent and luck - a not inconsiderable ingredient in success. We will require schooling open to all, advanced schooling open to demonstrated talent, and a set of social institutions designed reasonably to cushion the blows of deep poverty. More we cannot require, because we cannot produce.”⁴³

However, equality of opportunity on its own in South Africa would continue to facilitate deep inequalities within certain kinds of economic relations. The perception that affirmative action is the policy with which to make equality of opportunity a reality some argue is a dangerous one. Such a system would incorporate a small section of blacks and women into the system without reducing the marginalisation of a majority.

This is the left critique of affirmative action which, in South Africa, is articulated above all by The Congress of South African Trade Unions (COSATU). The union representatives inveigh against a vision of affirmative action that merely aims at replacing a white capitalist management with an equally exploitative black capitalist class. Some unionists fear that an assertive black management will act even more ruthlessly towards workers than more vulnerable and more guilt-sensitive white employers. Instead of creaming off black leadership for smoother profit-making, unionists insist on affirmative action as a fundamental transformation of unequal industrial relations. Such a qualitatively different affirmative action would empower the broad working class with enhanced skill training and industrial rights rather than concentrating resources on another elite with a different skin colour but the same attitudes and interests.

⁴³ Gross “Real,” Equal 142.

Those who advocate equality as a socio-political goal refer to equality in the satisfaction of basic needs, equality of opportunity, equality of outcome or result, equality of respect and dignity, or equality in any number of different areas. Amartyn Sen⁴⁴ has pointed out that any plausible political theory, concerns not only equality in general, but equality in respect to something or other. As Ian Hacking argues, the example of Hernstein and Murray's *The Bell Curve* is a dramatic case in point:

“One of its tirades against egalitarianism begins on page 532, but by 534 the authors write that ‘equality of rights is crucial while equality of outcome is not’. This is simply another instance that supports Sen’s view that any plausible political theory, even including that which motivates *The Bell Curve*, concerns not equality in general, but equality of something.”⁴⁵

Which equalities affirmative action would facilitate would determine how it is conceptualised and implemented. A distinction between “market liberals” and “Marxian” thinkers as outlined by Rae in Rosenfeld⁴⁶, could be applied to differing perspectives on affirmative action and the issue of equality. As Rae describes, “market liberals are not so much anti-egalitarian as they are narrowly egalitarian” in the sense that they would not be against “equal ... distribution of formal property rights and certain civil and political rights.” While on the other hand, “leftward ideologies, no matter how various in other respects, all seek to broaden the domain to which equality is to be applied”⁴⁷.

In South Africa the disadvantaged black “minority” constitutes a numerical majority which is large enough to appear to have far less need for group-differentiated

⁴⁴ Qtd. by Ian Hacking, New York Review of Books (19 September 1996).

⁴⁵ See Hacking, New York Review 41.

⁴⁶ Qtd. in Rosenfeld, Action and Justice.

⁴⁷ Rosenfeld, Action and Justice 17.

rights than US minorities. It could be argued that the black majority with political power at its disposal is able to ensure its survival and development on the whole through the usual operation of the economic market-place and democratic decision making process. However power, whether in business, the civil service, the press or the universities, still remains largely in white hands, hesitant steps towards “unbundling” of SA conglomerates and “broadening” the civil service notwithstanding. Thus affirmative action is sought to address these lingering economic and social imbalances that constitute the historical legacy of apartheid in South Africa. However, because apartheid created educational deficits, racist distrust of blacks by a conservative colonial establishment and many other vested interests, make even the “blackening” of the old order a slow process.

Group-differentiated rights seek to compensate for unequal circumstances which place powerless minorities at a systemic disadvantage in the cultural market-place. While at first sight, group-differentiated rights for national minorities seem discriminatory since individual rights and political power are allocated differentially on the basis of group membership, in reality they are consistent with liberal principles of equality. Indeed, both Rawls and Dworkin maintain a position in which justice requires compensating for undeserved or “morally arbitrary” disadvantages, particularly if these are “profound and pervasive and present from birth”⁴⁸. The possession of certain abilities or disabilities is often beyond the control of the individual. They are due in large part to socio-economic class and cultural environments which cannot themselves be said to be deserved or undeserved. In such cases, true equality requires not identical treatment, but rather differential treatment to facilitate differential needs. As Gordon Means argues:

⁴⁸ Rawls, Theory.

“A good case can be made both for and against special privileges. Such a system can be an effective strategy for inducing rapid social change, in settings where cultural variables need to be taken into account. Without preferential privileges, there may be no inducement for improving the opportunity structures of deprived or encapsulated cultural or ethnic groups. Where group identity and communal and ethnic prejudices permeate a society, it is naive, if not hypocritical to talk about the equality of opportunity based upon individual achievement and universalistic norms.”⁴⁹

Thus, in divided societies where certain ethnoracial groups suffer a long historical tradition of discrimination on the basis of ascribed group membership, preferences may be necessary as a strategy of redress despite the considerable social costs they may involve. The differences between groups may be so vast that the disadvantaged cannot achieve adequate outcomes purely on the basis of individual rights. Indeed, political theorists as far back as Aristotle have spoken of compensatory, corrective or rectificatory justice⁵⁰. In this sense, the discrimination, segregation and exclusion of groups in the past warrants the use of group membership definitions for redress and compensation. Hardly any other society exists where clear-cut group based discrimination and exclusion have left a wider legacy of political, economic and social injustice as legalised apartheid did in South Africa. The need for compensatory justice in order to redress the past and facilitate the inclusion and participation of previously excluded groups could hardly be defended anywhere else with such moral validity.

An equality based argument for group-specific affirmative action can also be made if the actual operation of the economic market-place works to the disadvantage of

⁴⁹ Gordon P. Means, "Human Rights and the Rights of Ethnic Groups - A Commentary," International Studies Notes (1974) 17.

⁵⁰ Aristotle outlines various subdivisions of justice in Book Five of Nicomachean Ethics. Aristotle, Nicomachean Ethics trans. Martin Ostwald (Indianapolis: Bobbs-Merrill, 1962).

certain groups. The equality argument for affirmative action, similar to that for self-government rights, seeks to show how the structure of common individual rights intends to treat all people equally, but in fact works to the disadvantage of members of a particular collectivity. Affirmative action seeks to compensate for the disadvantages and vulnerabilities of certain groups within the structure of common individual rights.

All these persuasive moral justifications for affirmative action have to reckon with a barrage of critics who have marshaled powerful pragmatic and political arguments against the policy. As Kymlicka points out:

“Even if group-differentiated rights can be defended on grounds of justice, there will still be those liberals who fear them for a variety of reasons. For example, some liberals argue that these rights are divisive, because they emphasize differences over commonalities. These critics argue that, while group differentiated rights may be fair on equality or historical grounds, they are unworkable.”⁵¹

This of course, would depend on the specifics of each affirmative action programme or policy. Neo-liberal critics of affirmative action, such as D'Souza⁵², have argued that in the end the free market will create fair employment practices without governmental intervention. D'Souza contends for example that the Jim Crow laws that were passed in the US South around the turn of the century were resisted by private businesses due largely to the fact that separate facilities were more expensive than integrated ones. However, this argument fails to acknowledge what historians have discovered to be a

⁵¹ Kymlicka, Citizenship 130.

⁵² Dinesh D'Souza, The End of Racism (New York: The Free Press, 1995).

pervasive pattern of customary discrimination during the period that preceded the Jim Crow laws. Owners of businesses, even if not prejudiced themselves, are likely to adjust their employment practices to the prejudices of their communities as well as to those which dominate their workforce. This was the reality in the “unregulated” white South before the era of Jim Crow and may to some extent remain true today if anti-discrimination laws were retracted.

The same may be true for South Africa although to a far lesser extent since the “disadvantaged” constitute a majority who now hold the balance of power. The belief of right-wing libertarians that an unfettered free market will solve all social and economic problems is difficult to conceive since no such market has ever existed.

The liberal discourse on the rights and status of minorities is exclusively concerned about justice for powerless minorities⁵³. Yet none of these scholars address the question of powerful minorities who were former oppressors. What kind of restitution can be demanded from such groups and what minority rights can they claim in the new liberal democracy? As both white minority and black majority are inextricably linked in an interdependent economy in SA, affirmative action for one affects the equal opportunities for the other. If Afrikaner males, for example, perceive their careers blocked through exclusive appointments on racial grounds, they are unlikely to identify with the new order and embrace reconciliation. Instead such aggrieved newly “disempowered” groups may pursue any number of courses from external to internal emigration to active sabotage and resistance. Given their past advantage in skills and resources together with a mindset of natural superiority, such frustrated minorities may

⁵³ See Walzer, Spheres; Glazer, “Individual Rights,” Minority Cultures; and Kymlicka, Citizenship.

spoil all prospects of greater equality. Affirmative action ranks high among concerns of Afrikaners in opinion surveys, surprisingly well above concerns about language and cultural identity⁵⁴. Thus affirmative action could trigger a reversal of the much cited South African “miracle” of a negotiated revolution.

Such a potential for destabilisation makes the detailed analysis of the discourse about affirmative action during the transition crucial. Exploring the arguments and passions of different stakeholders in depth can guide progressive political strategies and help avert potential disasters.

Conclusions

This chapter discusses the work of prominent liberal and communitarian theorists on the issues of individual and group rights. Two strands of liberalism argue for very different strategies from similar premises concerning the recognition of persistent collective inequality or cultural security of minorities. Traditional economic liberalism insists on recognising only individual rights while social liberalism readily embraces group rights in addition. While traditional economic liberalism perceives collective or group rights as inherently dangerous and oppressive, North American social left-liberalism severely criticizes public institutions for failing to recognize the specific needs of groups such as African-Americans, Asian-Americans, First Nations people and women. Issues concerning the recognition of persistent collective inequality or cultural

⁵⁴ See H. Giliomee, Address to the Afrikaanse Taal-en Kultuurvereniging, “Being Afrikaans in the New (multilingual) South Africa”, 15 August 1996.

security of minorities dominate the political agendas of liberal Western democracies.

While the "politics of universalism" in the Enlightenment tradition emphasized the equalisation of rights and entitlements of all citizens and sought forms of non-discrimination that were "blind" to the way citizens differ, "the politics of difference", Charles Taylor points out, requires us to recognize the distinctness of an individual or group and redefine non-discrimination to require that these distinctions are made on the basis of differential treatment.

The most apparent departures from "difference-blindness" includes "affirmative action" policies, justified on the grounds that historical discrimination placed some groups in a pattern of disadvantage and persistent inequality. It is possible to defend such rectifying measures because they are temporary, at least in theory, eventually fading to allow the old "blind" rules to reinstate themselves without disadvantaging anyone when broad representativity is achieved. On the other hand, measures which seek to maintain and cherish permanent differentiation in the rights or status of particular ethnic or national groups, with respect to the goal of ensuring survival through indefinite future generations (eg. First Nations or French speaking Canadians) are more difficult to justify.

While the arguments discussed in this chapter centre primarily around the rights of cultural minorities - this legitimation of group recognition provides the justification for affirmative action. The discourse on affirmative action flows from identity politics. It translates different identities based on different group histories into different entitlements. Affirmative action debates more narrowly argue about the degree of collective disadvantage, but address the question of group rights nonetheless.

The liberal perspective that individual rights should always precede collective goals in conjunction with nondiscrimination provisions is widely entrenched in western classical literature and espoused by well known philosophers such as John Rawls and Ronald Dworkin. Traditional liberal theory is mainly concerned with the idea of formal equality rather than paying attention to substantive equality. Dworkin argues that a liberal society is one which centres around a strong procedural commitment to treat people with equal respect rather than adopt specific substantive views about the ends of life. Indeed, one observes the US reliance on the judicial system and its emphasis on formal equality of opportunity rather than outcome. The notion of group-differentiated rights is viewed as inimical to liberalism because of liberal democracy's fierce commitment to the freedom and equality of individual citizens. Social liberals such as Taylor and Kymlicka counter that this is a serious misconception and that specific kinds of collective rights for minority cultures are consistent with liberal democratic principles. In this regard Kymlicka distinguishes between two meanings of "collective rights". The first he considers "internal restrictions" where a minority culture demands rights against its own members to protect its traditional way of life against individual opposition from within. The second, deemed "external protections" intends to protect the group from the impact of external economic or political decisions of the larger population. Kymlicka argues that what distinguishes a liberal theory of minority rights is precisely that it accepts some external protections for ethnic groups and national minorities, but is very skeptical of internal restrictions.

The controversy surrounding the recognition of identity in the Western world translates within South Africa into the meaning of nonracialism. Whether nonracialism

means colour-blindness in light of the South African legacy of colour discrimination forms part of this debate.

By seeking affirmative action, ethnic groups desire integration and inclusion into a particular society's mainstream institutions rather than separate, self-governing institutions. The call for affirmative action policies in itself therefore is a statement about the desire of 'minority' groups for inclusion and full participation in society's structures which have traditionally excluded them.

The meaning of equality may require more in certain circumstances than simply equal treatment. Since all citizens are not identically situated, true equality requires not identical treatment, but rather differential treatment to facilitate differential needs. Proactive interventions such as affirmative action are directed towards ensuring not only formal procedural equality, but substantive equality or equality of results. Given the existence of vast inequality of opportunity in South Africa, who is equal and who is not must go beyond formal principles to investigate and address particular substantive equalities and inequalities. Affirmative action is viewed as a means to establish a tie between formal and actual equality of opportunity within an egalitarian position.

This discussion of the literature on social justice and equality locates the ensuing debate of South African affirmative action policies within the broader theoretical context of liberal democratic reflections on individual versus groups rights.

CHAPTER II

HISTORICAL AND THEORETICAL PERSPECTIVES

Historical Precedents

Three cases of group-specific preferential employment may be distinguished in South Africa. The three policies target different beneficiaries and may be categorised as: 1) state sponsored social mobility for Afrikaners and "poor whites" during the ascendancy of Afrikaner nationalism, 2) Coloured Labour Preference policies in the Western Cape during the apartheid era, and 3) post-apartheid affirmative action for black South Africans.

The trajectory that Afrikaners followed to grasp economic power and increase the representativeness of their own group in non-traditional areas of employment, raises the question of how barriers were removed historically and with what success. This chapter sketches the measures taken to solve the "poor white problem". Such an overview furnishes the historical backdrop to the current debate about black advancement through affirmative action. It explores the course of two disadvantaged groups in achieving similar ends, under different historical conditions. The role of "race" and "class" is assessed by contrasting similarities and differences between Afrikaners and blacks seeking equality of access to compensate for past injustice. In so doing, theoretical underpinnings of the central thesis are outlined.

Another example of preferential employment at a lower level was the labour recruitment in the Western Cape. In 1957 the area west of Aliwal North to the Fish and

Kat rivers was officially declared a "Coloured Labour Preference Area" in which Coloured employees were favoured in appointments over blacks wherever possible¹. The abolition of this policy, while previously always criticised by Coloured politicians as a racist relic, seems nevertheless to be resented now by ordinary Coloured workers who have to compete with more recently arrived job seekers from the former Transkei for dwindling employment opportunities in the formal economy of the Western Cape. The policy amounted to a straightforward apartheid-inspired co-optation strategy for Cape Coloureds by restricting competition from African migrants in the region. It is omitted in this brief historical canvas, because it bears little significance to the current controversy examined in this thesis. Even its past beneficiaries are embarrassed about the Coloured labour preference and no one advocates its resurrection although many Coloureds mourn its perceived reversal in favour of formerly disadvantaged Africans.

The Afrikaner advancement of the past 70 years is often considered the epitome of effective affirmative action for the ANC leadership to emulate. ANC spokespersons insist that "blacks have to be empowered just like the National Party empowered Afrikaners"². The question of power is central. To what extent does political power compensate for a lack of economic power? Can political power be used to achieve economic empowerment in similar ways as Afrikaner nationalists employed state patronage for ethnic gains? The similarities and differences between Afrikaner nationalist advances previously and ANC opportunities and constraints today can place the current discourse into a historical and comparative context.

¹ T.R.H. Davenport, South Africa: A Modern History (Toronto: U of T Press, 1978) 305.

² The Premier of Mpumalanga, Mathews Phosa, qtd. by H. Giliomee in Cape Times (6 February 1997).

After the capture of the state by the National Party in 1948, Afrikaners benefited from explicit state support and burgeoning public employment. Afrikaner nationalists had mobilised to realise distinct political, economic and cultural goals³. The National Party utilised a barrage of legislation extending patronage as well as legalising exclusion to secure Afrikaner ethnic dreams and counter black competition. Yet despite massive state-sponsored mobility, surprisingly Afrikaners made relatively slow progress. Giliomee highlights the vast initial discrepancies between the two Euro-ethnic rivals: "In terms of personal income Afrikaners only caught up with English-speakers by 1976"⁴.

Afrikaners were not only comparatively poor, but also perceived as culturally backward, less educated and lacking in sophistication. A study by P.L. van den Berghe in the early 1960s revealed that most English-speakers held low opinions of Afrikaners, particularly of government and civil servants: "The locally dominant English view the Nationalists as semi-barbarous political parvenus who cannot speak the King's English and who are on a lower plane of civilisation"⁵.

In the 1920s the flow of rural unskilled Afrikaners into urban centres became known as the "poor white" problem. Often employed at the lowest rungs of the job market, Afrikaners held little competitive advantage over an equally unskilled black labour force. Few could realistically aspire to the skilled and managerial positions in the hands of the long-urbanised, more educated and prosperous, English South Africans. De

³ See Dan O'Meara, Volkskapitalisme (Johannesburg: Ravan Press, 198) and Dan O'Meara, Forty Lost Years: The Apartheid State and the Politics of the National Party, 1948-1994 (Randburg: Ravan Press, 1996).

⁴ H. Giliomee, Cape Times (6 February 1997).

⁵ P. L. van den Berghe, Caneville: The Social Structure of a South African Town (Wesleyan: Wesleyan UP, 1964) 69.

Kiewiet summarises:

“At the base of white society had gathered, like a sediment, a race of men so abject in their poverty, so wanting in resourcefulness, that they stood dangerously close to the natives themselves.”⁶

However, while the socio-economic status of poor whites in the early 1930s resembled that of newly urbanised African migrants at present, the state then could cope with their plight more easily because of their comparatively small number. Giliomee estimates that about 300,000 persons fell into the category of poor and indigent whites, which translates into about a quarter of just over one million Afrikaners at the time. Seventy years later, in the late 1990s, in contrast, about 12 million people or 40% of blacks command incomes of R500 or less a month and must be considered to be living at or below the minimal poverty line. Unemployment estimates for blacks range between 30 and 45% in the 1990s. In short, instituting successful affirmative action programmes for a minority can hardly be compared with similar measures for a majority, even if the government were able to spend the same 16% of its current budget on unemployment relief as was done in 1932.

As Stan Trapido has argued, the majority of Afrikaners were workers who depended on the state to maintain their relatively privileged standard of living:

“The Afrikaans workers, largely unskilled or semi-skilled, surrounded as they are by a non-white population with a depressed standard of living, have been, and are, in an even more vulnerable position than their English speaking predecessors. For them economic security can only be obtained if they are able to participate in political decision making.”⁷

⁶ C.W. de Kiewiet, *A History of South Africa: Social and Economic* (Oxford: Oxford UP, 1957) 181-182. See also G.V. Doxey, *The Industrial Colour Bar in South Africa* (Cape Town: Oxford UP, 1961).

⁷ Stan Trapido, “Political Institutions and Afrikaner Social Structure in the Republic of South Africa,” *American Political Science Review* LVII. 1 (March 1963): 79.

Economic deprivation reinforced the drive for Afrikaner political power with its exclusionary emphasis on black competitors, favoured by English employees as being more compliant than the more demanding “boers”.

The “civilised labour policy” employed large numbers of poor Afrikaners in the 1920s and 1930s in the public sector in preference to so-called uncivilised workers. The effect of employment policies of “civilised labour” set out by the Hertzog Government are clearly illustrated in the case of the railways. Between 1924 and 1933, the number of unskilled whites employed rose from 4,760 to 17,683 while the number of African and Coloured labourers fell from 37,564 to 22,008 and 5,628 to 4,663 respectively⁸. The single largest employer of white labour in the country, the railways, employed over 100,000 unskilled and semi-skilled whites⁹.

Historians of apartheid have amply documented how the state explicitly disadvantaged Africans to protect white interests. The upliftment of the Afrikaner worker, according to Verwoerd, would only occur successfully if “protected” against “non-white competition”¹⁰. Race was used as an exclusionary device restricting the access to resources and opportunities to a privileged minority. Areas of employment in which whites would be protected from black competition were established by a New Department of Labour in 1924 and a variety of inducements were included, such as tariff concessions to firms whose labour policies sought out whites to employ, even at the

⁸ Davenport, South Africa 362.

⁹ Lawrence Solomon, “The Economic Background to the Survival of Afrikaner Nationalism,” Boston University Papers in African History vol. 1 ed. Jeffrey Butler (Boston: Boston UP, 1964) 234; and P. Hugo, “Affirmative Action in the Public Service,” Critical Choices for South Africa ed. R. Schrire (Oxford: Oxford UP, 1990) 115.

¹⁰ P. Du Toit, “Report on the National Conference on the Poor White Problem,” (Cape Town: Nasionale Pers, 1934) 31.

expense of existing black workers. By 1968, twice as many Afrikaners occupied the public sector as in 1948. By 1978, 90% of the approximately 150 key positions in the public sector were held by Afrikaners with the Broederbond playing an important role in this shift. This ethnic nepotism represents one of the most extreme and successful forms of sponsored social mobility.

Private enterprise was also pressured by the Afrikaner state to maintain sufficient quotas of civilised labour. A fledgling Afrikaner business in particular was encouraged to develop by nationalist mobilisers in order to meet the overwhelming domination of English interests and to be able to look after "our own people". Nationalism always cloaks itself in kinship imagery. The wealthier parts of the national family had a duty to care for the less fortunate sections, who in turn were bound to loyalty to the imagined community despite their proletarianisation¹¹. As a far less nationalist movement, the ANC cannot fall back as easily on the mobilising rhetoric of sacrifice and responsibility of its constituency. ANC supporters are exhorted to value inclusion of all citizens regardless of race, including fair chances for whites, despite simultaneous affirmative action. The ANC's socialist heritage and nonracialism precludes, or at least mitigates against, exclusive ethnonationalist entitlements. By contrast during the previous Afrikaner state-sponsored advance, career chances in the civil service and public corporations depended on ethnic affiliation. The later formal policy of separate development merely cemented Afrikaner advantage and thereby also ensured ideological hegemony over rival interest-based organisations. As Herman Giliomee argues:

¹¹ See Benedict Anderson, *Imagined Communities* (London: Verso Press, 1983); and David Miller, *On Nationality* (Oxford: Oxford UP, 1995) for discussions on nationalism.

“Viewed from a Nationalist perspective, the dominant feature of the South African economy was the vast gap between Afrikaner and English wealth (the ratio of the per capita incomes of the Afrikaner and English is estimated to have been as high as 100:300 in 1910). But from a class perspective the obvious characteristic was the cleavage between the capitalists and workers in a system that exploited the largely unskilled and proletarianised Afrikaner and black labour. For various reasons the Afrikaner workers ultimately assumed an ethnic rather than a class identity.”¹²

The apartheid state became virtually synonymous with the rise of the National Party, although racial segregation predates the party's conception. Yet while apartheid successfully entrenched Afrikaner domination economically, politically, and ideologically it also deepened ideological cleavages among the ruling establishment. The National Party remained in firm control of its segregation policy in pursuit of separate development from 1948, only until the early 1970s. This populist ethnonationalist movement, dominated by the Afrikaner petite bourgeoisie, a few Afrikaner finance capitalists, and the Cape agricultural bourgeoisie, brought a variety of classes together. Votes were drawn from farmers, state officials, as well as an Afrikaans-speaking majority of the white working class¹³. Yet the National Party proceeded to evolve into a party dominated by the Afrikaner bourgeoisie. Thus, the interests and attitudes of a new Afrikaner middle class increasingly resembled those of affluent English speakers on economic and social questions¹⁴. In other words, Afrikaner nationalism ultimately became a victim of its own success.

¹² See Herman Giliomee in Ethnic Power Mobilized: Can South Africa Change? eds. H. Adam and H. Giliomee (New Haven: Yale University Press, 1979) 107-8.

¹³ O'Meara, Volkskapitalisme.

¹⁴ Stanley Greenberg, Race and State in Capitalist Development: Comparative Perspectives (New Haven: Yale UP, 1980) 190.

Following the victory of the National Party in 1948, political power and ethnic unity reinforced each other resulting in an economic leap forward for Afrikaners while keeping an ethnic base intact. In the post 1948 era of triumphant Afrikanerdom and apartheid, the dual trends of unifying white exclusion of the black majority and English - Afrikaner tension continued to interplay.

In the 1950s the ideological doctrine of apartheid guided government action and legislation. The Nationalist government expanded its extensive system of racist legislation, classifying all South Africans into racial categories, prohibiting sexual relationships between persons of different racial groups, confining groups to separate residential areas, outlawing shared social and cultural amenities and establishing different systems of education, including ethnic universities. Despite an expanding economy, a wide gap in wealth and status opened between black and white but lingered and gradually narrowed between Afrikaner and English.

The discourse of apartheid was modified in favour of “separate development” during the 1960s, continuing discrimination but justified increasingly more by the ideology of ethnic self-determination rather than more explicit racial inferiorisations. After the assassination of apartheid's chief ideologue, Verwoerd, in 1966, his successor Vorster stressed white unity (nasie) rather than Afrikaner ethnic boundaries (volk). This strategic alliance of racial privilege for a multi-ethnic section of Europeans of different cultural background did not erase or supplant Afrikaner identity altogether but paved the way for more pragmatic accommodations and flexible adaptations to new exigencies¹⁵. Yet while the official discourse had been moderated many restrictions were tightened.

¹⁵ See Heribert Adam, Modernizing Racial Domination (Berkeley: U of California Press, 1971).

The Group Areas Act uprooted tens of thousands of mainly Coloured and Indian families from their urban homes. Pass laws and influx control prevented millions of Africans from so called homelands from seeking economic opportunities in urban environments. Isolating African migrants in single men's hostels and hostel compounds destroyed traditional extended families. The policy of denationalising Africans in the country of their birth by forcing the citizenship of independent homelands on them hoped that the 13% white South Africans would ultimately no longer be a minority in terms of citizenship rights. During this period new restrictions heightened suppression of opposition to the government and paralled cautious moves towards co-optation of black collaborators into the system of minority dominance.

Afrikaner ethnic mobilisation, in many respects constituted the ideal type of a successful nationalist movement. Rallying first around linguistic and cultural denigration against threatening Anglicisation, Afrikaner nationalism then proceeded to focus on ethnic capital accumulation ("buy and save Afrikaans") which laid the economic basis for ethnic insurance giants (Sanlam) and an affluent Afrikaner bourgeoisie (Rupert). The steady growth of the Afrikaner professional and business class aided the transformation of Afrikanerdom's social composition. Afrikaner control of private industry rose from 10% to 21% between 1948 and 1975, and the proportion of the Afrikaners in the professions doubled. Between 1948 and 1975 the percentage of Afrikaners in white-collar jobs increased from 28% to 65%, while numbers of farmers and blue-collar workers fell sharply¹⁶. While Afrikaner-controlled enterprises were generally smaller

¹⁶ Herman Giliomee in Ethnic Power Mobilized: Can South Africa Change? eds. H. Adam and H. Giliomee (New Haven: Yale University Press, 1979) 169, 170-171.

than English firms in the same sectors and more reliant upon the state, the size and scope of Afrikaner enterprises was impressive¹⁷.

When Anglo-American agreed in 1963 to relinquish control of part of its mining empire to General Mining (Gencor), an Afrikaner capitalist class was further consolidated. This still relatively small economic bourgeoisie was steadily enlarged by a growing bureaucratic bourgeoisie of civil servants, created by the rapid expansion of Afrikaner educational institutions. The nationalist fervor at the time led to collective educational motivation in cohesive schools with mother-tongue instruction backed by Calvinist religious exhortations. By contrast secular township education today is still in disarray with mostly underqualified teachers instructing children from disrupted families with poor learning resources. Above all, most African students at secondary and tertiary institutions have to succeed in a European language that is not their mother tongue. This second-language acquisition, while widely considered progressive and "neutral" in a generally multi-lingual African culture, still constitutes an unrecognised handicap when African students are taught by teachers with no preparation for second language teaching, and yet are evaluated by the same criteria as their white counterparts. African students who pass the standardised national matriculation examination with university exemption can therefore be considered as having accomplished a much greater achievement than their linguistically privileged competitors from the white environment. It is this group of proud black achievers, particularly those growing numbers who have been educated in racially mixed or private high schools, who seem to resent being classified as affirmative

¹⁷ See Craig Charney, "The National Party, 1982-1985: A Class Alliance in Crisis", The State of Apartheid ed. Wilmot James (Boulder: Lynne Rienner, 1987).

action cases.

Competing Theoretical Approaches

Since the late 1960s a revisionist neo-Marxist historiography tried to capture these socio-political developments with new theoretical approaches. Explanations for the policy of apartheid generally fall into two main groups: conceptualisations which view racism as the chief determinant of white South African attitudes and those which ascribe them to a clash of class interests. Neo-Marxist approaches covered a wide spectrum and varied in their theoretical emphasis. All concurred that South African history must be understood in terms of class interests rather than in racial terms. Race was seen as a smokescreen used to mask class interests. False racial consciousness enabled a bourgeoisie to co-opt and manipulate disadvantaged classes for their own gains and purposes. All neo-Marxist scholars rejected the widely held view of liberal historians that segregation and apartheid were the consequences of the distortion of capitalist development by political forces able to dominate by virtue of the historical pattern of the development of South African society.

The combination of revisionist and Africanist approaches expressed itself in the historical theme of the study of the emergence, rise and decline of an African peasantry in South Africa. The argument that capitalist development in South Africa relied on the availability of politically unfree black labour at subminimal wages was extended and

refined by Legassick, Trapido and Wolpe¹⁸. Apartheid was not seen as a political imposition on capitalism but the very expression of capitalism itself. Nonracial capitalism could hardly be envisaged from this perspective.

By the late 1960s the changing requirements in the labour market - shortages of skills fuelled by an expanding economy - required the employment of blacks in positions previously reserved for whites. The increased need for skilled labour led to the eventual downfall of the system of racial job reservation. This was accompanied by a rapid change in the racial composition of the workforce above the unskilled level. White skilled workers could no longer be guaranteed protection from African competition or assured superior workplace positions to those of black workers. This shift laid the ground for the break in Afrikaner unity as Afrikaner workers broke away from the ethnic class alliance. They felt betrayed and sold out by "their" government.

The ethnonationalist Afrikaner state not only had to take into account the liberalising demands from both its own and the English business sector, but also had to reckon with a more strident black working class. After a series of spontaneous strikes in Durban in 1974/75, it became clear that black industrial dissatisfaction could no longer be suppressed by merely criminalising it. A new black union movement clamoured for recognition. The Wiehan Commission concluded after lengthy deliberations that black workers could better be controlled, pacified and disciplined through their own elected representatives involved in negotiated agreements rather than by imposed

¹⁸ Martin Legassick, "The Dynamics of Modernisation in South Africa," Journal of African History 13 (1972); "South Africa, Capital Accumulation and Violence," Economy and Society 3 (1974); "Legislation, Ideology and Economy in Post-1948 South Africa," Journal of Southern African Studies 1.1 (October 1974). See also H. Wolpe, "Capitalism and Cheap Labour Power: South Africa from Segregation to Apartheid," Economy and Society 1 (1972); Race, Class and the Apartheid State (London: UNESCO, 1988).

settlements. Against the fierce opposition of privileged white unions, industrial democracy was born in South Africa by the end of the 1970s. The legalisation of black unions, however, occurred in the absence of political democracy. Politically disenfranchised black workers, therefore, looked to their unions for interest representation beyond the factory gate, and the South African union movement became heavily politicised to this day.

When in the mid 1970s the white mine workers' union under Arie Paulus repeatedly went on strike to cement vastly differential wages and press for the retention of blasting privileges for white miners, the Chamber of Mines smashed the strike with the explicit approval of the Vorster government which had previously always shown sympathy for "its Afrikaner" working-class constituencies. Such events demonstrated the new alliances between an Afrikaner state, a more self confident Afrikaner bourgeoisie and old English capital that transcended the narrow ethnonationalist boundaries of state patronage of the previous period. Afrikaner unions and heavily subsidised farmers with strong lobbies increasingly became a burden on the state and an obstacle to wider co-operation for optimal economic growth rates.

During the late 1970s there were various other efforts to reform apartheid. With influx control breaking down, urban areas were opened to black migration¹⁹, university segregation relaxed, immorality acts, censorship regulations and pass laws were no longer strictly enforced²⁰. These reforms of the late 1970s and early 1980s were no

¹⁹ Stanley Greenberg, Legitimizing the Illegitimate: State, Markets and Resistance in South Africa (Berkeley: U of California Press, 1987).

²⁰ Robert Schrire, Adapt or Die: The End of White Politics in South Africa (New York: Ford Foundation, 1991) 71-75.

longer based on Afrikaner and English collusion to deprive blacks.

The recognition of the need for social and political change to accommodate the aspirations of at least parts of the black majority were accelerated in P.W. Botha's attempted reform programmes of the 1980s. Its clearest expressions were constitutional reforms, culminating in a tri-cameral parliament. The new constitution aimed at co-opting the smaller Coloured and Indian communities into the parliamentary system without endangering white numerical dominance. However, by excluding the black majority from the political reforms, the co-optation project backfired. It led to the birth of the United Democratic Front (UDF). The politicising movement of all anti-apartheid forces inside the country skillfully used the new legal space and virtually operated as the banned ANC. Not only had the co-optation strategy stimulated a new political awareness particularly among large sections of the Coloured and Indian middle class uniting again with African activists²¹, but the tri-cameral parliament also provided the final impetus for a conservative breakaway from the ruling National Party.

By the beginning of the 1980s a unified Afrikaner community, the traditional support base of the NP, no longer existed. Botha's policies increasingly intensified ideological conflicts within the National Party's traditional alliance, reflecting new class interests for most of which the traditional rigid racism and exclusive access to the state proved outdated²². In March 1982, Transvaal leader Andries Treurnicht and a group of fifteen members of Parliament (MPs) left the NP to establish a new Conservative Party

²¹ The previous joint African-Indian political mobilisation was the passive resistance campaign of the late 1950s. See Leo Kuper, Passive Resistance in South Africa (New Haven: Yale UP, 1957).

²² Courting allies among minorities by accepting Coloureds and Indians in Parliament was viewed by many Nationalists as threatening white control of the state. In particular, civil servants were anxious about black competition.

for the opposite reason. As Dan O'Meara argues "the emergence of a class of aggressive, self confident Afrikaner capitalists, whose interests went beyond those of the narrow class alliance out of which they emerged" was a driving force in the fragmentation of white parties²³. Similarly Craig Charney highlights the class character of the National Party split²⁴. The NP, he suggests, became the party of the Afrikaner bourgeoisie, sharing an interest in economic liberalisation with English speaking and foreign capital, but feared political liberalisation because of its continuing dependence on state patronage and power. The remaining small Afrikaner working class together with Transvaal maize farmers who were dropped from state protection, plus the lower echelons of civil servants, formed the class base for the new right-wing movement.

The so-called O'Dowd thesis of "big business liberalism" suggested that capitalist economic growth would sweep away apartheid racial obstacles to a free market of labour and production requirements. Artificial racial barriers would collapse under the weight of profit opportunities. However, business pressure has hardly caused the downfall of apartheid but union mobilisation against racial capitalism. As Herman Giliomee has rightly argued, the contribution (to democratisation) of business during the 1980s lay in what they did *not* do: refusing to invest²⁵. Contrary to O'Dowd, the lack of economic growth due to risk perception and instability facilitated negotiations. "The crisis of capitalism, greatly exacerbated by sanctions and the black uprising of the 1980s was one

²³ Dan O'Meara, "Muldergate and the Politics of Afrikaner Nationalism," Work in Progress 24 (1982): 10.

²⁴ Charney, "National Party," State.

²⁵ Hermann Giliomee, Presidential Address, "Liberal and Populist Democracy in South Africa: Challenges, New Threats to Liberalism," (Johannesburg: SAIRR, 1996) 4.

of the great spurs to democratisation"²⁶. Revisionist theory always emphasised the benefits of apartheid for South African capitalism. It rightly assumed collaboration between state and capital and propagated pressure to expose “liberal business”. However, by treating capital interests as monolithic neo-marxists also underestimated the strategic value of differential risk perceptions and new opportunity assessments that made important business sections shift allegiances into the democratic camp.

To many analysts it became increasingly evident that capitalist interests were not monolithically maintaining apartheid. As already mentioned, Dan O'Meara's study of Afrikaner nationalism modified the initial revisionist view of the relationship between apartheid and capitalism by arguing that Malan's National Party represented a class alliance of Afrikaner rural capitalists and Afrikaner workers directed by a small group of entrepreneurs and intellectuals aggravated by the domination of the upper-echelons of the economy by English speaking international capital²⁷. Others argued that ethnic identifications could not be understood entirely in terms of class alone. A prominent liberal critic of revisionist theorising, Merle Lipton, asserts, that the interests of South African capital fluctuated with changing circumstances²⁸. To ascribe one single broad position to capitalism with respect to apartheid would be a great oversimplification.

Indeed, an economic reductionism easily overlooks the fact that racist or religious ideologies develop their own dynamic independent of the underlying interests. Revisionist perspectives also underestimate the pragmatism of a ruling class in crisis

²⁶ Giliomee, Presidential Address, “Liberal” 4.

²⁷ O'Meara, Volkskapitalisme.

²⁸ Merle Lipton, Capitalism and Apartheid: South Africa 1910-84 (New Jersey: Rowman and Allanheld, 1985).

assuming, with Marx, a *predetermined* historical trajectory during which a new order would *inevitably* emerge out of the unresolvable antagonisms and contradictions of a capitalist system. However, socio-political developments proved much more open-ended, accessible to astute intervention by leaders who acted not as mere agents of their class but often shaped trends with their own idiosyncrasies and unintended consequences of carefully planned policies. Nobody, for example, foresaw the ramifications of Gorbachev's liberalisation and the end of the Cold War for South Africa's accommodation.

However, revisionist neo-Marxist scholarship also greatly advanced our understanding of apartheid by pointing to the shortcomings of its liberal critics. Apartheid was not primarily an invention of prejudiced minds but served discernable interests. Yet it also contradicted profit maximisation in many respects. Merely denouncing apartheid in moral terms or declaring it a pathological aberration bypasses the need for rational explanations which an alleged irrational system nevertheless requires. A more recent version of a similarly deficient approach labels the South African historical compromise a "miracle"²⁹, thereby abandoning analysis in favour of divine dispensation. It is in the interplay between objective material and subjective ideal interests, as Max Weber clarified, that the most promising insights into socio-political developments can be found.

February 1990 marked the end of a 40 year era in South African politics as the ruling national party deliberately entered a process which would end minority rule. Much to the world's astonishment, 68.7% of South African whites supported the negotiated

²⁹ See Patti Waldmeier, South Africa: Anatomy of a Miracle (New York: Norton, 1997).

abolition of their minority rule in a referendum held on March 17, 1992. The same Afrikaner National Party which presided with exclusive control over the ideology and practice of apartheid since 1948, now began to act as democratic reformer in sharing power with a black majority. "South Africa's miracle" transition from a minority-ruled apartheid state to a "nonracial" democracy did not produce the long anticipated revolution and racial civil war predicted by so many analysts. Instead, the reformist agenda of a historical compromise has left neither the status quo intact nor have power relations been utterly reversed.

The past continues to mould the way in which divergent forces seek to redress the legacy of apartheid without creating new injustices. As is well documented, the current actors are faced with the dismal reality of South Africa's inequalities: The Labour Commission reports that the African unemployment rate for 1994 reached 41% compared to a rate of 6.4%; 23% and 17% for whites, coloureds and Asians respectively. In all racial groups women fare far worse with African women worst off with an unemployment rate of 50%³⁰. The Green Paper on Employment and Occupational Equity³¹ quotes statistics from the 1995 issue of the World Bank's World Development Report, showing that the poorest 20% of South Africans received only 3% of national income while 63% of that income went to the richest 20% of the population. Inequality between racial groups has become a relatively smaller contributor to overall equality, while inequality within racial groups has grown steadily more significant.

³⁰ South Africa, Report of the Presidential Commission to Investigate Labour Market Policy, "Labour Market Commission," Restructuring the South African Labour Market (Cape Town: Government Printer, June 1996): 141.

³¹ South Africa, "Green Paper: Policy Proposals for a New Employment and Occupational Equity Statute," Republic of South Africa Government Gazette 373.17303 (Pretoria: 1 July 1996) 15.

The Green Paper on Employment Equity, the Labour Market Commission Report and other advocates of affirmative action use these figures to substantiate claims for affirmative action based on race and gender. Whether the new ruling party will use state patronage to benefit its constituency as the National Party did by rewarding Afrikaner supporters with civil service positions, state contracts and legal protection against job competition has yet to be determined. The differences between Afrikaner preferential treatment and ANC equity policies seem to outweigh the similarities because of vastly changed constraints now.

Conclusions

This chapter highlights three cases of group-specific preferential employment in South Africa. Various policies have targeted different beneficiaries and are classified as: 1) state-sponsored social mobility for Afrikaners and "poor whites" during the ascendancy of Afrikaner nationalism, 2) Coloured Labour Preference policies in the Western Cape during the apartheid era, and 3) post-apartheid affirmative action for black South Africans. The contrast between two differently positioned disadvantaged groups seeking equality of access to compensate for past injustice - Afrikaners during the 1930s and blacks in post-apartheid South Africa - is assessed.

Current affirmative action policies in favour of a disadvantaged majority take place under increased constraints. State-sponsored "poor-white" predecessors benefited from "civilised labour policies", both in the public sector as railway and postal workers and in expanding enlarged para-statal. While Afrikaner preferential policies spanned the

class spectrum and uplifted an Afrikaner working class, the present civil service is shrinking as employment opportunities dwindle under the globalized pressure for fiscal discipline, privatisation of state enterprises and neo-liberal policies in general. Unlike Afrikaner mobilisation which benefited all ethnic class sectors, black empowerment and affirmative action now rewards only a small elite.

The ethnic nepotism of Afrikaner advancement represents one of the most extreme and successful forms of sponsored social mobility. By comparison, the ANC as a far less nationalist movement cannot fall back as easily on the mobilising rhetoric of sacrifice and responsibility of its constituency. The ANC's policy of nonracialism values inclusion of all citizens regardless of race and mitigates against exclusive ethnonationalist entitlements. The economic empowerment of a vast poor majority lies beyond the resources of the state unlike the few hundred thousand Afrikaners who benefited from state-sponsored policies in racialized privileging. In short, the state could cope with the plight of poor whites in the early 1930s more easily because of their comparatively small number and because of its relative isolation from global developments elsewhere. The poverty of poor blacks in post-apartheid South Africa, in contrast, is unlikely to be alleviated by limited state resources. The vast contrast between Afrikaner nationalist advances previously and ANC opportunities and constraints today places the current discourse in a historical and comparative context and furnishes a backdrop for the rest of the study.

Theoretical perspectives on the role of "race" and "class" are outlined and the similarities and differences contrasted, between Afrikaners and blacks. Explanations for the policy of apartheid generally fall into two main camps: those conceptualisations

which view racism as the chief determinant of white South African attitudes, and those which ascribe them to a clash of class interests. Neo-marxist approaches since the late 1960s largely concluded that South African history must be understood in terms of class interests rather than in ethno-racial terms. Race was viewed as a smokescreen to camouflage class interests. Apartheid was not considered a political imposition on capitalism but the very expression of capitalism itself.

While revisionist theory always emphasised the benefits of apartheid for SA capital it was in fact the lack of economic growth due to perceived risk and instability which facilitated negotiations, and was business' contribution to democratisation. Revisionist neo-Marxist studies have greatly advanced our understanding of apartheid by pointing to shortcomings of its liberal critics. Apartheid was not primarily an invention of prejudiced minds but served discernible interests. However, it also contradicted profit maximisation in many respects. The reactions of business to apartheid were not monolithic. Neo-marxist apartheid conceptualisations fell short of anticipating the real possibility of a non-racial capitalism, where de-racialized class and not race has stabilized the very economic system that was falsely assumed to depend on racial exploitation.

CHAPTER III

INTERNATIONAL EXPERIENCES WITH AFFIRMATIVE ACTION: IMPLICATIONS FOR SOUTH AFRICA

The efforts to abolish apartheid pale in comparison with the task of dealing with its legacy. In South Africa's post-apartheid era, the vast discrepancies between population groups has frequently turned the discussion toward the relevance of affirmative action as a means of redress - both in the private and public sector. As South Africa enters this debate it seems valuable to explore existing models of affirmative action elsewhere and to consider their salience for the South African situation.

Preferential policies are typically a product of democratic societies attempting to bridge the gap between equality of opportunity and equality of outcome. They have taken different forms in numerous countries and designated groups differ; in the United States affirmative action aims to address disadvantaged minority groups, in Malaysia it addresses a majority community defined in terms of ethnicity, in India and other deeply hierarchical societies "caste" is used to define disadvantaged groups and in Canada aboriginal people, women, visible minorities and the disabled are officially classified as targets for preferential treatment. Nowhere has class or income for economically deprived groups been designated as a category. In most cases, preferential policies including affirmative action are most frequently aimed at groups who are numerical minorities, and tend to target politically non-dominant groups.

Affirmative action is generally interpreted in two ways. On the one hand it has been viewed as a range of nuanced policies aiming at institutional transformation. These policies foster a high degree of introspective self-analysis sensitive to prevailing barriers

facing some groups. On the other hand is a more bureaucratic formalised approach using stipulated quotas as a guide to hiring patterns. Interventions vary based on specific political contexts and circumstances. For many South Africans, affirmative action is thought of as an American intervention although there are a number of other countries whose policies addressing inequalities along racial, ethnic, gender and caste lines have been in place far longer than those of the U.S.

Affirmative action may arise out of a change in the power structure of a country, when a group which has previously been excluded assumes power and seeks to make amends for past exclusion of its group members. An example of such affirmative action is seen in Malaysia. In the case of the United States on the other hand, affirmative action policies are implemented within the context of a liberal democracy which seeks to address the persistent unequal status experienced by some subordinate groups. The rationale of preferential policies is to remedy past and present discrimination against blacks, other minorities and women. Thus, affirmative action is a remedial measure.

This chapter focuses on international experiences with affirmative action in the United States, Malaysia, India and Canada - all multi-ethnic societies. It seeks to examine distinctive policies of affirmative action in each context, as well as common characteristics. The salience of these similarities and differences may help to clarify issues at stake in South Africa, and allow one to see a range of directions pursued within the socio-political context of each society. Each case will be explored in some historical detail, the particular approach to affirmative action outlined and their implications analysed.

The American Experience - Affirmative Action based on Race

The concept of affirmative action has yet to be authoritatively defined in legislation or international covenants. It was first used in the U.S. debate on civil rights during the 1960s by John Kennedy, to describe public policies aimed at overcoming present effects of past discrimination¹. It consists of “preferences given to members of a group, typically defined by race or gender and is held to be justified because members of that group have in the past been discriminated against, not because of their individual characteristics, but because they belonged to the group concerned”². Affirmative action is intended to create equality, but is different from both non-discrimination and from targeted support for individuals based on their independent need to obtain equality of opportunity.

The United States began affirmative action programmes in the 1960s when it began to address the problem of a disadvantaged black minority. Although it is popular perception that the U.S. was the first country to introduce preferential policies - other societies such as India have had programmes to aid the disadvantaged in place for far longer. A large part of the development of U.S. policy was substantially tied to the civil rights movement for African Americans. American policy began with the Civil Rights Act of 1964, Title VII which called for protection against discrimination in employment on the basis of race, colour, religion, sex or national origin. This protection extended not

¹ Nathan Lerner, Group Rights and Discrimination in International Law (London: Martinus Nijhoff Publishers, 1991) 163.

² Asbjourne Eide, “Equality and Affirmative Action,” Affirmative Action in a New South Africa (Cape Town: University of the Western Cape, 1992) 9.

only to bias in hiring and discharge but also included compensation, conditions and privileges of employment, and the classification of employees or applicants for employment in any manner that would limit them, on the basis of group membership³.

In 1965, President Johnson issued an Executive Order for all Federal Contractors which added an obligation to exercise affirmative action in employment and promotion - even if they had never discriminated in the past - in order to ensure that minority and women applicants were recruited and employed. It required contractors doing business with the federal government to analyse the racial/gender composition of the workforce, identify areas of under-representation and project goals and timetables for correcting problems. If deficiencies were not located, written programmes not developed, or good faith efforts not made to implement them, the contractor could be found not in compliance with Executive Order 11246 and their contract rescinded⁴. These policies were designed to aid in the offsetting of systemic discrimination with a view to creating an appropriate reflection of the society in the workplace.

Although President Johnson first established affirmative action with the famous Executive Order 11246, preferential policies were first implemented by Richard Nixon⁵. Under Nixon in 1969, the federal government authorised what became known as its “Philadelphia Plan”, a programme requiring federal contractors to set specific goals for minority hiring in the city’s construction industry. The portion of racial minorities in the

³ S. Shulman, The Question of Discrimination (Middletown, C.T.: Wesleyan University Press, 1989) 153.

⁴ Alan H. Goldman, Justice and Reverse Discrimination (Princeton: Princeton University Press, 1979) 205.

⁵ Dinesh D’Souza, The End of Racism (New York: The Free Press, 1995) 221.

construction industry rose from 1% to 12% as a result⁶. The Nixon administration sought to utilise a liberal reform for conservative objectives, subsequently adopting the “colourblind” discourse of liberals from the civil rights movement.

Most large companies in the U.S. had sufficient dealings with the federal government to be liable for affirmative action regulations. By the early 1970s statistical goals or quotas were established by the Equal Employment Opportunity Commission (EEOC) for the employment of certain minority groups. In 1975 the EEOC had handled 77,000 cases and spent in excess of \$50 million⁷. Affirmative action policies by this time had acquired various interpretations. They ranged from efforts by firms and universities to recruit minorities and women by creating special programmes, improving skills which minorities needed in order to compete fairly in the workplace through to mandatory results required by quotas.

The largest non-white American group - the initial target group of U.S. preferential policies - is the black (African-American) community who make up less than 12% of the population. Although as heterogeneous as any American group, they share a common historical and political heritage and have been defined as an “involuntary minority” who remained slaves until the mid-nineteenth century. Even when free, they were subject to overt discrimination, officially authorised and sanctioned, until the passage of the 1964 Civil Rights Act. Only from then on did they begin to participate as formal equals in American political, economic and social life.

⁶ Manning Marable, “Staying on the Path to Racial Equality,” *The Affirmative Action Debate* ed. George E. Curry (New York: Addison-Wesley Publishing Company, 1996) 7.

⁷ *Ethnic Pluralism and Public Policy* eds. Nathan Glazer and Ken Young (London: Lexington Books, 1983) 132.

This history bears in many ways on the present. Much of America's racial policy, especially that crafted by the judiciary, takes the sins of the past as a warrant for present-day interventions: past discrimination, the Supreme Court has stated, is to be eliminated "root and branch"⁸. America has also shared the realisation that it has ill-treated blacks, a realisation which provided a vital impetus for governmental action and policy initiatives aimed at correcting the present consequences of past discrimination.

The legalist influence prevails in the United States where a heavy reliance is placed on the judiciary as problem solver and more pervasively in the emulation of the judicial approach in non-judicial settings. Law-like behaviour, including recourse to the adversarial process, is very evident in the U.S. The issue of race relations is one which America has largely conceptualised in terms of legal rules. It took an authoritative judicial determination of constitutional obligation with respect to race in school segregation cases, amplified and enforced by congressional and executive action under the 1964 Civil Rights Act, to make non-discrimination national policy. The busing of schoolchildren for example, was an attempt ordered by federal courts, to obtain effective integration of African-Americans in state schools.

Court decisions necessarily play a major role in American legalistic society with regard to the actual impact of EEOC legislation. Between 1964 and 1981 the Federal District Courts decided more than 5,000 suits dealing with discrimination under Title VII⁹. The first Supreme Court Decision to address the issue of preferential treatment was

⁸ United States, Green v. County School Board (New Kent County: 391 U.S. 1968): 430, 438.

⁹ Ethnic Pluralism eds. Glazer and Young 133.

in the dispute of University of California v. Bakke¹⁰. A white candidate for the medical school of the University of California whose scores were higher than that of 16 admitted blacks - seats the university had reserved - filed suit that his civil rights had been violated. The salient issue was one of deciding in which situations preferential policies could be justified and for whom. The outcome supported equal opportunity based on merit but at the same time argued that there was a national need to take some positive steps to redress past historical injustices and continued barriers to equal opportunity for blacks. Justice Powell ruled that a student's race could be taken into account in the admissions process while barring reliance on formal racial quotas in which race became an exclusive factor.

Although the distinction between those programmes that award preference according to race and those that demand evidence of individual discrimination was not seen as crucial in the Bakke case, proof of individual discrimination became a contentious issue which gained considerable currency in subsequent cases. The Bakke verdict also suggested a constitutional value in not being too race-specific – that is programmes that require fixed percentages of minority group members at professional schools were prohibited while race was still considered to count as a positive qualification for admission. The moral consistency of this outcome was questioned by many¹¹.

Generally the courts frown upon the imposition of inflexible “quotas” that mandate the hiring or promotion of fixed percentages of women and minority groups on

¹⁰ See United States, Regents of California v. Bakke (438 U.S. 1978): 265.

¹¹ Goldman, Justice 5.

the ground that this can put the employer in the undesirable position of being forced to hire an objectively unqualified individual solely in order to meet the quota. The preferred approach is the use of flexible numerical “goals” which provide the employer with a target which can be adjusted when the employer can establish that an inadequate supply of qualified candidates exist.

As the meaning of nondiscrimination has expanded and changed over the years, the primary enforcers remain the judiciary and administrative agencies. Disputes involving allegations of employment discrimination are resolved by determining the facts and applying the relevant rule of law. This legalist approach has aimed to produce a mode of political participation for those previously alienated.

Perceptions of preferential policies in the U.S. have provoked diverse points of view. Whites sympathise with blacks over past mistreatment and are increasingly aware of the continuing vestiges of discrimination. At the same time, they deeply resent what they perceive as the unwillingness of many blacks to live by the standards of middle-class America. Although the white majority is supportive of government aid to disadvantaged groups intended “to help them catch up to the standards of competition set by the larger society” there is strong disapproval of preferential treatment¹². According to a *USA Today* / CNN / Gallup Poll (March 17-19, 1995) 53% of whites polled expressed support when asked, “Do you favor or oppose affirmative action programs?” versus 36% who opposed. Of all African-Americans surveyed 72% were in favour and only 21% against. However, when asked in the same Gallup Poll whether in favour of the establishment of

¹² Seymour Lipset and William Schneider, “An Emerging National Consensus,” *The New Republic* (15 October 1997): 8.

racial or gender “quotas”, support quickly fades with only 30% of whites in favour and 68% opposed. Two-thirds of all African-Americans expressed support for quotas in business employment with only 30% opposed. It is on this issue of implementing government-supported initiatives for social equality where most white and black Americans diverge.

Many have argued, as Nathan Glazer has done, that we should let politics work for all groups including blacks and give legal place only to individuals, not to blacks and others as groups¹³. William Julius Wilson, the distinguished black sociologist argues that racial antagonism has less to do with access to opportunity than antagonism in the economic sector. Wilson asserts: “The systematic efforts of whites to suppress blacks ... however determinative ... for the previous efforts of the black people to achieve racial equality ... do not provide a meaningful explanation of the life chances of black Americans today.” Wilson reports that in the modern industrial era there has been “progressive transition from racial inequalities to class inequalities.” Well educated blacks are experiencing changes in the economy which afford them unprecedented job opportunities; nondiscrimination has become a reality for this group. Poor, uneducated inner city blacks, together with their white counterparts continue to endure marginal economic and social status. Wilson minimises the persistence of “racial antagonism in the sociopolitical order” which he asserts has far less effect on access to opportunities, both for individuals and groups, than opportunities in the economic sector¹⁴.

¹³ Ethnic Pluralism eds. Glazer and Young 29.

¹⁴ William Julius Wilson, The Declining Significance of Race (Chicago: U of Chicago Press, 1978) 1, 2, 153.

The very concept of affirmative action is thought to challenge cherished American values such as individualism, merit, fairness and equality, producing negative repercussions for both beneficiaries (minorities and women) and victims (argued to be predominantly white males) whose constitutional rights are said to be encroached upon. As Ronald Dworkin argues however, “there is nothing paradoxical in the idea that an individual’s right to equal protection may sometimes conflict with an otherwise desirable social policy, including the policy of making the community more equal overall”¹⁵. Dworkin contends that political theory has virtually ignored the distinction between equality as a policy and equality as a right. While the image of law in the U.S. is founded on an ideology of individualism, affirmative action tends to legitimise formal categorisations of the population - transforming distributional questions into issues of group share.

The recent discourse on race in the United States indicates growing opposition to race-based affirmative action not only from white conservatives, but also from some of the beneficiaries of the process - people such as Supreme Court Justice Clarence Thomas and other professional African-Americans. Such critics claim that affirmative action demeans their achievements and violates the ideal of individual merit enunciated by Martin Luther King Jr., when he said that a person should “be judged by the content of his character rather than the colour of his skin”¹⁶. It is argued that preferential policies create and reinforce stereotypes that successful minorities and women have been unfairly

¹⁵ Ronald Dworkin, Taking Rights Seriously (London: Duckworth, 1977) 224.

¹⁶ See Glenn C. Loury, “Performing Without a Net,” The Affirmative Action Debate ed. George E. Curry (New York: Addison-Wesley Publishing Company, 1997) 60.

aided and that they are less competent than comparable white males¹⁷. Affirmative action, critics such as black economist Thomas Sowell claim, further harms minorities and blacks in particular by negatively influencing their own estimation of self-worth and their acceptance by peers in the working world. Individual worth is either absent or has been significantly undermined. According to this theory, affirmative action creates the perception that achievements have not been earned by the individual but rather are “given” by reluctant employers¹⁸. Many blacks endorse a colour-blind, merit-based standard over a racially explicit standard. Racial inexplicitness is most favoured in the form of compensation to those needing help. Racial explicitness provokes hostility, at least with respect to hiring and university admissions¹⁹.

Writing emerging from the U.S. tends to argue that affirmative action has generally failed as a strategy for black advancement. An emerging group of black neo-conservatives, including the conservative academic Shelby Steele, criticises the current black civil rights leadership on a variety of issues, including that leadership’s support of affirmative action. “Blacks,” writes Steel, “cannot be repaid for the injustice done to the race, but we can be corrupted by society’s guilty gestures of repayment. Affirmative action is such a gesture. It tells us that racial preferences can do for us what we cannot do for ourselves. The corruption here is in the hidden incentive not to do what we believe preferences will do”²⁰. Some elite blacks believe that, were it not for affirmative action,

¹⁷ Nathan Glazer, Affirmative Discrimination: Ethnic Inequality and Public Policy (New York: Basic Books, 1978) 175.

¹⁸ Thomas Sowell, “Affirmative Action Reconsidered,” The Public Interest 42 (Winter 1976): 47.

¹⁹ Lipset and Schneider, “Emerging,” New Republic 8.

²⁰ Shelby Steele, “A Negative Vote on Affirmative Action,” New York Times Magazine (13 May 1990): 18.

they would be respected as individuals rather than viewed as recipients of special favours. Individual worth, it is argued, has been significantly undermined by affirmative action policies. Steele contends that an additional negative consequence of affirmative action is the negative psychological impact on beneficiaries who are confronted with charges that the positions held are due to some artificial preference.

There are also a number of revealing examples of the inability of practitioners of affirmative action to defend it openly and convincingly. An article criticising affirmative action procedures in admissions to Georgetown University Law School was written claiming that African-American students were less qualified than white students based on the comparison of average applicant scores, by race, on the Law School Admissions Test. The law school's administration defended itself by issuing a statement suggesting that its "admissions office did not practice race-conscious affirmative action, but rather considered race among other 'diversity' factors - such as regional background or life experience - and admitted students based on individual merit"²¹.

Such reactions are rooted in the traditional ways in which racial justice has been articulated. The racial discourse that was inherited from the civil rights movement forged a morally and legally compelling basis for fighting racism. Yet the civil-rights rhetoric that is now institutionalised as common sense in mainstream American culture also includes an inherent conservatism that is becoming increasingly apparent. Civil-rights advocates early on identified racism with irrationality, defining the problem as "bias" against people because of the arbitrary attribute of skin colour. The ideal was a colour-

²¹ Gary Peller, "Espousing a Positive View of Affirmative-Action Policies," The Chronicle of Higher Education (18 December 1991) B1-B2.

blind society in which race and other arbitrary categories were ignored. To transcend race consciousness was the main objective.

Early justifications for affirmative action used the same underlying model of racial justice which initially drove the civil-rights movement. By ultimately making institutions neutral to race, racism could be overcome. Within this emphasis on achieving neutrality, affirmative action is inherently problematic precisely because it does involve taking race into account. Race consciousness in social decision making is treated as an unfortunate and temporary tool for integrating institutions. By treating affirmative action as “exceptional,” the liberal discourse on race has helped to legitimise all decisions not based on affirmative action as meritocratic, even though such decisions are governed by many assumptions and practices that could never be deduced from the idea of objective merit. Determinations of “merit” are after all often very subjective. Many employers hire people they can relate to best, often those of similar backgrounds. The Constitution, has not always been applied and interpreted in a race-neutral manner. Thus it is implied that those who have received jobs or educational opportunities under “neutral” standards, without affirmative action, have earned them, and conversely, those who have not received such benefits have failed because of personal inadequacy.

Also dramatic are the divisions among liberal Americans over the issue of explicit “preferential support”. On the one hand there are those who insist that the appropriate measure of nondiscrimination is full partnership in the social, political, and economic order. Full partnership they argue, can be defined only in outcome terms, as proportionate participation, and past historical injustices warrant this remedy of racial preference. Less rigorous measures are said to be unresponsive to the demand for equality. Racial

preference in the form of targets or quotas, at least as a temporary measure, is deemed appropriate. On the other hand are those who believe that the singling out of racial groups for any purpose is against the constitution. It is argued that a non-racial or colour-blind society is incompatible with the concept that preference be given on the basis of race or any other group membership. They oppose any reliance on race as policy criteria, especially where they perceive others who are innocent of any wrongdoing, disadvantaged as a result. "Reverse discrimination," it is held, is against persons who were not the perpetrators of past discrimination and therefore are "innocent victims" bearing the costs of preferential policies.

The U.S. has struggled to reach some balance between two seemingly competing national policies - a fundamental commitment to a society that values and protects individual freedoms and autonomy, and a corresponding obligation to provide all individuals with equal employment opportunity and access to resources. Participants in the debate argue whether or not employment policies should be guided by a "colourblind" standard or whether some form of affirmative action, extending beyond the compensation of individual identifiable acts of discrimination, is necessary to combat the lingering effects of centuries of societally imposed disadvantage.

The debate over preferential treatment cannot be depicted in terms of good and evil or right and wrong, but is instead a choice between two notions of good. Each side advances a definition of equality, one group-centred and the other individual-centred, one outcome-oriented and the other process-oriented, one insisting upon racial explicitness and the other resistant to using race as the grounds for special treatment.

The 1996 U.S. election put the 30 year old policies of preferential treatment for minorities and women under concerted attack as never before. The issue revolves around whether affirmative action legislation should finally be scrapped. Arguments against affirmative action assert that the noble ideals of the civil rights era have become seriously skewed and that a system based on group entitlement has taken over. Policies which were once hailed as beacons of enlightenment are increasingly questioned. A proposed initiative, written by two University of California professors, argues that the state shall not use race, colour, ethnicity or national origin as a criterion for either discriminating against or granting preferential treatment to any individual or group in the operation of the state system of public employment, public education or public contracting. The initiative reflects growing anger among whites at preferential treatment for those they consider less qualified. Arguments that preferential policies are needed to reverse past injustices have been rejected by both Republicans and some Democrats, a sign that people on all sides of the political spectrum seem tired of what they feel are excessive preferences for minorities. The California Civil Rights Initiative (CCRI) challenges to end government programmes that give minorities and females preference for jobs, promotions contracts and college admissions.

A variety of abuses have been cited to demonstrate how affirmative action has gone astray. Glynn Custred, an anthropology professor at the California State University who co-wrote the initiative, argues: "You go back to what affirmative action originally meant - it meant making certain that people who had previously been excluded had the same opportunities that other people had. Now it's become a matter of fulfilling these numerical proportions - a quota system." Custred asserts that at his own university,

competent teaching candidates routinely lose out because they are not the “right” colour or gender. The CCRI he maintains “leaves the door open for any kind of recruitment or advertising for minorities or disadvantaged...it just removes policies that have been shown to go beyond their legal mandate”²². Others who support the move argue that ruling out racial and gender preferences in public employment, contracting and public admissions is a step towards a more “color-blind” and truly egalitarian society.

While affirmative action is criticised from a variety of political perspectives, conservatives have traditionally voiced the most opposition to preferential policies. Most evident in these arguments is a growing lack of confidence in racial classification and “race-specific” solutions.

It is often claimed that racial discrimination has already been reduced to such an extent that it is no longer a major barrier to blacks and other minorities. Various studies of the “effectiveness” of affirmative action centre on the extent to which “under-representation” of blacks or women or select minorities have been “remedied” as a result of government pressure. Affirmative action is considered effective to the extent that firms or institutions have been coerced into narrowing the gap between the real and a theoretically desirable level of employment or enrolment for designated groups. However as some critics point out, there is no simple relationship between a group’s upward social mobility and the amount of discrimination suffered in the past. Conservatives acknowledge that there are statistical disparities between the incomes and occupational distributions of blacks and whites, but argue that these disparities are not necessarily the result of racial discrimination. As Nicholas Capaldi argues in his work *Affirmative Action*

²² See The Christian Science Monitor (8 February 1995).

and the Crisis of Doctrinaire Liberalism: “It has never been shown that discrimination is the sole cause of statistical disparity; it has never been shown that statistical disparity is an acceptable criterion for defining the problem”²³.

The majority of whites in the U.S. share this view that discrimination is no longer a problem. For example, in a 1991 poll, 70% of whites stated the belief that blacks in their community have as good a chance as whites of getting jobs for which they are qualified, while 80% believed that blacks in their community could receive as good an education as whites²⁴. Consequently, if discrimination is no longer considered a problem, then affirmative action also is considered both unnecessary and unfair. Kluegal and Smith²⁵ maintain that most Americans believe it is individual effort which determines who succeeds and who fails.

However, while statistical disparities may not constitute sufficient evidence of racial discrimination, they are cause for serious suspicion. As a well-known sociological fact, advantage and disadvantage are both transmitted from one generation to the next. Class and economic factors shape life-chances, though not exclusively. Figures showing that women or blacks are at a disadvantage may be due to gender or race, but may also be due in some part to social class if the groups being compared are not of a similar class composition.

Several black analysts are in the forefront of stressing class differences rather than

²³ Nicholas Capaldi, Out of Order: Affirmative Action and the Crisis of Doctrinaire Liberalism (New York: Prometheus Books, 1985) 25.

²⁴ George Gallup, Jr. and Frank Newport, “Blacks and Whites Differ on Civil Rights Progress,” Gallup Poll Monthly (August 1991) 54-59.

²⁵ James R. Kluegal and Eliot R. Smith, Beliefs About Inequality: American Views of What Is and What Ought To Be (New York: Aldine De Gruyter, 1986).

race as causes of black mobility. Shelby Steele argues that affirmative action contributes towards an incessant pursuit of difference. Similar sentiment is manifest in the writings of economists Thomas Sowell, Glen Loury and William J. Wilson who take issue with the civil rights pursuit of racial equality and in the overall disregard of class differentiation and cultural idiosyncrasies in the black community.

Racial discrimination on its own does not explain why some blacks have “made it” and others have not. The real world contains intersecting elements of race, culture and class. Within the African-American population a variety of classes and subcultures co-exist. Apart from orthodox Marxist analysis of U.S. race relations, class approaches to race relations, as a trend in studies of the so-called black experience, began to emerge in the late 1970s. Wilson’s *The Declining Significance of Race*²⁶, deemed class a more significant factor than race in analysing the problems of modern urban America. The substantial variations in life situations, life-styles and behaviour patterns among African Americans constitute evidence that inequality cannot be reduced to colour but is influenced by factors beyond race and class. Wilson argues that race-specific solutions such as affirmative action do not alleviate the situation of those most in need.

Others assert that white immigrants have also been victims of Protestant prejudices, nativism and racism. The historical experiences, socio-economic circumstances and cultural attitudes of whites are not uniform and therefore they too may deserve an affirmative response from government. House Speaker Newt Gingrich dismisses the argument that the beneficiaries of affirmative action, commonly African Americans, have alone been subjected to discrimination over a period of centuries. “That

²⁶ Wilson, Declining Significance.

is true of virtually every American,” Gingrich has said, noting that the Irish were discriminated against by the English. Such remarks have prompted critics to speak of the “politics of denial” of racism²⁷. The slavery permitted for 245 of the 375 years blacks have been on the North American continent, and the subsequent legalised subordination of blacks can hardly be compared to the type of discrimination suffered by the Irish. The historical disadvantage of blacks is unique and, as people of a distinctive colour, they are more easily stereotyped, thus unable to pass into a prejudiced mainstream. Therefore, the transmitted inequality is more self-sustaining in the case of blacks and easier to overcome in the case of the Irish.

Yet other critics have proposed that black culture may itself be deficient and responsible for the growing black underclass. It is claimed that for specific cultural reasons, some Asian Americans and non-American blacks excel over African Americans and Hispanics as well as other Asian Americans and some whites. A “model minority” thesis has been used to suggest that it is cultural cohesion and individual discipline which are the keys to social mobility²⁸. In his 1983 work, *The Economics and Politics of Race*, Thomas Sowell articulates earlier observations on the liberating force of culture when he states, “...groups that arrive in America financially destitute have rapidly risen to affluence, when their cultures stressed the values and behaviour required in an industrial and commercial economy”²⁹. This argument highlights a significant difference between “liberal” and “conservative” thinking on race relations. William J. Wilson, discounts the

²⁷ Roger Wilkins, “Racism Has its Privileges,” New Nation (27 March 1995): 409-416.

²⁸ See David A. Bell, “America’s Greatest Success Story: The Triumph of Asian-Americans,” The New Republic (15-22 July 1985).

²⁹ Thomas Sowell, The Economics and Politics of Race (New York: William Morrow, 1983) 282.

role of culture from a liberal standpoint, noting: “In short, cultural values do not determine behaviour or success. Rather cultural values grow out of specific circumstances and life changes and reflect one’s position in the class structure. Thus if lower class blacks have low aspirations or do not plan for the future, it is not ultimately the result of a different cultural norm but because they are responding to restricted opportunities, a bleak future and feelings of resignation originating in bitter personal experiences”³⁰. In this sense Wilson stresses that collective habits are a response to social structural constraints and opportunities.

A comparison of African American and Asian American achievements however represents two unique sets of experiences. White responses to Asian Americans and African Americans are historically dissimilar. As more recent arrivals, Asian Americans are faced with a less intense xenophobia and defamation of their racial and cultural attributes. Moreover, as voluntary immigrants from a self-conscious cultural tradition, most display great racial pride and self-esteem. African Americans on the other hand, subjected to the involuntary uprooting of slavery, family dispersal and loss of identity, encountered racism very different from the experiences of Asian Americans. It is claimed that blacks’ self image, as victims of white racism, undermines the self-esteem and motivation of African Americans. The radical emphasis of racism’s omnipresence and omnipotence is what is most destructive of African American self-image because it perpetuates a paralyzing mindset of victimhood rather than creative, active agency.

Critics maintain that the cost of affirmative action to individual corporations and

³⁰ William Julius Wilson, “The Urban Underclass,” Minority Report ed. Leslie W. Dunbar (New York: Pantheon Books, 1984) 109-110.

the economy as a whole has reached exorbitant heights in the U.S. They make the case that excessive expenditures hurt corporate profitability and therefore reduce the competitiveness of U.S. business in the world economy, compared with less socially conscious rivals. While this may be true for the U.S. and other countries that have had affirmative action policies in place for a number of decades, spending money on effective policies to achieve racial equality can be economically worthwhile where racial inequality threatens stability and peace. As the South African case may demonstrate more clearly, *effective* affirmative action has the real potential to increase profitability. Widening the pool of talent and employing more people who have greater insight and knowledge of specific markets, may positively affect a corporations' profit margin, quite apart from political necessities.

However, costs must also be calculated in terms of loss of motivation and productivity of white male workers who feel threatened by affirmative action or who in fact have lost jobs to minorities and women. Although one-fifth of surveyed whites reported being victims of reverse discrimination³¹ the actual percentage of whites denied jobs because of affirmative action is probably much smaller. Roger Wilkins³² points to the increasing insecurity of white men convinced affirmative action has stacked the deck against them. Countless anecdotes abound concerning white males who have missed out on jobs because companies "needed a woman" or a minority group member. The abundant indirect evidence suggests that the morale of many white, male Americans may be seriously damaged by reverse discrimination. One advocate of affirmative action,

³¹ Gallup Jr. and Newport, "Blacks," Gallup Poll 54-59.

³² Wilkins, "Racism," New Nation 409-416.

Gertrude Ezorsky³³, has gone so far as to argue that U.S. whites directly hurt by affirmative action should receive financial compensation from the federal government since they have been forced to make sacrifices for the larger good.

While in the U.S., as Wilkins argues, “white males take their preferences as a matter of natural right and consider any alteration of that a primal offence”³⁴, this is clearly not the case in South Africa. Unlike the U.S., South Africa’s small minority of white males are aware of their past privileges and therefore are seemingly much more open towards affirmative action.

White males are commonly portrayed as the quintessential beneficiaries of past injustice as well as ardent blockages of future equality. As Richard Bernstein notes, a new stereotype has developed in the U.S.:

“... a deep collective guilt about the unequal legacy of history, that need for absolution, are largely responsible for the acceptance of a new stereotype, even as stereotypes in general have never been more thoroughly and widely condemned. This is the stereotype of what is called the white male, sometimes spelled as a single word, ‘whitemale,’ suggesting a narrow-minded, uptight bigot, either of the Archie Bunker type or of the Harvard Club oil portrait type ... it is a remarkable proof of the explosive growth of multiculturalist ideology to see just how widely accepted the subspecies known as the white male has become, just how legitimate it is as a form of description and analysis.”³⁵

However, the notion of the stereotypical “whitemale” as Bernstein points to in the U.S. debate, assumes a different meaning in the South African context. Here white males constitute a small minority by comparison. On the U.S. debate Bernstein notes:

³³ Gertrude Ezorsky, Racism and Justice: The Case for Affirmative Action (Ithaca, N.Y.: Cornell UP, 1991).

³⁴ Wilkins, “Racism,” New Nation 409-416.

³⁵ Richard Bernstein, Dictatorship of Virtue: Multiculturalism and the Battle for America’s Future (New York: Alfred A. Knopf, 1994) 129.

“Sometimes the drive for redressment (and the moral absolution that comes with it) is stated with refreshing candour. In 1993, seventy-five supervisors in New York’s Human Resources Administration were passed over for promotion because they were, one official was quoted as saying: ‘too white and too male.’”³⁶

One of the most controversial aspects of affirmative action policies are “quotas” - that is, programmes that reserve certain positions for qualified minority or female candidates. Quotas are highly unpopular among white Americans. In 1991 for example, more than half the whites in a survey sample opposed laws that would require businesses to hire blacks and other minority workers to reflect the local community³⁷. Only 8% of whites said that women and minorities should be given preferential treatment in hiring and college admission, opposed to 84% who said that only test scores should be used.

While there is widespread sentiment, especially among whites, that quotas are abundant across the country and that any minority member or female can get a job, government statistics suggest that whites still hold considerable advantages over employment opportunities, even among the small select group of college-educated minorities. In 1991, the unemployment rate for 16 to 24 year-old whites with four years of college was 6.4%; the rate for comparable blacks was 11.3% and for comparable Hispanics 9.2%³⁸.

Quotas in general however have been seen as policies of a last resort. U.S. Courts impose quotas only when there is a long history of explicit discrimination and when the employer fails to take corrective action. The Supreme Court has previously ruled that

³⁶ Bernstein, Dictatorship 128.

³⁷ Larry Hugick, “The Quotas’ Issue: Advantage Bush,” Gallup Poll Monthly (June 1991): 32-35.

³⁸ United States, U.S. Department of Labor, Employment and Earnings (January 1992).

employers may voluntarily decide to consider race or gender as one of many factors in hiring³⁹. This “one of many factors” policy is not considered to be a quota since the positions in question are not reserved for women or minorities. In other words, race or gender can be considered one factor along with education, test scores, work experience, and so on.

Criticising affirmative action however is not solely the domain of conservatives. Commentators on the left have argued that the term “cultural diversity” has become a genteel phrase for ethnic and racial parity and sometimes for affirmative action⁴⁰. Rather than explicitly stating that more African Americans or Hispanics are needed in a corporation, foundation or school, the preferred phrase is we need more “cultural diversity”. To read cultural differences as racial and ethnic inequalities is not only inaccurate, they argue, but makes a bad situation worse. It infers that every group has a distinctive perspective and intelligence, which each member represents. African Americans are hired, then, not for the objective of simple justice but for cultural reasons and the distinctive sensibility they carry. Others on the left point out that race-specific policies such as affirmative action also have negative effects because they prevent the formation of multiracial political coalitions⁴¹.

What is also not clear is the extent to which people go along with affirmative action because it is considered “politically correct”. The fear of being labeled “racist” is a powerful inhibitor of honest open debate on affirmative action highlighted by the fact that

³⁹ United States, California v. Bakke 265.

⁴⁰ Russell Jacoby, New Left Review 208 (Nov./Dec. 1994): 121-126.

⁴¹ Jacoby, New Left 121-126.

the motivation of those who criticise preferential policies is usually called into question. In this vein, Shelby Steele persuasively argues that the use of social policy - namely affirmative action - on race and poverty has more to do with the desire to display social virtue than to solve social problems⁴². Steele argues that since the late 1960s the left, which has generated most of America's policies on race and poverty has followed a simple paradigm. First, it offered a structural explanation for the problems of minorities and the poor. They were seen as victims of institutional racism, corporate greed and bad educational systems, and the left created a social policy that tried to atone for their victimisation with compassion. This policy of "*compensatory deference*", argues Steele was driven more by the needs of those who devised it than by those whom it was supposed to help. Instead of training or educating the poor, or ending discrimination against minorities, it simply showed deference to them in compensation for their suffering - a tactic which made deference synonymous with social virtue. As Steele puts it: "Once deference is socially virtuous in itself, affirmative action is virtuous by definition"⁴³. Thus many Americans, who believe themselves to be on the proper side of racial issues, could be utterly ignorant about affirmative action and yet still vehemently support it:

"... social reform was reduced to a series of expedient devices - group preferences, quotas, set-asides, redistricting, race and gender norming. After these devices came a vernacular of social virtue - diversity, multiculturalism, pluralism, role models, self-esteem and the endless stream of euphemisms associated with political correctness. It is a deferential language that enables us to signal our social virtue through talk alone. Compensatory deference is what defines political correctness, just as its absence defines incorrectness.

⁴² Shelby Steele, Newsweek (9 January 1995).

⁴³ Steele, Newsweek 16.

“But a group preference is not a virtue, and a word like ‘diversity’ is so vacuous that in some places it connotes integration, and in others (many college campuses) it justifies segregation. We don't know whether multiculturalism blends or separates cultures. The American left doesn't know either, doesn't understand its own jerry-built nomenclatures or its imprecise ideas.”⁴⁴

Simon Barber⁴⁵ has also argued perceptively that the problem in the U.S. is not with preferences *per se*, but with racial ones, especially when they are implemented through official classifications. Classification by race obliges people to define themselves and each other in terms of attributes which are immutable. Once such a classification system is in place the question arises of how it will ever disappear even when its goals are achieved.

While the California ballot initiative would limit the state's ability to use race as a criterion in hiring or contracting, it would not necessarily limit preferences based on some other factor. In fact, the Civil Rights Act of 1964 and the Voting Rights Act of 1965 neither mandated that Americans be classified by race and ethnic group, nor accorded “remedial” privileges on the basis of such classification. The policies of affirmative action have instead largely been interpreted by unelected bureaucratic rule-makers and judicial fiat. It is classification by *race* which creates a dilemma and not necessarily a problem with preferences on their own. In this respect there is a clear distinction with gender preferences. The taxonomy of gender is indisputable while no such line exists between racial groups, that are pseudo-scientific constructions.

⁴⁴ Steele, Newsweek 24.

⁴⁵ Simon Barber, Business Day (16 March 1995).

Roger Wilkins maintains that affirmative action has had positive results in the United States and has not yet outlived its usefulness. “Affirmative action in the U.S. was not designed to punish anyone,” Wilkins argues, “but was rather a result of a clear eyed look at how America actually works - an attempt to enlarge opportunity for everybody”⁴⁶. When left to their own devices, American institutions in such areas as college admissions, hiring decisions and loan approvals had been making choices that discriminated against blacks. That discrimination, argues Wilkins, hurt not only blacks but the entire nation, as the riots of the late-1960s demonstrated⁴⁷. Similar findings could have been made about other minorities and women.

Civil rights groups add that the proposed CCRI initiative threatens 30 years of progress toward racial equality - reversing all progress made in civil rights over the past three decades. Almost as broad as the revolt against affirmative action is the groundswell of opposition against the measure. A wide variety of organisations, mobilising to defeat the initiative, range from the American Civil Liberties Union, Communications Workers of America, the California Teachers Association, to the National Organisation of Women (NOW). How women react to the measure remains to be seen. Because many affirmative action policies are designed with them in mind, they may feel the measure threatens them and so vote against it.

Proponents of affirmative action would argue that preferential policies have enlarged opportunity in the U.S. and developed and utilised a far broader array of the skills available in the American population than in the past. Advocates also maintain that

⁴⁶ Wilkins, “Racism,” New Nation 409-416.

⁴⁷ Wilkins, “Racism,” New Nation 409-416.

affirmative action is not a quota system. In order to be effective, however, affirmative action programmes generally require some proof that there has been a good-faith effort to follow the plan and numerical guidelines against which to judge the sincerity and the success of the effort. The idea of affirmative action, it is argued frequently by the left, is *not* to force people into positions for which they are unqualified, but to encourage institutions to develop realistic criteria for the job at hand and then to find a reasonably diverse mix of people qualified for it. The setting of broad numerical “goals” in these cases is deemed necessary in order to prevent many biased institutions from simply taking the easy way out by asserting they had looked but “couldn't find anyone qualified” - then hiring the white male they wanted to hire in the first place.

US Outcomes

The central controversy generated by affirmative action policies in the United States concern issues of equality and collective remediation in a society traditionally entrenched with a highly individualistic ethic. In this tradition, affirmative action policies at a very basic level violate "principles of fairness" and are seen as a legitimate cause of resentment. Critics argue that preferential policies run counter to traditional American values of equality while others, such as political philosopher Amy Gutmann, believe that affirmative action is not only consistent with liberal values but if properly implemented, can unify rather than divide Americans⁴⁸. The main source of the problem lies in the elusive notion of equality. While at a general level of abstraction the notion of equality

⁴⁸ See Anthony Appiah and Amy Gutmann, Color Consciousness (Princeton: Princeton UP, 1996).

appears quite clear, attempts to translate this notion into social policy have been wrought with difficulty. The multifaceted, complex debate over two different conceptions of equality; one individual and one group-based, outlined earlier in this section, illustrates this point. The analysis of the policy is further complicated when the notions of equality of result versus equality of opportunity are introduced in the discourse.

The question of how well affirmative action has done its job is a very contentious one. Few deny that the situation of African-Americans is better in many ways than before the civil rights legislation of the 1960's which ended legalized segregation, allowed blacks to vote and provided African-Americans with legal recourse against employment discrimination eventually including affirmative action policies. However, many believe that progress has stalled since the 1970's and that current signs indicate trends toward greater segregation and economic deprivation⁴⁹. Many liberals and African American leaders reason that this stalled progress is due to the persistence of white racism, prejudice and discrimination and point out that the traditional American caste system has found subtler ways to keep blacks at the bottom. Others argue that opinion surveys and other data show that white racism has declined to such an extent that the cause of black poverty, resentment and demoralisation must be sought elsewhere. Dinesh D'Souza, for instance, argues that deficiencies of culture and leadership amongst blacks themselves, including the tendency to blame racism for self-inflicted wounds, are accurate explanations rather than white racism⁵⁰.

⁴⁹ See for example D'Souza, Racism.

⁵⁰ D'Souza, Racism.

Any attempt to examine the impact of affirmative action in the US is constrained by various limitations. The literature on affirmative action in the US is largely normative, with relatively few empirical studies of its consequences. Most of the impact studies of affirmative action have been carried out primarily by economists, social psychologists and business studies specialists and are part of a broader debate concerning to what extent, if at all, the economic status of minorities and women has improved. Two of the most common approaches used by economists in the US to assess the impact of affirmative action policies are 1) time series studies which link trends in the earnings of programme beneficiaries to government legislation enacted in the 1960's and 2) cross-section studies comparing the employment outcome in firms which are subject to affirmative action legislation with the outcome of firms which are not.

Empirical studies show overwhelmingly that in the decades between 1960 and 1990, the earnings of black males relative to white males have improved. Aggregate black/white earnings ratios rose from 0.62 in 1964 to 0.72 in 1975, yet fell again in 1987 to 0.69⁵¹. Gains in health, living standards, life expectancy and education also show significant statistical improvement for blacks⁵². However, while black Americans make up 12.1 percent of the tabulated population, they end up with only 7.3 percent of the monetary pie⁵³. While different income levels may be attributed to many factors, even after other factors have been accounted for, race still seems to play a major role in how

⁵¹ John Donohue and James Heckman, "Continuous versus episodic change: The impact of federal civil rights policy on the economic status of Blacks," Journal of Economic Literature 29 (December 1991): 1603-1643.

⁵² Phyllis Wallace, "Affirmative action from a labor market perspective," ILR Report 27.2 (1990): 40-47.

⁵³ Andrew Hacker, Two Nations: Black and White, Separate, Hostile, Unequal (New York: Ballantine Books, 1995) 100.

different groups fare financially. However, despite these gains made over the past thirty years vast disparities are still evident between blacks and whites in the US. Notwithstanding the relative economic improvement in the income of blacks and a dramatic rise in black educational achievement, blacks are more than twice as likely as whites to be unemployed. An appalling rate of unemployment among black males persists. Only 52% of those eighteen to sixty-four "have full-time, year round jobs, as compared with two-thirds of white males"⁵⁴. White men hold 97% of senior management positions in Fortune 1000 industrial and Fortune 500 service industries while African-Americans hold only 0.6%.

In the period 1970-1990 the black middle class prospered in terms of earning distribution: the percentage of black families earning more than \$50,000 per annum increased from 10 per cent to nearly 15 per cent⁵⁵. This improvement may have occurred despite affirmative action, since the percentage of white families in high income categories also grew during this period.

One of the best known attempts at explaining the changes in the economic status of blacks is a study by Richard Freeman conducted in 1973⁵⁶. Explaining data for the years 1948-70, Freeman attributes the upturn in the black/white earnings ratio which took place after 1964 to anti-discrimination and affirmative action legislation during the 1960's. Factors such as changes in the price of discrimination due to the Civil Rights Act of 1964 and Executive Order 11246, in addition to an increase in the number of years of

⁵⁴ Stephen Thernstrom and Abigail Thernstrom, America in Black and White: One Nation, Indivisible (New York: Simon and Schuster, 1997).

⁵⁵ Thernstrom and Thernstrom, America.

⁵⁶ Richard Freeman, "Changes in the labor market for Black Americans, 1948-72," Brookings Papers on Economic Activity (1973): 67-131.

schooling of blacks and the important shift of black workers to better paid jobs are all cited as contributors to this upturn⁵⁷. Freeman's most significant finding is that an important increase in black earnings - unexplained by educational attainment - is linked to civil rights activity. According to Freeman's calculations from 1965 to 1971, government anti-discrimination activity was responsible for increases in black/white earning ratios of 15 percent for males and 27 percent for females. However, Freeman's methodology has been the subject of much criticism for failing to take into account other factors which could be linked to the rise in relative earnings of blacks⁵⁸. The economic boom associated with the Vietnam War for instance or the decline in the participation of blacks in the labour force in general may have affected this outcome.

Other studies attribute black economic progress primarily to changes in education⁵⁹. In 1955, only 4.9 percent of college students age 18-24 were black. Post affirmative action measures indicate that this percentage rose to 6.5 percent over the next 5 years⁶⁰. Clearly, in the late 1960's and 1970's the percentage of Black college students increased steadily. In 1970, 7.8 percent of college students were black. In 1980, 9.1 percent were Black and in 1990, 11.3 percent were Black.

From the evidence reviewed it also appears that affirmative action has had a considerable impact on educational funding, particularly at the post-secondary level.

⁵⁷ Freeman, "Changes," Brookings 93-97.

⁵⁸ See Robert Flanagan, "Actual versus potential impact of antidiscrimination programs," Industrial and Labor Relations Review 29.4 (1976): 486-507.

⁵⁹ James Smith and Finnis Welch, "Affirmative action and labor markets," Journal of Labor Economics 2.2 (1984): 269-301 conclude that affirmative action at best had marginal impact on the economic improvement of blacks which is due in large part to positive changes in the provision of education for blacks.

⁶⁰ United States, National Centre for Educational Statistics, Digest of education statistics (Washington, DC: 1994).

Within the higher education community, strong consensus exists that minority-target scholarships are a crucial part of successful university affirmative action strategies⁶¹.

Other empirical studies, in particular one by Donohue and Heckman, argue that over the long-term, 1920-1990, the position of blacks has been one of relative stagnation⁶². While they do not deny that improved education may account for some of the income gain of blacks, attributing the remaining unexplained portion wholly to the government's anti-discrimination policies remains problematic because this impact cannot be quantified.

The effect of affirmative action has also been documented in several key academic studies comparing firms required to take affirmative action measures under the contract compliance programme with outcomes among firms that are noncontractors⁶³. Data for these studies are drawn from the reports which certain firms are required to file with the EEOC. Leonard examined reports filed in approximately 9,000 firms between 1974 and 1980 and found a higher percentage of Black employment in firms with federal contracts compared to noncontractor firms in this period. Between 1974 and 1980 the percentage of Black men employed in contractor firms increased from 5.8 to 6.7 percent compared to an increase of 5.3 to 5.9 percent in noncontractor firms during the same period⁶⁴. Indeed, Leonard discusses evidence of occupational advance across the board for minorities and women since 1974. A similar study by Smith and Welch also found

⁶¹ United States, Digest.

⁶² Donohue and Heckman, "Continuous," Economic Literature 1603-1643.

⁶³ Johnathan Leonard, "The impact of affirmative action regulation and equal employment law on Black employment," Journal of Economic Perspectives 4 (1990) 47-64.

⁶⁴ Johnathan Leonard, "Employment and occupational advance under affirmative action," Review of Economics and Statistics 46.3 (1984): 379,377-385.

that the percentage of black males in professional, officer and manager positions increased substantially between the years 1966 and 1980 and was concentrated in firms with federal contracts⁶⁵. The number of black female managers in reporting firms also increased from one in five in 1966 to two of every three in 1980, most in federal contractors. Also apparent was an increase in the portion of white female managers. However, while the occupational advance of black females is largely attributed to affirmative action this is not necessarily so for white women. The employment advances white women have made since the mid 1960's it is argued, may have been the same without contract compliance programs⁶⁶.

On the whole, these studies have found that the employment of women and minorities has increased among federal contractors and that there has been an increase in occupational gains for some of the beneficiaries. However, these gains have not been as dramatic as either proponents or critics may have assumed. In addition, the results of such cross-sectional studies offer only a very general comparison between federal contractors and non- contractors because their studies generally do not distinguish between firms in different sectors of the economy or different regions of the country. An old question also exists, to what extent the effect of a given policy can be distinguished from the conditions that generated that policy⁶⁷. It is impossible to guess how much of

⁶⁵ Smith and Welch, "Affirmative action," Labor 269-301.

⁶⁶ Johnathan Leonard, "Women and affirmative action," Journal of Economic Perspectives 3. 1 (1989): 61-75. Indeed, Leonard makes the point that affirmative action has in some cases actually hindered the advance of white females.

⁶⁷ Richard Butler and James Heckman, "The Government's impact on the labor market status of black Americans: A critical review," Equal Rights and industrial relations ed. F.E. Block et al. (Wisconsin: Industrial Relations Association, 1977) 235-281.

the gains in employment benefiting certain target groups would have occurred anyway, regardless of affirmative action policy measures.

Despite such methodological problems, most analysts agree that affirmative action has impacted on the employment, education and business opportunities for women and minorities which have occurred with no evidence of negative systematic differences in performance or productivity of firms. Surprisingly, a benefit in the overall productivity of companies who have affirmative action and diversity programs in place has been noted by some analysts⁶⁸. The US Department of Labour awards for exemplary affirmative action programs also produce a sizeable increase on the stock returns of those corporations.

These studies demonstrate that the greatest impact of anti-discrimination and affirmative action policies on employment and education for African-Americans took place in the late 1960's and early 1970's. While in the 1970's young African-American college graduates were as likely as white graduates to find employment in managerial and professional occupations by the 1980's they were 13 percent less likely than whites to hold such jobs⁶⁹. In the 1990-91 recession, Berry cites a report based on EEOC data which shows blacks as the only group that lost jobs but did not recoup them⁷⁰.

Overall, the impact of affirmative action on the rise of a significant black middle-class cannot be denied. The solid black middle class of professionals, executives, business owners and civil servants has continued to grow, despite downsizing in the

⁶⁸ United States, Federal Glass Ceiling Commission, "Good for business: Making full use of the nation's human capital" (Washington, DC: US Government Printing Office: 1990).

⁶⁹ Mary Frances Berry, "Affirmative Action: Why We Need It; Why It Is Under Attack," The Affirmative Action Debate ed. George E. Curry (New York: Addison-Wesley Publishing Co., 1996) 304.

⁷⁰ Berry, "Affirmative," Debate 304.

private-sector and cutbacks in the government spending that sustains a high level of public employment. Affirmative action must have contributed to the growth in the proportion of blacks in higher education since the 1960's and the hiring policies of many corporations. Many black high achievers, federal judges, deans and professors at prestigious universities and presidents of corporations, have openly expressed their gratitude to affirmative action policies which gave them a chance to prove themselves.

One of the negative results of affirmative action, is the belief among many whites - a vast majority according to most polls - that affirmative action gives preference to unqualified blacks over qualified whites⁷¹. Such beliefs are compatible with stereotypes of black incompetence and may in fact cause black beneficiaries to doubt themselves and fail to perform as well as they are actually capable of. A widespread perception of incompetence inspired by preferential treatment lingers. As Cornel West puts it in *Race Matters* "mobility by means of affirmative action, breeds tenuous self-respect and questionable peer acceptance for middle-class blacks"⁷². Such "subtle" prejudice is much more difficult to overcome than the blatant, overt racism which excludes blacks openly on the grounds of race. While accepted under the banner of affirmative action, blacks are still seen as less capable, given an unjust leg-up because they cannot achieve on their own.

The debate over affirmative action has also raised basic questions concerning how applicants are selected for positions and promotions. While methods vary depending on the industry and occupation, standardized tests are often considered critical for many

⁷¹ See Sowell, Economics and Politics.

⁷² Cornel West, Race Matters (Boston: Beacon Press, 1993) 52.

positions and rules may specify that employment can be offered only to the persons with the highest score. Many private sector firms also administer similar tests to job applicants. The problem found with such standardized tests is that they have "a disparate impact" when results are broken down by race. In general blacks do not do as well as whites on such multiple-choice tests⁷³. The US Supreme Court in the 1971 case *Griggs v. Duke Power Co.* confronted this issue and ruled that employers who hired and promoted on the basis of such tests had to show that such examinations actually provided good forecasts of how people would perform at their jobs. As a result, it is frequently considered that placing less emphasis on standardized tests, and more emphasis on high school grades as well as the evidence of sustained effort to overcome initial disadvantages is a much fairer way to determine qualifications.

It is also argued, that affirmative action is no longer needed because racial prejudice is no longer a significant barrier to the advancement of qualified blacks in the US. Opponents point to evidence from opinion surveys to argue that white racism has declined so substantially, that the cause of black poverty and demoralisation must be blamed on other factors such as misguided government affirmative action policies which have drained initiative and have created a culture of entitlement among a substantial segment of the black population⁷⁴.

The outcome of surveys and studies of white racial opinion are actually quite ambiguous. Thernstrom and Thernstrom provide evidence from polling and survey data, of a decline in white prejudice over the past thirty years, arguing that it has diminished to

⁷³ West, *Matters* 52.

⁷⁴ Charles Murray, *Losing Ground* (New York: Basic Books, 1984).

such an extent that it is no longer a significant cause of black disadvantage⁷⁵. However, Orlando Patterson in his provocative book, *The Ordeal of Integration*, examining the same evidence, estimates that approximately a quarter of all white Americans are hardcore, unabashed racists⁷⁶. "Dominative" racism persists, he argues, even if it has declined substantially in the US over the past three or four decades⁷⁷. African-American men with professional degrees earn only 79 percent of the salary of their white counterparts. White professional women earn 72 percent of the salary of their male counterparts, while African-American professional women earn about 60 percent of the salary of a white man, despite the general assumption that women, particularly white women have been the prime beneficiaries of affirmative action. Thus, Patterson argues that the continued institutional and direct discriminatory biases against African-Americans and women in the workplace necessitate that affirmative action continue for at least another 15 years:

"The moral and political problems notwithstanding, the benefits of affirmative action far outweigh its costs. It must be viewed, however, as a medium-term solution. After a quarter of a century, the time has come to think not only how to extend it for awhile longer, but how to phase it out with as much grace and as little harm as possible. In doing so, we should consider both the areas to which the policy applies and the categories of persons who it should benefit."⁷⁸

While most agree that the situation of African-Americans as a group is better in many ways than it was before the civil rights legislation of the 1960s - ending legalized segregation and providing African-Americans with legal remedies against employment

⁷⁵ Thernstrom and Thernstrom, *America*.

⁷⁶ Orlando Patterson, *The Ordeal of Integration* (Washington, DC: Civitas Counterpoint, 1997).

⁷⁷ Patterson, *Ordeal* 142.

⁷⁸ Patterson, *Ordeal* 192.

discrimination which came to include affirmative action - many liberals believe progress since the 1970's has slowed and that there are current signs of greater economic or cultural deprivation due to the persistence of white racism, prejudice and discrimination.

A 1990 University of Chicago study cited by David Shipler also supports the view that prejudice has been persistent⁷⁹. Rather than ask people to agree or disagree with flat statements to the effect that blacks are less intelligent or lazier than whites - the University's National Opinion Research Centre asked participants to rank various ethnic groups according to intelligence, industriousness and willingness to be self-supporting rather than living on welfare. In response, 53.2 percent of a cross section of Americans said blacks were less intelligent than whites, 62.2 percent thought they were lazier, and 77.7 percent believed they were more likely to prefer welfare to employment. Such surveys, would in all likelihood have revealed even higher percentages of negative stereotypes 30 years ago. On the basis of such evidence, it is difficult to deny that low expectations of black abilities are still prevalent in US society and are likely to make many employers more reluctant to hire and promote blacks over qualified whites in the absence of affirmative action programs.

In 1996, the Clinton administration's call for a "national conversation on race" and its decision to reassess federal affirmative action policies ultimately produced no changes in federal policy. At the state level however, California Governor Pete Wilson launched an all out assault on affirmative action which resulted in a verdict by the Regents of the University of California to terminate that university's preferential admissions and hiring

⁷⁹ David K. Shipler, A Country of Strangers: Blacks and Whites in America (New York: Knopf, 1997).

policies. This shift in policy resulted in increased conflict between supporters and opponents of affirmative action in the state's higher education system.

Such recent cases suggest that opponents of affirmative action have gained momentum and that favour has shifted away from those who consider it an acceptable means for achieving racial equality. In California, the rollback of affirmative action has meant the virtual disappearance of African and Mexican Americans from the entering classes of the top University of California medical and law schools. At Berkeley, for example, offers of admission to black students for the 1998 school year have fallen by 57 percent, and to Hispanics by about 40 percent. At the University of California at Los Angeles, they fell by 43 percent for blacks and 33 percent for Hispanics⁸⁰. Whether other states will follow California's initiative to introduce bills to abolish or curtail affirmative action programs remains to be seen.

There remain profoundly troubling racial economic differences in the US and the emergence of what some have called an "urban underclass" in which blacks are substantially overrepresented. At the same time "racial preferences" are viewed as inherently unfair. Group entitlements based strictly on race are increasingly problematic and the very terms "racial preferences" and "reverse discrimination" are in themselves controversial.

The reality of racial discrimination and the history of selective state intervention in policymaking in the US helped to create a receptive environment for the development of government affirmative action programs aimed at ending racial inequality. However, American ideological commitments to the supremacy of individual identity over group

⁸⁰ Globe and Mail 10 June 98.

membership, a restrained central state and the liberal ideology of equality of opportunity have at the same time created disincentives for these programs. Preferential policies allocated according to ascriptive group criterion, especially race, challenge a central tenet of American political culture; namely that the individual, not the group, is the proper target of policymaking.

The Malaysian Experience - Affirmative Action based on Ethnicity

The Malaysian model of affirmative action is of particular interest to South Africa since parallels exist in terms of a majority benefiting from affirmative action programmes and racial differences coinciding with ethnic ones. Malaysia also resembles South Africa in as far as economic power is largely situated in the hands of an ethnic minority (Chinese) while political power has passed to the “sons of the soil,” the Bumiputra, as the population of Malay origin is referred to. However, a decisive difference from South Africa is the fact that a large segment of the majority, those living on the island Sumatra and the Bornean states of Sabah and Sarawak, entered the Malay federation much later historically than the minority of Chinese origin who are considered “foreigners”⁸¹. In the popular perception, they share their alien, colonial and exploitative role with South African whites who in future may well adopt similar policies of incorporation as practiced by the powerful economic minority in Malaysia.

Independence in Malaysia in 1957 brought to power the Malay community who constituted a majority by a slim margin. The post-independence government in Malaysia

was a coalition of three distinct ethnic groups; the Malays who constituted a bare majority (50%), the Chinese who were a sizable minority (39%), and Indians and others who made up a small minority (10%)⁸². Malays were predominantly Muslim, Chinese Buddhist and Indians largely Hindu. The Chinese population had migrated to Malaysia in the 19th Century when they were able to take advantage of the market economy created by the British and became a relatively wealthy trader and merchant community concentrated primarily in urban areas. The Malay population was divided between a small aristocratic class and a very large, rather poor and uneducated population who were concentrated in subsistence agriculture and smallholder rubber cultivation in rural areas. The popular perception of these groups therefore was that Malays were poor, Muslim and rural, the Chinese rich, urban and Buddhist, and the Indians Hindu bureaucrats in the cities or labourers on estates.

In the Malaysian case, affirmative action programmes were aimed at improving the economic position of Bumiputras (literally meaning 'princes of the soil') who consist primarily of Malays and other indigenous communities. This group enjoyed nominal political dominance although most of its members were economically disadvantaged. The remainder of the population (primarily Chinese and Indian) on the other hand are economically better off but theoretically politically subordinate to the Bumiputras. The distribution of economic and political power in Malaysia runs along ethnic lines. Malays in 1957 were concentrated in the lowest paying occupations - agricultural workers and fisherman: 73% of Malays were in this category, compared to 38% of the Chinese and

⁸¹ Ian Emsley, The Malaysian Experience of Affirmative Action (Cape Town: Human & Rousseau and Tafelberg, 1996) 7.

⁸² Linda Loxton, "Learning From Others," Die Suid Afrikaan 44 (May/June 1993).

44% of the Indians. Only 3% of the Malays were sales workers, whereas 16% of the Chinese and 9% of the Indians were in this category. This resulted in ethnic income inequality; in 1957, the mean income per Malay household (in Malaysian ringgit) was 139 per month, compared to 300 per month for Chinese and 237 for Indians⁸³. The group that enjoys the benefits of affirmative action policies in this case is the one who has political power to legislate them.

The Federal Constitution of 1957 included a clause in Article 153 which referred to “special rights for Malays,” granting certain privileges mainly in the form of government job quotas to improve their economic status. However, the Malays felt that not enough was accomplished in this initial programme, while non-Malays resented the fact that they were being discriminated against. Although they had the same status as Malay citizens initially, urban elites benefited most as rural Malays continued to live in poverty.

Following an increase in racial tension and a series of race riots in May of 1969, the Malay dominated government introduced the New Economic Policy (NEP) - a social and economic restructuring programme designed to be implemented over a twenty year period - to accelerate economic growth and provide additional special benefits, reserving for Bumiputras a proportion of positions in the public service and educational institutions, scholarships, and business permits or licences. The objectives of the NEP were 1) to reduce the incidence of poverty in Malaysia, thereby improving the socio-economic position of the Bumiputra and 2) to introduce affirmative action programmes

⁸³ Mah Hui Lim, “Affirmative Action, Ethnicity and Integration: The Case of Malaysia,” Ethnic and Racial Studies 8.2 (April 1985): 256.

seeking to eliminate the correspondence between race and economic function. The NEP sought to increase the number of Bumiputra in professional fields, to increase their numbers as owners of capital and to decrease their numbers in low wage agricultural occupations. Resources were provided for rural Malays including land settlement schemes, agricultural credit, and price supports. The formulation of the NEP in 1970 was based on the assumption that Malaysia was a growth-oriented economy in which the distribution of “an additional share of pie” was involved⁸⁴. The Congress specifically proposed increased government intervention and regulation to promote Malay economic interests, a strategy which found expression in the rapid growth of public enterprises after 1970.

This policy could be compared with the Afrikaner strategy to create jobs for poor whites in the civil service after the rise to exclusive political power of the National Party in 1948. The important difference though remains that in the South African case a minority extended state patronage to its ethnic constituency, while in Malaysia the state could legitimise its action by both majority support and the fact that it targeted the poorest section of its citizenry.

The public sector grew considerably as appointments in the civil service were made at a ratio of four Malays to one non-Malay. This phase was luckily supported by strong economic growth in which non-Malays were not squeezed out. While many non-Malays were resentful of the “special benefits” given, the Chinese leadership within the governing alliance was willing to comply. The Malay and Chinese elites had essentially struck a political bargain in which they managed to contain their conflicts, to negotiate a

⁸⁴ Emsley, Malaysian Experience 9-11.

solution and to strike an effective bargain⁸⁵. This enabled the Chinese business community to pursue an economic development policy by enabling multi-nationals to enter and the Malays to control the administration, the police, and the army. In this respect the Malaysian example may well be a pointer for likely developments of the post-apartheid polity of power sharing, although it may take much longer in South Africa for blacks to replace a white bureaucracy and security apparatus.

The economy of Malaysia grew at a rate between seven and eight percent per annum over the next twenty years, and the combination of economic growth and special benefits produced a strong Malay middle class. While nearly half the total population (49.3%) in 1970 lived below the poverty line, the incidence of poverty amongst the Bumiputra in 1970 was considerably higher (64.8%). By 1987 Bumiputra poverty had been halved to almost 23.8%⁸⁶. The rural poor also made considerable gains as a result of land settlement and development schemes, the growth of public education and the expansion in employment opportunities. A new rich peasant class in the countryside also began to develop which was predominantly Malay⁸⁷.

Government attempts to force the private sector to increase Malay participation faced greater obstacles than public and educational sectors over which it had more control. In 1970, Malay ownership of capital in the private sector was 2.4%. By 1985 it had grown to 18.7%. The Chinese in 1970 owned 34.4% of capital which grew to 47.7%

⁸⁵ Frank Jayasinghe and Radhika Coomaraswamy, "Some Observations on the Malaysian 'Restructuring of Society' Programme," Ethnic Studies Report 4.1 (January 1986) 71-78.

⁸⁶ Claudia Manning, "Affirmative Action in Malaysia Between 1970 and 1990: How Successful Was It, and What are The Lessons for South Africa," Issues in Development 1 (Johannesburg: Friedrich-Ebert-Stiftung, April 1993): 6.

⁸⁷ Myron Weiner, "Affirmative Action: The International Experience," Development and Democracy (Johannesburg: Urban Foundation, May 1993).

in the same time period. Foreigners in 1970 owned 63% which fell to 33.6% by 1985⁸⁸. Bumiputra presence in higher paying professional, technical, administrative and managerial occupations also rose substantially. In professional and technical occupations, Bumiputra membership increased from 47% in 1970 to 55.6% in 1988. In administrative and managerial occupations the increase rose from 24% in 1970 to 28.4% in 1988⁸⁹. Three sets of strategies were used toward this end: (a) The government legislated Malay quotas for the issuance of trading/business licenses and permits, ownership of equity and employment; (b) it provided special assistance such as credit, training, and business sites to Malay businessmen; (c) it undertook responsibility to acquire shares in private corporations on behalf of Malays. The economic growth rate in terms of overall share ownership of the corporate sector between 1970 and 1980 was 18.8% for non-Malays compared to 31.4% for Malays; the non-Malay share of corporate ownership increased from 34% to 40.1% while the Malays' grew from 4.3% to 12.4% during the same period⁹⁰. Foreigners owned the rest of the corporate sector, and their share decreased by 53% between 1970 and 1986. The economic growth of non-Malays measured in terms of ownership, occupation and income is seen to have slowed down compared to that of the Malays. However, both sides could see themselves as winners as there were no obvious losers in this growth period.

An emulation of similar developments in South Africa would not only presuppose rapid economic growth but also the emergence of a property/wealth owning black middle class. This African bourgeoisie has always been much smaller in the apartheid state and

⁸⁸ Jayasinghe and Coomaraswamy, "Some Observations," Ethnic Studies 74.

⁸⁹ Manning, "Affirmative Action," Issues in Development 8.

was mainly confined to a better-off professional and bureaucratic bourgeoisie with higher status⁹¹ rather than being comparable to the traditional, wealthier, aristocratic elite among Malays.

The strategy behind the Malay Special Rights Program, has been to redress ethnic inequality rather than inequality *per se*. In essence the class structure found in non-Malay communities has been reproduced in Malay society. Critics such as Jomo⁹² have argued that the NEP is symbolic of the government's efforts to enrich the Bumiputra middle class:

“the prime beneficiaries and advocates of the NEP are drawn from the ranks of the politically well-connected in the Malay middle class and business communities who exercise an inordinate influence on government policy-making and implementation.”⁹³

Thus, the middle and upper class Malays have been in the best position to take advantage of the benefits, resulting in increased ethnic tensions between the lower sections of the population who vie for the same resources. Inequality within the Malay community has produced some ruptures within itself. This intra-ethnic class conflict has manifested in several ways. For instance, organisations such as the state Malay Chamber of Commerce that represent primarily the interests of small businessmen have criticised government policies that favour big business while organisations of Malay workers have struggled against low wage rates set by their own ethnic entrepreneurs as well as Chinese

⁹⁰ Lim, “Affirmative Action,” Ethnic and Racial 258-267.

⁹¹ See Leo Kuper, An African Bourgeoisie; Race Class and Politics in South Africa (London: Yale University Press, 1965); and Thomas E. Nyquist, Toward a Theory of the African Upper Stratum in South Africa (Centre for International Studies, Ohio: Ohio University, 1972).

⁹² K.S. Jomo, Beyond 1990: Considerations for a New National Development Strategy (Kuala Lumpur: University of Malaysia, Institute of Advanced Studies, 1989).

⁹³ Jomo, Beyond 16.

factory owners.

Several studies criticising the affirmative action policies in the Malaysian education system have also highlighted increased benefits to the more affluent rather than the poorer Bumiputra⁹⁴. Tzannatos⁹⁵ argues that the quota system in education has resulted in granting better off Bumiputra scholarships at the expense of poorer Malays in greater need. He advocates an approach which would focus on the socio-economic rather than the ethnic background of students.

While overall there has been a reduction of income differentials between Bumiputra and non-Bumiputra, as Manning⁹⁶ points out income inequality within the Bumiputra group itself seems to have worsened significantly in the period of the NEP. This is most likely due to a disproportionate emphasis on improving the economic position of middle-class Malays and the disproportionate benefits received from richer Bumiputra from affirmative action education policies.

Malaysia's experience with affirmative action is one of the rare cases of success, if success is measured in terms of the extent of economic improvement in the overall position of Bumiputras. The political hegemony which Malays enjoy and have used to promote the Special Rights Program have advanced Bumiputras in terms of educational opportunities, employment, occupational mobility, ownership of small businesses as well as in large corporations. Malaysia has also been relatively successful in reducing

⁹⁴ Z. Tzannatos, "Reverse Racial Discrimination in Higher Education in Malaysia: Has it Reduced Inequality and at What Cost to the Poor?" International Journal of Educational Development 11.3 (1991); and K.S. Jomo, Beyond 1990: Considerations for a New National Development Strategy (Kuala Lumpur: University of Malaysia, Institute of Advanced Studies, 1989).

⁹⁵ Tzannatos, "Reverse," International; and Jomo, Beyond.

⁹⁶ Manning, "Affirmative Action," Issues.

disparities among its ethnic communities, while at the same time managing ethnic conflict. Unlike Malaysia's sister countries in South Asia, Malaysia has not experienced a resurgence of communal violence since 1969. It is often argued that the Malaysian model has been a successful experiment in pluralism⁹⁷ due to the growth of a sophisticated Malay managerial elite within the state sector and the nature of the Malaysian state. Horowitz suggests that Malaysia has been successful in managing ethnic conflict because its leaders "began working on inter-ethnic accommodation early in relation to independence"⁹⁸. Malaysia is one of the few countries to include a form of affirmative action in its constitution to correct ethnic imbalances in income and wealth. Mah Hui Lim⁹⁹ argues however, that the affirmative action programme as it is purely conceived in terms of ethnicity, cannot contribute to social unity because the conventional idea of a minority which is discriminated against politically, economically and socially does not apply to Malaysia. While Malays are economically disadvantaged, they are politically dominant, the opposite being true for non-Malays. Therefore, Lim argues, who constitutes a minority and should receive special assistance is ambiguous.

However, if a minority is defined neither in numerical terms nor in terms of political power but as a continuously disadvantaged group in as far as its share of the country's material resources are concerned, the Malaysian policy can be said to have empowered a minority. Similarly, were an ANC dominated government to adopt similar

⁹⁷ Lim, "Affirmative Action," Ethnic and Racial 258-267; Jayasinghe and Coomaraswamy, "Some Observations," Ethnic Studies 71-78; and Weiner, "Action," Development.

⁹⁸ Donald L. Horowitz, "Incentives and Behaviour in the Ethnic Politics of Sri Lanka and Malaysia," Third World Quarterly (October 1989) 24.

⁹⁹ Lim, "Affirmative Action," Ethnic and Racial 272.

policies, it would support an economic minority of a historically disadvantaged section of the population.

The Malay political elite, although so far successful in containing ethnic conflict, are flanked by the Islamic party on their right which demands that more be done to make Malaysia a Malay nation. On their left are minorities who dream of a secular democracy based on the equal opportunity model. A new class of urban poor also seem receptive to a call from either fundamentalism or left politics. It remains to be seen whether Malaysia's economy continues to grow and political struggles remain marginalised as negotiation and conciliation among the elite continue to facilitate conflict resolution, or whether the conflict and tension in Malaysian society surfaces.

The Indian Experience - Affirmative Action based on Caste

Preferential policies in the form of job reservations, subsidies, scholarships and political representation were introduced by the British in India, Sri Lanka and Malaysia and grew at a rapid pace following independence. India may well have the largest and arguably one of the oldest affirmative action policies in the world. The reservation system was designed as a means of reducing disparities in India's hierarchical caste society.

Discriminated against for centuries, the Scheduled Castes in India suffer from extreme social and economic deprivation. Treated as pariahs within Hindu caste society because they engaged in occupations which were regarded as unclean and polluted, they include about 100 million people (15% of the population) at the bottom of Indian society, and are listed as "Untouchables" in the Government of India Act of 1935. By any poverty

standard, they are among the poorest, most deprived people in that society¹⁰⁰. Even today they continue to suffer from social and economic vulnerability as nearly half (48%) work as agricultural labourers, compared with only 25% in the general population¹⁰¹. Furthermore strains of stigma are still reflected in present day references to them as the “Backward Classes.”

The Scheduled Tribes, the aboriginal peoples of India, suffered from a similar history of caste prejudice and economic poverty. Geographically concentrated and comprising 7% (fifty million people) of the population, the Tribes are isolated in segregated and inaccessible areas. Since 1950 both the Scheduled Castes and Tribes, as “historically disadvantaged groups” have received preferential treatment in the form of reserved quotas for positions in government, legislature and educational institutions¹⁰².

Although the Indian Constitution proclaims equality for all and prohibits discrimination, special provisions “for the advancement of any socially and educationally backward classes of citizens” are incorporated in a policy to benefit India’s historically disadvantaged people in which three groups are targeted. Article 46 of the Constitution directs all states: “... to promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation”¹⁰³. In addition to Constitutional guarantees, preferential policies required

¹⁰⁰ Michael Mahar, The Untouchables in Contemporary India (Tucson: Uof Arizona Press, 1972).

¹⁰¹ Rita Jalali, “Preferential Policies and the Movement of the Disadvantaged: The Case of the Scheduled Castes of India,” Racial and Ethnic Studies 16.1(January 1993): 96.

¹⁰² Christoph von Furer-Haimendorf, Tribes of India: The Struggle for Survival (New Delhi: Oxford UP, 1985).

¹⁰³ Constitution of India 2nd ed. (New Delhi: Lucknow Eastern Book Company, 1981) 7.

that seats in parliament and other elected bodies be reserved for Scheduled Castes and Tribes in proportion to their population in each state. Special reservations in government service and in admissions to schools, colleges, medical and engineering programmes were also required. The Indian state deliberately planned to use legislation to reorder an entrenched social structure. The policy does not apply to jobs in the private sector.

In India the adoption of preferential policies occurred much earlier than in the US and there were, initially, relatively few objections to the establishment of a system of quotas for designated groups. The caste system as a social phenomenon determined by the ascriptive factor of birth contributes to the persistence of inequality according to values appropriate to traditional agrarian hierarchy.

In pursuance of the mandate contained in the Constitution, the Government of India appointed the First Backward Classes Commission in 1953. At that time none of the recommendations of the Commission were accepted. The term 'Other Backward Classes' (OBC) is used to describe the totality of groups entitled to preferential treatment on the basis of their traditionalism and exclusion. The term refers specifically to those backward groups other than Scheduled Castes and Tribes. In 1978 the government of India ordered a new investigation to examine, this time, the special provisions for OBCs. The new commission was chaired by a retired civil servant named B.P. Mandal and included distinguished scholars as its members. The terms of reference of the Mandal Commission were as follows:

- 1) to determine the criteria for defining the socially and educationally Backward Classes,
- 2) to recommend steps to be taken for the advancement of the socially and educationally Backward Classes of citizens so identified,
- 3) to examine the desirability or otherwise of making provision for the reservation of appointments or posts in favour of such Backward Classes

of citizens which are not adequately represented in public services and posts in connection with the affairs of the Union or of any state,

4) to present to the President a report setting out the facts as found by them and making such recommendations as they think proper.¹⁰⁴

By the time the Mandal Commission delivered its recommendations in 1981, the Janata government under which it had been appointed had been dissolved and Indira Gandhi and her Congress party were once more in power. The Mandal Commission identified 3, 943 castes covering 52 per cent of the total population as OBCs. However, due to legal constraints that total positions reserved not exceed 50% for all categories this reservation was limited to 27 per cent in government services and educational institutions. The report of the Mandal Commission was placed before parliament in 1982 for debate where all political parties were relatively receptive to the recommendations of the commission. OBC's had become a politically powerful electoral force in the 25 years since the Kalelkar Commission had delivered its first report. However, the Mandal Commission which was established by one government but reporting to another had its recommendations accepted and then ignored until 1990 when its report was resurrected by V.P. Singh's minority National Front government. The V.P. Singh government issued an executive order to reserve 27 percent of all posts in the central services for "Other Backward Classes".

The decision to implement the long dormant Mandal Commission recommendations were largely motivated by the loss of an important North Indian leader, Devi Lal, who commanded strong voter support amongst lower-caste small scale farmers

¹⁰⁴ India. Report of the Second Backward Classes Commission 1980 1 (New Delhi: Government Printers, 1981): 1 - 4.

in north India¹⁰⁵. V.P. Singh as an aristocratic north Indian lacked appeal for this highly sought after voter bloc. The implementation of the Mandal Commission report was a means of demonstrating commitment to that electoral group. As Rupa puts it, "surrendering social policy to the exigencies of vote banks was perhaps a 'momentous decision of social justice' but it was geared towards a system in which reservation was a political card and the quotas tailor-made for votes."¹⁰⁶

The ensuing political controversy which erupted following Singh's announcement on August 7, 1990, that the government would immediately begin implementing the Mandal recommendations on OBC reservations, was unprecedented in its scope and intensity. Mass students strikes, riots and destruction of property continued for more than two months and severely undermined the strength and credibility of the government, contributing to its fall later that same year. Due to the sustained strikes and protests by students within the capital city, V.P. Singh withdrew the plan for implementation of OBC reservations in higher education and limited them to central government employment. This concession was not enough however, and conflict escalated as young people and college students began to burn themselves alive, citing Mandal's policy as their motivation.

The decision by the V.P. Singh government to implement the long forgotten Mandal Commission Report resulted in raising dormant caste antagonisms. A new generation of young Indians guided by the principle of equality and secularism protested against the very principle of caste-based reservation. These demonstrations exposed the

¹⁰⁵ C. Rupa, Reservation Policy: Mandal Commission and After (New Delhi: Sterling Publishers, 1992) 89 - 91.

¹⁰⁶ Rupa, Reservation 89.

ad hoc manner in which the reservation issue was also used for partisan political ends culminating in the resignation of the V.P. Singh government.

Finally, the Mandal policy was put before the Supreme Court which held in late 1992 that the government's plan was constitutionally valid, and that caste could be taken into consideration as one of a number of factors when targeting groups for preferential treatment¹⁰⁷. The Court also said that "socially advanced persons" as well as certain sections of OBC's should be excluded while implementing the recommendations. This section was deemed the 'creamy layer'¹⁰⁸. An expert committee headed by a former judge, Ram Nandan Prasad, submitted its guidelines on March 16, 1993. Seven guidelines identified the 'creamy layer' as follows:

- 1) Persons holding constitutional privileges such as the President, Vice-president, Judges of the Supreme Court and the High Courts, Chairman and members of U.P.S.C. and State P.S.C's, Chief Election Commissioner,
- 2) Class I Officers of All-India, Central and State Services,
- 3) Families of Class II Officers, if both the parents are in the job category,
- 4) All non-government professionals and people in trade and business would be excluded from the purview of benefits on the basis of income tax and wealth tax assessment,
- 5) Officers, corresponding to Class I and Class II categories in government, in institutions such as public sector undertakings, banks, insurance organisations, and Universities and equivalent or comparable posts under private employment,
- 6) Officers in the position of colonel and above in the Army and equivalent posts in the Navy, the Air Force and the Paramilitary forces,
- 7) For those belonging to a family which holds irrigated land, the exclusion limit is on the basis of the land owned by family. The

¹⁰⁷ Rupa, Reservation 89 - 91.

¹⁰⁸ Report of the Expert Committee cited in Venkateih Rama Krishnan, "The Cream of Contention," Frontline (23 April 1993): 43-46.

family is excluded if it has irrigated land equal to or more than 65 percent of the statutory ceiling area.¹⁰⁹

These guidelines are significant in that they take into consideration economic status in determining who should be excluded from benefits. This represents an advance on other affirmative action policies which focus only on ascribed characteristics. To what extent economic status should be used to exclude certain persons from reservations regardless of their position in the centuries-old caste system remains contentious. At the same time the committee warned against the danger of equating financial progress with social advancement.

The Congress, the party in power at the time, and the prime minister Narasimha Rao who had succeeded Rajiv Gandhi as party leader after the latter's assassination, announced their intention to comply with the Supreme Court decision and implement the Mandal report as soon as was practical. Although there was anticipation of conflicts in New Delhi and several state capitals, widespread opposition never materialized. Some leaders of the 1990 riots called for protests, but they were unable to generate much support and the issue soon faded from the public limelight. The Supreme Court's ruling took away some of the protester's ideological justifications and claims that the policies were unconstitutional lost much of their worth.

In India, the importance of special provisions or reservations grew as an increasing number of groups were brought into the political system. Reservation policies have become politically volatile and of vital importance for many Indian parties in signalling emerging electoral blocs of party interest. At the same time however, reservations are politically contentious because policies emerge from enduring

¹⁰⁹ Report of the Expert Committee, "Cream," Frontline 44-46.

inequalities generated by the caste system. They create strong attachment amongst their target groups and hostility amongst groups they fail to include. Preferential policies in this case lead both to the inclusive participation of groups while at the same time alienate beneficiaries from other groups which do not share the same ascriptive characteristics. Because politicians are constantly seeking new votes, issues of power relations and coalition building continually arise.

The implementation of reservation policies has led to circumstances in which they are seen as necessary to ensure the support of OBC's. While few Indian parties can afford to abandon the still-powerful traditional high and middle-caste elites - on whom they depend for expertise and financial resources as well as votes - they also rely on the large electoral blocs delivered by poorer groups. Despite demographic, historical and political differences and the conflicts they engender, reservation policies are adopted across India largely because they represent a way to solidify electoral support. Political coalitions become a central issue as the electoral benefits of backing reservations are too great to ignore. In the case of Indira Gandhi, affirmative action measures were a key part of her new policy thrust. They were successful both in attracting newly mobilized groups and in activating potential new vote blocs.

The national riots in 1990 sparked by the decision to implement the Mandal report led many to assume that reservation policies might not last long. However, the sheer number of citizens targeted by the policies and the importance they assign to reservations has mitigated against such a predicted demise. Party leaders have a heightened awareness that policies are symbolically very meaningful to their prospective voters, which they cannot afford to ignore.

As a growing number of OBC's are able to take advantage of the reservations offered one may see divisions increase within the target groups themselves. As scarce resources become increasingly contested, deprivations felt by the middle and upper castes may grow more intense and jeopardize the present equilibrium. In India, electoral demographics to a large extent maintain reservations even when they are less than optimal in terms of social outcomes. Once these preferential policies were in place, various state governments became interested parties in their maintenance. Support for reservations in India is widespread amongst benefiting groups despite evidence that benefits are largely limited to the most educated stratum already equipped with the requisite minimum skills and motivation to enter the modern sector. The vast majority who remain isolated in the countryside or live at the bottom of urban society are ill prepared to take advantage of these policies. As Singh and Sharma argue:

"...the policy of reservation fractured Indian society. Had job quotas and admission to technical institutions initiated a process of effecting social reforms and improving the lot of the lower castes India would have had a target to achieve. But now the attention is on the vote bank, the political fallout of reservations. Consequently, the people of lower castes continue to live separate and distant in the countryside."¹¹⁰

While caste in India may have declined in its ritualistic importance, it has gained new importance on the political front. The "politicization" of caste has become increasingly evident. As caste-based pressure groups vie with each other to secure privileges, caste-identity appears to have increased rather than decreased as certain sectors developed interests in retaining or reclaiming their 'backward' status as a result of reservation policies. As Rupa argues,

¹¹⁰ Gopal Singh and Hari Lal Sharma, Reservation Politics in India: Mandalisation of the Society (New Delhi: Deep and Deep Publications, 1995) 128-129.

"after forty-three years the extension of reservations of a caste basis will result in an Indian version of apartheid, an emotional balkanisation, a form of reverse discrimination that will not result in the harmonious and cohesive functioning of society. When the country has already arrogated to itself a significant position as an industrial, scientific and progressive nation it would be destructive to turn the clock back and return to caste, linguistic and religious differences." ¹¹¹

Thomas Sowell has pointed out that reservations are difficult to remove however temporary they were initially meant to be, and that communities covered by reservations will inexorably increase¹¹². Both of these experiences have been seen in the South of India where reservations of various types were first introduced on a wide scale under British rule. The province of Karnataka has provided a 40% quota for 16 communities, 129 castes and 62 tribes since 1979¹¹³. Tamil Nadu has provided a 31% quota for 105 backward castes and communities since 1972¹¹⁴. It seems unlikely that groups now entitled to reservations will ever voluntarily relinquish them. The reservations of Scheduled Castes and Tribes appears so deeply entrenched in various preferential policies at all levels of government that, although there may be some changes in administrative detail due to high and middle caste pressure, the policy seems likely to continue.

Evidence thus far suggests that caste consciousness is increasing as new organisations have formed to mobilise groups. Over the last fifteen years there has been a tremendous rise in the political mobilisation of Scheduled Castes. As Rita Jalali suggests, one of the results of India's preferential policies is that there has been a critical shift in

¹¹¹ Rupa, Reservation 160.

¹¹² Thomas Sowell, Preferential Policies: An International Perspective (New Haven, C.T.: William Morrow and Co, 1990).

¹¹³ Marc Galanter, Competing Inequalities: Law and the Backward Classes in India Berkeley: U of California Press, 1984) 182-183.

¹¹⁴ V. Venkatesan, "Mandal's Impact Already in Tamil Nadu," Times of India 5 August 1990.

the self-perception of Scheduled Castes¹¹⁵. Whereas previously, educated Scheduled Caste individuals with secure government jobs were reluctant to reveal their caste backgrounds to outsiders, now by becoming a member of a Scheduled Caste organisation they publicly and unashamedly announce that they are part of the Untouchable community. It is interesting in this sense to note the implications which state actions may have on the behaviour of disadvantaged minorities and whether new forms of group awareness and mobilisation occur as a result of preferential policies. In this sense reservations in India have played a role in the political participation and feelings of political efficacy among the disadvantaged.

The Indian experience of affirmative action is defined quite rigidly in terms of quotas. Some degree of equality was achieved among a small and growing middle class of untouchables and tribals. There is a delicate balance in a compromise which accommodates “backward-class” pressure but avoids purely ascriptive criteria for reservation and prevents “affluent” “backward-class” individuals from acquiring unjust preference. India’s failure to deal with disparities between rich and poor however, has to be seen in the context of a country that has a very low economic growth rate at a time when few resources were available for expansion in education and other social services.

India’s experience seems only of limited value for South Africa for the obvious reason that caste-like differentiation of the black African majority population does not exist in quite the same way. Any attempt to denote especially disadvantaged sections when apartheid uniformly discriminated against all on the basis of race would cause more

¹¹⁵ Jalali, “Preferential,” Racial and Ethnic 99.

problems than it solves. However, along the lines of the Indian Supreme Court's "creamy layer" modification of the Mandal policy, it is conceivable that race-blind criteria such as income or residence in rural areas could be considered as criteria for redress measures in South Africa. Whether such equalisation policies of preferential treatment for disadvantaged sectors qualify as affirmative action is a matter of definition and will be discussed later. For this comparative evaluation, affirmative action is confined to groups designated by ethnic origin, race, gender or religious stigmatisation as in caste order. Particularly in cases where groups have internalised their inferior status in what Ogbu¹¹⁶ refers to as "caste-like minorities", active state policies of preferential treatment may be necessary to overcome this "self-racism." On the other hand, South African subordinates hardly ever identified with their ascribed status, as in the caste order, and therefore require different policies for equality than a psychological liberation from internalised subordination demands.

Canada's Affirmative Action Policy of Employment Equity

In Canada affirmative action is based on a combination of four target groups: aboriginal people, women, visible minorities and the "the handicapped." Like the United States, Canada has sought not only to prevent discrimination by individual employers in practices which so often have militated against the hiring of minority groups, but also to aid in the offsetting of systemic discrimination by providing programmes of affirmative

¹¹⁶ John Ogbu, "Diversity and Equity in Public Education: Community Forces and Minority School Adjustment and Performance," Policies for America's Public Schools: Teachers, Equity and Indicators eds. R. Haskins and D. MacRae (Norwood, N.J.: Ablex Publishers, 1988) 127-170.

action. While the U.S. began formulating their policy – affirmative action – by the late 1960s, Canada did not begin to work on a coherent policy until the 1980s.

Canada's version of affirmative action - Employment Equity - was introduced in 1986 and is composed of three parts; one programme for Employment Equity in the Federal Public Service, and another that applies to the private sector: the Employment Equity Act, and the Federal Contractors Program. Similarities between the American and Canadian programmes are due in large part to the twenty year head start of the American government and academic community over Canadian government action in an environment of common communications and media structure.

The debates which emerged in the United States during the 1970s had two effects on the way in which Canadian policy was formulated. The first was seen in the naming of Canada's policy. The Equality in Employment Royal Commission Report (also known as the Abella report) argued that a new term, "employment equity", which was more accurate and less destructive to reasoned debate, be adopted to describe programmes of positive remedy for discrimination in the Canadian workplace¹¹⁷. The second influence which the U.S. had on Canadian equity programmes was that regarding the issue of quotas. Canadian policy makers at no time seriously considered quotas.

Canada's aboriginal people, 2% of the population, and blacks, 0.8% of the population who reside primarily in Nova Scotia (who had migrated as slaves or escapees from U.S. slavery) are colonised groups who, according to the Nigerian sociologist John Ogbu¹¹⁸, form "caste-like minorities." Until recently these groups had frequently

¹¹⁷ Rosalie Abella, Equality in Employment: A Royal Commission Report (Ottawa: Canadian Commission, 1984).

¹¹⁸ John Ogbu, Minority Education and Caste (New York: Academic Press, 1978).

internalised their stigmatisation with low self expectations, underachievement, and “self-racism.” Many aboriginal people live in isolated areas where externally based exploration companies would not hire local labour unless compelled to do so by the state. Women and aboriginal people have not escaped from age-old role stereotyping and the disabled also face an objective disadvantage in the market. Immigrants from Third World countries make up the remaining bulk of Canada’s visible minorities, and many enter the country in search of economic improvement and better life chances.

The parameters which shaped Canadian policy are very different from the environment in which U.S. policy developed. Canada’s aboriginal population was much more isolated from mainstream Canadian society than blacks in the U.S. Overt acts of discrimination against visible minorities, such as racial immigrant selection and selective banning and taxation of Asian immigrants, marked Canadian history until the post-war period.

The Courts in Canada concluded that the right of an individual to equality under Section 15 of the Charter of Rights, depends fundamentally on what kind of group that individual represents in making an appeal to the courts; that is whether they can claim to be a member of a “socially, politically or historically disadvantaged group.” This is not a case of group rights overriding individual rights; but a case of group *histories* determining individual right.

Canadian employment equity policy has a history which includes the establishment of non-discriminatory employment statutes in most provincial jurisdictions during the 1950s and 1960s. These employment acts typically prohibited racial and religious discrimination and prescribed equal pay for men and women for the same job

classification. During the 1970s and 1980s there was increasing pressure relating to women's equity issues, and then for other minority groups. Special programmes were brought in during this time by federal, provincial and municipal governments. These programmes included special training initiatives, municipal human resource analyses to identify equity concerns and potential initiatives to address workforce composition especially with regard to gender imbalances, as well as various provincial or federal departmental efforts to encourage voluntary affirmative action by major employers, such as the hiring of Native people for Northern projects¹¹⁹.

More formal steps were taken in the late 1970s. In 1977 Parliament enacted the Canadian Human Rights Act and in 1978 the federal government launched a fairly vigorous affirmative action programme aimed at the private sector, with federal contractors and Crown corporations being targeted the following year. However, these voluntary programmes, while much espoused publicly, were actually having very little real impact in the workplace. The gender gap in employment fields and incomes remained significant and there clearly was continued systemic discrimination in hiring practices. By 1984 concerns over the lack of effective action led to legislation in the form of the Employment Equity Act, Bill C-62, being introduced in Parliament in 1985 and being enacted in 1986.

The Employment Equity Act applies to federally-regulated employers (such as banks, communications and transportation companies) and to Crown corporations with 100 or more employees. Any company subject to the Employment Equity Act is

¹¹⁹ Canada. Employment and Immigration Canada (CEIC), Discussion Paper on the Employment Equity Act (Ottawa: Employment Equity Branch, 1990).

“required to take the necessary action to achieve equality in the workplace” and “an employer shall ensure that persons in designated groups achieve a degree of representation...that is at least proportionate to their representation in the work force or in those segments of the workforce that are identifiable by qualification, eligibility or geography.”¹²⁰

The other mandatory equity programme, the Federal Contractors programme, also applies to companies with 100 or more employees and/or contracts of over \$200,000; as a prerequisite to bidding for federal government contracts, these companies must sign a certificate of commitment to implement a range of employment equity criteria. The process for meeting the requirements of these two mandatory programmes includes a required analysis of the company workforce to identify the placement of designated groups, planning in conjunction with employees to develop and implement employment equity plans to eliminate barriers, to adopt positive actions toward redressing imbalances and finally to report out to the government¹²¹.

Canadian equity legislation practice, therefore relies heavily on providing information and other assistance to employers in dealing with what can be viewed from one perspective as a special human resource planning goal. Unlike the United States, the programme does not provide for the setting up of quotas or clearly identified targets for participation of designated groups. Labour market information on wide occupational group participation and the availability of designated group members is made available both to employers to assess their own performance against the public, or to designated group organisations, in order to assess companies individual performance in meeting the

¹²⁰ Canada. Employment and Immigration Canada (CEIC), Annual Report: Employment Equity Act (Ottawa: Employment Equity Branch, 1992): 47.

¹²¹ Canada. Employment and Immigration Canada (CEIC), Discussion Paper on the Employment Equity Act (Ottawa: Employment Equity Branch, 1992).

equity intent of the programme. If companies do not perform under this programme, Employment and Immigration can lay charges for non-compliance of the reporting process. Reporting requirements comprise the only legal area for enforcement under the Canadian Act. There is no provision for enforcing sections which would require employers to develop and implement employment equity programmes. This lack of monitoring and enforcement provisions is a major concern both to beneficiaries and to employment equity practitioners. Generally the setting up of goals and self imposed targets and the provision of information on the availability of designated group workers is only as successful as an employer is interested and willing. However, there are provisions for members of designated groups to file complaints based on annual company reports which are sent to the Human Rights Commission. The Human Rights Commission has in some cases itself initiated actions against employers. Public scrutiny of employers' records can certainly provide motivation for employers to try and address their employment equity issues to a certain extent. This politics of embarrassment hopes that exposure and negative publicity will lead to voluntary compliance.

Many members of advantaged majorities are uneasy about the motives that underlie affirmative action programmes, and object to the implication that group affiliation rather than individual merit should determine social mobility. In a recent letter to Canada's national newspaper *The Globe and Mail* Margaret Hageman's defense of employment equity denies that it will violate the merit principle; "Employment equity does not reduce the standards that determine which candidates are qualified for jobs, as people are only hired or promoted if qualified for a new position"¹²². Similarly, the

¹²² Margaret Hageman, "Letter to the Editor," *The Globe and Mail* 11 September 1993.

former president of the National Action Committee on the Status of Women, argues that determinations of merit are “very subjective.” Rebeck asserts that employers “hire the people they can relate to best, which is often people of the same gender or culture...employment equity counters those biases by ensuring that people are hired without discrimination”¹²³. Canada’s policy, she has argued, is not about exclusively hiring women and minorities; it is about leveling the playing field. The counter-argument to this is that “to hire or promote according to merit would mean not to choose any qualified candidate, but to choose the best-qualified”¹²⁴. To pass over the best-qualified candidate in favor of someone who is less qualified but who belongs to a favoured group is to dispense with merit.

This Canadian process is viewed by many as insufficient in the employment equity field. Two employers were charged with non-reporting in the first three years of the policy and some complaints were made under the Human Rights Commission. Results from the reports at the same time have shown very little progress in addressing equity concerns. Women continue to be paid less than men in almost all occupational groups and all sectors. There is a significant lack of progress into non-traditional occupational fields for women and they continue to dominate clerical positions. Aboriginal people continue to be under-represented in the population and workforce. Native people’s salaries are typically lower than those of other workers and they continue to be under-represented in most occupational groups, especially management and professional areas. The representation of visible minorities in the workforce has

¹²³ Qtd. in The Globe and Mail 31 August 1993.

¹²⁴ Globe and Mail 31 August 1993.

increased from 5.5% to 7.5% in the five years to 1991 compared with their share of 6.3% in the 1986 census. However the visible minority population will have also increased significantly from 1986 to 1991 due to immigration flows, so it seems likely that this still will not meet the overall labour market participation. Once more the reports have shown little change in the representation of visible minorities in occupational fields such as management, where they continue to be under-represented. Similarly the disabled percent of the reporting employers workforce has increased slightly, although it remains lower than their representation in the population¹²⁵.

The five year results from the Equity Program show that the employment equity process in Canada, relying as it does on incentives, information and more on goodwill than externally stated targets for affirmative action, has not met the goals set out in the mid-1980s. The Canadian equity policy's emphasis on qualitative actions may improve the worklife of some individual employees but does not do much to increase employment in different job areas for minorities and women as a whole. The policy lacks legal sanctions against companies which do not properly and fairly deal with equity issues. As long as companies file annual reports, they can simply continue to argue that they are trying but are unable to achieve equality.

A Comparative Analysis of International Experiences

The different types of interventions outlined in the countries above have been quite varied – from designated quota systems to a more flexible range of preferential

¹²⁵ Canada. Human Rights Commission, Annual Report (Ottawa: Government of Canada, 1992).

policies. Numerous distinctions exist among the different approaches adopted by each country under specific historical and political circumstances. Generally however, two different types of affirmative action, designed to redress the historical disadvantage of certain groups, seem to emerge.

The first type is an extension of the principle of non-discrimination, which aims at overcoming discriminatory obstacles that stand in the way of equality of opportunity. Equal chances of gaining employment are stressed. These policies include attempts to eliminate discrimination in hiring practices including those that have unintended discriminatory effects e.g., job requirements that are not job related (such as height requirements for police and fire departments) and disproportionately impact on minorities. They would also incorporate race and ethnic conscious policies intended to expand the pool of qualified individuals, such as training programmes to upgrade skills, bridging programmes in higher education to enable students who lack adequate preparation to catch up, financial assistance for qualified students who could otherwise not attend school, subcontracts and loans to minority businesspeople and so on. These policies are intended to specifically benefit members of disadvantaged communities, offering improved access to education and employment which entail efforts on the part of universities, government and private sector groups to include those previously excluded.

The second approach relies on fixed outcomes by specifying quotas. Clear goals are based on the notion of “equality of results”. Result oriented policies are ones which usually aim for proportional representation in education, employment, income and wealth among ethnic/race groups within a country. According to this concept each group should ideally be proportionally represented in schools, universities and across the employment

spectrum. Certain places are often reserved for members of disadvantaged groups, often with the requirement that individuals demonstrate a level of competence above a prescribed minimum¹²⁶. This type of preference was seen at issue in the Bakke case in the US. Opponents argue that in order to fill quotas, standards are usually lowered by employers or institutions that seek to meet a certain target goal. Quotas generally have created heated controversy in the countries examined while the first type of equality of opportunities has been more readily accepted. The controversy about quotas results from the excluded groups having the potential to impair the political and economic order of a country as in Malaysia.

Although affirmative action programmes stress that they are no substitute for adequate qualifications, they are almost always perceived as overriding merit with ascriptive assets. An atmosphere develops in which preferred groups are expected to be less competent than others. In this sense they may lead to setbacks rather than success. As controversies about affirmative action intensified in the U.S., some white patients who had sought the services of black doctors ceased to do so. At Harvard, after a local newspaper published an article criticising affirmative action, a number of white patients refused to be examined by black medical students¹²⁷. In these instances race was restigmatised.

The impact of preferential policies on group identities and on the way in which people organise to make demands also has the potential of strengthening identities on the

¹²⁶ Alan H. Goldman, *Justice and Reverse Discrimination* (Princeton, N.J.: Princeton UP, 1979) 5.

¹²⁷ W. Williams, "On Discrimination, Prejudice, Racial Income Differentials and Affirmative Action," *Discrimination, Affirmative Action and Equal Opportunity* eds. W.E. Block and M.A. Walker (Vancouver: Fraser Institute, 1982).

basis of race, religion, language and caste. In the U.S., for example, affirmative action was initially intended to benefit the black minority. However other groups subsequently demanded that they too be included among the beneficiaries; Native American Indians, Hispanics, Asian Americans and women followed. Each of these groups suffer from discrimination and were therefore included although the beneficiaries comprise very diverse communities from disadvantaged Mexican Americans and Puerto Ricans, to the better educated and more prosperous Cubans. The Asian American community was included too although some are educated migrants who came to the country after 1965 and did not suffer from the effects of an earlier generation.

A similar situation existed in India where benefits were extended to other backward classes which did not share the same disabilities as the Scheduled Castes and Tribes. In India, individuals applied for reclassification to the “untouchable” class, even after a generation of conversion to Christianity, clearly to gain entrance to a coveted university seat¹²⁸. People will most likely seek to classify themselves according to preferential policies or quotas once there are benefits to be derived. Once criteria such as “race” or “caste” becomes an asset through affirmative action programmes, minorities develop an interest in perpetuating their racial or caste group membership instead of dismissing it as irrelevant.

There are also questions about the motives out of which affirmative action policies are adopted. This is most obvious in the case of a numerically dominant social class adopting affirmative action as an exercise in expanding its political power in

¹²⁸ Lewis Killian, “Affirmative Action and Protective Discrimination: A Comparison of the United States and India,” Occasional Paper No. 3 (London Centre for Multicultural Education, University of London, 1981).

competition with rival parties, as in the case of the Indian government's decision to include other "backward communities" as part of its political strategy to expand the base of its political support. In this case, it was both in the interest of politicians to mobilise groups along caste lines and for individuals to assert group claims and group identities.

Affirmative action also has the potential to cause additional conflict, derived from privileging one group *vis-à-vis* another. This was India's experience where conflict was generated between tribes which were beneficiaries of policies and those which were not. In the U.S. tensions between blacks and Asians and between blacks and women have also been aggravated. In order to avoid or minimise ethnic conflicts it would seem that the most sensible approach involves policies which grow out of a process leading to a consensus as to what constitutes acceptable measures to benefit one group without incurring too great a debt on another.

Those who benefit most from affirmative action programmes also tend to be the least disadvantaged members of minority groups - as in the case of both India and the United States. This was evident with higher income members of "scheduled castes" taking most advantage of affirmative action in India¹²⁹, in the U.S., Asian Americans and members of the black bourgeoisie¹³⁰, and in Canada a similar pattern may be seen to emerge. These privileged groups gain most from affirmative action and suffer least from the stigmatisation. They may in fact already be over-represented in universities or other desired positions, as in the case of "visible Asian minorities" in Canada.

¹²⁹ See Mysore N. Srinivas, Social Change in Modern India (Berkeley: U of California Press, 1979).

¹³⁰ Sowell, Economics and Politics 201.

One of the main contentions of critics of affirmative action therefore is the claim that it is over-inclusive because it benefits primarily members of the middle class in racial and ethnic groups and is under-inclusive because it has far from eradicated poverty amongst low income groups. It has further marginalised an underclass by co-opting their elite. *The Economist*, while pointing out that black Americans have made dramatic breakthroughs in attaining political office, describes the condition of blacks in the following terms "...the American born black population remains stuck at the back of the line...blacks are more than twice as likely to be jobless...nearly a third of all blacks against 10% of whites live below the poverty level"¹³¹. Therefore left critics argue that affirmative action fails to go far enough in the sense that a focus on "race" merely favours middle and upper class blacks, and neglects "class" as a category. Likewise neo-conservatives such as Thomas Sowell concur that in the United States the truly disadvantaged, those with little education or job experience, or from broken families, "have fallen even further behind during the era of affirmative action"¹³². Sowell also points to this phenomenon in India, where little or no benefit actually reaches the most poverty stricken people. The Indian government did little to create a universal elementary school system which would have improved the well being of the poor as well as expand the pool of qualified scheduled castes and tribes who could then have entered university adequately prepared.

Because preferential policies generally do not manage to eradicate class inequality many scholars argue that they are simply a consensus among elites to try and appease a

¹³¹ *The Economist* 22 March 1991: 6.

¹³² Thomas Sowell, "Affirmative Action: A Worldwide Disaster," *Commentary* 88.6 (December 1989): 24.

section of the oppressed community. Affirmative action programmes in general only aim at removing the segmentation aspect, i.e. dispersing race or ethnic groups along various class lines, without eliminating the hierarchical dimension or inequality as a whole. If the central purpose of any affirmative action programme is social and economic justice and redistribution in favour of the discriminated, as it should be, then the primary consideration for receiving assistance should be based on need (measured by a criterion such as income), a universalistic criterion, rather than a particularistic trait such as ethnicity or race. How one avoids conflict and minimises social costs when the existing unequal distribution of resources in a society is either maintained or changed is the real dilemma. Governments which are unwilling to use the redistributive measures may find stability undermined.

Affirmative action within the South African context could be seen to touch on all aspects of life, as apartheid did, from education to health, housing, employment and access to land. In this sense a new democratic government in South Africa will be an “affirmative action government” if it aims to address the inequalities created by apartheid. However this is an extremely broad use of the term, and affirmative action has so many dimensions especially within the South African situation, that one must narrow the focus to particular aspects.

Much of the confusion in South Africa surrounding the term affirmative action arises from two distinct concepts within the single phrase. As a very broad concept affirmative action may be viewed as an instrument of reconstruction or as an anti-poverty strategy. The narrow notion covers a variety of preferential employment policies which are largely, though not exclusively, the domain of the private sector. The wider approach

is impossible without state power. Vincent Maphai astutely argues that affirmative action in the wider meaning “referring to overall inequality, reconstruction and poverty” is not affirmative action, but simply an ordinary feature of any responsible government¹³³.

South Africa is an extreme case in this sense because the legacy of apartheid has created a severely divided society with grave inequality in the enjoyment of rights, probably deeper than in any other part of the world. This inequality has, through the use of the state and the law, been based on racial distinctions and “consequently, there is a high correlation between race and social class which is unsurpassed anywhere in the world, though it exists in many other places”¹³⁴. Here is perhaps a unique opportunity to redress both race/ethnic and class stratification simultaneously.

Maphai has argued that successful non-racial anti-poverty measures are likely to benefit primarily the black working class, but poor whites will also be beneficiaries. Economic growth is a precondition for the success of any affirmative action programme. Malaysia’s success at expanding educational opportunities, increasing employment and expanding equity for Malaysian firms was only possible because the economy expanded at such a rapid pace. The incorporation of Malays was also not at the expense of the Chinese. Success for South Africa in terms of affirmative action will depend, amongst other things, on the state of the economy and how sensible government policies are in respect to growth and redistribution.

As a historical latecomer to the debate on affirmative action, South Africa offers a unique opportunity for avoiding mistakes since various questions have

¹³³ V.T. Maphai, “One Phrase, Two Distinct Concepts,” Die Suid Afrikaan (May/June 1993): 6.

¹³⁴ Eide, “Equality,” Affirmative Action 4.

been experimentally and theoretically addressed elsewhere for a long time. At the same time the unique South African circumstances do not allow for an uncritical emulation of successful policies elsewhere. Canada's equity programme, for example, presupposes a population which is roughly equally qualified in order to be proportionally represented throughout the employment spectrum. Bantu education, however, has destroyed this necessary base for proportional group representation. Therefore, insisting on immediate quotas for all top positions in the South African context would merely replace less legitimate, but qualified white professionals, with more legitimate, but less qualified black incumbents. If the merit principle is to be upheld, affirmative action in South Africa therefore can only mean massive efforts to make up for the past neglect of the disenfranchised section in order to allow their numbers to be equally qualified. Only these candidates then deserve preferential treatment in order to remedy the historical injustice.

The South African situation provides an opportunity to examine preferential policies within a specific context for two reasons: Firstly, it is aimed at improving the status of a numerical majority (albeit in the past a political minority) whose previous exclusion the privileged minority has to come to grips with in a much more urgent way than in situations where minorities are less threatening. In South Africa, affirmative action will be supported by the majority of the population unlike most other countries such as the U.S. where it tends to be perceived as a moral issue, with a somewhat paternalistic character bordering on charity.

Secondly, South Africa is situated within a context where the oppositional discourse (i.e., ANC policy) has been rooted in a tradition of non-racialism. A paradox

exists in the sense that to eliminate race and gender as significant categories in public life, it is necessary to take account of the way race and gender impact on everyday existence. Some argue that a non-racial or colour-blind society is incompatible with the concept that preference be given on the basis of race or other group membership. If poorly applied, affirmative action has the potential for a tense relationship with the principles of non-racialism and non-sexism. The issue of group affiliation in South Africa is problematic precisely because there has been such a drive to eliminate group definitions, due to previously imposed apartheid labels.

The South African business sector is confronted with the requirements of legitimising traditional business ethics and practice on the one hand, and creating a more efficient organisation on the other. Affirmative action is part of the legitimising process which some people feel will create considerable tensions regarding the efficiency requirements of organisations. Many companies fear lowering standards and a decrease in efficiency as a result of preferential policies. On the other hand, South African business cannot afford to be seen as actively obstructing certain future government policy of more equal representation. Like the Chinese minority in Malaysia, South African capital will have to give itself at least a colour blind image of co-opting new faces into its ranks. How South African business handles its predicament of “efficiency and standards”, based on Eurocentric notions of proper corporate culture, with the necessity to make its peace with an African environment in which it wants to reap past profits under quite different political conditions, remains the subject of this thesis.

Despite the reluctance of senior ANC policy-makers to endorse quotas, other ANC aligned bodies do not hesitate to pronounce specific figures. Thus, the ANC’s

student wing SANSCO (the black South African National Students' Congress), in a widely publicised conflict with the Wits university administration in 1993, not only demanded a black dominated “transformation forum” to balance alleged white business interests at the university council but also a quota system of admissions “to ensure that 60% of the student body is black”¹³⁵. University administrators and faculty of all political persuasions predictably pointed out that the crisis in black education brought about by decades of apartheid did not equip secondary schools with sufficient qualified applicants to uphold the university’s traditional definition of meritocracy. In the colourful words of Charles von Onselen: “Do we want people’s brain surgeons and people’s civil engineers? Obviously not. Highly technical subjects require a rigorous grounding in maths and science”¹³⁶.

In this predicament most of the English-language universities have committed themselves to an “Equal Opportunity Employment Policy” with two key elements, as for example those stated in staff advertisements and letterheads of the University of Cape Town. These are adherence “without exception to a policy of searching thoroughly for good applicants and of appointing, in every case in the context of a particular post, only the person who can be expected to make the greatest contribution to the work and reputation of the university.” Such a stipulation, however, assumes more or less objective and agreed upon criteria for assessments of candidates. In reality such a questionable assumption boils down to a high degree of subjective evaluation, certainly influenced by

¹³⁵ Weekly Mail and Guardian 10-16 September 1993.

¹³⁶ Qtd. in Weekly Mail and Guardian 10-16 September 1993: 34.

the ethnic background and biases of members of recruitment committees. If this assumption of inevitable bias (not to be confused with racism or prejudice but rather unconscious affinity to persons with similar outlook) is accepted, then the composition of the selection committee (and hence proportions and quotas) remains a controversial issue. Equally controversial is the second aspect of the UCT promise, namely to “carry out affirmative action in the specific sense of doing everything in our power to help black people and women to become equal competitors for every post in our establishment.” Such a laudable commitment is naturally open to different interpretations as to what else the institution could do, as to whether it has done enough and the challenge to have its commitment measured by tangible results rather than high-sounding but ultimately unsuccessful principles.

If universities as the proclaimed realms of rationality and scientific objectivity remain intensely contested arenas as far as ethnic representation is concerned, the more the issue will surface in business organisations where real power and far higher material rewards are at stake. While the private sector remains more shielded from immediate pressure from its constituencies - compared with the more politicised and volatile public institutions - it certainly cannot expect to be immune from negative publicity and attempts of government interference, should its management refuse to respond and to reflect the new power constellations of the state.

Indeed, quotas are already demanded. Thus the National African Federated Chamber of Commerce (NAFCOC) has advocated that blacks hold 30% of seats on the boards of all listed companies by the year 2000. It also suggests that blacks hold 40% of

equity and 60% of posts at all management levels. The issue is further complicated by the spreading sentiment among NAFCOC members that persons previously classified Coloured and Indians do not qualify as “real blacks.” During a shrinking economy in particular, quotas and ethnic definitions therefore attain a direct relevance for careers and lifechances.

This study will focus on how South African corporations respond to twin temptations: 1) To dig in their heels in the name of standards and thereby ignore the educational apartheid injustices. 2) To accommodate political demands with redefinitions of merit in order to get an early advance over competitors by bowing to the inevitable. From some evidence available it could be hypothesised that a trend is emerging that specifies so-called soft skills - such as motivation, initiative, tenacity or drive - as equally qualifying competencies for black managers. Indeed, many hard skills can be learned on the job, provided the motivation exists. However, such a relatively easy accommodation to the demand for rapid results along the Malaysian model is likely to ignore the laudable commitments to equip blacks with equal skills and educationally compensate for an historical disadvantage. The unfortunate consequence would be permanent ethnic division of hard and soft-skilled managers in the new South Africa.

Conclusions

This chapter has traced the major arguments in the international debate on affirmative action in four multi-ethnic societies; the United States, Malaysia, India and Canada in order to explore the implications for South Africa. It has discussed the distinctive policies of affirmative action in each context, as well as common characteristics to consider their salience for the South African situation.

The types of interventions outlined in the countries above have been quite varied - from designated quota systems to a more flexible range of preferential policies. Designated groups have also differed. In the US affirmative action aimed to address mainly racially disadvantaged minority groups, in Malaysia it addresses a majority community defined in terms of ethnicity, in India and other deeply hierarchical societies "caste" is used to define disadvantaged groups and in Canada aboriginal people, women, visible minorities and the disabled are officially classified as targets for preferential treatment. In the US, 30 years of aggressive affirmative action have produced only modest gains with many race and gender inequalities remaining. The outcomes, at best, are mixed and an angry conservative and populist backlash now argues for the rollback of affirmative action policies in several US states. In Malaysia, affirmative action policies to reduce inequalities between the impoverished Malay majority and the ethnic Chinese minority can claim reasonable success. The Malaysian model is of particular interest to South Africa since parallels exist in terms of a majority benefiting from preferential policies and racial differences coinciding with ethnic ones. At the same time however, it

is essential to recognise that the Malaysian economy grew at a remarkable 6 - 7 percent a year during the two decades of affirmative action implementation.

Indian experience of affirmative action or "reservations" is defined quite rigidly in terms of quotas and emerged as a largely political response to appeal to historically oppressed groups which form electorally important constituencies. India's experience seems only of limited value for South Africa because the fragmentation of society appears less likely due to the absence of so many castes and the presence of clearer, more straightforward divisions. However, the neglect of the real poor in rural areas has parallels in South Africa.

Canada's version of affirmative action - Employment Equity - has sought not only to prevent discrimination by individual employers, but also to aid in the offsetting of systemic discrimination. It presupposes a population which is roughly equally qualified in order to be proportionally represented throughout the employment spectrum. Bantu education, in comparison, has undermined this necessary base for proportional group representation.

Those who benefit most from affirmative action programmes have tended to be the least disadvantaged members of targeted groups - as seen in the case of both India and the US. This was apparent with high income members of "scheduled castes" in India taking most advantage of preferential policies, in the US Asian-Americans and members of the black bourgeoisie, and in Canada a similar pattern among "visible minorities" has emerged. These privileged group members who have a comparative advantage over their poorer compatriots have been the primary beneficiaries of affirmative action programs everywhere. This is particularly significant for South Africa, where inequality within

racial groups has grown steadily more significant. These international experiences with preferential policies in pursuit of racial and gender equality provide a comparative context upon which to assess the costs, benefits and possible outcomes of affirmative action in South Africa.

CHAPTER IV

PUBLIC DISCOURSE ON EMPLOYMENT EQUITY: POSITIONS OF MAJOR POLITICAL ACTORS

Competing Conceptions of Affirmative Action

Affirmative action in South Africa - sometimes referred to by euphemisms such as ‘corrective action’, ‘black advancement’ or ‘positive action’ - can be understood as a remedial strategy which seeks to address the legal, historical exclusion of a majority. Unlike most other countries in which minorities form the target group, in South Africa a previously disenfranchised majority will be the beneficiary of affirmative action. Quite distinct from North American notions of affirmative action, a workers’/union driven vision of transforming the living and working conditions of the majority competes with a narrower business advocacy of black managerial advancement in response to market demands.

Despite the intense attention affirmative action has received in post-apartheid South Africa, there is little consensus among its many advocates as to the precise meaning of the term. A melange of interpretations exists among those who invoke it as an antidote to the injustices of the past. As is the case with other controversial issues, many of the arguments are transplanted from the American discourse. Here, even more divergent connotations of affirmative action have produced a great deal of public

dissension as well as charged philosophical and legal debates¹ resulting in a widespread backlash in the 1990s. It remains to be seen whether South Africa is likely to repeat an equally acrimonious U.S. discourse after three decades of controversy.

This chapter will first review the public discourse on affirmative action since the 1990 liberalisation of South African politics in order to trace the emergence of controversial legislation, finally enacted in 1998. The stances of the major political parties (ANC, NP, IFP, DP) are charted as well as the conflicting visions within the governing party and its trade union ally, outlined. This is contrasted with the positions of white and black business organisations as well as critical commentary by academics and some NGOs, culminating in the National Economic, Development and Labour Council (NEDLAC) negotiated final version of the Employment Equity Bill in 1998. The Bill is described in detail and critically reviewed.

There is consensus that affirmative action is intended to assist groups systematically discriminated against in the past, who were denied equal access to skills, opportunities and resources. The Afrikaans equivalent “regstellende aksie” meaning literally “action which puts right” or “restitutionary action” encapsulates affirmative action’s underlying rationale in South Africa. However, what is seen as a great hope for one side triggers equally intense anxiety on the other that perceives itself as a new victim of reverse discrimination. As Nelson Mandela speaking at an ANC conference in 1991

¹ See Reverse Discrimination ed. Barry R. Gross (Buffalo, N.Y.: Prometheus Books, 1977); and Social Justice and Preferential Treatment eds. William T. Blackstone and Robert D. Heslep (Athens, G.A.: University of Georgia Press, 1977) for further discussion of legal and philosophical debates pertaining to affirmative action.

indicated, affirmative action in South Africa conjures up radically different images for different people:

“To millions, affirmative action is a beacon of positive expectation. To others it is an alarming spectre which is viewed as a threat to their personal security and a menace to the integrity of public life.”²

The dominant conception of affirmative action which prevails primarily in South Africa's private sector, but also in a number of government institutions, perceives affirmative action as a strategy implemented by the management of organisations to recruit potential black managers and train them for senior positions. In this view affirmative action is a mechanism for training people from under-represented groups for incorporation in the boards and governing bodies of organisations. The professional, technical and managerial positions that lead South Africa's public and private institutions are targeted, particularly those effectively reserved for whites in the past. Many companies deliberately limit their redress efforts to this sector. Whites typically have held 85 to 95% of senior positions in private business and the professions in the past³. The representation of Blacks in the highest echelons of management (Paterson Band F) has only reached 3% in a 1996 national sample. An equally miniscule proportion of those 469 executives are women⁴.

Notably, there has been a sudden upsurge in the number of affirmative action programmes since the first non-racial election in April 1994. A 1995 survey conducted by the human resources consultancy FSA-Contact indicates that 94% of private sector

² Qtd. in Cape Times 7 October 1991.

³ South Africa, South African Institute of Race Relations (SAIRR), Race Relations Survey 1994/95 (Johannesburg: 1995): 2.

⁴ Breakwater Monitor Report (Cape Town: University of Cape Town, Graduate School of Business, September 1996): 21. See Appendix for more details.

organisations in South Africa have implemented some form of affirmative action. 67% percent of organisations were said to have implemented formal affirmative action policies, while 27% implemented informal policies⁵.

More than any other political force, it is the ANC that has to deal with an increasing demand that concerted attempts be made to address the legacy of apartheid. The ANC at its National Conference in May 1992 adopted Policy Guidelines later codified in the famous Reconstruction and Development Program (RDP) which clearly supported a commitment to affirmative action as a means of redressing the social and economic inequalities produced by apartheid. Affirmative action in general is described by the ANC as “special measures of a positive kind designed to procure the advancement and the opening up of opportunities, including access to education, skills, employment and land and the general advancement in social, economic and cultural spheres, of men and women who in the past have been disadvantaged by discrimination”⁶. The ANC’s RDP emphasises affirmative action and business is expected to consider this seriously. The RDP argues that restructuring should be governed by law and the enactment of legislation both in the public and private sectors and states that “a programme of affirmative action must address the deliberate marginalisation from economic, political and social power of black people, women and rural communities”⁷. In dealing with the effects of centuries of discrimination, affirmative action measures are considered a remedial tool or “regstellende aksie” to mitigate acts of historical disadvantage and

⁵ SouthScan 22 September 1995.

⁶ ANC, revised Working Document, A Bill of Rights for a New South Africa (February 1993).

⁷ ANC, Reconstruction and Development Plan (Cape Town: Government Printers, 1994): 6.

prejudice by institutions and decision-makers.

The term “affirmative action” was first referred to in the ANC’s 1988 Constitutional Guidelines and has increasingly been given a central position as a means of overcoming disparities created by apartheid. What must be stressed from the outset is that the ANC’s vision of “affirmative action” is not limited to the private or even public *employment* spectrum, but incorporates the entirety of social relations affected by apartheid. “The whole social programme of the new democratic government which we envisage for South Africa will be one of affirmative action”⁸, said Nelson Mandela in a pre-election speech. Both the ANC and COSATU define affirmative action very broadly. Mandela and others within the ANC speak of affirmative action as a means of addressing socio-economic inequalities in all spheres of society. Health, housing, education, economic opportunities and job creation are all said by the ANC to be touched on in their programme of affirmative action.

However, by using the term affirmative action as a general concept when speaking of improving health care, housing facilities and education, it becomes virtually synonymous with the basic responsibilities of any good government. Any accountable democratic government should include all such areas in planning for its citizens, regardless of a policy of affirmative action. In this respect affirmative action from an ANC perspective can be seen to touch on all aspects of life and, in this context, a new democratic government in South Africa will be an “affirmative action government” if it aims to address inequality in these areas. As Albie Sachs has pointed out:

⁸ SouthScan 2 January 1994.

“Affirmative action in the South African context has extremely broad connotations, touching as apartheid did and still does, on every area of life...

...affirmative action covers all purposive activity designed to eliminate the effects of apartheid and to create a society where everyone has the same chance to get on in life. In terms of the ANC draft Bill of Rights, all anti-discrimination measures, as well as all anti-poverty ones, may be regarded as constituting a form of affirmative action.”⁹

The Bill of Rights in the nonracial constitution does not mention anywhere the term affirmative action. However, while outlawing unfair discrimination on racial grounds, section 9(2) allows “legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination”. This provision is justified with the aim “to promote the achievement of equality”¹⁰. In short, while racial categorisation for discriminatory purposes is outlawed, the same racial classification for rectifying past discrimination is encouraged. The problem arises, of course, when one racial group clamours for preferential advancement which other racial groups experience as discrimination. Constitutional court judges will have to rely on sociological and historical evidence to decide whether a specific measure promotes “the achievement of equality” in this conflicting interpretation of discrimination.

Such provisions ensure that no constitutional or legal barriers stand in the way of the implementation of an affirmative programme at any level of government. Affirmative action would involve a series of steps to empower people. In the sloganeering of an ANC spokesperson, George Negota of the ANC’s department of human resources development:

⁹ Albie Sachs, Alistair Berkeley Memorial Lecture, “Affirmative Action and Good Government: A Fresh Look at Constitutional Mechanisms for Redistribution in South Africa” (Cape Town: Cambridge UP, November 1991) 14.

¹⁰ South Africa. The Constitution of the Republic of South Africa Act 108 (8 May 1996) 7.

“by empowering the masses, their destiny shall be firmly placed in their own hands and the wounds of apartheid shall no longer be a reason for one’s failure. Skills and access to credit facilities, to name but two forms of economic empowerment, have the potential to accelerate the abilities of such individuals.”¹¹

The reality of life after apartheid would not change, the ANC argues, unless the skewed distribution of social and economic benefits was also changed. This resolution stems from the ANC’s realisation of what most people expect from a new government - jobs, housing and health care. However such a well-intentioned policy is not without potential contradictions.

Bill Freund has commented:

“In order to achieve equity in the civil service, the RDP asks for ‘a defined quota of all new employees’ based on race and gender in the future. Does this mean that the ‘non-racial, non-sexist state’ will continue to keep tabs on our racial and sexual identity and evaluate us accordingly? How do you harmonise affirmative action with non-racialism? This extremely thorny issue is never addressed.”¹²

It would appear that the nonracialism of the ANC contradicts racially based redress policies. On the one hand, the ANC is in pursuit of a non-racial political goal for society directed towards the achievement of full equality between all South Africans independent of race, colour or gender. It wants the initial power-sharing scrapped after five years and replaced with an “ordinary democracy” and a non-racial democratic South Africa which would be governed by majority rule and the principle of equal individual rights for all. At the same time, by endorsing a policy which challenges the primacy of nondiscrimination and the conviction that persons should be treated only as individuals and not as members of groups, it would appear the ANC rejects non-racial individualism.

¹¹ Qtd. in Die Suid Afrikaan May 1993: 23.

¹² Democracy in Action 31 August 1994: 5-8.

Race-conscious redress policies would also engender racial competition and increased racial polarisation, as non-blacks would see diminished career prospects under a policy of black preferential employment. By allocating benefits to certain groups on the basis of race, the system of preferences invariably strengthens identities on the basis of race and ethnicity, as persons are entitled to lay claims on the basis of their race. The colour-blind ideal of the ANC would under such circumstances give way to a colour conscious mentality for race-based preferential treatment.

As Albie Sachs argues:

“The most difficult problem has been to reconcile the principle of non-racism, which seeks to avoid any reference to race, with the principle of repairing the damage done by past racism, which requires paying attention to actual and continuing patterns of racial disadvantage.”¹³

In considering how affirmative action policies violate the principle of equal treatment the primary principle of justice at stake is one of non-discrimination. Robert Fullenwider suggests that “if we do not use preferential hiring, we permit discrimination to exist. But preferential hiring is also discrimination. ... the dilemma is that whatever we do, we permit discrimination”¹⁴. If the differentiation of groups seeks to exclude, segregate or put group members in subordinate roles then it is wrong, it has been argued, as was apparent in the case of the policies of apartheid. The historical discrimination of apartheid falls in this category because its aim was to explicitly restrict the opportunities and life chances of certain groups. If however, differential treatment serves to lessen the

¹³ Albie Sachs, “Affirmative Action and Black Advancement in Business,” Affirmative Action in a Democratic South Africa ed. Charl Adams (Cape Town: Juta and Company, 1993) 121.

¹⁴ Robert Fullenwider, The Reverse Discrimination Controversy: A Moral and Legal Analysis (Totowa: Rowman and Littlefield, 1980) 156.

continued oppression of a group could it not be said to be not only necessary but morally essential?

True equality, therefore, may sometimes be better served by differential treatment. As Thuli Madonsela recognises:

“...real equality is more than just equal opportunity to jobs and incomes. Equal opportunity could still deny blacks and women access to jobs, if, for example, large numbers fail the entrance examinations for appointment to key posts. Real equality means that measures must be taken to ensure that black people and women have as good a chance as anyone else of passing the test, winning the job, and earning the salary.”¹⁵

The mere removal of formal discriminatory barriers entrenched in South Africa for decades is unlikely to lead in itself to the equal participation and inclusion of all groups in institutions and positions. Although no longer legislated, the prejudice and bias of decision-makers persists. Practical discrimination remains largely intact as structured patterns of privilege and disadvantage created by apartheid continue.

The ANC illuminates the problem by citing figures provided by the Central Statistical Services (CSS): “According to the CSS, there are approximately 1.25 million economically active white males in South Africa. This is only 10 - 15 percent of the entire workforce.” Yet half of the 1.25 million occupy “top-paying, high level, professional, managerial and administrative posts in the country”¹⁶. The UCT Graduate School of Business *Breakwater Monitor* survey of 107 South African organisations of September 1996 is useful in gauging this overall representation. A sample size of 843,011 employees was used in 15 sectors in which the breakdown of management (Paterson Bands D-F) by race was 89.64% White, 4.72% Black, 2.59%

¹⁵ South African Labour Bulletin May 1994: 46.

¹⁶ ANC Position Paper for Discussion, unpublished manuscript, 1992.

Coloured and 3.05% Asian¹⁷. Although racial representativeness has improved slightly - with blacks gaining a slightly higher percentage of management positions each year - in 1997, 89% of these occupations are still held by whites¹⁸.

South Africa has not become a colourblind nonracial democracy overnight. In order to eliminate race as a significant category in public life, the ANC argues, it is necessary to take account of the way it impacts on peoples' everyday existence¹⁹. Race in the short-term must continue to be taken into account in order to redress the legacy of the past and in order for real equality to be attained in the long run. The colourblind identical treatment of the races would itself be an injustice by continuing to favour those privileged in the past. Whereas in the past inequality was justified on the grounds of the need to discriminate, now it is legitimised on the basis of the necessity not to discriminate²⁰. After decades of apartheid and enforced discrimination, non-racialism cannot mean colourblindness.

In contrast, the National Party and similarly the Democratic Party (DP) stand diametrically opposed to the ANC's view on affirmative action. In a speech given at the Pretoria Press Club in September 1992, F.W. de Klerk argued that the advocacy of a "massive new campaign of racial discrimination under the guise of affirmative action would once again ensure that appointments were made on the basis of race rather than on

¹⁷ Breakwater Monitor Report 21. See Appendix for more details.

¹⁸ Mail and Guardian 1-7 August 1997.

¹⁹ South Africa, ANC Constitutional Committee, "Affirmative Action in a New South Africa" (Port Elizabeth: Government Printer, October 1991).

²⁰ Albie Sachs, "Affirmative Action and Good Government," Redistribution and Affirmative Action ed. Pierre Hugo (Johannesburg: Southern Books, 1992) 203-221.

merit”²¹. It is repeatedly cautioned that white males are being overlooked for promotion in the public service, regardless of qualifications, service and skills. De Klerk has maintained that “this is seen as reverse discrimination and many of the best qualified personnel are leaving because of it”²². A loss of expertise and morale in the civil service and the lack of delivery in some service departments are also stipulated as cause for concern. As De Klerk argues:

“... I think that in quite a number of departments so called affirmative action – which we support in principle – was applied in such a way that it resulted in a reverse form of race discrimination. This is definitely having a demotivating effect on many people in senior positions who bring expertise and experience to the civil service.”²³

As Linda Human points out, however, the specific aspect of creating an environment within organisations dominated by white males in which the entrance of other groups is facilitated and nurtured must be distinguished from notions of reverse discrimination²⁴. The need to avoid threatening one group or another with invalidation and social exclusion is clearly evident as such an outcome could spell “economic disaster” according to Marius Daling²⁵, the chairman of South Africa’s largest insurance corporation.

On the other hand, organisations such as the Black Management Forum (BMF), a black business lobby which seeks to represent black managers and executives, hold very different perspectives. The BMF’s managing director Bheki Sibiya contends that

²¹ RSA Policy Review (November/December 1992).

²² New Nation 7 July 1995: 14.

²³ Sunday Tribune October 1995: 24.

²⁴ L. Human, “Why Affirmative Action Programmes Fail: The South African Experience,” Educating and Developing Managers for a Changing South Africa: Selected Essays ed. L. Human (Cape Town: Juta and Co., 1991) 217-226.

²⁵ New Nation 7 July 1995: 14.

affirmative action policies are virtually stagnant, with private sector organisations still paying only lip service – “and many companies are not even doing that.” If skilled workers chose to leave the country and others accepted early retirement because they could not work in a racially mixed environment, “then so be it,” Sibiya maintains. “This leaves more space for the many qualified blacks who are waiting in the wings and who cannot find appropriate work because of the still in place prejudice barrier”²⁶.

The BMF focuses on altering the racial composition of management in the formal economy. Its “Affirmative Action Blueprint” argues that “affirmative action ... implies the meritorious empowerment of individuals through opportunity and development” and refers to the need to “embrace the totality of black experience”²⁷. In choosing to focus on black managers and executives, the BMF advocates a relatively privileged group as its prime target. While most proponents of affirmative action retreat from quotas as a strategy, the BMF explicitly advances the notion of quotas and spells out specific percentages of blacks who should be represented in various positions.

The National Party’s stance on affirmative action can be summed up quite easily when one examines a National Party election ad which boldly read: “Affirmative Action: Apartheid in Reverse?”²⁸. Affirmative action is labeled as “racist”, “reverse apartheid”, “tokenism”, “favours” and “handouts”. National Party Policy on affirmative action clearly states that although it “...recognises that discriminatory laws and practices of the past had the result that many individuals did not enjoy equal opportunities...it is

²⁶ New Nation 7 July 1995.

²⁷ South Africa, The Black Management Forum (BMF), Affirmative Action Blueprint (Johannesburg: 1994): 4-6.

²⁸ Sunday Times 17 January 1994.

convinced that reverse discrimination will be counterproductive, because it is inherently racist; will be difficult to terminate; undermines self-confidence and motivation; will create new injustices and thus new bitterness; and will, just as was the case with discrimination in the past, be detrimental to the economy”²⁹. Instead, the policy advocates “equal access to opportunities” for all individuals.

Although the National Party’s key objectives seem to realise that “persons who in the past were prejudiced by discriminatory measures must receive special attention...to enable them to develop to their full potential and participate effectively in the economy” it remains extremely vague on the issue of what “special measures” refers to. In the National Party proposals on a Charter of Fundamental Rights presented in February of 1993 there was no reference made to the principal reason for affirmative action: dealing with the legacy of the past. Instead its argument against “so-called affirmative action” reverts to the fact that the National Party “does not open the door for the introduction of Marxist trends of policies under the ideologically neutral and popular banner of ‘affirmative action’”³⁰. This statement in itself is contradictory as affirmative action has always been considered a liberal, reformist concept rather than a Marxist one.

While the ANC remains adamant that a policy it sees as inclusionary and aiming for the social good of all not be construed as “reverse discrimination,” National Party spokesmen warn that affirmative action will lead to the advancement of blacks over other middle minorities. The occupation by blacks of houses in the Western Cape “coloured areas” during the election period fueled fear of what affirmative action would mean to

²⁹ South Africa, National Party (NP), National Party Policy (Election Booklet, 1994) 34.

³⁰ South Africa, National Party, Policy 34

such groups. Such appeals to ethnic fears have been used as election ploys which gained the National Party support - not only among whites, but particularly among the Cape “coloured” community. At an election rally in Grassy Park, Cape Town Mandela tried to increase ANC support among the “coloured” community by allaying fears of affirmative action. “They say affirmative action means Africans will replace Coloureds at work, at schools, at universities,” he said,... “There is nothing of the sort”³¹. In a previous election debate in Mitchell’s Plain Rev. Chris Nissen of the ANC claimed that “white bosses” in the private sector were “abusing” affirmative action to “divide our people, as an election ploy” by favouring Africans over Coloureds and Indians - singling out Telcom and Eskom³². Such abusive affirmative action would see the advancement of only “real blacks” in certain employment sectors by employers who perceive advantages gained by favouring the dominant majority of Africans in the new ANC lead government.

Some “Coloureds” have argued that affirmative action means they will once again lose out. While in the past they were not white enough to qualify for special privileges under apartheid, they are now not black enough, and they fear discrimination once again from an ANC led government. “Why must the colour of our skin, which counted against us in the old South Africa, also count against us in the new South Africa?” asked Abe Williams³³, Minister of Sport of the National Party which dominates in the Western Cape province. Affirmative action, he argued, is a serious threat against Coloureds because it perpetuates their inferior position and advances Africans at their expense. In this

³¹ SABC,TV 1 News, 20 March 1994.

³² Cape Times 20 January 1994.

³³ Cape Times 9 March 1994.

widespread view, the “coloured” community may once again remain stuck in the middle with “more victimised” groups claiming preferential rewards.

Racial tensions are further exacerbated by the policy of organisations such as Transnet, said to have a “turn around” policy which hires *only* blacks. Ironically, while Alwyn Moerdyk of Transnet advocated the “it’s the black man’s turn” approach, at an affirmative action seminar he was quickly admonished by the ANC’s Albie Sachs³⁴. Such political affirmative action is likely to result in racial polarisation and factionalism amongst blacks as victims attack other victims. The Congress of South African Trade Unions (COSATU) general secretary Sam Shilowa has similarly argued that “...the mere replacement of white individuals with blacks is tokenism which distorts the whole purpose of affirmative action”³⁵. This type of abusive affirmative action would inevitably create racial divisions between workers. Another example of racist affirmative action is the statement by the PAC’s Patricia de Lille to the International Press Institute Conference on February 14, 1993 in Cape Town. Instead of blowing the white brain drain out of proportion, the South African media should rather encourage whites “to leave to create space for the majority”³⁶.

Recently “commercialised” parastatals such as Transnet seem saturated with political affirmative action. They perceive affirmative action as “essentially a numbers game” which aims to get numbers politically correct as soon as possible, while at the same time not compromising standards. Short-term appearances for political objectives

³⁴ Affirmative Action Seminar, Indaba Hotel, 26-27 August 1992.

³⁵ The Argus Weekend Edition 29/30 March 1994.

³⁶ The Argus 15 February 1993.

seem to be of utmost importance as companies perceive themselves being rewarded for such outright compliance to affirmative action.

The ANC's formal policy, however, does not confine itself to the usual racial terms with which affirmative action in South Africa is usually perceived. In theory, it is deliberately inclusive in the sense that it seeks to apply to anyone who has been discriminated against: "to ensure that people who were discriminated against in the work situation are empowered to enable them to gain access to and compete for all posts, including those at a high level"³⁷. If one examines the ANC's position on affirmative action, it is one which is articulated in a uniquely inclusive way - not just as a black or gender issue. It is guided not only by a moral responsibility in redressing imbalances, but also by the crucial need to develop the economy to meet the needs of *all* South Africans and the economic advantage of having a larger pool of talent to draw from. As the former COSATU general secretary Jay Naidoo expresses the policy:

"Our goal is to unify our workforces and communities irrespective of colour or gender and create a conducive environment where it would be possible for all people to be equipped with skills and have an open door to move up the career path."³⁸

Despite the dominant perception among South Africa's "coloured" community that affirmative action would once again exclude them - Mandela has repeatedly stressed in a number of public speeches that "the ANC's affirmative action programme did not apply only to African people but to all those who had suffered discrimination in the past - including coloured people"³⁹. The inclusion of women is also repeatedly stressed in the

³⁷ ANC Position Paper for Discussion, unpublished manuscript, 1992.

³⁸ Sunday Times 20 February 1994.

³⁹ Cape Times 14 February 1994.

ANC's RDP to "further women's equality in employment" among other areas. A strong women's lobby within the ANC will seek to ensure that the "triple oppression" of women is recognised and that they will therefore be among the primary beneficiaries of affirmative action policies. There is little doubt however, that the ANC intends blacks to be the primary beneficiary of its strategy.

One of the few policy points on which the Inkatha Freedom Party (IFP) and the ANC agree is affirmative action. In the IFP's proposals on the future constitution of KwaZulu-Natal, adopted by the provincial Legislature, the equality clause in Article 10 enjoins the "state" to remove "... social and economic hindrances which operate as factual limitations on the freedom and equality of all its citizens" and therefore it may "...take measures in favour of the population requiring special assistance." At the same time the IFP has come out clearly against a quota system of implementation. IFP Information officer Suzanne Vos maintains: "It is ridiculous to start a quota system. Merit must be taken into account; (there must not be), a principle of promoting people who are not competent"⁴⁰. On the issue of women however, the IFP comes out strongly in favour of reserving a percentage of positions. The organisation's affirmative action policy for women is much more concrete and the IFP will lobby for the establishment of a women's ministry.

Given the position of black women in traditional communities, it is likely that despite such inclusive statements by the various organisations, black men rather than women will tend to be the chief beneficiaries of such a policy. In fact, as Angus

⁴⁰ Financial Mail, "Special Report," September 1993.

Bowmaker-Falconer has shown, gender inequality has slipped from a low priority to practically a “non-issue” in corporate South Africa⁴¹. For example, the National African Federated Chamber of Commerce and Industry (NAFCOC) has adopted a 3,4,5,6 formula in which companies on the JSE would be required to meet the following targets by the year 2000:

- black representation in the boardrooms not less than 30%;
- black participation in equity not less than 40%;
- external purchases from black suppliers not less than 50%;
- black involvement in management, not less than 60%.

The quota formula, the only one put forward by a black organisation, completely fails to mention women although the ANC has explicitly committed itself to including them. So far only the first target - the entry of blacks into higher positions - has been deliberated by business. Addressing the question of gender imbalances in the workplace appears to have taken a back seat to rectifying racial inequalities. The realisation that women too are in need of affirmative action comes as a direct indictment on the companies themselves - since no blame can be automatically shifted from the company to a legislated policy of exclusion as was the case with blacks and apartheid.

Lot Ndlovu a former executive director of the BMF argues against explicit affirmative action for women: “...from a human rights point of view, it’s not a priority at the moment...it would cloud the issue if we equalised women’s rights with black rights when we need black liberation.” Yet at the same time he admits that the problems women encounter in trying to open doors would be as difficult, or even more so, if blacks were

⁴¹ Die Suid-Afrikaan May/June 1993.

ruling: “In fact it would be worse,” he says, “because black men are generally more conservative”⁴². Currently women comprise only 5% of the BMF’s membership. Andrew Levy, head of the consulting firm Andrew Levy and Associates, points out that of 12 audits carried out by his firm in 18 months pinpointing groups which are most discriminated against in hiring, salaries, promotion and training, women headed the list every time⁴³.

Affirmative Action for the Majority as a Restructuring, Transformative Device

In contrast to the business conception of affirmative action - specifically targeting the development of blacks for more senior positions within organisations - the discourse of the unions and other organisations of the political left discuss affirmative action as a restructuring and transformative device for all institutions. The structural problems of racism, sexism and poverty are addressed by a broader conception of affirmative action advocated by those not interested in merely replacing a white bourgeoisie with a black one. Instead, affirmative action is considered as structural change and as an instrument in redistributing resources and opportunities to those historically disadvantaged by discrimination in the past.

The ANC refers to affirmative action in a number of inconsistent ways. While problems are acknowledged in defining what affirmative action is and how it should be implemented, attempts to clarify these issues initially remain vague and unclear:

⁴² Qtd. in Business Day 18 January 1994.

⁴³ Qtd. in Democracy in Action September 1995: 3.

“Whatever form might emerge or whatever definition be given, everyone knew what affirmative action was: it meant taking special measures to ensure that black people and women and other groups who had been unfairly discriminated against in the past would have real chances in life. In particular, it signified a concerted effort to enable them to overcome the obstacles that had been put in their way, to develop their capabilities to the full and receive appropriate rewards for their efforts.”⁴⁴

It is unclear what exactly is meant by the term “real chances”, and whether the ANC supports the idea of guaranteed outcomes - such as racial preferential job allocation which by definition would be at the expense of equally qualified whites. The question of what is to be equalised, opportunity in terms of exposure or opportunity in terms of results, is not clearly addressed. The tendency to use affirmative action as a “catch-all” concept which encompasses any action to redress inequality ensures that the policy remains vague and undefined.

Within the civil service the ANC appears to use affirmative action to achieve a more representative bureaucracy. This is demonstrated by decisions such as those made by Public Administration minister Zola Skweyiya to reserve 11,000 civil service posts for affirmative action candidates⁴⁵. Such evidence would suggest affirmative action as a guaranteed outcome, at least in the public sector.

Former Labour Minister Tito Mboweni also prefers the term “corrective action.” Mboweni contends that affirmative action is essential to rectify the deep social imbalances created by past policies, to strengthen the country’s fledgling democracy and to prevent a loss in government legitimacy. In practical terms, Mboweni contends that “corrective action will mean a deliberate search to find suitable qualified blacks (though

⁴⁴ Albie Sachs, “Affirmative Action and the New Constitution,” undated manuscript, 2.

⁴⁵ Business Day 9 June 1994; The Star 26 July 1994.

qualification should not pertain simply to academic achievement), and training to empower the disadvantaged to move up the ladder and assume certain posts while guarding against tokenism.” Furthermore Mboweni argues that “unless we change our past attitudes and view affirmative action not as a lowering of standards or as an attempt to replace skilled white personnel, but as a desirable, we will not be comfortable with the changes that have to be implemented”⁴⁶.

There is also the assertion that affirmative action is not about threatening one group or another with exclusion but about expanding all available opportunities which until now have been allocated exclusively to whites. This interpretation contends that no one loses from the application of affirmative action as there are more benefits for everyone to share. However, as Khehla Shubane points out:

“it is unclear why a strategy that seeks to enlarge the pool of benefits and opportunities in society should portray itself as an affirmative action strategy. Affirmative action inevitably seems to imply some form of preference for disadvantaged groups, and to give preference to some inevitably means preferring them at the expense of others: to describe any strategy that seeks to enhance the benefits available in society as affirmative action is surely to stretch the concept so wide that it becomes meaningless.”⁴⁷

Those who advocate affirmative action as a vision of increasing available benefits for all, would also seek to emphasise the urgency of an expanding, growing economy.

The government’s once hailed but, arguably now shelved policy guide, the Reconstruction and Development Program (RDP), primarily suggests strategies and targets to redress economic and social inequalities. Drawn up by the ANC, COSATU,

⁴⁶ South Africa Foundation Review (September/October 1994): 6.

⁴⁷ Khehla Shubane, “The Wrong Cure: Affirmative Action and South Africa’s Search for Racial Equality,” Policy: Issues and Actors 8.4 (Johannesburg: Centre for Policy Studies, February 1995): 1.

civics and other organisations, the RDP states that affirmative action must incorporate various elements such as: education and training programmes; the empowerment of individuals and communities to promote collective rights and work-place issues; principles for hiring and promotion which prevent discrimination against those previously discriminated against by apartheid; and legislation and an ombudsman to monitor and implement affirmative action. The RDP also recommends that “affirmative action monitoring mechanisms”, or mechanisms to monitor race, be set up in both government and private sectors and be enforced by legislation.

However, the RDP neglects to address the shortage of professional, technical and managerial positions that lead South Africa’s private and public institutions. The scale of change demanded by the RDP entails a massive expansion of both public and private enterprise which can only be successfully lead by a massive infusion of new talent. Black talent with competitive skills and training which would span the professional and managerial spectrum is neglected as an essential target of affirmative action policies by the RDP.

South Africa’s constitution states that the civil service shall be “broadly representative of the South African community” which refers to greater black representation in the public sector. This goal was reiterated in a speech addressed to the U.S. congressional black caucus by Mandela who, while defending the large number of white officials in his entourage as patriots of high integrity, noted that blacks would never be entirely convinced that change had been brought about if the government service did not reflect the overwhelming black majority of South Africa’s population.

Here Mandela articulates the ANC predicament that the more the socio-economic conditions for the majority remain the same and the RDP fails to deliver, the more the government has to fall back on a symbolic demonstration of “liberation.” This may increase the pressure to demonstrate control and power in realms where it can be achieved, through bureaucratic “face-lifts”.

Perceptive critics, such as Vincent Maphai,⁴⁸ however, contend that the entrenchment of affirmative action in the constitution provides a legal base for discriminatory legislation and continues to perpetuate one of the key cornerstones of apartheid – that it is acceptable to use state resources to advance certain groups over others. He observes that affirmative action involves “dubious criteria of reward - race and gender - which has always been regarded as the most obnoxious feature of apartheid,” thus legitimizing racial preference rather than equality as a constitutional principle.

The trade unions, particularly COSATU, which are pushing for government to set an example in its employment practices, are disappointed with the ANC’s failure to get to grips with the issue - even though government’s hands are tied by constitutional guarantees to civil servants from the old order. COSATU disputes legislation or quotas as the main mechanisms for achieving the goals of affirmative action, but prefers that negotiated social and workplace programmes be at the heart of remedies. Instead COSATU suggests that government use its influence on the private sector, through its procurement policies, to ensure business backing for affirmative action in the union’s definition of shop floor transformation.

⁴⁸ Vincent Maphai, “One Phrase, Two Distinct Concepts,” Die Suid Afrikaan (May/June, 1993): 7.

Affirmative action, argue the unions, is not simply training and promoting more black people and women to senior management posts, but also providing shopfloor staff with literacy and other skills training to enable employees to upgrade themselves. In general the focus of trade union perspectives on affirmative action centre on issues which address ownership, income and managerial power. Upgrading the technical skills of workers and providing basic skills enabling them to master literacy and numeracy as well are viewed as key components to a successful affirmative action programme as expanding shopfloor skills creates opportunities to assume other jobs in the company. COSATU's Ebrahim Patel, in an address to the UCT Graduate School of Business Strategic Human Resource Management Programme in March 1994, stressed that in practice however, affirmative action tended towards head-hunting for key blacks, bursaries and business reaching agreement with prominent blacks for the share transfer of trusts.

The primary objective of COSATU therefore is to bring about the development of the workforce as a whole with priority afforded to special training and education programmes and a jointly negotiated framework for affirmative action rather than an exclusive reliance on market forces. COSATU has focused on addressing the masses on the shopfloor with affirmative action while at the same time criticising corporate affirmative action strategies with limited focuses on identifying and promoting a select number of black managers for "soft jobs" in human resources or public relations. As Rahmat Omar, human resources co-ordinator at COSATU has argued, the "overwhelming percentage of people need affirmative action" not just a few blacks at the

very top⁴⁹. The General Secretary of the rival National Council of Trade Unions (NACTU), a federation of 23 unions representing 327,000 workers, shares similar concerns; “It’s not a question of promotion of a few blacks but whether there’s a promotion to improve skills *and* whether the promotion is a merited promotion”⁵⁰.

Thus the unions’ perceptions of affirmative action diverge considerably from management’s view of the policy. Because unions focus on the fundamental issues of a living wage, job security and retrenchments, their approach to affirmative action is necessarily a wide ranging one: it seeks to uplift the masses of workers and in many cases attempts to address the needs of women. A more inclusive decision-making process which is sought by the unions is seen as essential to revitalise the workforce and give it a stake in the economy. Companies which have operated for so long in the top-down mode of decision-making, can no longer afford to decide on their own what is best for workers or how to train workers in what they believe their needs are.

Business on the other hand projects an argument which is partial to market-driven skills development and training. Unionists counter that South Africa cannot afford to wait for market forces to create a demand in particular sectors of skilled labour and then respond with training initiatives. If South Africa is to survive in a competitive world market in which successful economies hinge on skills, flexibility of production, marketing techniques and the use of appropriate technology, it cannot afford an unskilled workforce with low productivity.

⁴⁹ “Special Report,” Financial Mail September 1993: 24.

⁵⁰ “Special,” Financial Mail 24.

Although companies are steadily putting affirmative action on their agendas, awareness of the issues remains simplistic. Many have just barely grasped what is really at stake. A 1992 survey by Angus Bowmaker-Falconer indicates that employment equity and affirmative action have to a large degree become public relations exercises, “tokenism” and window dressing. It is further pointed out that although there has been a general shift towards greater training and development expenditure for blacks, most companies have no clearly articulated training strategies in place. Compared to international norms for training and development expenditure of 6% to 8% of total remuneration, South African companies are spending far less with an average of 1.5%⁵¹.

Until 1998, the ANC’s strategy of affirmative action remained a purely voluntary one. Business was without obligation to employ “disadvantaged people” and free to adopt its own affirmative action targets or not, as a particular company chooses. During the period leading up to the elections in South Africa, however, there was increasing speculation that once a new government was in place legislation would be introduced to compel the private and all other sectors to implement affirmative action programmes.

Although most businesses are not in favour of government imposed, racially based employment quotas, many promptly set up programmes before the arrival of the new government in the hope that they would be able to point out what they had achieved without stipulated quotas⁵². By voluntarily embarking on affirmative action programmes the business community could avoid the “trauma” of forced implementation. The South

⁵¹ Angus Bowmaker-Falconer, Die Suid Afrikaan Special Focus: Affirmative Action in Action, May/June 1993: 12. See also Reversing Discrimination eds. Duncan Innes, M. Kentridge and H. Perold (Cape Town: Oxford UP, 1993) 39.

⁵² The Weekly Mail and Guardian 14 May 1993.

African Chamber of Business (SACOB) published a document on affirmative action in early 1993 which argued that intervention would do more harm than good. SACOB felt that it would not only lower confidence among investors, but also encourage companies to create the illusion of progress without investing in the key issue of employee development⁵³. Should one rely on the initiatives of organisations to implement their own programmes? Should the government provide incentives – such as tax breaks – to encourage such programmes? Or should companies be forced, regardless of the consequences, through legislation and quotas to comply with certain guidelines? These questions form a substantial part of the initial debate on affirmative action in corporate South Africa that is one of the most pressing strategic issues facing the private sector, according to a survey by Perry and Associates of 65 executives in large companies⁵⁴.

A number of companies therefore have set up anticipatory directives and initiatives for a variety of reasons to get various programmes of affirmative action under way as soon as possible. As one manager who was interviewed put it:

“...our company justifies its affirmative action policy not only in terms of a moral or social responsibility, but largely because of a fear of quotas being imposed in the future...we are willing to adapt early in anticipation of future legislation....”⁵⁵

When asked how his company justified its affirmative action programme, another interviewee replied: “...we are a firm which obtains a lot of our work from government sources. A future government is more than likely to give work to the firms that have met

⁵³ Business Day 16 July 1993.

⁵⁴ Southscan 9.17 (6 May 1994).

⁵⁵ Personal interview, 17 March 1994.

their criteria for racial quotas”⁵⁶. It was also recognised as increasingly important to have black sales managers to sell to the new government, according to business leaders polled in the survey by Perry and Associates⁵⁷. However, the assumption of many organisations that having a significant number of black faces in the boardroom by the time a new government arrives will ingratiate themselves with the new leadership may prove not to be the case. The ANC is also concerned about the impact quotas could have on its relationship with the business community and with business efficiency. Albie Sachs, the ANC guru on affirmative action has said that “...the issue is not whether to go for quotas or not. The issue is the enforceability of whatever measures a new government would resort to”⁵⁸. Sachs goes on to argue however, that quotas and timetables in the short term “could have an important role to play, if they are well targeted, neatly tailored, participatory, limited in duration, and do not unduly trample on the rights of others”⁵⁹. At the end of 1996, the Sunday Times editorialises: “Only time will tell whether the government is managing affirmative action in a way that strengthens the capacity of the country to improve the living conditions of all citizens - or ultimately weakens it”⁶⁰.

⁵⁶ Personal interview, 15 March 1994.

⁵⁷ SouthScan 9. 17 (6 May 1994).

⁵⁸ Albie Sachs, Affirmative Action Seminar, Indaba Hotel, 26-27 August 1992.

⁵⁹ Sachs, “Affirmative Action,” Redistribution 221.

⁶⁰ Sunday Times 20 November 1996.

The Employment Equity Bill

A modified Employment Equity Bill of 1997 was tabled before parliament in July 1998 after lengthy discussions and revisions by the National Economic, Development and Labour Council (Nedlac). The final Bill resulted from the debate triggered by the Green Paper on Employment and Occupational Equity published in July 1996. The purpose of the long anticipated Bill as set out in its explanatory memorandum is to achieve equality in the workplace by eliminating unfair discrimination and implementing positive measures to redress disadvantages experienced by black people, women and the disabled in order to ensure equitable representation in all occupational categories and levels in the workforce⁶¹. A note prefacing the bill by then Labour Minister Tito Mboweni explains: "Apartheid has left behind a legacy of inequality reflected in disparities in the distribution of jobs, occupations and income. The government is of the view that it is necessary to redress these imbalances and to inculcate within every workplace a culture of nondiscrimination and diversity. When it comes to jobs, training and promotion, we want a fair deal for all workers. Let this bill be the subject of debate in every workplace and by all workers and employers" ⁶².

The Bill seeks to impose four central obligations on "designated employers". "Designated employers" are those who employ more than 50 people or companies with an annual turnover of more than R10 million. They are obliged to:

⁶¹ South Africa, "The Employment Equity Bill", Republic of South Africa Government Gazette 390.18481 (Pretoria: 1 December 1997).

⁶² South Africa, "Equity Bill," Government Gazette 3.

1) monitor their workforces by race, a process which many critics have pointed out by definition requires apartheid-style classification of employees. 2) "Identify underrepresentation" of black people at any level in the workplace hierarchy. 3) Draft an employment equity plan in consultation with their employees to rectify any imbalances and make "reasonable progress" in terms of the self-defined plan. 4) Report annually to the Department of Labour that is the monitor, advisor and enforcer of approved plans.

The term 'equitable representation' is used in various sections of the Bill⁶³. Equitable representation is defined in terms of two criteria; the national and regional demographic profile and the pool of "suitably qualified people". The Bill empowers employees, trade unions and labour department officials to monitor progress towards equity and to take further action if the employer's progress is not considered "reasonable". The term "reasonable" however is left open to interpretation.

Disputes must be referred to the Commission for Consultation, Mediation and Arbitration (CCMA), first for mediation and then for arbitration. Since arbitration is binding on the disputing parties, a normal requisite is that both parties must agree to present the disagreement to an arbiter. The Bill rejects that requirement. Sections 39 and 40 of the Bill give the Director General wide powers. The Director General's decision can however be challenged in the Labour Court which is the ultimate arena for action against "recalcitrant" or "obstructive" employers, and is empowered to impose fines of up to R500,000 for a first offence, increasing to R900,000 for a fifth. Offending companies will also not be eligible for government contracts.

⁶³ South Africa, "The Employment Equity Bill," Republic of South Africa Government Gazette 390. 18481 (Pretoria: 1 December 1997): 22, 24-28.

Significant changes to the original Bill have been negotiated in Nedlac resulting in substantial agreement on a number of controversial aspects of the Bill. The three parties (labour, business and government) agreed to expand the range of employers covered by the Bill from a company employing 50 or more people to include those with an annual turnover of more than R10 million⁶⁴. In light of this and in order to ease administrative burdens - companies employing less than 150 people would only be required to submit a report to the director-general of labour on progress made in implementing employment equity every two years instead of annually. Special regulations for small businesses would be published in the Nedlac report including a format to assist in implementing and maintaining employment equity. Parties in the Nedlac negotiation also agreed on changes to a critical clause which stated that employers would not have to appoint or promote members of the "designated group" who were not suitably qualified.

However, while Business South Africa (BSA) argues that "suitably qualified" in the Nedlac agreement referred to the person's formal qualifications, prior learning and relevant experience, the drafters of the Bill changed the compromise to include "the capacity to acquire the ability to do the job".

"It is practically impossible to determine whether a person will at some time in the future acquire the ability to do the job. This will result in an obligation to persons who are not, in fact suitably qualified."⁶⁵

⁶⁴ Business Day 4 May 1998.

⁶⁵ Vic van Vuren, business convener in Nedlac, qtd. in Cape Times (22 July 1998). The offending clause was apparently slipped in by a private law firm that was contracted to draft the bill. The new Labour Minister Shepherd Mdladlana was unaware of the change.

Also stated within the same clause was that employers would not have to introduce quotas, create new jobs for affirmative action candidates or be forced not to employ from outside the designated group. These concessions to business largely bought the acquiescence of corporate South Africa to a situation it feels it "can handle". The discretion accorded to employers, the ambiguity in interpreting the Act, and the loopholes created are likely to stimulate the demand for a large diversity industry with hundreds of equity consultants. Like tax advisors who effectively aid tax evasion, the more a company can afford to employ specialized advice, equity consultants will shield recalcitrant companies from any unwanted changes. A good example is the wording of the phrase "suitably qualified" which was referred to the government's legal advisors. Clearer guidelines are called for on what appointing a "suitably qualified person" actually means. This could refer to academic qualifications, occupational experience or experience-based competencies. As Frank Horowitz points out:

"Failure to appoint 'suitably qualified' people from designated groups, with the argument that there were not enough in the labour market, will not necessarily be acceptable. Proactive measures, such as scholarships and bursaries, are important in giving effect to an active employer role in tertiary occupational education."⁶⁶

Quite a significant late change in the Employment Equity Bill as a result of the Nedlac negotiations was that businesses should aim at workforces which reflect the national and regional demographics of the "economically active population" rather than aim to reflect the entire national and regional demography. It is not clear whether the new benchmark includes people seeking employment or those who had been discouraged from doing so, as the government suggests, or only those formally employed. In any case, the new

⁶⁶ Frank Horwitz, "The Employment Equity Bill: A Critique," SA Labour Bulletin 22.3 (June 1998): 80.

yardstick eliminates the rural population of the subsistence economy and thereby increases the ratio of whites in the calculation of representativity.

In Chapter II, Prohibition of Unfair Discrimination, the Bill prohibits unfair discrimination, whether direct (where there is deliberate intent) or indirect (where conscious intent is not necessary). "Harassment", either racial or sexual as a form of unfair discrimination, is not defined, and it is unclear how indirect discrimination will be determined. Anthea Jeffery, the Institute of Race Relations special research consultant who has heavily criticized the Bill, points out that in the US indirect discrimination can be inferred legally, from under-representation of any race or defined category of people and that there are striking similarities between the Bill and the relevant US law⁶⁷. For instance: the reversal of the normal onus of proof (the employer must prove that he/she is not discriminating indirectly); the provision for punitive as well as compensatory damages (punitive damages not being limited to the loss the plaintiff is able to prove he/she suffered); and the allowance for class actions (in which an individual can claim damages on behalf of people in a similar situation). Jeffery argues that the Bill is fundamentally flawed in both prohibiting and requiring discrimination:

"Preferences for people from designated groups will inevitably mean discrimination against others. The two are simply different facets of a single coin. The reversal of the onus of proof is also to be eschewed, for it is a core tenet of due process that every person should be presumed innocent until the contrary is proven. In addition, prohibiting unfair discrimination on 19 listed grounds is excessive. It makes for too great an intervention by the state in the private domain, is likely to promote a welter of litigation, and reduces the significance of race prejudice in this

⁶⁷ "Mandela's urgent priority for 'employment equity,'" Southern Africa Report 16.6 (13 February 1998): 2.

country by equating it with discrimination on a host of other grounds, including 'family responsibility.'"⁶⁸

The Bill's measures have also been criticized for serving as disincentives to employment growth and business expansion, potentially discouraging businesspeople from investing in SA with the looming "hassle" of such legislation. It may pose not only a financial burden on management because of the prospect of heavy fines being imposed for not setting affirmative action plans and successfully fulfilling them, but in addition many companies are also speculating on whether they will be forced to pay out millions of rands in retrenchment benefits to white male employees if they are to be laid off to make way for affirmative action appointees⁶⁹. In a number of companies and industries, threatened white middle and senior managers have taken legal advice. The argument used, highlights that anyone laid off in the interests of affirmative action should be entitled to fair compensation. According to lobbyists, white senior personnel should be paid retrenchment packages which take account of the reality that they may not find similar employment elsewhere in South Africa because of the specifics of the Employment Equity Bill and for unfair dismissal on the basis of race⁷⁰. This could create a situation where retrenched employees could extract packages related to their potential earning until their retirement age.

⁶⁸ Anthea Jeffery, Address to the Labour Law Conference, "The Employment Equity Bill of 1997," Durban, 2 July 1998: 2.

⁶⁹ "Equity Retrenched' will claim higher packages," Southern Africa Report 16.6 (13 February 1998): 12.

⁷⁰ "Companies face huge payouts whether they meet race targets or not," Sunday Independent 8 February 1998.

Since the government's Growth, Employment and Redistribution (GEAR) plan has failed to create the additional jobs envisaged, Jeffery together with other critics in the DP and NP, raise the pertinent question:

"How in practice are employers to implement quotas of the magnitude indicated, or even to make 'reasonable progress' in doing so? If natural attrition does not facilitate a significant number of new appointments, will employers in fact find themselves with no option but to retrench white staff, even though the bill stipulates that they do not have to raise 'absolute barriers' against non-designated groups? Will employers also find themselves obliged, in practice, to take on additional personnel - despite the Bill's disclaimer that they are not under a duty to create new jobs? Will they, in practice, also have to avoid appointing or promoting white males for the foreseeable future?"⁷¹

In contrast to the political opposition and despite the largely punitive implications of the Employment Equity Bill, corporate South Africa surprisingly remains quite confident in its ability to accommodate and if necessary circumvent any legislation. Just as companies complied with the restrictive regulations and rules of the old apartheid order, so it seems, they will "accept the rules" of the post-apartheid government and Employment Equity Bill quite readily in the confident hope that the gap between legislative intent and social reality will remain wide.

Themba Sono has argued that the

"political manipulation of private commercial enterprises was the order of the old era and such manipulation continues in the new era ... They (business) were apathetic during apartheid, why should they change now? They've simply accepted the new Caesar. Also, people in South Africa have a profound guilt complex and business wants to atone."⁷²

However, this interpretation overestimates the passive compliance of corporate South

⁷¹ Jeffery, Address, "Bill of 1997," 4.

⁷² Cape Times 3 February 1998: 8-9.

Africa and neglects the newly acquired self confidence of deracialized capital, that, together with its black allies, can deal effectively with any threat from a government which is dependent on business cooperation for vital growth and job creation. Sono also criticises blacks who welcome the Bill as beneficiaries or are ignorant of its dangers because the onus is placed on whites:

"The attitude of black elites to this and similar legislation is a cause for major concern. Many blacks seem to adopt the attitude that much of recent legislation is intended for whites... To remain smug and complacent about such legislation is to ape most Afrikaners when 'Bantu laws' were passed, following the advent of apartheid. God forbid that we should install another 'group rights' mindset and doctrine."⁷³

The Democratic Party holds firmly in its belief that the Bill re-elevates race as a factor in SA society and, ironically makes the classification of people by race a distinguishing feature of post-apartheid society. In this vein, the DP has published a paper entitled, "Death of the Rainbow Nation", in which it accuses the ANC of the "creeping reintroduction of race policies" and castigating opposition to its programme as "white racism"⁷⁴. Objection to affirmative action particularly the legislated kind envisaged by the Bill, is largely on the ground that that it betrays the colour-blind ideal - the central principle that all individuals irrespective of race, should be entitled to equality before the law. "Death of a Rainbow Nation" describes the Employment Equity Bill as a piece of apartheid legislation, a "Population Registration Act for the public and private sector". It warns that South Africa is on the "slippery slope ... to apartheid, American segregation and Nazi Germany".

⁷³ Themba Sono, "Bad Medicine for sickly economy," *Frontiers of Freedom* 16 Second Quarter: 15-16.

⁷⁴ Democratic Party, "The Death of the Rainbow Nation: Unmasking the ANC's Programme of Re-racialisation," (Cape Town, Government Printer, 1998): 2.

Apart from the excessive language and false analogies, the DP's labelling of the Bill as "re-racialisation" is problematic in that it implies that the country has been de-racialized already. This has never been the case. While the spectre of a 'new-apartheid' is raised after four years of democratic rule, all reference to the old apartheid and colonial past is dismissed as an excuse for government failures. The history of racial discrimination and its enduring legacy are largely ignored and the abolition of legal racism equated with the disappearance of its legacies. Nonracialism, as has been argued earlier, cannot necessarily be equated with colour-blindness. Taking race into account, especially in the case of employment equity measures, does not amount to the "re-racialisation of South African society". As Pallo Jordan argues: "Nonracialism requires engagement with race and its salience as an index of power and access to power, rather than ignoring it and thus also avoiding addressing the power relations that undergird it"⁷⁵.

The Employment Equity Bill relies on a heavy-handed punitive approach when some attempt could have been made to encourage transformation with more carrot-like measures such as tax incentives. While larger organisations may be able to afford the penalties of R500,000 to R900,000, and may even budget for them if they feel they are unable or unwilling to make adequate progress, the fines are severe, especially for smaller organisations who may be forced to pay compensatory damages in addition. The drafters of the Bill however, do seem aware that it may not be possible for some companies to achieve a workforce representative of SA's racial composition because of "the inherent requirements of the job" or "economic and financial factors relevant to the sector in which the employer operates" or perhaps because suitably qualified people are

⁷⁵ Pallo Jordan, "Racism's bell is tolling for thee," Mail and Guardian (19-25 June 1998): 24.

not available due to the educational gaps created by apartheid. Business South Africa (BSA) has argued cautiously against "quotas or targets whose aim is one of outcome in the form of a workforce that mirrors national and regional demographics"⁷⁶. BSA argues that it will be impossible for employers to take such demographics into account in some sectors. For example, fewer than 1000 (0.2%) of the 438 000 black matriculants (candidates) in 1996 achieved the maths and science results required for entry into engineering which would preclude mining and engineering employers from meeting representativeness obligations the bill might expect from them⁷⁷.

Apart from these practical concerns, little consensus exists as to how racial preferential treatment might affect intergroup relations. Among the apartheid-disenfranchised groups a hierarchy of disadvantage is being entrenched. While the Equity Bill lists Africans, Coloureds and Indians as designated groups, employers are expected not only to account for representativity between black and white but among the different groups as well. A company who would only employ Coloureds or Indians would not meet the test of representativity. Since the two middle-groups have enjoyed educational advantages and acquired cultural capital that black Africans often lack, their members feel particularly resentful, if employers prefer "real blacks" over better qualified "browns". The government also has yet to explain how its call for young non-Black males to stay and contribute their skills to the new order can be reconciled with them taking a legislated position at the end of the queue of occupational mobility and employment chances. As necessary as an Equity Bill might be for the deracialisation of

⁷⁶ SAIRR Fast Facts (April 1998): 3.

⁷⁷ SAIRR Facts 3.

privilege it will carry an as yet unknown price for nation-building generally. Furthermore high costs are likely to be incurred by the loss of non-black professionals who emigrate because of exclusion.

Conclusions

This chapter has highlighted the public stances of major political actors on affirmative action. Two main conceptualisations of affirmative action are emphasized. The dominant conception prevails primarily in the private sector, but also in a number of government institutions. It views affirmative action as a strategy implemented by the management of organisations to recruit potential black managers and train them for senior positions for incorporation in the boards and governing bodies of organisations. Many companies consciously limit their redress efforts to this sector.

In contrast, the second conception of affirmative action - advocated primarily by the unions and other organisations of the political left - view affirmative action as a restructuring and transformative device for all institutions. In general, trade union visions centre on issues which address ownership, income and managerial power. Providing shopfloor staff with literacy and other skills training which enables employers to upgrade themselves is seen as a key element of affirmative action.

The development of ANC policy on affirmative action is discussed from the Bill of Rights and specific constitutional provisions to the Green Paper preceeding the Employment Equity Bill of 1997 which in turn was modified in NEDLAC negotiations before the Bill was tabled in Parliament in July 1998. The position of major political

players on affirmative action is outlined and a melange of interpretations of affirmative action are discussed in order to record the flavour of the South African discourse and contextualize the rest of the thesis.

In conclusion, although all of the major black political organisations have taken a stand on the issue of affirmative action indicating that it is one of the key programmes of redress in the new South Africa, there is so far little clarity on how it will be implemented and what costs will be incurred. As Rachel Jafta has pointed out "calculating their cost is notoriously difficult and reliable estimates are hard to come by"⁷⁸. While direct costs such as the bureaucratic expansion required to monitor affirmative action measures are easiest to assess, indirect costs and opportunity costs must be taken into account, as well.

Compounding this problem is that there is no single blueprint for the successful implementation of affirmative action. It relies on a variety of factors and depends heavily on the nature of the company. Although some organisations will have to be pressurised into hiring greater numbers of blacks, it would seem that specifically tailored racial and gender targets depend on a particular company's purpose and nature. A monitoring process which facilitates the training, development and retention of staff after they have been hired may therefore be a better way to evaluate organisations, rather than a simple black to white ratio count.

⁷⁸ Rachel Jafta, "The High Cost of Affirmative Action," Focus, April 1998: 4.

SECTION II

THE SOUTH AFRICAN REALITY OF RACIAL EMPLOYMENT IN BUSINESS

CHAPTER V

RESEARCH METHODS

This study focuses on different approaches taken to address the under-representation of blacks in the senior management of South Africa's private sector. The strategies of companies which have affirmative action programmes in place within their organisations are examined, as well as the rationale offered for non-compliance by companies who have chosen not to implement affirmative action as a means of addressing the issue of black advancement. For the most part, a qualitative research approach is used in attempting to interpret nuances of organisational responses to demands for increasing racial representation in the workplace. A period of five months field-research was spent in South Africa from January to May, 1994 and again during the same period in 1995. A two month period was spent in South Africa in February/March 1996, and in March 1997, a survey was repeated on my behalf in order to ascertain any changes after three years of ANC rule. During this time three main sources and methods of gathering data were used: 1) questionnaire surveys, 2) personal interviews, both formal and informal and 3) focus group discussions.

The Questionnaire Survey

A questionnaire survey was conducted among 200 business executives taking a three week course at the Graduate School of Business (GSB) at the University of Cape Town in March/April of 1994 and repeated with 121 similar respondents in March 1997.

These groups constituted accessible samples that did not incur major costs, as long as the respondents could be motivated to complete a questionnaire in the class-room setting. This was achieved with the help of instructors for whom the knowledge of the attitudes of their “delegates” was also of some assistance, particularly as they discussed appropriate management strategies and industrial relations later in their course. The questionnaires were distributed in separate classes and participants were asked to return the completed forms the next day. Although this request did not form part of any formal assignment and no undue pressure was brought upon the class to spend the 20-30 minutes extra time, there was the expectation that everyone would do so. Indeed this happened. Ninety-five percent (95%) of the classes returned their completed questionnaire, judging from the number of persons enrolled. Many respondents added additional comments that seemed to indicate that most enjoyed the challenge to articulate their experience and opinion on paper. The classes were promised feedback on the results. This occurred towards the end of the course when the respective instructors summarised the main points of the answers without going into detail. I was present at some of the sessions in which the questionnaires were handed out as well as the results explained. The course participants, officially called “delegates”, considered the exercise as one of several GSB surveys which gave it more weight and minimised refusals.

In short, the exercise of a “class-room survey” provided a relatively cost-effective and reliable way to gain access to three hundred South African executives from all areas of the country. Given the almost total return quote - compared with an average of less than 30% in mailed questionnaires - the use of a semi-captive audience was considered the optimal way to gauge opinions from a variety of respondents. As a single researcher

without any financial assistance, it would not have been possible for me to interview this large number of managers personally through visits to their places of work. While exclusive personal interviews would have had the advantage of greater depth and the possibility of probing specific replies, compared with the somewhat mechanical way of eliciting written replies in response to standard questions, this would have occurred at the cost of a much smaller and, therefore, potentially more biased sample. In any case, the survey constituted one of three research methods employed in addition to in-depth personal interviews with selected experts and managers and focus group discussions. It must be stressed however that the relatively limited survey does not in any way claim to be representative of South African business attitudes, even within large margins of error. What these replies do provide, at a particularly formative period in South Africa's transition, are vignettes or windows toward understanding fluid attitudes in the business sector prior to the legislation on the Employment Equity Bill. The results open the way for further research. The evidence from the survey, interviews and focus discussions reflects the specific experiences and opinions of a selected group of managers and professionals which can be considered typical of the political climate in the private sector before the specifics of the legislation refocused the debate from the "whether" to the "how". Their recorded attitudes in turn can be expected to shape their behaviour. While no firm conclusions can be drawn from these diverse views of private executives about the policies of their companies or business organisations, their "stories", recorded confidentially in their own words, nonetheless give valuable insights into the thought processes that undergird public stances. In short, how far this cluster of attitudes nevertheless resembles dominant opinions of business in South Africa is open to

speculation, as no scientifically random selection of the respondents took place. Nonetheless, some idea of the “representativeness” of the respondents can be gauged from a closer self-description of the sample in terms of regional origin, managerial and sectorial occupation, number of employees in company, age, sex and, indirectly, race, outlined subsequently. Again, these background data do not allow any quantitative correlation with specific answers but were collected to deepen the understanding of the social construction of the rationale for or against preferential policies for disadvantaged groups.

In order to delineate the issues and arrive at main themes, small batches of trial questionnaires were first administered and tested in a pilot study of twenty-four class members. Input and advice from experts in the field, particularly Angus Bowmaker-Falconer of the GSB and Judy Gathercole, Human Resources Manager of Old Mutual, was incorporated though they are in no way accountable for the direction taken, or outcomes of this study. Dominant issues which emerged from these initial questionnaire results were then incorporated into the final questionnaire together with a variety of changes in the way questions were formulated and terminology used.

The questionnaire began with thirteen closed statements on affirmative action with which participants were asked to either agree, disagree, or take a neutral stance, followed by seven longer, open-ended questions with more reply space and requiring more detailed effort and considered responses (see sample questionnaire in appendices). The sequence of questions was also carefully considered, easing respondents into answering, varying themes, and leaving some of the most controversial issues until the end when respondents had had time to consider issues and jog their memories on certain

experiences. While the majority of “closed” questions may still have made certain assumptions with respect to the meaning of various concepts and phrasing of ideas, the open-ended questions allowed for a much more individual interpretation and nuanced expression of ideas.

A follow-up survey in 1997 aimed at delineating whether the discourse among business executives had shifted after three years of ANC rule. It also probed some new concerns with respect to the loss of white expertise and resentment as a result of affirmative action policies. The date of the survey (‘94 or ‘97) is indicated after each direct quote before the number of each respondent. Since no major differences emerged during the three year time span - contrary to expectations - the answers to both surveys are integrated under the issues raised rather than discussed separately. Nevertheless, nuances to a changed political situation can be easily identified by the dating of each response.

Background of Respondents

The respondents came from companies in a wide range of sectors listed below in Table 1, as well as managers and directors from areas which did not fall under any of the listed categories. Ecotourism, Pharmaceutical, Transport and Shipping, Electronic Media, and Agriculture were among fields mentioned less frequently. In response to the question: “Which sector does your company's main activity fall into?” nine main activities emerged (see Table 1). The predominance of occupations in the financial sector (26%) and Head Office (14%) is likely to be explained by the typical upward mobility of

the respondents. They were selected by their firms to attend the three week advanced course at considerable expense to their employer. The sample may well reflect the differential financial health of economic sectors in the South African recession in which not all firms could equally afford the Rand 6000 for staff training.

Table 1: Company Sector of Survey Respondents

<u>Sector</u>	<u>1994 Respondents (198)¹</u>	<u>%</u>
Construction	7	3
Financial	51	26
Industrial Food	18	9
Industrial Other	30	15
Mining	14	7
Oil	8	4
Paper and Packaging	3	2
Public Service	9	5
Retail	7	3
Service/Head Office	28	14
Other*	<u>23</u>	<u>12</u>
		100%
* Other sectors included Transport and Shipping, Ecotourism/Conservation, Electronics, Motor and Pharmaceutical		

In response to the question: “What is the approximate number of total employees in your company?” respondents indicated the number of employees in their firms falling into one of seven numerical categories (see Table 2). The preponderance of respondents from large firms - roughly 62% indicated they were from companies in the three largest categories - suggests that these companies probably could afford the GSB fees more readily as part of training or employee development programmes.

¹ Company statistics were not solicited in the 1997 survey as they could be expected to be similar.

Table 2: Approximate Number of Employees in Respondents' Company

<u>Employees</u>	<u>1994 Respondents (198)</u>	<u>%</u>
under 10	21	10
10 - 50	28	14
50 - 100	12	6
100 - 500	16	8
500 - 1000	35	18
1000 - 5000	36	18
5000 +	50	<u>25</u>
		100%

Participants in the survey were primarily “middle managers,” “senior executives” and “directors” in the private sector as well as some public institutions. Approximately 76% of respondents listed their occupational position as one type of manager - ranging from production, regional and branch managers to human resources and divisional head managers. Other responses to the question of occupational position, mentioned their professional training as accountants or engineers, including two M.D.'s.

While the majority of these respondents were white English speaking males between the ages of 30 and 48, some interesting answers came from the small sample of Xhosa, Zulu, and Sotho speakers in the programme (see Table 4). Only 14 respondents (7%) out of the total 198 were female (see Table 3). The gender and racial division of respondents therefore also seems to reflect the South African business world where blacks and women are severely under-represented. The sample however is atypical insofar as the poor representation of Afrikaans-speakers is concerned. This probably reflects the more English image of the University of Cape Town (UCT) which does not

appeal to career oriented Afrikaners who would rather take a course at Stellenbosch University or Rand Afrikaans University.

Table 3: Gender of Respondents

	<u>1994 (198)</u>	<u>%</u>	<u>1997 (121)</u>	<u>%</u>
Male	184	93	103	83
Female	14	7	18	14

Table 4: Childhood Language of Respondents

	<u>1994 (198)</u>	<u>%</u>	<u>1997 (121)</u>	<u>%</u>
English	164	83	82	68
Afrikaans	21	11	14	12
African Languages*	11	5	9	7.5
German & Other	2	1	6	5
no/a	0	<u>0</u>	9	<u>7.5</u>
		100		100
*In 1994 the breakdown of African languages included: 3 Xhosa, 2 Venda, 2 Sotho, 1 Zulu, 1 Shona, 1 Tsonga and 1 Chichewa; In 1997 they included 1 Xhosa, 2 Zulu, 2 Tswana, 2 Sesotho, 1 Pedi, and 1 Swazi.				

Personal Interviews

Personal interviews were conducted with twenty-two senior managers across a spectrum of major companies. Some managers were directly in charge of corporate affirmative action programmes while others had relevant experience. Companies were selected for either having progressive labour policies and social responsibility programmes or accessibility of managers through secondary contacts. Since the attitude of most senior managers (their established identity notwithstanding) was such that a formal structured interview with preformulated questions, a tape recorder and sometimes even notes written during conversation, triggered barriers of caution and anxiety, these approaches were frequently discarded in favour of more informal “unstructured” interviews outlined below. Subsequently conversations were recorded from memory as comprehensively as possible immediately after each interview. Key topics of the research were introduced as the situation permitted. Interviews ranged from 45 minutes to 2 hours in length. In situations where the interviewee seemed quite comfortable after an initial period of informal introductory conversation, a tape recorder was used and the tape transcribed later. Where the tape recorder was used, permission was always sought. In a few cases consent to use the device was refused.

The extended interview is one of the most common means of collecting data in research projects that involve extended field research. Three basic kinds of interviews

are described by Denzin²: the scheduled standardised interview, the nonscheduled standardised interview and the nonstandardised interview. Scheduled standardised interviews ask all respondents the same kinds of questions in the same basic order. Goetz and LeCompte³ refer to this type of interview as an orally administered questionnaire. The nonscheduled standardised interview asks all individuals the same questions though the order in which the questions are asked may be varied. In the nonstandardised interview, the researcher does not rely on a predesigned interview form, though general guiding questions and themes for inquiry may be planned in advance.

Hammersley and Atkinson's conception of the "reflective interview" represents a combination of Denzin's descriptions of the nonscheduled standardised interview and the nonstandardised interview.

"The main difference between the way in which ethnographers and survey researchers ask questions is not, as is sometimes suggested, that one form of interviewing is 'structured' and the other is 'unstructured'. All interviews, like any other kind of social interaction, are structured by *both* researcher and informant. The important distinction to be made is between standardized and reflective interviewing. Ethnographers do not decide beforehand the questions they want to ask, though they may enter the interview with a list of issues to be covered. Nor do ethnographers restrict themselves to a single mode of questioning. On different occasions, or at different points in the same interview, the approach may be non-directive or directive, depending on the functioning that the questioning is intended to serve."⁴ (original italics)

What Hammersley and Atkinson see as the key feature of the ethnographic interview is the way the researcher responds on-the-spot to the direction and content

² N.K. Denzin, The Research Act: A Theoretical Introduction to Sociological Methods (New York: McGraw-Hill, 1978).

³ J. Goetz and M. LeCompte, Ethnography and Qualitative Design in Educational Research (Toronto: Academic Press, 1984) 119.

⁴ M. Hammersley and P. Atkinson, Ethnography: principles in practice (New York: Tavistock Publications, 1983) 112-113.

generated by the interview itself. Burgess holds a similar view of the interview process in which he sees interviews as “conversations.” Burgess refers to this type of interview as “the unstructured interview”:

“Certainly, few field researchers have followed the structured approach, preferring to use an informal or unstructured or semi-structured style of interviewing which employs a set of themes and topics to form questions in the course of the conversation. This strategy, it is argued, gives informants an opportunity to develop their answers outside a structured format. It is this style of interviewing which I refer to as the ‘unstructured interview.’”⁵

For the purposes of this study “nonstandardised,” “reflective” or “unstructured” interviews were used in order that respondents’ thoughts, opinions and beliefs about affirmative action emerged in as unhindered a way as possible.

Personal interviews ranged from casual discussions with local businessmen on their perceptions of affirmative action at informal gatherings and parties to more formal appointments, made well in advance, with senior managers, human resource directors and Chief Executive Officers (C.E.O.s) of large companies. Several contacts were made with the assistance of Angus Bowmaker-Falconer, who produces the UCT Graduate School of Business “Breakwater Monitor” – a comprehensive quantitative survey on companies and affirmative action nationally. In the vast majority of cases most managers were quite amenable to the notion of a discussion with a “foreigner from overseas” interested in affirmative action. Some possibly perceived the prospect of “boosting the company image on affirmative action”. Most respondents seemed to enjoy the opportunity to share experiences and opinions on affirmative action after overcoming initial inhibitions.

⁵ R.G. Burgess, In the Field: An Introduction to Field Research (London: George Allen and Unwin, 1984) 101-102.

Those in charge of company programmes on affirmative action were keen to display what had already been achieved in this respect and how progressive the company was, or was trying to be, in relation to other competitors.

Academics who had conducted research on affirmative action and published in the area were also informally interviewed. A number of meetings were held with private management consultants, such as Eden Africa, specialising in aiding companies in their search to recruit qualified Black personnel. Informal discussions were also held with persons appointed under affirmative action, senior black managers, Black Management Forum (BMF) members, and a host of others with perspectives on the debate and with relevant experiences to share. A number of particularly informative interviews were conducted at the headquarters of the giant parastatal, Transnet, in Johannesburg. Senior management, including the manager of Human Resources Planning and other Human Resource managers in charge of their controversial “turn strategy”, were interviewed.

In this study, these informal interviews which do not lend themselves to quantification, form a central source of information contributing different perspectives to the assessment of specific corporations and business strategies.

Focus Group Discussions

Eleven focus group discussions were held in which I was either 1) a participant observer in small group discussions on affirmative action or 2) where I lead the

discussion on affirmative action after I had presented a paper. For example, I was invited to give an hour long lecture to two classes of MBA students at UCT, the Institute of Personnel Management and to managers at Old Mutual. During these occasions I presented perspectives on affirmative action in order to solicit counter views and test the reception of my arguments.

Within such focus group discussions, participant observation was used as the primary means for collecting data. Burgess describes the value and uses of participant observation.

“In research involving the use of participant observation it is the researcher who is the main instrument of social investigation. On this basis participant observation facilitates the collection of data on social interaction; on situations as they occur rather than on artificial situations (as in experimental research) or constructs of artificial situations that are provided by the researcher (as in survey research). The value of being a participant observer lies in the opportunity that is available to collect rich detailed data based on observations in natural settings. Furthermore, the researcher can obtain accounts of situations in the participant's own language which give access to the concepts that are used in everyday life. The researcher can, therefore, construct an account of a social situation on the basis of the various accounts that are obtained from informants. In these circumstances, there is an opportunity to collect the different version of events that are available. Here, it is the researcher's aim to compare these accounts with each other, and with other observations that the researcher has made in the field of study. The result is that researchers can utilise their observations together with their theoretical insights to make seemingly irrational or paradoxical behaviour comprehensible to those within and beyond the situation that is studied.”⁶

As described by Burgess⁷ and Roy⁸ the participant-as-observer role involves the researcher in both participating and observing. The researcher makes it clear that research activities are the main reason for his or her presence in the group and that he or

⁶ Burgess, *In the Field* 79.

⁷ Burgess, *In the Field* 79.

she is there not only to participate in the group's activities, but to observe and collect data. A second characteristic of this role is that the researcher loosely directs the discussion and circulates freely in the setting of the study while observing and collecting data.

As an active participant observer in a number of relatively small group settings, I was able to initiate various questions and observe the ensuing debate among participants. This enabled me to scrutinise first hand the group dynamics of heated debates on various issues relevant to the topic, and also allowed the opportunity to raise questions in areas I felt warranted further discussion.

Particularly valuable group discussions took place on a number of occasions at Old Mutual Head Office in Pinelands during a series of two day workshops for employees on affirmative action and during discussions held around a Continuing Education of Managers Programme. During the series of workshops of which I was a part, delegates were divided into small groups on a number of occasions and allowed "open discussion" time to use for the "free-flow" of ideas relating to affirmative action. As a result of this unstructured and informal time, a number of issues and themes arose from participants who found themselves more relaxed and able to speak more freely of concerns without feeling pressurised by a large group. The setting of the Continuing Education of Managers Programme provided an environment in which I was able to move from group to group in an informal setting, listening to the more interesting debates and interjecting questions where appropriate. In addition, private conversations with

⁸ D. Roy, "The Study of Southern Labor Union Organizing Campaigns," In R. Habenstein (ed.), Pathways to Data ed. R. Habenstein (Chicago: Aldine Publishing, 1970) 216-244.

managers during lunch and tea breaks during the seminar programmes allowed me the opportunity to gauge different viewpoints and set up personal individual interviews with a number of interesting personnel.

In addition to these managers' programmes, Old Mutual hosted a more exclusive group discussion of 10 senior managers, all representing different companies, whose purpose was to share information on affirmative action in their respective arenas. I was fortunate to be allowed to sit in on this meeting of exclusively white males, predominantly Afrikaners, mostly from companies with relatively traditional labour policies. Although I was eyed initially with some curiosity, once the discussion got under way most forgot that I was present. This session provided a unique opportunity to observe dynamics between senior managers of companies all relating experiences of affirmative action, some from companies just beginning to get programmes underway and others reporting on changes their company had already achieved.

At the Graduate School of Business (GSB) I was also able to observe the dynamics and flow of larger group discussions on affirmative action after I had made two formal presentations. Questions and concerns which arose once again provided new perspectives and brought fresh experiences to light. The outspoken and sometimes aggressive delegates all seemed to have strong opinions on the subject which carried over from the classroom settings into more informal discussions during coffee breaks. The Institute of Personnel Management in Cape Town was another such forum where focus discussions on affirmative action took place on three occasions where I was present.

Such participant observations enabled me to both sense an informal atmosphere at senior management level in various companies and attain new insights from managers in

a variety of professional fields. In addition - informal gatherings and social events where the topic of affirmative action was often raised in response to discussion of the private sector in a changing South Africa - provided a casual atmosphere in which to test ideas and attitudes.

An additional period of research was spent reviewing and updating material in South Africa between January 1995 and April 1995 and during February/March 1996. During this period the Graduate School of Business was once again used as a testing ground, this time questioning assumptions relating to beneficiaries of affirmative action. Within the University of Cape Town's Graduate School of Business a project to enable underqualified managerial students the chance to compete for entry into the elitist MBA programme was used as a case study to test the contentious issue of whether preferential policies actually harm their ostensible beneficiaries. The Associate in Management (AIM) programme was intended as a bridging programme to compensate individuals from educationally deprived backgrounds by making up for the lack of skills that their advantaged peers have already acquired. A set of questionnaires and interviews were used to probe, from the perspective of beneficiaries, the thoughts of twenty of these almost all black "affirmative action" participants on contentious issues. This research on attitudes of black beneficiaries of affirmative action is discussed in a separate chapter.

CHAPTER VI

MANAGERIAL PERCEPTIONS OF AFFIRMATIVE ACTION: SUMMARY OF SURVEY RESULTS AND INTERVIEWS

The results of a questionnaire survey probing the dominant perceptions of a group of managers and professionals towards affirmative action recruitment policies are presented in this chapter. An earlier chapter “Research Methods” provides a detailed description of the questionnaire survey and methods used, the groups sampled and the background of respondents. The number in brackets immediately following quotations indicates the respective respondent and year in which the survey was conducted (1994 or 1997). Responses to the 1997 survey of a slightly smaller group (121) of business executives was conducted in order to update the perceptions of this sector and ascertain any potential radical shifts in perceptions of affirmative action after 3 years of ANC rule. The answers to the 1997 survey are integrated according to the issues raised rather than discussed separately since, contrary to expectations, no major differences emerged during the three year time span. However, the dating of each response allows nuances to a changed political situation to be identified easily. Responses to the closed questions in 1994 and 1997 are also calculated in Table 12 in the appendix (see page 351).

Merit versus Tokenism

An extensive array of answers and, in many cases, detailed descriptions were given to the first open ended general question: “What do you understand by the term ‘affirmative action’?” For the most part, affirmative action was seen as a means of

equalising opportunities and as a conscious attempt to promote, mostly blacks, and sometimes women for senior positions. Perceptions of what constitutes affirmative action provoked contending points of view, ranging from the prohibition of racial and sexual discrimination in hiring procedures to the initiation of remedial action compensating for past apartheid practices.

The majority of respondents began their statement with similar observations as illustrated by one human resources director who said affirmative action:

“...addresses the past inequalities of the apartheid system...Restoring a balance that more properly reflects the demographic makeup of the population with the rapid advancement of previously disadvantaged people.” (1994-77)

Most respondents mentioned that affirmative action was geared to “address inequalities”, “redress injustices and past discrimination”, or “appoint and aid historically disadvantaged people”.

In 1994, a very divided response was attained on the statement “affirmative action is a form of reverse racism”: 40% agreed, 38% disagreed, and 22% remained neutral. These descriptions conceptualised affirmative action as a remedial measure largely to remedy past injustices suffered by certain groups, yet not necessarily as a form of “reverse racism”. A common underlying theme - that reparation must be made to compensate for past discrimination - surfaced in the majority of answers. Unlike in the North American debate where opponents of affirmative action often argue that the real victims of past discrimination may no longer even be in the workforce, that the beneficiaries of affirmative action qualify, not because they personally have experienced unwarranted discrimination, but because they visually resemble past victims, in South Africa it is safe to assume that *all* blacks have, in some way or another, been affected by

apartheid's policies. Thus most respondents conceptualised affirmative action as a means of rectifying past wrongs. Tapping a reservoir of wasted talent as a pragmatic rather than moral rationale for affirmative action did not seem to be foremost in the mind of most managers in their responses. This theme will be further explored at a later stage.

Many managers also felt that affirmative action's purpose was to increase the number of blacks in companies "ensuring that the business profile matches the population profile" (1994-39). As one administration manager in the Industrial Food sector candidly stated of his own experience:

"...the general perception is that affirmative action is the '*blackening*' of the workplace. In my own business role I have assumed it to be the upliftment of all employees with the emphasis on the relatively disadvantaged and thus it includes programs for social, community and employee upliftment and training." (1994-23)

The "blackening" of the workplace suggests a transition in post-apartheid South Africa towards a more representative environment, reflecting the demographics of the real South Africa and a shift away from a workforce in which management is largely white and male while workers are primarily black and female. Respondents felt that affirmative action would increase the number of blacks in supervisory roles in order to be more representative and reflect South Africa's true population profile:

"a progressive integration of all people until employment percentiles reflect the current population profile." (1994-33)

It is also interesting to note that while most respondents began their answer by mentioning that affirmative action addresses those "previously disadvantaged by apartheid", less than 20 (approximately 10%) specifically added any indication that women be considered beneficiaries. This result would suggest that most managers perceive blacks as the primary beneficiaries of affirmative action and that advancement

on the basis of gender plays a secondary role. In this respect, race clearly overrides gender as a priority to be rectified.

While it was repeatedly mentioned that affirmative action “appoints those previously disadvantaged in order to balance representation” (1994-49) and increase the number of blacks in organisations, a number of responses pointed out that this must not be done at the expense of merit. The importance of hiring only competent individuals capable of doing the job was repeatedly stressed and, as one Financial and Budgets manager employed in university administration pointed out, affirmative action means:

“filling vacant posts where possible with black candidates provided they meet the criteria for doing the job properly...or that the person shows definite potential to succeed in the job provided that adequate training and support will be made available to ensure that success.” (1994-48)

Similarly, another respondent writes:

“where two candidates meet advertised job requirements, (one being black and one being white), the black one will get the job. If the job requirements are not met, the black will not get the job.” (1994-47)

This would suggest using racial criteria, but only as a tie-breaker when two candidates, one a black with the minimum required qualifications and one a white with maximum qualifications, apply for the same position. Such a selection procedure would ensure qualified black appointees placements and allow business to take proactive measures while at the same time maintaining “standards.”

In recent years a merit based conception of race is argued by US analysts as grounds alone for affirmative action. Proponents of this new formula argue that race and ethnic identity *in itself* is a component of merit in diverse societies. Because blacks in South Africa have a unique perspective derived from their specific experiences, their colour constitutes a meritorious credential. A more diverse management structure better

educates the company that otherwise would not be exposed to the disparate requirements of South African markets. While the traditional model of affirmative action looks at race as a proxy for remedial justice, the merit-based conception of race has challenged this compensatory vision¹. From this perspective race in itself is seen as an asset because of the distinctive perspective which a particular individual with a neglected life-experience may bring to the organisation. This “merit of racial membership” has not found many adherents in South Africa.

Among the majority of respondents surveyed, only the absence of blacks at the management/executive and director levels has become the focus of attention for affirmative action. Such perceptions are also more likely due to the fact that the majority of managers spoke of affirmative action within their own experience in various businesses and corporations - largely in the private realm. One financial analyst in the retail industry typically understood the term to mean:

“changing the racial mix of management structures and organs of power in business.” (1994-61)

Similarly, a black managing director in the public service discusses the term as assisting meritorious effectiveness in the traditional sense with race as an incidental by product:

“affording employment opportunities to formerly disadvantaged groups (who happen to be black) with adequate skills to assist them into developing into *key decision making* positions with emphasis on training and development to ensure the effectiveness of such incumbents in their respective jobs.” (1994-44)

Creating employment equity and the advancement of women and blacks targeting upper management structures and positions of power in business structures is only one aspect of

¹ See Viet D. Dinh, “Multiracial Affirmative Action,” Debating Affirmative Action ed. Mills (New York: Dell Publishing, 1994) 281.

the ANC's "business targets" proposals. The ANC/NAFCOC conceptualisation of affirmative action is a much broader one and involves aspects of preferential treatment - increasing black participation in equity and state purchases from black suppliers - which may not have yet penetrated the perceptions of managers in the private sector.

Those more skeptical of affirmative action frequently stressed "the real reasons" for companies adopting it. They pointed to:

"the employment of 'token,' 'visible' blacks, largely by big corporations, for reasons of political expediency - being seen to be doing the correct thing." (1994-3)

It was also coined: "a misguided attempt to rectify the 'economic' wrongs of the past by moving previously 'disadvantaged' people up the corporate ladder" (1994-19). "Reverse racism" and the "appointment of blacks into management positions to avoid government pressure" (1994-9), and "preference on the basis of skin colour, not on the basis of merit" (1994-7) were other perceptions of the term. As one accountant argues:

"Ideally affirmative action means 'leveling of the playing fields'. Realistically - race becomes the criteria for employment and is burdened by job-hopping by black managers in pursuit of salary, status, etc. No loyalty." (1994-26)

In the 1997 survey, respondents were asked to comment on this issue: "Companies often complain that affirmative action has led to black professionals demanding higher salaries and changing their jobs more frequently than their white counterparts. In your opinion, is this view justified?" The majority of respondents expressed opinions recognising that the limited number of qualified black professionals places these employees in a particularly sought after position. One respondent summarises the dilemma as follows:

"This has clearly been the case. However, it is really an issue of supply and demand. Too few skilled black facing too many opportunities, naturally, it has forced wages up. Job "swapping" is also prevalent and

has, perhaps, caused more resentment from white colleagues than any other aspect of AA.”(1997-53)

One Afrikaner from Gauteng writes:

“I wish I was black. Then I was on the receiving end. Now I have to be super/over qualified and still it is no guarantee. Companies poach blacks because the professional ones are scarce.”(1997-102)

“This view is justified in one sense, but does not explain everything. Yes, many black professionals are being offered higher salaries as companies are trying to pick the ‘cream’ of the limited number of professionals...but how is that different to any other country where companies compete for human capital....”(1997-92)

Another respondent notes from personal experience:

“...we have lost 4 black engineers (none of whom were ‘brilliant’, and most of whom were inexperienced) to huge salaries (e.g. going from R7000 pm to R13500 pm + other benefits)!” (1997-36)

Similarly another respondent notes of his experience:

“In the engineering field, there simply are not enough qualified engineers so the demand for them is high. I have personally worked with black engineers who have changed jobs up to three times in one year, receiving substantial promotions with each change. I have also witnessed black engineers being offered far higher salary increases than their white counterparts simply to keep them in the company!” (1997-67)

While in general it was agreed that qualified black professionals were paid a premium, however, as one respondent noted: “they don’t demand greater salaries - these are “thrust” onto them. Anyone would be foolish not to accept”(1997-78).

It is a commonly held view that top black professionals are job hopping for ever-increasing salary packages since they are in such high demand. It is not only in South Africa, however, that young upwardly mobile “yuppies” with skills and potential change jobs frequently. Skilled professionals in high demand seek out the highest bidder everywhere. At the same time a number of senior black professionals complain that they

are leaving jobs because they are given little real responsibility and power for the senior positions they hold (personal interviews). One black manager in the process of leaving his company explained that he had reached the highest level they were likely to promote a black and felt under-utilised for the skills he possessed and the expectations he held. Job hopping in many cases may be largely a function of the environment and not necessarily only because of the self-seeking inclinations of individuals.

Other concerns expressed in the understanding of affirmative action (to be examined in more detail later) included fears that the policy would soon be legally sanctioned by the new government. As one manager understood affirmative action to mean:

“...a *dictated* percentage of non-white workers and management in my company in which there was no choice on the matter.” (1994-82)

Laws enforcing affirmative action may serve the purpose of redefining what is socially acceptable with requirements eventually becoming internalised and incorporated as a new set of values by even “traditional” companies. Since justice is a socially constructed idea about what constitutes the best system², an informed perspective on the pervasive effects of apartheid may lead one to discern some justice in affirmative action.

Because it is a majority in South Africa which seeks to be affirmed rather than a minority, affirmative action is expressed in a number of unique ways. One perception of affirmative action which emerged from the questionnaire answers was the way it is seen as a means to redistribute accumulated wealth which could take place following real political incorporation. For many white South Africans, affirmative action is automatically classified under the broader heading of redistribution in which the state

arbitrarily redistributes proceeds, assets and jobs. The thought of a potential redistribution of wealth to the disadvantaged has also encouraged the view of affirmative action as a handout among a small percentage of respondents.

This is combined with the popular assumption in some circles that every organisation or body must be “representative” of the population in order to reflect equity. Although this may be true for elected bodies such as Parliament and legislative bodies that should be “representative”, it is not necessarily the case for all other organisations. Even elected bodies may be better served to be representative of political interest groups and not necessarily population groups. There must be more compelling reasons for appointments rather than simply “representativeness” which usually translates into quotas. The Black Management Forum (BMF), for instance, has published a set of proposals relating to “negotiated targets.” The ultimate target in this problematic view is that the number of employees at all levels in an organisation reflect the demographic profile of South Africa.

In eliminating the obstacles to black advancement and discussing affirmative action, the term “equality of opportunity” is repeatedly referred to and in many instances respondents equated or interchanged the two terms. The concept of “equality of opportunity” also added considerable discord to the understanding of affirmative action. While some argued that affirmative action meant “a policy of equal opportunity for all” (1994-110) others countered that it meant:

“representation of all population groups in the workplace in the same percentages across *all* levels of management...not equal opportunities but equal results. (1994-109)

² John Rawls, A Theory of Justice (Oxford: Oxford UP, 1971) 504-512.

This would suggest an employer cannot simultaneously practice affirmative action and equal opportunity because affirmative action means discriminating against or not providing equal opportunity to white men in particular. Ideally, affirmative action involves going beyond trying to ensure equality of individual opportunity by making discrimination illegal, by targeting groups historically discriminated against for preferential benefits. The need for affirmative action, as Julio Faundez³ argues, stems from the realisation that equal opportunities alone do not produce results which are fair or even economically sensible. In exploring this argument, it is useful to distinguish between two types of racism: (1) procedural and (2) substantive racism.

While procedural racism denies blacks “equality of opportunity,” substantive racism denies them “equality of condition”. Procedural racism in South Africa was the system of apartheid which explicitly denied members of subordinate races political, economic, social and cultural opportunities because of their race. Substantive racism on the other hand denies blacks certain opportunities because of the handicaps of poverty and lack of education. Contemporary patterns of substantive racism in South Africa are the direct result of the past institutionalisation of the procedural racism of apartheid. Thus those who refer to affirmative action as “equal opportunity for all” argue that the problem will be eliminated by prohibiting racist practices and thereby giving everyone equal chances to achieve. Some respondents preferred to use the more liberal concept of “eliminating discrimination” not burdened with the more negative connotations associated with affirmative action. However, removing the present barriers to equality and providing equal chances and opportunities for all does not necessarily guarantee

³ Julio Faundez, “Promoting Affirmative Action,” Indicator SA 11.4 (Spring 1994): 57.

equal outcomes or results. As Duncan Innes⁴ argues – a form of affirmative action based solely on equal opportunity, while it may prevent further discrimination, will not achieve the necessary social equality and simply entrenches the inequalities built up over the past century. In general equality of opportunity is a much softer, less contentious and perhaps more diplomatic version of selling affirmative action. With an emphasis on procedures, affirmative action's emphasis lies on eliminating barriers. While the moral legitimacy of equality of opportunity has been established, it has been limited in terms of practical results.

The issue of reconciling affirmative action with hiring only on the basis of merit was a theme which recurred. While most respondents indicated that ultimately organisations should operate on a basis of “merit,” in other words the organisation should be able to promote the “best man” for the job without having to make allowances for race or gender, 58% of all respondents disagreed that “affirmative action means that merit will continue to be the number one criteria used when hiring” (25% agreed, 16% were neutral). Similarly, in 1997, of all respondents surveyed, 59% disagreed that “Affirmative action still means that merit will continue to be the number one criteria used when hiring”. The principle of hiring solely on “merit” is a fundamental component of arguments against affirmative action. While some managers insist that candidates be chosen entirely on “merit” they tend to forget that in South Africa in particular, selection criteria have never been premised solely on merit. As one respondent thoughtfully indicated:

⁴ Reversing Discrimination eds. D. Innes, M. Kentridge and H. Perold (Cape Town: Oxford UP, 1993) 233.

“...past history and inequalities have to be addressed so that people can all compete on an equal basis. If affirmative action is taken to mean simply using ‘merit’ for all as criteria then current inequalities will be perpetuated.” (1994-43)

Such a perception would suggest that some managers are open to redefinitions of merit, at least for a temporary period in order to accommodate political demands and get an advance over competitors by bowing to the inevitable. While merit may be the best criterion, it can only be the sole criterion in an environment where everyone has been able to benefit from equal preparation and where those who exercise decisions of merit are more representative of society and less likely to have subconscious, inbuilt biases. After all, those at the top in South Africa today are not there exclusively because of merit, but because of a system which openly excluded most of the competition.

Nonetheless, a widely held perception of affirmative action was that it forfeits the principle that jobs be given mainly on the basis of individual merit. It is assumed that in many cases positions are no longer awarded to the “most qualified” applicant. However, in order for a real merit principle to apply to most jobs, there must be a way to judge individual performance and qualifications using normatively and culturally neutral criteria. This becomes a difficult task for nearly all jobs as most criteria used to evaluate candidates are judged within a cultural context. The assessment of what constitutes merit is imbued with subtle and overt biases which have in the past shaped South Africa’s group based patterns of exclusion and which affirmative action now seeks to redress. Traditional definitions of merit in a formalistic sense have come under revision with attempts to make the concept more inclusive. This echoes a realisation that traditional definitions of “merit” are discriminatory in that they set criteria and use determinations

which are value judgements. As Iris Marion Young⁵ has argued, because value-neutral, impartial measures of merit do not exist, who decides what appropriate qualifications for a given position are, and whether or not certain individuals have them becomes a major issue.

Merit evaluation is largely political insofar as decisions are potentially subject to collective discussion and deliberation. Qualifications – where one went to school, credentials, tests and employment experience – are inevitably political. It is evident, for example, that people who work in large organisations have a tendency to hire and promote those people who resemble themselves and with whom they feel most comfortable⁶. The principle of merit can only be considered a just one if qualifications are defined independently of culture and value judgements and in terms of technical skills and competence exclusively job related. As Linda Human argues, the changing of entrance criteria (such as years of experience or educational qualifications necessary to perform on the job) in order to allow blacks to compete, will only lead to tokenism if it can be proved that level of entry qualification has predictive validity with respect to performance on the job⁷. Other people with other qualifications or competencies, when given the chance, may perform equally well. However, Human acknowledges proving the relationship between job performance and selection criteria is an enormously complex task.

⁵ Iris Marion Young, Justice and the Politics of Discrimination (Princeton, N.J.: Princeton UP, 1990) 193-205.

⁶ This phenomenon was observed in Rosabeth Moss Kantor's 1977 study of "Indsco". See the Economist 23-29 September 1992. Similarly Pierre Berthon's (1991) PhD research at the University of Cape Town highlights the severity of the problem in South African organisations.

⁷ L. Human, "Women in the Workplace: A Programme to Counteract Gender Discrimination at Work," Affirmative Action in a Democratic South Africa ed. Charl Adams (Kenwyn: Juta & Co., 1993) 79.

Impediments to a normatively and culturally neutral definition are perhaps most apparent in managerial and professional jobs. Often criteria used for hiring the “right person for the job” has to do with the person’s way of life, right background and personality in which an evaluation is concerned with social competence, temperament and character. A wide range of skills and tasks are involved which rely on an individual’s imagination and judgement – qualities which are difficult to measure on an absolutely objective scale. It is especially difficult to define precisely and assess the technical competence of individuals for such jobs. Thus merit evaluation becomes a rather “subjective” judgement on broadly defined traits rather than specific performance related outcomes.

The assessment of criteria such as authoritativeness, articulateness and ability to work cooperatively in groups seems tied to evaluator’s preferences. Group related disadvantage such as assumptions about ways of life, styles of behaviour and values that reflect the experience of privileged groups affect members of subordinated groups. As Young points out “many supposedly neutral and unquestioned norms of the corporate workplace implicitly assume male socialisation and a male life style”⁸. A similar argument could be applied with regard to norms of the corporate workplace in South Africa. For example, a black employee who does not make eye contact with a white male employer when speaking may be perceived as dishonest, shifty or nervous. The employee however may come from a culture where avoiding eye contact is a sign of deference and respect. Such unconscious aversions and value judgements carry biases of the dominant

⁸ Young, *Justice* 193-205.

group. Little of such self-critical reflections on supposedly neutral merit criteria emerged in the interviews and surveys.

Respondents often argued that as a result of forfeiting the merit principle, affirmative action can widen rather than narrow the inequality gap and may lead to tokenism and a lowering of standards. As one financial manager contended when asked how his company justifies its affirmative action policy:

“...the problem is not that the concept is wrong - business does need to be more reflective of society - but you cannot rush it - there are not enough qualified blacks - it will result in South Africa falling even further behind the world in terms of service and ability.” (1994-19)

Such a scenario would certainly seem plausible if affirmative action programmes are seen simply in terms of filling quotas in recruitment and without attention to the development of individuals within organisations. As the *Economist* editorialises: “If positive discrimination means promoting inferior women over better men, for the sake of filling a quota, the company will suffer”⁹.

However, this need not necessarily be the case, as some respondents pointed out, if qualified people – not tokens – are hired to do the job. Vincent Maphai encapsulates this argument well when he writes: “Affirmative action must, in essence, involve minimal qualifications on the part of the Black candidate; and the technical qualifications of such a black person must either be equal, or less than those of a white person”¹⁰. In fact it is

⁹ *Economist* July 1992: 24.

¹⁰ V.T. Maphai, “Affirmative Action in South Africa – A Genuine Option?” *Social Dynamics* 15.2 (1989): 2.

repeatedly argued that there is nothing wrong with selecting a black candidate with less qualifications if it holds the best interest of the organisation¹¹.

The assertion that there simply are “not enough qualified blacks” is frequently mentioned in the survey. While university training and qualifications are an important source for developing managerial talent, it is not necessarily the only source. A prime example of a country which succeeds with on-the-job training and promotion from within to fill managerial ranks is Japan. As Prakash Sethi¹² has argued, in highly competitive markets, Japanese companies strive to decentralise their operations where a larger number of managers gain opportunities to make decisions and operational experience. The counter trend however points towards centralisation of decision-making by multinationals, particularly in developing economies with still high blue-collar ratios. The findings of one study on South African business show the ratio of manager to staff in South Africa to be 1:50 compared to 1:12 in Australia, 1:11 in Japan and 1:7 in the United States¹³. These differences suggest a vast backlog in the effective organisation and internal training of SA companies.

“Reverse Discrimination”

Daily job adverts now appear in newspapers in Cape Town that depart from the previous “whites-only” style. Instead, a new code has entered into the classifieds -

¹¹ Franklin Sonn, “Afrikaner Nationalism and Black Advancement as Two Sides of the Same Coin,” Affirmative Action in a Democratic South Africa ed. Charl Adams (Kenwyn: Juta and Co., 1993) 4.

¹² Prakash Sethi, “Operational Modes for Multinational Corporations in Post-Apartheid South Africa,” Journal of Business Ethics 112.1 (January 1993): 8.

¹³ Prakash Sethi, Development South Africa February 1990: 28.

“Xhosa-speaking.” Language proficiency has replaced race as a more nuanced code in identifying previously disadvantaged groups.

While the history of Afrikaners suggests there is a direct link between the possession of political power and socio-economic upliftment, the comparison of the advancement of a minority ensured by the policy of apartheid is very different from the empowerment of the majority, so long excluded both politically and economically. There is no doubt that the rise of Afrikaners in the private sector was directly attributable to the control of the Afrikaner over the state. The crucial difference between the National Party’s earlier transformation of the civil service, which gave privileged persons access to employment on the basis of ethnic membership and nationalist affiliation - and present policies of affirmative action - is that, the earlier process was built on racial exclusivity and violated the principle of equality which underpins legitimate affirmative action policies.

Is the fact that blacks are the majority in South Africa not enough to secure black economic empowerment on its own? As Melatong Ramushu argues, affirmative action could not apply in the South African context because:

“blacks are in the majority in South Africa and if we are certain that a future government will be a majority government of the natives of South Africa, we must not be concerned with affirmative action or black economic empowerment....”¹⁴

Whereas the context of the struggle in the U.S. for blacks was the attainment of civil rights, in South Africa it has been national liberation. In the U.S. where a minority demands affirmative action, it has taken on a somewhat paternalistic character on the part

¹⁴ Qtd. in Business Day 16 March 1994.

of a dominant majority managing the demand for redress by a group which could never hope to seize the instruments of government as a group. As the Congress of South African Writers President Njabelo Ndebele argues:

“In South Africa to adopt this struggle (affirmative action) is to distort our perception of the objective goal: it enables us to assume the mentality of being a dominated minority rather than experience ourselves as a struggling free majority, free even to make mistakes.”¹⁵

However, while it is true that affirmative action in South Africa takes on a very different form from its counterpart in the United States, there is still a case to be made that it is needed. This also seems to be the majority opinion of the sample. On the statement: “affirmative action cannot work in South Africa where the policy favours the majority” 60% of all 1994 respondents disagreed.

Where the National Party in the past used “abusive affirmative action” to give whites access to land, jobs, credit and education, affirmative action became a vehicle for favours disbursed towards a goal of inequitable advancement. Such nepotistic patronage for disadvantaged members of the ruling class can hopefully not be expected by the new ANC lead government. As Mandela has reiterated a number of times “affirmative action must be rooted in principles of justice and equity - and will not be apartheid in reverse.”

Despite this, one computer manager in the oil industry considers affirmative action:

“a fundamentally unfair policy which artificially penalises whites, coloureds and Asians”... “non-ruling class whites, coloureds and Asians - bore a burden of suffering and lost opportunity under apartheid. As the Afrikaans ruling class ‘affirmed itself’ so now too will the Xhosa.” (1994-35)

¹⁵ Cape Times 25 January 1993.

Motivating Factors: Adapting to Demography and Political Transformation

Out of the total sample of 198 questionnaires administered in 1994, 143 (72%) indicated that their company had a “specific public policy/program or directive” on affirmative action, although what each respondent meant by this differed. Among the rationale which companies used in justifying their affirmative action programs three, general categories in particular transpired as motivations: business imperatives, political considerations and moral/social responsibility.

Companies have a number of self-interested business reasons for wanting to employ blacks. As one Afrikaans manager wrote:

“...we justify our policy as a business decision...as our major clientele in the future will be black...to communicate with them we need to portray the racial composition of the South African population.” (1994-45)

Affirmative action as a “long term survival strategy” (1994-39) is felt by more progressive companies to be good for business. The concept of diversity has been embraced by some companies which are predominantly white and male for no apparent reason other than bottom line calculations. This basic business argument is twofold: Companies must be more representative of the markets they serve as black consumers increasingly represent a dominant share in the market and are seen as customers and potential wealth generators.

“...In a future South Africa focus is going to be more towards the majority of population and thus in attracting customers or improving markets, one needs to ensure that their sectors are addressed in your own workforce. We also see that accepting such a responsibility ensures our own long term survival and can attract consumers, well before they become part of the marketplace e.g., assisting children, bursaries, science and maths projects, housing etc.” (1994-23)

Increasingly companies are attempting to reflect the markets they are trying to capture.

Companies also realise that if they are not drawing from the widest labour pool, they risk not getting the brightest and the best employees. One human resources director in the Industrial sector pointedly states that affirmative action is:

“...definitely viewed as *adapt or perish* ! If not done, it could lead to boycotts; and an inability to understand and reach target markets.” (1994-77)

Similarly another Human Resources manager in the Financial Sector argues:

“...the overriding factor is one of *survival* and being positioned to provide a full range of services to the new emerging markets, both locally, in Africa, and internationally.” (1994-87)

Such remarks indicate considerable sensitivity, foreplanning and adaptability beyond ideology and traditional business practices. When new profits can be made and new markets staked out, South African business is ready to forget about skin colour in favour of cash.

The private sector has not only to reckon with massive black consumer markets, but also with an increasingly more sophisticated and assertive black labour force. Both facilitate, in a symbolic and functional sense, greater black participation in upper management structures. It is reasoned that in order to have credibility in new black markets, organisations must be more representative - especially in high visibility management structures. Stereotypes could also be contradicted in the eyes of a sceptical public if affirmative action were to be successfully implemented. A growing class of black consumers demanding specific products expects that companies understand these needs. The increasing financial clout of a growing black middle class ensures a market driven perspective to the implementation of affirmative action. Many respondents raised

the issue that although affirmative action may add additional cost over the short term, by investing in the development of black human resources the company is making what it views as a “long term investment”, yielding greater returns later on. One manager’s response summarised his company’s rationale succinctly in three points:

“affirmative action as business imperative for the following reasons; 1) Recognition of changing consumer profile 2) Cognizance of potential affirmative action legislation 3) Shortage of skills among small pool of white managers.” (1994-138)

As the response above suggests, one of the foremost reasons affirmative action is seen as critical for long-term business prospects has to do with the reality of South African demographics. It is realised that unless black human resources are used, there will soon be a shortage of skilled manpower. Another manager perceptively points out:

“...whilst affirmative action addresses past social injustices, it does become a business imperative if we hope to sustain our economy and competitiveness with the outside world. If we do not engage in Affirmative Action programs we will run out of manpower skills and remain a Third World country; thus progressively degrading the quality of life in South Africa.” (1994-92)

There is an increasing recognition that the South African economy is under-performing dramatically and is over-reliant on a limited and diminishing pool of whites skills and leadership. It is no longer politically acceptable nor economically viable to have so few blacks in highly skilled and management positions. The National Manpower Commission estimated that in 1988 vacancies in the professional, technical and managerial occupations exceeded 40,000¹⁶. By the year 2000, it is estimated by Pierre

¹⁶ South African Institute of Race Relations (SAIRR), Race Relations Survey 1988-1989 (Johannesburg: 1989).

Spies of the Stellenbosch University Unit for Futures Research, that 579,000 highly qualified senior managers will be needed but only 389,000 will be available¹⁷.

There is growing evidence that because it makes better use of the available resources, affirmative action is good for bottomline profits. By expanding the pool of talent from which one hires, one creates a wider selection of qualified people, therefore more choice and ultimately a better person for the job is available.

“In order to satisfy future manpower requirements”, it is pointed out, “the level of education and training of the total population must be improved and uplifted.” (1994-190)

In 1997, businesses’ primary motivation for implementing affirmative action was again stressed by the majority of respondents as largely political and as a desire to promote future growth. As one respondent put it:

“I think the prime motivation is growth: successful business are shrewd enough to realise that economic growth is the only ‘hope’ for SA and it is vital to actively involve the majority of the population in this growth.”(1997-67)

Similar to the respondents surveyed three years earlier in 1994, the 1997 respondents still felt that potential affirmative legislation was a significant factor motivating companies to implement policies. Respondents focused on the notion that many companies felt coerced to hire blacks because of potential legislation:

“I think businesses today in SA are hiring blacks as a defence against potential affirmative action legislation. So I guess it is done as political necessity.”(1997-53)

Although the new government has yet to implement and enforce any specific legislation pertaining to affirmative action, the threat of government intervention and fines for non-

¹⁷ P. Spies, Report for Futures Research (Stellenbosch: University of Stellenbosch, 1989).

compliance were seen as very real. A number of respondents mentioned implementing policies in order to better market their product:

“Political necessity, to gain acceptance by ANC government and to exhibit a cosmopolitan facade nationally and internationally. This facade is seen as “positive marketing”(1997-91) and another respondent comments: “It is purely political. Companies want to be seen as colourblind. Indirectly this is a way for the company to promote itself (AA= advertising).”(1997-102)

Justifications for affirmative action based on the demographics of South Africa become increasingly obvious when one looks at the realities of the South African situation in terms of population projections. Since Africans (76%), Coloureds (8.5%) and Indians (2.5%) constitute the overwhelming majority of the population, the 13% Whites alone are clearly unable to furnish the human capital for economic growth. In order for the economy to grow, the potential of the black majority needs to be utilised fully if South Africa is to survive economically.

Moral Reasoning as Profitability

In addition to justifying affirmative action for reasons of demographic necessity a majority of respondents also emphasised social justice. One mining manager feels about his company:

“affirmative action is seen as a moral/social responsibility because the company...has an obligation to uplift the standards of non-whites and females in the business environment.” (1994-153)

Some companies perceive affirmative action as an expense which they must incur as part of their general programme of charitability and community care. This type of company views affirmative action as essentially philanthropic and as a kind of generous

welfare expenditure - aimed at political correctness - and not necessarily as part of an investment which will reap future profits. Concern over their public image combined with the need to be seen in line with the values of the new South Africa. Companies strive to be perceived as progressive, socially responsible actors. They desire the image of the socially responsible organisation in line with sound moral values. One administration financial and budgets manager points out:

“...it seems to be in terms of moral responsibility and is not adequately implemented as staff, in some cases are appointed solely because of their colour and where unqualified, do not receive the training and support to make the person a productive member of staff. If also viewed from a ‘business imperative’ the organisation would probably have more success in producing a motivated staff member.” (1994-48)

Phinda Mzwakhe Madi argues that there should “...be no line of demarcation between normal business issues and affirmative action”¹⁸. If affirmative action is to be implemented in the right way, argues Madi, it should be the servant of the business plan, not the other way around. Strategic planners, he argues, should begin to ask questions such as: Who will my customers be in 10 years time? Where will we draw our manpower from? What products are customers likely to prefer? The bottom line of any successful company is to protect profitability, therefore in order for affirmative action to work it must also fall under this banner.

After years of isolation South Africa has finally been thrust into a globalised market environment and the rigours of world competition. The survey of these respondents would suggest that most companies are making a real attempt to find at least some business opportunity in affirmative action rather than simply treating it as a

¹⁸ Phinda Mzwakhe Madi, Affirmative Action in Corporate South Africa: Surviving in the Jungle (Kenwyn: Juta and Co, 1993) 84.

necessary evil which has to be accommodated in order to meet the demands of political transformation and a new government. There is also a fine line between companies acting to genuinely redress the injustices and imbalances of the past and those merely reacting out of expediency, in fear of threats of quotas and redistribution. Although realists may argue that motives are less important than decisive action and that if the right thing is done for questionable reasons, it is still preferable to no action at all - a company which embarks on affirmative action only because of political pressure may be doomed to fail.

A telling response came from one manager questioning affirmative action's justification as a business decision when the cost of hiring qualified blacks in some instances was so inflated. As he summarised his dilemma:

"I recently interviewed qualified geographers to work for me. They all had recently completed a degree, and had little to no experience. I could have (and did) employ a white for between R2,800 and R3,600 per month. The cheapest black (and the one I liked) was R6,400. I made a decision based purely on the economics of the decision! But it is here that I question affirmative action as a 'business decision' - how can this increase productivity?" (1994-176)

Even the most well-intentioned affirmative action employer would in such a situation find it difficult to justify affirmative action in terms of increasing productivity or making any business sense. While struggling to legitimise company practice in the new South Africa, corporations are also struggling to maintain cost-effectiveness and efficiency. At the same time highly qualified blacks are a limited resource in great demand - and able to utilise this advantageous position by increasing salaries sometimes beyond the reach of employers.

One respondent argues:

"the company sees it two ways. Firstly and undoubtedly as a social imperative with which I totally agree. Secondly as a business imperative.

But here is the problem. A company should make a business decision because that decision will enhance their profit making position. This is not the case. Politically, through mass action companies *have* to adopt these policies (which I am sure will be unreasonable and unrealistic expectations in many cases) just to stay alive! How can we then justify that as a business decision?" (1994-176)

In 1997 the vast majority of respondents continued to speak of companies merely "window-dressing" with black appointees. Companies were perceived to implement affirmative action for different reasons. While some were seen to do so because of force or coercion, others were viewed as implementing policies in order to gain some advantage:

"No, from my experience the effort is largely cosmetic, the make up of board of directors of many companies shows the full rainbow nation. This does not reflect the general make up of the company they direct." (1997-88)

"Not generally. If they were (genuine), they would be investing more in education and training of blacks so that they can genuinely compete for management and senior positions, rather than "window dressing." (1997-68)

"No. New African Investments is an example of a few Blacks becoming richer. The majority of South Africans do not benefit from highly profile Black appointments of Business." (1997-94)

Negative impressions of tokenism and "window-dressing" were mentioned by most respondents. One respondent summarised his experience as follows:

"Most businesses are merely displaying tokenism. I worked for a large financial organisation who, for e.g. employed a black BA grad as a receptionist - placed her where everyone could see her and all she did was answer the telephone. The white BA's were then moved into offices. Also a BCOM black grad was employed but not given any meaningful work to do, etc., etc." (1997-106)

Another respondent put it in these terms:

“Big business is making an effort. They can afford to, and they can’t afford not to! Smaller businesses might do it as a token to get government contracts.” (1997-57)

Many 1997 respondents continued to perceive the practice as a grand “window-dressing” exercise. While some respondents felt that companies were “honestly allowing blacks to participate”(1997-28), others argued to the contrary “because if they had they would not have waited until it was politically correct or dictated”(1997-35).

Many respondents mentioned that the positions affirmative action appointees were often given fell into the so called “soft” areas such as human resources:

“Most black have been given positions (cosmetic) in PR, marketing and human resources only. Business may be genuine but a lot still has to be done to correct the imbalances of the past”(1997-42). Another respondent argued: “No, most appointments into senior positions and onto boards are non-executive and/or into the ‘soft’ areas e.g. H.R.”(1997-32)

Perhaps the most compelling and pressing factor in motivating companies, regardless of whether they see benefits in terms of business or other rationale, is the “threat” - real or perceived - of quotas backed by legislation. There is the realisation that in future the ANC may implement legislation compelling companies to have a certain percentage of blacks in responsible management and senior positions. As one respondent suggests: “if we don’t do it now we will be forced to under a new government” (1994-118), and another points out “it will be forced by political pressure so we may as well start now” (1994-132). Other arguments from respondents include:

“I think we are more concerned with the “political” pressures that could follow a change in government although, we do also feel a certain amount of “moral and social responsibility” as well.” (1994-111)

These anxieties, expressed before the ANC takeover in 1994, have so far not been justified as no quota legislation has been enacted. Many perceive advantages to getting

ahead in the affirmative action game by implementing aggressive policies as soon as possible. As one manager put it:

“...it is imperative to be in a position of knowing what is achievable by when and the practicalities of implementation.” (1994-168)

A majority of respondents 1997 felt quite strongly that legislation was not necessary and that business should be left to regulate its own hiring:

“No, legislation will become the new type of ‘apartheid’. Let the people who have the ability to perform, to perform regardless of colour. Rather give tax incentives to educate the masses rather than ‘window-dress’”(1997-25). Tax incentives were often mentioned as a means to entice companies to do their part ...”such extra allowances could be given for training of affirmative candidates. These incentives could be based on such allowances given for machinery and plant.”(1997-18)

It is also interesting to note that while many companies express the rationale for affirmative action as being grounded in business principles, the real reasons may have more to do with political expediency than many may wish to admit publicly. As one respondent noted:

“our official reason for affirmative action is that it is a business reason, but unofficially it is for political reasons” (1994-57) and another argues of their company “it justifies affirmative action as a long term economical imperative based on the population mix of this country. I suspect its actual motivation is anticipated pressure from the next government.” (1994-171)

Several managers felt that although their companies had adopted affirmative action strategies due to anticipated pressure from the incoming ANC lead government, they expressed their motivations for programmes as business or social responsibility concerns. In many instances business and political reasons are intertwined:

“...we are a consulting civil engineering firm and obtain a lot of our work from government sources. A future government is more than likely to give work to firms that have met their criteria for racial quotas.” (1994-15)

This view is held although these quotas do not formally exist. However, there is no doubt that government contracts are increasingly awarded only to those companies that are adapting themselves to meet the demands of a new South Africa. Similarly a quality manager in the industrial sector points out:

“...the government is our only stakeholder and we want our stakeholder to like our colour!” (1994-122)

In a changing South Africa, companies wanting access to top level people would want to be representative - whether or not this will actually give them the access they are seeking is another question. But many feel that without blacks in significant posts, they will be less likely to communicate with top-level structures.

In these perceptions lies an empirical verification of how deep-seated race still is in South African society despite the simultaneous rhetoric of nonracialism. The mainly white executives assume that the ANC government dominated by blacks would in all likelihood behave in a similar fashion as its Afrikaner dominated predecessor by nepotistically favouring its “own people” over ethnic outsiders. However, it is not at all clear that the Mandela government’s interpretation of affirmative action can be subsumed under this category of reverse patronage. Some ANC cabinet ministers have explicitly spoken against this practice while others do indeed behave as respondents anticipate. Tito Mboweni in the first category, for example, has strongly criticised the Black Management Forum for concentrating on the promotion of blacks into management positions instead of developing all workers through skills training¹⁹. Failure to develop a skills base, he argues, could ensure South Africa continues its flight downwards.

¹⁹ Qtd. in Southern Africa Report, 16 September 1994: 1.

Respondents also assume that ANC bureaucrats would overlook the difference between blacks owning a company and black representatives acting on behalf of a white owned company. The ANC may well favour black-owned enterprises for government contracts but overlook contenders from white owned companies, regardless of whether their representatives or board members share the same skin colour.

Many managers said a race was on to apply affirmative action before the change in government and that affirmative action was:

“a business imperative before the April elections.” (1994-22)

“...it is seen as imperative that my company should embark upon an affirmative action policy in order that black advancement can be managed by ourselves and, hopefully a measure of success achieved prior to the possible future imposition of quotas...it is also recognised that, with growth, the company will not be able to fulfil its ‘requirements’ for skilled management from the white population alone.” (1994-120)

Imposed affirmative action legislation seemed to have been part of the general panic that gripped white South Africa before April 1994. As no legislation or specific pressure for affirmative action has resulted from the subsequent Government of National Unity, the business panic has proven to be a paranoid delusion, as so much other anticipated anti-business action from a majority government. Controversial affirmative action legislation, although threatened, can only be expected after the government is economically more secure and can fall back on a larger pool of managerial skills than is available now. As long as this scarce black skill is eagerly absorbed by the private sector there is plainly no need for legislative affirmative action. In any case, such legislation would have to pass the hurdle of Nedlac where business has a virtual veto power in South Africa’s corporatist pact. No legislation harmful to business interests or likely to cause

white managerial alienation and emigration can be realistically expected from a government that has made economic growth and job creation its priority.

Widespread concerns were also expressed in terms of the “fear of retribution through punitive taxation and lack of government accommodation” (1994-98). Many companies feared if affirmative action concerns were ignored they would be “penalised from a tax point of view and could also be boycotted” (1994-99).

Competitors with aggressive affirmative action programmes are also perceived as a threat by other companies. Affirmative action by a competing company can outmanoeuvre a rival in the image of progressiveness. Being stuck with the image of a white male dominated establishment company can be as deadly in the business world as it was with the Democratic Party in the 1994 electoral competition for black sympathy. Although the price for this “political correctness” may be high, it is still cheaper than failure in the relentless public relations battle. Here the majority hegemony exercises quite different pressures to fall in line with desirable trends than the charitable affirmative action in societies such as the U.S., where the targets also form a numerical minority. “Africanisation” at least symbolically, is no longer an option for a white-controlled establishment but a precondition for its future success. One manager speaks of his companies reasons for affirmative action:

“Our competitors are far more advanced with affirmative action” (1994-166) and another points to the “threat that if a company has not adopted an Affirmative Action policy it will be singled out and boycotted by other businesses resulting in eventual closure.” (1994-164)

Just as companies dread being outbidded by competitors in a tendered state project, so they are keen to avoid being outmanoeuvred by others in terms of progressive imagery.

Therefore knowledge about one's company's relative placement becomes vital, even if managers are sceptical of the goals of affirmative action.

What has motivated companies to a large extent has been the notion of not wanting to fall behind the competition in the race to hire blacks. This is seen in the way many companies eagerly participate in the annual GSB Breakwater Monitor Project which ranks them comparatively. All major companies who participate pay for this information and are anxious as to how they fare comparatively. The prime motive for financing the project on the part of some leading participants was to gain continuous reliable information on how their competitors rank on the sensitive issue. One manager called it "vital spying for necessary periodical reassessment" (1994-198). Who has the most blacks in top level positions is perceived by fellow competitors as being one step ahead.

Perceptions of Hiring Practices

Responses to the question: "Please describe your company's practice on hiring at present" raised some interesting issues. Two sets of responses can be distinguished: those companies without affirmative action hiring guidelines and those who take affirmative action into account to various degrees.

Those with no company policy or directive on affirmative action mostly responded by stating that they hire only the most competent qualified individuals for the job based purely on merit. The head of one department in the public service for example stated:

“Posts are advertised firstly, within the organisation, then externally. Hiring is in accordance with the necessary academic qualifications and relevant experience, and promotion is on the basis of merit only.” (1994-76)

Key phrases from answers where the company had no policy on affirmative action included hiring only the “best candidate” regardless of race and or sex, the most suitably qualified with experience and skills required and hiring candidates with the “best personality fit for the organisation’s culture” (1994-121).

Almost all organisations preferred to look internally first to recruit candidates for the necessary positions and to promote from within the company wherever possible. Some mentioned that it was difficult to hire at all in such a tight economic situation and several managers mentioned their companies had a “total freeze on hiring” at the moment (1994-181). In a recessionary period where “downsizing” is a popular slogan, achieving a more representative composition of senior management can be expected to face insurmountable obstacles. Requirements to reduce the number of employees and change the racial profile of the organisation are almost incompatible. Many respondents mentioned that previous affirmative action programmes had slowed down for lack of economic growth.

It is difficult to ascertain whether the recession was merely stated as a pretext by those reluctant to engage in affirmative action policies under any economic circumstances or whether the tighter personnel policy together with tenure rights of existing executives, ruled out hiring from new sources.

However, by far the most interesting responses came from companies which did practice affirmative action despite the recession. The trend which emerges from these responses is that many companies (41% of all respondents) – even some of those with

affirmative action programmes – still tend to favour whites especially in senior and more skilled positions. For instance, as one of the rare black managers in the financial industry points out:

“the stated practice is that they will only hire blacks for openings unless they cannot find a suitably qualified black for the position...this has translated into an influx of black clerks (low level employees) and no black managers, actuaries, portfolio managers etc. So in reality they still employ the same number of whites.” (1994-43)

Another Financial Director even went as far as saying that:

“race would be a factor (when hiring) since our target market is predominantly wealthy white people who tend to be over 50 and who would not respond well to an approach by a coloured/black employee.” (1994-20)

While most companies with affirmative action policies said they would, wherever possible, hire the best candidate available from those groups previously disadvantaged, many argued that in most cases it was simply impossible to find and hire blacks for *highly skilled positions*. As one manager put it “race is a main criterion unless specific skills are required” (1994-39). Similarly others stated that:

“general employment will be done by group head office and is almost 100% non-white whilst a specialist position may result in whites being employed.” (1994-50)

“If it is proven that a Black cannot be found with the required skills, then a White is hired with authorisation from senior management.” (1994-73)

Another states of his company’s hiring procedure:

“promotion from within, any appointment from outside must be black, Asian or ‘Coloured’ unless it is a specialist skill which is not found among BAC’s.” (1994-150)

The shortage of “hard-skilled” blacks, especially in the areas of jobs which require basic grounding in maths and science principles, comes as no surprise when one

looks at the low pass rates of Black (African) matriculants in these subjects. According to the 1993-1994 Institute of Race Relations Survey²⁰, the Department of Education and Training reported that the median marks in mathematics and physical science for African pupils who obtained matriculation certificates were 12.2% and 24.8% respectively. Of students who wrote matriculation examinations, passes were attained by 44% of African candidates, 86% of coloured candidates, 95% of Indian candidates and 98% of White candidates. In 1995 the African pass rate fell to 43%, although the government no longer publicises racial statistics, according to the Institute of Race Relations. A large group of African students who obtained their matriculation certificates were also not fully literate in English or Afrikaans and, compared with their better equipped competitors, were consequently neither adequately prepared to be accommodated in the labour market nor considered able to be thoroughly trained by private companies.

In order to accommodate the demands of affirmative action and get an advance over competitors, some South African corporations have found ingenious ways to redefine “merit” in their hiring procedures. From responses to the question relating to “company practice on hiring”, a trend emerges which specifies so-called soft skills such as motivation, potential, talent and drive as equally qualifying traits in certain positions for black managers. As one respondent said of his company’s goals:

“We have a target intake of 30% Black. Thereafter the remaining 70% is split over all race groups and gender on the basis of the best person for the job. The provision for the 30% is that the individual must show the potential to be able to get up to speed with his counterparts.” (1994-179)

²⁰ SAIRR, Survey 1988-1989 55.

“Potential” and “assessing ability” seem to be key terms used repeatedly by companies seeking to alter the “whiteness of management structures”. As one managing director states “we are looking for blacks with potential” (1994-106) and another manager says “we will first look at the black population and assess *ability*” (1994-109), “employ only suitable capable blacks with potential to progress” (1994-83). One Afrikaans Marketing Manager describes his company’s practice:

“White males or females are not even interviewed - only non-whites are considered. The buzz-word is ‘adequacy’ - ‘Appoint someone who is adequate and make it your business to make him/her excellent,’ is the instruction.” (1994-72)

Such notions of hiring an applicant with the “right potential” would suggest that even if a black or female candidate falls short of certain competencies at the moment, he or she will be given preference over others, provided management believes that person has the necessary potential, drive and capabilities to develop within an allocated time period. Gawie Cilliers, human resources director of ICS Limited, says in order to maintain production and performance standards, blacks should be trained and developed for positions. “What is of importance now is not to look at individual experience, but the ability to do the job”²¹.

One of the contemporary conceptualisations of affirmative action emphasises active learning skills as a key factor in the way organisations adapt to change. Rather than the commonly held notion that affirmative action will inevitably lower standards in organisations, discussion has begun to focus on the *different* ways in which potential can be identified. Organisations are becoming attuned to the notion that one needs to

²¹ Weekly Mail and Guardian 24-30 September 1993: 12.

observe and identify potential, and that this potential must then be drawn out, developed and used.

Occupational psychologists, Sylvia Downs and Sue von Hirschfeld for instance, have focused on the notion of the “learning organisation” in which people are encouraged to question and to think conceptually. After a visit to Soweto schools in 1989, Sylvia Downs discovered “there was little evidence of pupils having been taught to question or to think conceptually”²². Creative productivity has been stunted in the past and, as a result, a problem which many employers face is counteracting many of the ideas and attitudes taught at school.

An increasing importance is placed on the way in which managers train employees on the job. The constructive discussion of ideas and problems is encouraged in order to facilitate a culture conducive to learning. The ability to “learn on the job” is stressed by an increasing number of culturally diverse organisations replacing their culturally homogeneous predecessors.

With a rapidly rising number of organisations implementing affirmative action programmes, it appears that many corporations are placing a high premium on employees who are able to learn on the job, think conceptually, interpret computer printouts, and think on their feet. This is one way in which organisations may meet the challenge of incorporating a previously excluded majority.

However, there exists no consensus or uniform standard test on how “potential” should be defined, let alone measured, compared with the credentials of certified

²² Qtd. in Argus, 12 January 1994.

institutions. Each personnel manager seems to apply his/her own notion as to how a “potentially” good colleague should look. Individual bias inevitably enters, as in all personnel decisions. Very few South African companies seem to follow the North American practice of letting a committee make the ultimate decision in order to balance out individual bias. This is viewed as overriding the prerogatives of the chief executive in the more authoritarian, hierarchical corporate culture of South Africa. In the absence of genuine team decisions, a radical alternative would be to appoint black personnel managers. There were two large companies in my sample where this had happened. However, other (white) executives reported similar problems with individual bias by black executives. In the case of a supermarket chain, the black executive was strongly criticised for giving preferential treatment to applicants with PAC leanings. In the other case, the black CEO was informally chastised for “putting some family members on the payroll as soon as he resumed office.” Similar accusations surfaced publicly in a controversy between *Sunday Times* editor Ken Owen and Gauteng premier Tokyo Sexwale who was accused of granting contracts without tender and appointing friends and relatives to civil service positions, circumventing the vetting of the Civil Service Commission. Obviously, the temptation of nepotism does not follow racial boundaries and the rules of appointment procedures both in the private and public sector will be contested for a long time.

Respondents were asked the question: “Assuming you had an *equally qualified* White, Indian, Coloured and Black candidate applying for the same opening in your company, would they be considered entirely on a personal basis or would race be a factor

in who gets the job?" The question was intended to test to what extent racial divisions in hiring practices exist. Although as one astute respondent pointed out:

"...you will *never* ever get two (let alone four) equally qualified applicants...." (1994-19)

the question assumes a hypothetical case. One often hears the argument that preference is given to "real blacks" rather than members from middle minorities (Indians and Coloureds). "Coloured" professionals complain that in the old system they were not white enough, while in the new order they are not black enough. The question sought to investigate to what extent the impression of renewed discrimination for different reasons is justified.

The majority of answers indicated that race would be a factor in deciding between four equally qualified candidates and as one respondent put it, "first prize is given to hiring a Black African" (1994-62). Most of the answers highlighted that among qualified potential employees black Africans would be "snapped up" (1994-175) and preference given in the following order: "Blacks then Coloureds, then Asians"(1994-122). As one manager stressed:

"choosing between the Indian, Coloured and Black candidate - the black would probably stand the best chance of getting the job because they have borne the brutality of Apartheid." (1994-43)

In terms of who the beneficiaries of affirmative action policies are, one respondent strongly stressed that Black (Africans) are the primary recipients:

"In terms of our policy the *black* person would get the job. Affirmative action = *black* appointments, the other races do not feature." (1994-47)

Similarly in 1997 the vast majority of respondents felt that Africans were favoured as beneficiaries over all other groups. As one respondent writes:

“Yes, this is the high profile and largest percentage race group and company credibility is linked to African participation. It is also an indication that India and Coloured race groups were not as badly affected as ‘Blacks’ in the past.” (1997-9)

“Coloured” and Indian respondents confirmed this view from their own personal experience:

“Advertisements for vacant positions specifically requires that the person must be black. I as a coloured person are often overlook or cannot apply because I am not black in colour. This to me is apartheid in reverse. In those days we were not white now we are not black!!!” (1997-18)

Similarly one Indian respondent writes:

“I am classified as ‘Indian’. Under the previous (Nats) government I wasn’t white enough - under the new (ANC) government, I am not ‘Black’. Hence I continue to be marginalised and am not considered in any ‘black empowerment’ initiatives.” (1997-19)

Another respondent even went as far as to say that companies “will get (ANC) approval for appointing blacks – ANC is not a coloured or Indian government”(1997-45). Many respondents pointed out that job advertisements listed in local newspapers frequently call for candidates who can speak an African language. This it was felt made the position exclusive for a majority of Africans, but excluded other disadvantaged minorities Coloureds and Indians.

The danger of such an exclusive policy seems obvious. Instead of empowering all South Africans, such a limited and confined definition of affirmative action, expressed as black appointments only, is more than likely to create tension and animosity between competing contenders, all of whom see themselves as discriminated against in the past and deserving recipients of such a policy. The ANC’s formal policy on the other hand, does not limit itself to the usual racial terms with which affirmative action in South Africa is usually perceived. By discussing affirmative action in terms of the “drawing in

of disadvantaged sections of the population to participate in the economy from a position of strength”²³ the ANC tries to incorporate groups to create an inclusive affair. Despite the dominant perception among South Africa’s “coloured” community that affirmative action would once again exclude them, Mandela has repeatedly stressed in a number of public speeches that “the ANC’s affirmative action programme did not apply only to African people but to all those who had suffered discrimination in the past - including coloured people”²⁴.

One of the overriding notions which emerged from this question was the potential of increased conflict arising among subordinate groups. As one respondent answered the question: “Our Black staff have completely rejected the employment of Indians - we are Natal based” (1994-57). Thus geographical location influenced appointment to a great extent. Who is hired, as one manager pointed out:

“depends on *where* the vacancy is (and the requirements of the market) if in Umtata - Black. If in Durban - Indian. If in Cape Town - Coloured (1994-30), because as another argued “you wouldn’t want a White appointed in Soweto or a Black in Louis Trichardt!” (1994-108)

On the whole, even national companies, let alone regional operations, seem more influenced by their regionally specific market or labour force competition than by national policy and criteria. By such locally sensitive appointments, the private sector can avoid some of the tensions arising from centralised policy contradicting local expectations that the ANC experienced. Labour Minister Tito Mboweni’s views strongly contrast those of the ANC controlled Eastern Cape government which has circulated

²³ ANC, The Reconstruction and Development Programme (RDP) (Johannesburg: Umanyano Publications, 1994).

²⁴ Cape Times 14 February 1994.

proposals that affirmative action be forced on companies by legislation²⁵. While that government has issued a discussion document in which it is proposed that the regional government adopt affirmative action as a mandatory hiring policy, businesses in the area are increasingly restless about the secrecy which pervades the Eastern Cape government. Mboweni's reaction suggests that he and several other ANC cabinet ministers will shy away from legislative coercion, as will National Party and Inkatha Freedom Party ministers. What remains in question is whether the ideas of mandatory hiring practices have majority support in that government and to what extent they will be pursued and accepted by the national government which fears they may be perceived as counter-productive for the promotion of business and foreign investment.

A surprisingly large number of answers emphasised that race would not be a factor among the four equally qualified candidates, but that hiring would be done on a personal basis. One manager described his company's hiring as:

“...entirely on a personal basis, however the final ‘qualification’ would be selecting the candidate who is most likely to fit into the culture, or who would be most readily adaptable to the culture of the company.” (1994-38)

The candidate's “suitability to company culture” was a point stressed repeatedly. Like “potential,” “suitability” to company culture remains a vague criteria, open to divergent interpretation and abuse, and more suitable to exclusion than incorporation of new as yet untested components of suitability. D. Coldwell and A. Moerdyk²⁶ stress the assumed collectivist mentality of Africans versus the individualism of whites as problematic and argue that “affiliation needs” rather than “achievement needs” of Black South Africans –

²⁵ Southern Africa Report 16 September 1994.

²⁶ D. Coldwell and A. Moerdyk, “Paradigms Apart: Black Managers in a White Man's World,” South African Journal of Business Management 12.3 (1981): 70-76.

the preference for doing things by group consensus – is a significant reason why blacks don't succeed in business. Where does this leave the majority of blacks struggling to gain entry to a white corporate South Africa challenged by stereotypes of cultural values incompatible with those of Western corporate culture? By the same token, however, others could easily argue that Japan demonstrates the success of productivity achieved through “collective and consensus management” and that white corporate South Africa could well benefit from incorporating African values expressed through more participative management.

Rohan Laird²⁷ conducted a research project probing whether African value systems, like *ubuntu*, are reflected in formal black-owned businesses and concluded they are largely not. Laird's thesis found that black businesses were hierarchically structured according to “scientific” management principles with the ultimate goal of profit-making as in most white South African companies. While some aspects of an African value system were detected in the companies – an emphasis on harmony and a desire to avoid conflict – it is unclear whether such traces of traditional culture hindered or advanced individual productivity and collective company goals.

However, a clear distinction needs to be made between rural black communities and urban, westernised ones. As Linda Human points out, many stereotypes of blacks are often linked to notions of “traditional African culture” which are projected as essentialist character traits on all Africans. For those black managers who have grown up in urban areas with daily contact with the “western” world, conformity with traditional cultural

²⁷ See Finance Week 200 24-30 March 1994.

values is often “situational”²⁸. Blade Nzimande, a black SACP academic and politician, has stressed that traditional African culture, as espoused by consultants on black advancement does not exist.

“It is a myth,” he argues, “and it is not African culture *per se* that is an obstacle to black advancement, but the way that (white) management has understood and used this concept which has created obstacles to advancement.”²⁹

In this study, several managers admitted cultural affinity as criteria for hiring:

“Personal basis is used, but the company is made up of a few ‘professional employees’ that come from similar cultural backgrounds. New recruits are selected not only based on skills but on whether they would fit in.” (1994-40)

In order for the potential black manager to be “acceptable” he/she is therefore considered not only on qualifications and ability, but also on manner, style and necessary social skills. Corporate culture in this sense is a bond which brings people together based on a perceived “fit” in the organisation very much in the sense of an old boys’ club. As the *New Nation*, puts it, one sees “...a tendency among companies to promote “conformist” blacks who have no influence in the real decision making processes”³⁰. Such a company it would also appear, has no intention of adapting its “corporate culture” as blacks are brought in.

Unlike the situation in North America however, where incoming groups’ cultures are expected to rapidly assimilate - in South Africa the sheer force of a majority demands that it be accommodated. It seems inevitable that the culture of corporations will be

²⁸ L. Human, Managing Diversity in South African Organisations undated manuscript: 7.

²⁹ Blade Nzimande, “‘Black Advancement’, White Resistance and the Politics of Upward Mobility in South Africa’s Industrial Corporations,” Affirmative Action and Transformation eds. B. Nzimande and M. Sikhosana (Durban: Indicator Press, 1996): 26.

³⁰ New Nation 7 June 1991.

forced to adapt and reflect, at least to some extent, those of the majority holding political power.

Organisations may be forced to adapt their corporate cultures, and not necessarily expect new employees to rapidly conform to the present environment. As Albie Sachs argues:

“The African cultural dimension, whether expressed in terms of language, dress, humour, style or attitudes, will come through naturally and strongly when people of African origin take their rightful place at all levels of economic life. What has been called the Anglo-Saxon behavioural style will continue for those who feel comfortable with it - the directors of Anglo-American will not have to do the *toyi-toyi* to get to their office - but it will not be the only one, nor will it continue to be the prescribed form. Thus the African personality will express itself as part of the South African personality, neither claiming hegemony nor accepting inferiority, just demanding its rightful position as major ingredient of the whole.”³¹

Sach’s notion reflects neither the conformist pressure of assimilation and acculturation, so common in Western Europe and Japan, nor the romanticised U.S. vision of a melting pot of diverse immigrant cultures out of which a qualitatively new entity emerges - but the multicultural notion of official Canadian and Australian policy. Here, conscious maintenance of multiple cultural traditions is celebrated, divergent heritages co-exist to their mutual enrichment and the whole draws from a variety of different skills and attitudes. It would seem that such a multicultural corporate milieu could best serve a company’s role in South Africa as well as reflect most realistically the country’s diverse ethnic traditions. In short, neither preservation of European corporate culture nor mechanical “Africanisation” would be called for.

³¹ Albie Sachs, “Affirmative Action and Good Government,” Redistribution and Affirmative Action ed. P. Hugo (Johannesburg: Southern Books, 1992) 203-221.

It must also not be forgotten that in South Africa common class characteristics intersect with culture. Without elaborating here on the long and complex class and race debate, de Haas's comment sums up a multifaceted reality:

"Linguistic groupings are cross cut by factors such as differential education, wealth, occupational status...and values which are of far more significance in daily life than are differences based on 'traditional culture', these significant differences not only cause deep divisions within black society, but also create important cross-cutting ties between black and white."³²

One manager explains:

"suitability for the job goes well beyond qualifications...and a fit in the organisation would be more important (experience, style of management, company culture) then only would the company's policy to adopt an initial preferential policy apply." (1994-63)

With this approach it would appear that only exceptional "westernised" blacks stand any chance of making it in corporate South Africa where the most crucial rules of conduct are often the most subtle and unspecified ones. While Whites, better educated Indians and middle class Coloureds have an understanding of these unwritten "rules of competition" learned at school, many blacks emerge from schools which operate to a great extent on rules of "solidarity". Blacks lacking in this "social familiarity" or what has been called "hegemonic cultural capital", are at a considerable disadvantage in understanding these unspecified rules of behaviour. A study by Schlemmer³³ in what he termed a "blanket factor" suggested that this type of alienation and marginalisation was the cause of high levels of stress amongst senior black employees in the workplace.

³² M. De Haas, "Ethnicity in Perspective," Democracy in Action, February 1990: 18.

³³ Lawrence Schlemmer, "Organisational and Social Obstacles to Black Advancement," Black Advancement in the South African Economy ed. Roy Smollan (Johannesburg: Macmillan Press, 1986).

However, many white leaders hope that the increased influx of blacks into private English schools and some equally traditional Model C schools will finally result in sufficient numbers of acculturated blacks, ready to take their place in a Eurocentric corporate culture that will resist Africanisation for a long time to come. The struggle at some academic institutions of long-time liberal standing, such as Wits, gives a foretaste of a contested symbolic hegemony, where black outsiders call for “transformation” because they can feel at home only at the price of denying their own definition of identity.

These considerations suggest the likelihood of unadmitted envy and resentment of Indian and Coloureds on the part of Africans because members of those groups are perceived as having had the advantage of cultural affinity to whites and established business. On the other hand, upwardly mobile Coloured and Indian professionals in employment show the same resentments and envy towards black colleagues, feeling that they are no longer considered “real blacks” and hence limited in their career in the same way as they were discriminated against before for not being white enough.

Critical Concerns

Responses to the open-ended question: “In your opinion, what are the major problems or drawbacks of affirmative action?” raised a host of issues among respondents. The question was asked in order to gauge which areas were of critical concern to respondents and could be considered obstacles in the implementation of affirmative action. The concerns mentioned most among 1994 respondents were: 1) lack of qualified

blacks, 2) lowering of standards, 3) resentment and demotivation among non-beneficiaries of affirmative action, 4) “sourcing” technically skilled personnel/poaching, 5) resistance to change by white (particularly middle) management, 6) state of the economy, and 7) pressures faced by candidates themselves. Table 14 outlines the top seven areas of concern and provides the percentage of actual responses in each area, according to frequency mentioned in the multiple answer question.

Table 5: 1994 Respondents' Areas of Concern

<u>Area of Concern</u>	Percentage of Responses 1994 (198)
lack of qualified blacks	66
lowering of standards	54
sourcing technically skilled personnel/poaching	41
resentment and demotivation among non-beneficiaries	38
resistance to change by white (especially middle) management	34
state of the economy	32
pressures faced by candidates themselves	21

A lack of qualified blacks, especially technically skilled candidates, and a resulting “lowering of standards” were most frequently mentioned as areas of concern among respondents. As one manager typically expressed it:

“due to the definite lack in the black community of persons which are sufficiently qualified, affirmative action inevitably leads to a lowering of standards. It should rather be aimed at creating training facilities for blacks in order to close the existing gap as soon as possible.” (1994-7)

Such perceptions hold affirmative action ineffective and counter-productive. As one respondent commented:

“how does one grow the pool of skilled Africans when only 156 African engineers graduated in the last 10 years in South Africa?” (1994-168)

Few reflect on the reasons why this has occurred.

The risk of alienating skilled white employees was an issue also repeatedly raised.

One regional manager articulates his typical experience in the transport industry:

“there are some superbly qualified whites on the market at present who are unable to find employment. There is not a corresponding surplus of suitable black candidates. Accordingly one has to pay more, often for less. In a competitive market this makes little sense. The mobility of blacks is also far greater at present, and top flight candidates, on whom time and money has been spent, are often attracted to new employment.” (1994-195)

Such respondents, especially those from companies with high demands for engineers or science graduates, mentioned that this would be a serious inhibiting factor to meaningful advancement. While many stressed the importance of training candidates to ensure that skills were available on an ongoing basis to the company, poaching was seen as a major concern, especially among those from companies which they argued spent time and resources on training successful candidates. One respondent suggested that although poaching may occur, in the long run it should be seen in the context of broader social investment which would gradually decrease as more qualified blacks became available.

Another area of great concern referred to by the majority of respondents was growing resentment among whites, rising out of bleak job prospects for school-leavers and graduates as the formal job market shrinks. This could demoralise and demotivate white and other minority staff in the labour market. According to Perry and Associates an increasing number of companies now require board approval for hiring whites³⁴. Such an

³⁴ South African Institute of Race Relations (SAIRR), *Frontiers of Freedom* September 1994: 10.

onus is placed on companies by their head office and goes beyond anything demanded publicly. As one respondent remarks:

“many highly qualified whites can’t find work, while companies like Spoornet openly state that it employs only blacks. The result is a braindrain to other countries.” (1994-107)

Such resentment strengthens the cause of the white right-wing movement. Afrikaner Weerstandsbeweging (AWB) spokesman Fred Rundle, argues that affirmative action is driving whites to its ranks³⁵. While South Africa could afford to loose 20,000 unskilled workers without much cost, the loss of 20,000 highly skilled people in an economy with a chronic skills shortage would also undoubtedly be a major setback³⁶.

Surprisingly, while the 1997 group of respondents found much wrong with affirmative action policies they had observed, they did not blame it for increased white emigration and resentment. Crime, lowered educational standards and other factors were attributed for this loss:

“Well, there is no doubt that many skilled whites are feeling emigration pressure. But I think it would be a mistake to make too many connections of this with affirmative action. The fact is, most skilled white are not at risk from affirmative action - there is a general shortage of management in RSA. However, unskilled white workers and school leavers are definitely disadvantaged. The predominant reasons whites are leaving are crime and deteriorating Rand. It might be argued that AA has lead to the decline in Rand, but I don’t think this argument holds much credibility.”(1997-53)

“I agree with this argument. Often whites leave their employment, take retirement packages, and then contract their services back to their employers to allow the people who have replaced them to do their jobs. Whites take advantage, blacks take advantage = very costly. There should be a time limit to AA. Would a black stay in an AA program his whole life?”(1997-72)

³⁵ SouthScan, September 1994, 252.

³⁶ SAIRR, Frontiers 10.

“It is ironic that economic power seems to be shifting from the white giant corporates to the black corporates. Policy should create rules and incentives that prevent aggregation of power in a few black companies.”(1997-62)

The state of the economy and the “economic cost of training in a recession” was ranked as the sixth most frequently suggested concern and regarded by many respondents as a serious obstacle to the practical implementation of affirmative action. As one respondent summarised this concern:

“the economy is bad; with few jobs and a lot of retrenchment - yet we have to employ more Blacks. How do you do both? Whites are definitely being disadvantaged...what about the Coloureds and Indians?” (1994-73)

As previously pointed out, the difficulties of introducing affirmative action in a depressed economy are enormous. If company objectives are to downsize while at the same time to change the racial proportions, the task becomes daunting. In general the view held by most respondents on this issue was that affirmative action was an added cost to operations - not seen as enhancing the profit-making capacity of organisations in the short-term. As one respondent sees it:

“South African companies generally cannot afford any further unproductive factors influencing operations.” (1994-161)

One of the major criticisms of the policy of affirmative action worldwide suggests that it may cause subtle, harmful consequences to those whom it is intended to benefit. Several of the respondents also felt that candidates for affirmative action faced enormous pressures and therefore the degree of failure was expected to be high. Comments made included that:

“Affirmative action insults those it is supposed to help, with the paternalistic presumption that without additional help beyond an equal opportunity base, they would not achieve to the same level. White and ‘Coloured’ workers are on the defensive, so the over-zealous promotion of

Black workers whose abilities are even slightly below par, however well-intentioned, will reinforce preconceived racial stereotypes and resentment.” (1994-46)

Part of this argument that affirmative action harms those it is intended to help is that it stigmatises blacks by implying that they cannot compete on an equal basis with whites and that they have not truly earned their position. This concern will be analyzed separately in a later chapter.

Respondents however were relatively divided on the closed statement: “black managers who are appointed because of affirmative action may feel a lowering in their self-esteem” with 37% agreeing, 31% disagreeing and 33% adopting a neutral stance. According to many analysts, affirmative action can undermine the self-confidence of the direct beneficiaries of the policy³⁷ creating a low self-image and sense of dependency among them³⁸. Qualifications may be questioned not only by white males, but recipients themselves may doubt their competence and underestimate their accomplishments. There is, however, no systematic evidence on the self-image of beneficiaries of affirmative action in the international literature. One must in the end balance the effect of affirmative action diminishing the accomplishments of blacks and the possibility of lowering self-esteem with the stigmatization which occurs when blacks are absent from key decision making posts and management structures. The self-image of beneficiaries of affirmative action will be explored in greater depth later.

³⁷ See for example, B.R. Boxill, Blacks and Social Justice (Totawa, N.J.: Rowman and Allanheld, 1984).

³⁸ T. Eastland and W.J. Bennet, Counting By Race: Equality from the Founding Fathers to Bakke and Weber (New York: Basic Books, 1979); and J. Howard and R. Hammond., “Rumours of Inferiority: The Hidden Obstacles to Black Success”, The New Republic 9 (Sept. 1985): 17-21.

Those opposed to affirmative action argue that it exacerbates racial resentments, entrenches racial divisiveness, and undermines the consensus needed for its effective implementation. As a typical respondent comments:

“high expectations from blacks and exaggerated fear from whites - could sabotage the whole thing as it can lead to subtle hostilities and disharmony.” (1994-156)

The lack of company wide commitment and as one manager put it “reticence from white management threatened by a “black avalanche” (1994-18) were drawbacks mentioned by respondents. The lack of total commitment from top management and lack of company clarity – no clearly defined policy – were seen as major drawbacks. One typical respondent comments:

“white middle management in corporate South Africa seems opposed to affirmative action while some senior management is not totally committed. On the other hand expectations by some black people that affirmative action make them occupy senior positions even if they do not deserve those positions has promoted tokenism to a great extent!” (1994-28)

High levels of lip service by senior management but lower levels of commitment appear a common perception among managers. Other concerns mentioned included the “eroded motivation of various employees” (1994-136), “black appointments in non-essential functions” (1994-137) and current paranoia of an enforced quota system in which “companies may panic and employ too many underqualified blacks in order to satisfy what they perceive to be recognised quotas for the future” (1994-111) inevitably leading to high degrees of window-dressing and tokenism. There is also the perception that affirmative action creates a “culture of entitlement among blacks” (1994-93).

As these divergent opinions indicate, there remains a deep ambivalence about affirmative action. While 76% of those surveyed acknowledge that “affirmative action is

a business imperative if companies are to survive in the New South Africa” and 72% agreed that “South African business has no choice but to go along with affirmative action even if it disapproves of it”, there was widespread sentiment that “affirmative action will lead to feelings of resentment among white males in South Africa” (65% agreed, 24% neutral, 10% disagreed). As one respondent argues in response to the question: “Is there any resentment among members of your company toward those hired under affirmative action?”:

“people with a white skin no longer have the advantage that they previously enjoyed - this is bound to result in some resentment.” (1994-38)

While professing to see the need for affirmative action, there is an acute sensitivity to the introduction of preferential treatment. Many whites feel threatened and anxious and are particularly concerned that it will lead to a loss of career chances for younger white males. On the statement “white employment and career opportunities will be limited by affirmative action in the future” 57% of all 1994 respondents agreed (while 13% were neutral and 30% disagreed). 52% of 1997 respondents also agreed with this statement and 67% agreed that “Affirmative action will lead to feelings of resentment among white males in South Africa”. This is especially true of the civil service in which many whites fear that it is only a matter of time before their careers are terminated. Despite assurances by ANC leaders that white public servants are secure in their jobs, there remains widespread apprehension among the Public Servants’ Association (PSA) 103,000 members. Fears have been aggravated by the announcement that 11,000 new jobs have been created in the civil service to accommodate black aspirants³⁹. At the same time the

³⁹ See Southern Africa Report 5 August 1994

ANC is aware that within the organisation those with highly specialised skill levels remain a small minority, in contrast to the vast mass of black employees restricted to menial jobs – victims of an inferior education system – who now aspire to become the “bosses”. As one manager relays his experience:

“although we have spent time and resources on structuring the introduction of a greater number of black employees and exploring our rationale for going this route...there is still concern especially among current employees who see their jobs, or in more cases their potential advancement threatened.” (1994-195)

A high proportion of respondents mentioned that resentment was “especially high amongst white middle level managers” (1994-102). This sector of management is perceived as the level creating the most obstacles to the implementation of affirmative action within organisations.

Indeed resentment is felt not only amongst whites but also from “Coloured” and Indian employees who perceive themselves caught in the middle once again in the New South Africa. As one respondent remarked on the situation:

“white males are unhappy as they see promotions blocked unless they get ‘specialist promotions’ as experts in their fields, Indians are *highly* upset! feeling left out in the old South Africa and now only third in line in the New South Africa. Women feel it is necessary to fight for recognition.” (1994-168)

Friction “between Coloured and African employees” was noted especially by respondents based in the Cape. As one respondent notes “in Cape Town Coloured employees resist blacks coming in at higher levels” (1994-80). One regional manager from Natal comments: “Indians feel that only blacks are advanced through affirmative action” (1994-173). As previously pointed out, one often hears the argument that

preference is given to “real blacks” rather than members from middle minorities (Indians and Coloureds), regardless of competence.

There is even resentment and concern regarding temptations to import skills. As one black personnel manager states:

“...there has been discontent among those who have served the justification (cause) for a long time - who feel that they are being overlooked when senior positions become vacant and instead exiles get the jobs. One has come up with the term ‘*exilomania*’ to describe how things have been shaped up by the new senior Management which undoubtedly is 75% from exiles.” (1994-55)

In response to the question: “Is there any particular method which your company has adopted to search for qualified blacks?” a number of respondents also stressed that:

“returning exiles and the targeted recruitment of blacks who have been educated overseas” (1994-87) as well as the “use of agencies in neighbouring countries.” (1994-136)

As the respondent above indicated, this may be a potential source of frustration among local black talent searching for jobs.

Companies anxious to be seen implementing affirmative action are in some instances creating fresh problems and concerns. Those searching for black managers from outside South Africa have drawn criticism from organisations such as COSATU which accuses them of “cheating” by failing to train local blacks for these jobs and for choosing the cheaper option⁴⁰. Linda Human maintains that the spirit of affirmative action is being destroyed by companies “wholesale fishing for black faces”⁴¹. “Headhunting” was a phrase used repeatedly by respondents to describe how the search for qualified blacks is

⁴⁰ SAIRR, Frontiers.

⁴¹ The Star Weekly 26 August – 1 September 1993.

being conducted by their respective companies. As one manager describes his company's search:

“predominantly through specialist agencies, headhunting and networking: the general trend is that all the well qualified or good black candidates are either already in a job or are demanding packages falling way above the scope of the position....” (1994-81)

Another cautions that:

“investment in development/training is nullified by headhunting applied by other companies that would pay more just to look good.” (1994-83)

In order to attract top black personnel, companies pay high premiums on white salaries. FSA-Contact, a firm of human resource consultants says that a third of companies recently surveyed pay up to 50% premiums on white salaries, the average premium being 25% to 30%⁴². Many respondents noted that approaching university and technikons to find the best students, promotions from within and developing existing employees, including bursary schemes, seemed to be the best alternatives. Headhunting was perceived as creating a class of “mobile black yuppies” who “will move again and again with little loyalty” (1994-109).

Issues which are deliberated among managers revolve not around the question of whether or not there will be affirmative action - but rather focus on the process of implementation and how to ensure that it is successful. There is a growing realisation that affirmative action is inevitable as part of the post-apartheid normalisation period. Now that South Africans have achieved political equality, the focus has shifted to demands for socio-economic equality. By voluntarily embarking on affirmative action programs,

⁴² South African Institute of Race Relations (SAIRR), Race Relations Survey 1994/1995 (Johannesburg: 1995): 11.

many employers hope to beat what they anticipate as forced implementation of affirmative action by a new government.

The business need for affirmative action appears compelling in organisations with mandates from the top to recruit and promote an increasing number of blacks. Diversity is needed, not to redress the injustices of the past, but to be more successful against competitors and ultimately in terms of profit. The private sector has to reckon not only with massive black consumer markets, but also with a black labour force. Both facilitate greater black participation in upper management structures in a symbolic and functional sense. In order to have credibility in ever more affluent black markets, organisations must be more representative - especially in management structures. The increasing financial clout of a growing black middle class whose consumer loyalty is sought ensures a market driven perspective to the implementation of affirmative action. South Africa's fledgling black middle class is visibly growing as embourgeoisment proceeds apace and more and more blacks cruise former white suburbs in German cars, and are head-hunted or poached from newly attained corporate positions. Research by University of Natal academics and the Human Sciences Research Council published in March 1994 showed that the richest 20% of African households experienced a 40% growth in income from 1975 to 1991, while the income of the richest whites remained constant. However, the income of the poorest 40% of white and African households dropped equally by about 40% over the same period⁴³. According to Gelb:

“...the black middle class is likely to be the class that shifts most within South Africa's class structure in the transition from the apartheid to the post apartheid economy. In other words, it will grow in size, increase its

⁴³ SAIRR, Survey 1994/1995 452.

share in distribution and improve its relative economic power significantly more than other classes.”⁴⁴

While the political role which the black middle class in the new South Africa will play is not certain, business facilitates its growth along Western corporate cultural lines. In short, most white-owned firms have realised that a company profile which includes successful black managers is bound to have more success reaching and selling to an expanding black market. Companies will be more accepted if employees reflect customers. In addition, the broader the talent pool, the better the selection of brains and skills for senior management. This is evident as some of South Africa’s most successful organisations appear to embrace affirmative action wholeheartedly.

It has not been tested as to how far this widespread assumption is based on the myth that blacks do indeed prefer their own commodities or sales personnel over racial outsiders. For many black consumers the opposite may hold true: whiteness is still associated with superior quality and status while such a colonised mind might subconsciously associate black products with inferiority. Nonetheless, the perception among white management has taken firm hold that black consumers require ethnospecific service. This neo-apartheid management vision nevertheless results in the unintended consequence of boosting the chances of black entry into formerly closed realms.

The debate on press coverage of the South African scene is one example of the pressure which exists for affirmative legislation of some kind. The ANC has argued that the continued exclusive dissemination of news and information by white-owned monopolies has lead to the portrayal of the complex processes of political and social

⁴⁴ S. Gelb, Working Paper for the National Education Policy Investigation’s Post Secondary Education Research Group, “The Political Economy of the Black Middle Class in a Democratic South Africa” (Johannesburg: 1991): 3.

transformation of South African society in a biased superficial manner. Furthermore, it asserts that the free flow of information has been significantly distorted, especially information regarding the RDP and the entire transformation process. Enterprise editor and chairman of the Black Editors Forum, Thami Mazawai has fuelled this debate by suggesting that the government should withhold its R150 million per year advertising expenditure from publications which do not demonstrate a commitment to black advancement. Mazawai argues that since blacks were marginalised under apartheid that imbalance needs to be redressed in the media as anywhere else:

“Our argument has always been that the government should make affirmative action compulsory: this call has come from black business for a long time, we are just applying it to the industry we know best. At the least, why doesn't the government use its advertising leverage to make sure companies have a proper structured affirmative action campaign. Why should my taxes go to support a company that won't employ blacks?”⁴⁵

While the need to redress imbalances in media diversity and ownership is widely acknowledged, the issue of government's role in changing the racial composition of newsreels remains contentious. The ANC has posed options to be examined, including anti-trust legislation to limit ownership and various forms of subsidisation to encourage the growth of diversity in media ownership.

Another explanation for the voluntary adoption of affirmative action is that some South African companies are consciously assuming responsibility for past injustices. In this view enlightened employers attempt to redress the socio-economic imbalances caused by apartheid for moral reasons. While some may feel morally pressured by clients and affiliates to acknowledge and redress past injustices, this influence is uncertain. That

⁴⁵ Sunday Tribune 15 October 1995: 25.

business as a whole responds to a predominantly moral obligation to integrate and advance blacks within organisations for the public interest may overstate the case. Moral motives are attributed to an activity that has to be guided by self-interest rather than altruistic reasons. Only where both coincide can business be expected to act out of moral concerns for past sins or the future public good.

This sceptical conclusion is confirmed by the fact that South African employers have only recently recognised the benefits to be reaped from affirmative action including particularly the larger pool of talent from which to hire. While companies may always have been conscious of such benefits, one could contend that past apartheid policies prevented the appointment and advancement of disadvantaged members of the population. Only now is the private sector finally able to increase profits by recruiting workers from all segments of the market instead of limiting selection to a small privileged enclave at considerably higher cost. Therefore, it could be argued, affirmative action represents a rational response to the removal of an artificial constraint – namely apartheid – in the labour market. However, such reasoning suggests that whites would not have discriminated against black workers if apartheid had not occurred, and that statistical discrimination would never have been an issue⁴⁶. Clearly apartheid was not just imposed against the will of the white majority, but reflected a widespread sentiment among the privileged few, even among English business executives, certain costs and unwelcome constraints notwithstanding. In short, it has to be denied that South African companies were primarily objects, perhaps even victims, of apartheid laws. Apartheid

⁴⁶ K.J. Arrow, "Models of Job Discrimination," Racial Discrimination in Economic Life ed. A.H. Pascal (Lexington, Mass.: D.C. Heath, 1972); and E.S. Phelps, "The Statistical Theory of Racism and Sexism," American Economic Review 62 (1972): 659-661.

laws bestowed both benefits as well as costs on business. How far business was an accomplice or an opponent of apartheid has been and will be debated endlessly⁴⁷. It can be stated confidently that South African business frequently lacked the political will to use its clout with the government in a more forceful and effective way. Above all, business generally did not initiate reforms in its own house where it exercised the autonomy to introduce progressive labour policies. Particularly during the last two decades of apartheid after the legislation of non-racial unions in the late 1970s, South African business was no longer restricted legally from implementing affirmative action policies of various kinds.

However, while considerable agreement amongst human resources development specialists about the need for affirmative action now prevails, progress in most organisations still remains slow. As Bowmaker-Falconer⁴⁸ contends, claims of progress towards employment equity in many organisations still amount to mere public relations exercises while the available pool of black managers remains small. Most corporate activities, he claims, centre around the circulation of a tiny pool of available black managers, rather than the larger task of developing managers in significantly greater numbers.

While companies may be focusing on training and educating blacks for various positions, little attention has been paid to the organisational climate which they enter. Affirmative action it has been argued, must seek to address the consequences of foregone

⁴⁷ Merle Lipton, Capitalism and Apartheid: South Africa (London: Gower Press, 1986).

⁴⁸ Angus Bowmaker-Falconer, "Bumpy Journey to Employment Equity," Die Suid Afrikaan Special Focus: Affirmative Action in Action, May/June 1993: 12-14

conclusions by white managers who often do not expect blacks to succeed in managerial positions. As Mamphela Ramphele notes:

“Institutional culture remains a major challenge for equity. Most institutions assume that one can simply open the door to those previously excluded, and continue business as usual. Leaders of such institutions are appalled by the failure of new entrants to realise their potential in spite of what they regard as enormous efforts on their part to help such people succeed. The reality is that the level of alienation of new entrants in an insensitive institutional framework is often underestimated.”⁴⁹

Cultural stereotypes about blacks function to help those around black managers make sense of the world. However, as Fredrickson points out:

“...The time has perhaps come to subject the concept of group cultures to the same kind of critical scrutiny that has been applied to the concept of race The cultural variations that can be found within the groups that are designated as black and white are in fact enormous and they deserve close attention; and yet if one considered the qualities of a black person and a white person of similar socio-economic status one might find that they had more values and attitudes in common than either had with members of their own group who differed significantly in educational attainment and income.”⁵⁰

The widespread assumption that race automatically displaces class, education, region or religion as a determinant of culture seems fallacious.

Conclusions

This chapter has probed the dominant perceptions of a group of South African executives toward affirmative action recruitment policies. While the responses to this

⁴⁹ Ramphele Mamphela, Equity Colloquium, “Reality Factors and Their Implications for Equity” (University of Cape Town: 16-18 April 1993): 6.

⁵⁰ George M. Fredrickson, “Demonizing the American Dilemma,” New York Review of Books 19 October, 1995: 16.

survey do not claim to be representative of South African business attitudes what these replies do provide are valuable insights into the prevailing conceptions held by this group of managers and professionals. At a particularly crucial and formative period of South Africa's transition these vignettes provide a window towards understanding the broader business sector and open the way for further research. This chapter provides part of the core empirical data on which this study is based.

Surprisingly, increasingly less resistance was found among white male executives to broaden their recruitment pool by including qualified blacks and women. Instead, the discourse of affirmative action revolves around the issue of reconciling the maintenance of standards and merit - unproblematically associated with historical white male over-representation - with the provision of equal opportunity for under-represented groups. Affirmative action is viewed as an essentially pragmatic response to a number of perceived problems: 1) the potential "threat" of legislation, 2) to capture an expanding black consumer market, 3) to woo the allegiance of a black middle class and, to a lesser extent, 4) in response to a "skills shortage" with the potential to hamper economic growth. Even traditionally conservative firms now compete for black managers who are poached and head-hunted with generous inducements, at the expense of training the broad class of workers at a lower level.

The respondents realise that SA businesses need 1) to recruit more representatively if they wish to outperform competitors and place themselves strategically in an ever more significant black market, 2) to pre-empt legislation by being seen to be more representative in a black majority culture where a black manager carries political capital with the state. Even conservative business executives argued that affirmative

action is not a choice, but essential to the legitimacy and credibility of business in the short term and its general success in the long term.

In none of the comparative literature surveyed has there been such an anticipatory attempt by big business. This voluntary adoption of affirmative action in South Africa could be deemed *anticipatory compliance*. Such pressure is absent where the targets of affirmative action policies are powerless minorities, dependent on the goodwill of the dominant sector, as in the US and Canada. In SA on the other hand, existing management structures are perceived to be challenged because of the political costs of remaining white. This "anticipatory compliance" to potential legislation is justified with different motivations but is still driven by economic considerations rather than moral concerns about past neglect.

Business recognises the critical nature of representation in a climate where one could have expected more resistance and doubt about an unprepared educational system. Ironically, the "anticipatory compliance" of business, from the empirical results of this chapter, is indeed the exact reverse of what businesses were doing under apartheid. The Tongaat Sugar Company, for example, anticipated apartheid legislation by creating their own system of "voluntary aggregation", their euphemism for apartheid. The nuanced replies from this group of respondents displays a pro-active stance on the part of business in anticipation of legislation at the time of this research.

One could conclude that it may be partly in the interest of business to extend affirmative action to those who hold power. Remarks such as 'the overriding factor is one of survival' indicate considerable sensitivity, foreplanning and adaptability beyond ideology and traditional business practices.

CHAPTER VII

“AFFIRMATIVE ACTION” BENEFICIARIES AND DEVALUED PERCEPTIONS OF SELF

One of the most contentious issues in the literature on affirmative action is whether preferential policies actually harm their ostensible beneficiaries. Besides the claim that preferential treatment exacerbates racial resentments, entrenches divisiveness and thereby undermines the consensus necessary for effective reform, it is the psychological damage of being selected by ascriptive rather than achieved characteristics that most critics consider to be the most invidious consequence.

Affirmative action is said to stigmatise blacks by implying that they simply cannot compete on an equal basis with whites. Moreover, the shadow cast by preferential treatment is feared to be pervasive, hovering over blacks who have attained positions without the aid of affirmative action as well as over those who have been accorded preferential treatment. Thus affirmative action has a stigmatising effect in which a high cost is incurred through harming the psyches of beneficiaries themselves. It is often suggested that the beneficiaries of reverse discrimination may come to question their self-worth, to wonder if they made it on their own merit or whether their sex or race explains their success¹. While there have been no empirical studies conducted on the psychological consequences of affirmative action for beneficiaries, many assert that the real victims are actually blacks and women who suffer from a lowering of self-esteem and unempoweredness as patronised targets of state largesse. They perceive themselves as having obtained a handout based on the colour of their skin and subsequently feel

¹ Steven L. Carter, Reflections of an Affirmative Action Baby (New York: Basic Books, 1991).

guilty about their “tainted” achievements. Thus, blacks are confronted with an expanded realm of debilitating doubt, so that the doubt itself becomes an unrecognised preoccupation - undermining their ability to perform².

The following analysis is an attempt to deal with these contentious issues in a unique manner by probing the perceptions of black aspiring business executives. Located within the University of Cape Town's Graduate School of Business is a project to enable underqualified managerial students to compete for entry into the elitist MBA programme. The Associate in Management programme (AIM) is designed to compensate individuals from educationally deprived backgrounds by making up for the lack of skills that their peers from more privileged homes and schools have already acquired. No formal educational requirements are specified for the programme in order to ensure it is as inclusive as possible. Educational levels of AIM students have ranged from standard eight to undergraduate. Instead, identifying future management potential is seen as key in determining who is accepted into the programme. Most students are sponsored by companies who preselected them as promising employees. Personal interviews are held by the university to determine the extent of commitment of the applicant, and non-exclusionary diagnostic tests are used as a means of determining the academic potential of the applicant as well as his/her “weaker areas”. Since most, but not all, of the AIM classes are Black students, this group provided an ideal test of Black perceptions of affirmative action by potential beneficiaries.

The few non-black members of the class include small numbers of white,

² Shelby Steele, “Is Affirmative Action Reverse Discrimination,” Taking Sides: Clashing Views on Race and Ethnicity ed. Richard C. Monk (Guilford, Connecticut: Dushkin Publishing, 1993): 213.

Coloured and Indian students. This inclusive composition of the program highlights the nonracial character of learning and contradicts the conventional wisdom that only black Africans need educational assistance. Yet by clearly having a predominantly African cultural milieu, the majority group students do not feel intimidated by Euro-centric notions of appropriate speech and behaviour. Outside the classroom AIM students easily switch into their home languages and socialise, for the most part, with one another. Yet during the occasional joint formal and informal events with the still mainly white MBA classes, blacks confidently interact with their white counterparts who are probably more keen to have closer contact with the new South Africa than vice versa. Both AIM and MBA students also share the same instructors in addition to the white AIM full-time personnel who are specially sensitive to the needs of their “clients”. Despite a system of individual tutelage with a faculty mentor to whom a student could turn if necessary, no condescending paternalism could be observed.

It was in this setting that assertions about self-doubt, low self-esteem and unempoweredness together with other contentious issues were probed through questionnaires, class-room discussions and some individual interviews with the twenty participants in the 1995 programme³. This group was comprised of 16 males and 4 females between the age of 25 and 40.

A follow-up survey with the class of 1997 aimed at ascertaining whether the discourse had changed after two years of ANC rule. It also tested some new concerns about the loss of white expertise as a result of more widely embraced affirmative action

³ The number in brackets directly following the quotes of respondents refers to a specific respondent.

policies. The gender breakdown of this group consisted of 27 males and 3 females. The majority of the group were between the age of 25 and 40.

Beneficiary Perceptions on Selection Criteria

Respondents answered the questions: “Is there any particular method or criteria which your organisation or sponsor has adopted to select candidates for the AIM programme? What were the main factors which were taken into consideration? Why do you think you were selected?”

In examining the way in which affirmative action candidates for the AIM programme perceive their selection, the overwhelming response indicated that the selection criteria had little to do with race or gender and everything to do with experience, hard work and motivation. In this setting affirmative action was not perceived as a philanthropic gesture and respondents did not see their attainments as tainted or undeserved.

While critics of affirmative action claim that merit ends where affirmative action begins in recruitment, the majority of respondents selected for the AIM programme attribute the success of their admission to factors such as individual enterprise, perseverance, training and determination. Typical is the comment of one Sotho speaker:

“I was selected because of my performance at work and the potential I have in future” (20). Similarly another respondent stated the “potential to develop further” as a factor and “my determination to succeed in whatever program I tackle.” (3)

All twenty respondents maintained in some way or other that they were selected for the program because they had “delivered the goods” to their employers through

commitment, discipline and perseverance and in so doing proved their “potential” when given the chance. Self-motivation was frequently mentioned as a reason for success in securing a place. As one male Swazi speaking respondent commented:

“They were looking at a person that is eager to study further by actually getting to know what that person has been doing to upgrade his/her level of education.” (2)

Critics in the U.S. literature often assert that one of the most troubling effects of racial preferences for blacks, is collective and individual demoralisation⁴. The exclusive emphasis on racism's omnipresence and omnipotence, Steel argues, is most destructive of the African American self-image, because it perpetuates a paralysing mindset of victimhood. Instead of a creative, active agency, the modelling assumes handouts and charity. Hence, affirmative action nurtures a victim-focused identity in blacks in which their beneficiaries inadvertently perpetuate the very condition they are trying to overcome. According to AIM respondents however, this is not the experience in South Africa.

Contrary to what is usually argued by U.S. critics, AIM respondents did not consider themselves passive recipients of company largesse, but instead perceived themselves as having *earned* a place in the program. The “victim mentality” of affirmative action beneficiaries so often pointed to as a pitfall of preferential policies is totally absent in this sample. As one respondent confidently expressed:

“...what I have achieved on my own in upgrading my education contributed towards my selection.” (2)

⁴ Shelby Steele, “A Negative Vote on Affirmative Action,” New York Times Magazine 13 May 1990: 116.

This individualistic response departs from the group affiliation one might expect a recipient to embrace in order to justify preferential treatment. Rather than accepting a reward for being the underdog, respondents moved beyond that status:

“...I was selected for my performance at work and the potential I have in future.” (20)

Most perceived the selection process to have chosen

“...those who put everything into the companies' policies and interest...those who are most likely to become competent managers. I stood above the rest.” (17)

Such responses contradict notions of recipient groups as unempowered and lacking in autonomy.

In addition, such responses lead to further speculation about the socio-political contexts in which affirmative action takes place in South Africa. In this regard the difference between North America and South Africa is of relevance. In South Africa, this context consists of what was once the most structured racist society in the world now in the process of deracialising. The self-confidence of the formerly excluded is enhanced in this case because of their numerical majority status, the consciousness and experience of an indigenous culture and of a distinct living language. They occupy what rightfully belongs to them in the space from which they were previously barred. In the pseudo equal opportunity realm of North America, failure is often attributed to individual shortcomings. South African blacks, in contrast, share a much more uniform exclusion.

Affirmative action in South Africa's case needs to be seen in relation to the degree of illegitimacy of apartheid society. In apartheid South Africa, the absolute unquestioning nature of discrimination prevailed. Obvious legal group discrimination strengthened an awareness that societal positions were apartheid-determined. Within this

framework, AIM respondents see their position as one of communal group disadvantage. Therefore, their selection for the AIM programme is viewed as quite legitimate. The South African beneficiaries of affirmative action in this context merely see previous barriers removed that leads to their “natural” ascendancy in the educational hierarchy. Redress for the recent historical injustices of apartheid is not a favour - rather it is owed in order to create equality of opportunities. Once competition on an equal playing field is achieved, blacks are quite confident that they do not need to be pampered with special treatment. This self-confident embrace of the liberal ideal of individual rights and achievements denies that group rights need to be invoked. Similar to Steele, the ethos among upwardly mobile blacks paints racial preferences as an insult to the differential capabilities of people who merely need to be rewarded fairly on the basis of their performance rather than skin colour. In contrast African-Americans labour under the pretence of an unprejudiced, meritorious order and therefore can never be certain whether failure has to be blamed on individual performance or racial discrimination.

A conclusion may well be drawn that where the society is perceived with a high degree of illegitimacy - an unequivocal illegitimacy - affirmative action is seen as a legitimate right and compensation for past injustice. Conversely in *de facto* non-racial democracies such as the U.S., the overriding promise of equality and the belief that all individuals have equal access leads to a concomitant belief that subordinate groups are offered affirmative action opportunities due to their own inadequacies.

Evident in the answers of AIM respondents, is also the consequence that affirmative action initiates action. This contrasts with the popular notion that affirmative action connotes a system of preferential action where the recipients are passive

beneficiaries upon whom the favour of opportunity on the basis of “colour” or gender has been thrust. What is neglected in this conception is the role of “agency” which affirmative action has unleashed in the opening up of previously closed opportunities that give rise to a range of initiatives. Giddens has consistently emphasised the *enabling* as well as constraining features of institutional phenomena:

“Each of the various forms of constraint are thus also, in varying ways, forms of enablement. They serve to open up certain possibilities of action at the same time they restrict or deny others.”⁵

AIM respondents indicated various processes by which affirmative action began to stimulate wider participation through raising expectations for positions. Contrary to what one may expect, no internalised inferiority was evident in any of the respondents’ answers and there was no perception of an undeserved unfair advantage.

Possessing the right “potential” was perceived as a prime factor in the successful selection for the program and mentioned repeatedly. Consequently, several replies confirmed

“...the potential of candidates and previous work-related achievements were considered” (12). “...I think I was selected because of my performance at work and the potential I have in future” (20). “I was selected because I have the potential to be middle management.” (18)

Individuals identified themselves confidently as possessing the required potential and commitment for the programme.

Some respondents settled on a combination of motivational qualities *and* race or gender as factors which aided their positive selection process. Hence, replies such as:

“...capabilities, desire to study further and race or gender” (13), “I was selected because I’m a hard-working achiever with enthusiasm and female.” (6) “Main factors in the selection process were work experience

⁵ Anthony Giddens, The Constitution of Society (Cambridge: Polity Press, 1984) 173-174.

and achievements...I think I was selected because the company wants to balance the equation. There is a big gap between whites and blacks in managerial positions in particular...I think this will drive to end the job reservation where everyone will be promoted according to skill and knowledge of work - not by colour of skin." (10)

Such responses indicate that in as much as the elevation of blacks addresses pressing social and political needs, it may be rightly insisted that considering race as part of the bundle of traits that constitute "merit" is entirely appropriate⁶. The thoroughly political nature of "merit" as a malleable concept, determined not by imminent pre-existing standards but rather by the perceived needs of society, may also play a role. Kader Asmal⁷ suggests that new standards of qualification are needed which are capable of measuring a candidate's capabilities and potential.

Only one respondent concluded that race alone was the deciding factor in the selection process:

"...In order to have an additional black person that they can count to have spent their money to develop him, but unfortunately with no career pathing." (15)

Ultimately however, participants attributed their success at gaining entry to the program to their own personal and motivational qualities. Race did not feature as a key contributor to the process. Affirmative action according to this particular group of AIM respondents was perceived on the whole as a deserved opportunity to prove oneself.

What contributes to AIM's unique success is the combination of a number of factors. Rather than set an exclusive racial quota to secure the programme solely for

⁶ Richard H. Fallon Jr., "To Each According to His Ability, From None According to His Race: The Concept of Merit in the Law of Anti-Discrimination," *Boston University Law Review* 60 (1980): 815-877.

⁷ K. Asmal, paper presented at 5th Annual Labour Law Conference on Racial Discrimination in a Future South Africa, "Affirmative Action or Not?", Durban, October, 1992.

blacks, all individuals from “educationally deprived backgrounds” are included. This in effect leads to a majority of blacks in the program with a sprinkling of lower-class whites, mainly Afrikaner women or whites with rural backgrounds. The mixed classroom atmosphere even when only one or two students from other racial backgrounds are present, also contributes to the impression that bridging programmes are not a racial affair.

Motivations behind Implementation

It is puzzling why so many private companies in South Africa have adopted affirmative action programmes when they have not been legally compelled to do so. There is little consensus on what business’ primary motivation for implementing affirmative action is. AIM respondents swing widely in their opinions of whether affirmative action is a political necessity, a business imperative, a social responsibility or a combination of these factors. The factors stressed most by respondents as most compelling in motivating companies were political.

The question was asked: “What do you think is business’ primary motivation for implementing affirmative action?” In response, the majority of AIM respondents highlighted political circumstances as the prime driving factor in companies' decisions to implement affirmative action.

Very few respondents felt that affirmative action was motivated by moral concerns among companies. On the contrary, some respondents expressed the view that

companies were morally bankrupt in their approach to affirmative action:

“Businesses have been operating for many years without black employees forming part of the top management. Therefore I would not say it is either the business's imperative for future growth or a moral responsibility by the management to implement affirmative action. Business is forced by the political circumstances to embark on affirmative action!” (2)

Existing management structures were seen to be challenged because of the political cost if they remained white. Notably, there has been a sudden upsurge in the number of affirmative action programmes since the election in April 1994. As one respondent explains:

“affirmative action is a political necessity. In my organisation affirmative action policy was on paper but never practised until the new government was in power!” (13)

Another respondent expresses that business

“...wants to address the question of ‘true representation’ in managerial positions because of the country's policies.” (12)

It is interesting to note in this respondent's answer the perception that policies of affirmative action have already been enforced. However, there is no indication yet of what kind of policies the ANC will adopt or what kind of monitoring mechanisms the government might use. Thus far, the government has concentrated on implementing informal affirmative action programmes in the public sector - and has yet to specify specific legislation for the private sector. However, the impression is widespread that business has been given no option but to adhere to majority dictates. A typical comment:

“The political situation has forced business to implement affirmative action. Although business should have started a long time ago to develop the individual irrespective of race, colour or creed - this was not the case.”
(3)

Nonetheless some respondents express uncertainty about what motivates companies. They feel left in the dark about the intentions of individual companies after they complete the AIM program:

“I am uncertain but think it is a political necessity. To date, I am not certain about my future after attending the course i.e. I do not know the objective of the company for sending me on the course besides that I was keen to attend and I was finally nominated for an interview.” (14)

Perceptions here indicate that the business sector in South Africa has realised that it needs to recruit far more representatively if it wishes to outperform competitors and place itself strategically in an ever more significant black market. Also prevalent is the perception that it seeks to preempt legislation and become more representative in a black majority culture.

Some AIM respondents stressed that companies were motivated to implement affirmative action because it was vital for future economic growth. Long-term considerations of stability and growth were mentioned as driving change within companies. As one respondent comments:

“It is imperative for future growth and stability because the disadvantaged group will identify themselves with senior members of management thereby a sense of being accepted is ensured.” (15)

Similarly, a Zulu speaking respondent emphasises the importance that blacks feel a part of organisations in the future:

“...if affirmative action operates effectively it will be fruitful for blacks to feel a part of their organisations...then the country will enjoy power sharing.” (10)

Feeling a part of organisations and the notion of belonging to a formerly closed management structure was seen as key to the stability of an organisation. None of the respondents felt that they had been co-opted or bought out.

Also raised was the issue that if affirmative action was implemented for the wrong reasons, it would most likely lead to “window-dressing.” As one female respondent put it:

“I think that it may be a combination of factors for companies that are committed to change. Whereas, for some companies it is an obligation that they have to fulfil to be acceptable to the government and the society at large. Such companies tend to implement affirmative action for ‘window dressing,’ and this leads to a lot of internal problems.” (16)

Companies that failed to address the issue of affirmative action were seen to face the consequence of “vanishing”. One respondent warned: “...survival - if they don't they won't stand a chance in the future South Africa” (19).

Respondents mentioned that while affirmative action was a necessary business imperative - a moral responsibility to redress the past should not be completely forgotten:

“it is both a business imperative for future growth and a moral/social responsibility - as many people were previously deprived of opportunities due to their skin colour whether they had the right qualifications or not” (4), and “...it is an imperative for future growth and (companies) must feel obliged to help rectify the past apartheid atrocities.” (20)

Genuine Efforts to Increase Participation?

An overwhelmingly negative response was attained from AIM respondents to the question: “Is it your impression that business is genuine in its attempt to increase the real participation of blacks in management and senior positions in the private sector?”

This particular question solicited some very skeptical opinions about the motives behind businesses' adoption of affirmative action in the private sector. As one respondent pointed out:

“...business had a chance to look at that (the real participation of blacks in management and senior positions) a long time ago. If it was businesses' aim to empower blacks they should have challenged labour discriminatory laws that impeded them from pursuing that aim. Therefore it is the political situation that is forcing management to change.” (2)

Black South Africans generally ascribe a rather inflated clout to business. That South African companies were also objects, perhaps even victims of apartheid laws, is generally denied. On the contrary, big business is seen even by those who want to join it as the co-architect of past injustice. Business insistence on its limited influence on past law-making is dismissed as a convenient excuse. Most respondents cite as proof the skewed racial composition of South African management which, indeed, was never compelled to keep blacks out of its ranks. They highlight that the composition of management in South Africa's private sector remains highly skewed:

“...the majority (70-90%) is still in the hands of a small minority. Only a small number of blacks are in management positions and the private sector is doing very little to counter this matter.” (18)

The “face” of the workforce is not changing fast enough. While many companies preach affirmative action policies - in this perception employers have failed to tackle the issue effectively as blacks remain in a small percentage of all managerial posts. Changing the colour of management positions according to one respondent

“...depends on how infiltrated the top structure is with blacks already, who can actually monitor the process - only then will companies be genuine if they are scrutinised by their own guys.” (19)

Inaction on affirmative action on the part of many companies is stressed by respondents:

“As much as the business sectors advocate the real participation of blacks in management positions, their actions leave one wondering or doubting the genuinity of their gospel.” (12)

One respondent concludes that:

“job reservations are theoretically written off the books but practically not. It would take a few years before management changed the belief that people of other races are not merely ‘production tools.’ Current affirmative action programs are mere token efforts.” (14)

Evident here is the perception that in the workplace most employers continue to play the affirmative action sham of putting token black faces into affirmative action posts while strategic control remains in the old hands. In this respondents view, the workforce should be treated as a human resource to be nurtured and cultivated rather than be viewed as a dispensable factor of production.

Perceptions of tokenism and window-dressing are rampant among respondents particularly in firms which are viewed to have introduced half-hearted affirmative action programmes:

“There are fears that business is doing window-dressing with a view to having access to international markets” (11). Other respondents explain: “no, most big businesses have white management and although blacks are being promoted, I feel it is just window dressing to look good” (17), and “...I have a problem if they (business) are going to promote a black just for the sake of promotion. My understanding is that any person that is promoted to a senior position, must have education and experience to be able to perform the task to its fullest potential.” (3)

This respondent holds that the most competent person can be appointed to a position, while simultaneously supporting the company's affirmative change program.

Prevalent among respondents is the notion that progress with affirmative action is slow because it appears to threaten jobs held by white males:

“It is genuine up to a certain extent depending on the involvement of companies and their mission statements. In general, businesses, whose high portfolios are held by the white minority, feel threatened by affirmative action!” (16)

Another respondent points out the fear that there are not enough jobs to go around in the new South Africa:

“No, it will not be easy to share, considering the past. Reconciliation does not happen overnight” (9). Similarly: “...historically, whites cannot afford to share the same floor as blacks, e.g. my company has sent me to AIM but do not have any better job to offer upon my return.” (13)

This opinion exemplifies the argument that many companies fail to provide meaningful responsible positions to black personnel who suffer from under-utilisation.

One respondent explains why genuine attempts at affirmative action have been unsuccessful thus far:

“Very few businesses have a genuine desire to have competent blacks at management level because it is a very long term growth path that rational business people should follow to ensure nation building and stability in the country.” (15)

Just as profit targets are vital to the survival and success of organisations, so the concept of operating a normal business in a normal society is vital to corporate success. However, in this respondents’ opinion such a rationalisation of affirmative action is too long a term for many businesses to adopt. Adopting such a long term rationalisation of affirmative action proves difficult when there are no immediate returns. One respondent in the Mining Industry argues that business should be genuine in its affirmative action attempts for the simple reason that

“...most blacks are involved in the production process other than high offices, therefore any business that wishes to prosper will involve those who are directly in touch with the main activity of the business.” (18)

Affirmative Action for “Real” Blacks Only? Racialised Competition

There is a growing fear, especially among coloured professionals that business is directing affirmative action and “fast-track promotion” programmes solely at Africans - at the expense of Coloured and Indian employees. Within some companies the general perception prevails that if one promotes an African man or better even a black woman you are really seen to have achieved something. Indian and Coloured appointees, although technically part of the disadvantaged target groups, are seen as second choices in the absence of suitable “real” black candidates.

AIM respondents were therefore asked to comment on the question: “Do you think that business is directing affirmative action programmes mainly at Africans - at the exclusion of “Coloured” and Indian employees?”

Respondents were evenly divided in their answers. They raised a number of related issues simultaneously. Confusion and ignorance about the true intent combine to sow suspicion and even antagonisms between the upwardly mobile competitors of the three classified non-white racial groups. One respondent pointed out

“...businesses differ in their approach to this issue. Some businesses think that blacks were deprived of empowerment more than any other race, therefore their focus is to uplift blacks. Other companies say it will be implemented on the basis of merit to all races.” (2)

One respondent commented on his particular company:

“...no, in our company this is not the case. An Indian and African that were on the previous AIM programme were promoted to senior positions. Both had the education and skills to be promoted to their respective jobs.” (3)

Conversely, another respondent concluded of his company:

“yes, only blacks can now be employed permanently from outside in my company.” (6)

It was also argued that who was hired depended heavily on the region in which a particular company was based:

“In the South African context it depends and varies from region to region. Most big businesses try to balance it according to the number of workers.” (8)

In the same vein, a Sotho speaking respondent maintained that

“...this may be true for the PWV area but not the Cape Province. The Coloureds and Indians have always been preferred to Blacks and this has been carried over to the implementation of affirmative action since they are now classified as Blacks.” (16)

However, this official definition of disadvantaged persons clashes with popular perceptions when Coloured and Indian employees resent being sidelined as “not being black enough.”

The sheer size of population groups was also offered as an explanation in favour of the principles of proportionality and demographics. One respondent proposed:

“...no, it is only because Africans are in the majority and have been the most disadvantaged. “Coloureds” and Indians have been excluded but had an advantage in relation to blacks.” (4)

One respondent pointed out that

“...blacks in the South African context includes both Coloureds and Indians...companies are using different methods in employing affirmative action, for example a ratio of 2 Black: 1 White.” (7)

Another respondent commented that while

“‘Coloureds’ and Indians are also considered as affirmative candidates they do not get top priority.” (9)

First prize it would seem, would be given to hiring a Black African as an affirmative candidate.

Indians and Coloureds were viewed by some respondents as having had a relative advantage over blacks. As one respondent explains:

“... to some extent, I would say yes. Indians and Coloureds have had a chance because they were the first population groups to be admitted into parliament. Blacks were not afforded this opportunity.” (11)

Another respondent comments:

“...I think the ratio of 3:1 is fair if one considers that blacks outnumber Indians and Coloureds with a great margin.” (12)

An interesting point was made by a respondent in the Mining Sector who comments on fluctuating qualifications demanded for positions depending on who applies:

“From my experience on the mines, they have not yet started implementing it (affirmative action). Those who are appointed on the supervisory levels (equivalent to whites) are required to have double or more qualifications (academic and experience) than their white counterparts are. For example, whites are not required to have degrees/diplomas to become supervisors...the same is not true for Blacks.” (14)

From these answers, the potential for racial competition becomes obvious.

Nonracialism as the core ideology of the new state is contradicted by the differential treatment of the past victims of racialism.

Beneficiaries and Self-Esteem

Respondents were asked a direct question on the issue of self-worth and psychological scars of preferential treatment: "In the current South African debate on affirmative action, it is often argued that affirmative action appointees suffer a lowering of self-esteem. Others counter that affirmative action actually acts as a motivator and leads to increased initiative. In your experience, what do you think the effects of affirmative action are on its beneficiaries?"

A number of respondents were of the opinion that affirmative action had the potential to facilitate the growth and motivation of individuals by opening opportunities to succeed, previously denied in the past:

"...it is an opportunity to grow and develop in a career, thus it is definitely a motivator and candidates tend to "prove" they are worthy of the position." (9)

Another respondent put it in these words:

"I believe that people have the potential to succeed when given the opportunity to do so, and the reverse is also true. Not every person is suitable or will be capable of doing any job, and people with biased opinions could select any person into any higher position to prove the negative side of affirmative action." (14)

Commenting in this regard, one respondent placed responsibility squarely on the shoulders of management for appointing people they know cannot perform adequately in a specific position:

"...appointees will suffer a lowering of self esteem. The blame is on management. On the other hand, affirmative action is a motivator if management is serious about affirmative action. The effects are serious because appointees go for training (AIM) and when they come back management does not want to place these appointees where they should belong immediately after training." (11)

Here the lack of commitment on the part of top management to ensure that progress is monitored and sustained is cited as an obstacle to successful affirmative action.

One respondent from the Mining sector argued that those opposed to affirmative action use the argument of “lowering self-esteem”, as a poor excuse for inaction:

“...affirmative action makes its beneficiaries test their potential which was all along denied to them. To say the opposite is just a comment which fits the campaign of trying to maintain the previous status quo.” (15)

Another respondent emphasised the importance of real positions with real responsibilities over token posts:

“The few individuals who do not understand the benefits they could derive from affirmative action are always apologetic! Affirmative action may be disillusioning if a person is given a position without responsibilities for the sake of increasing the numbers of Blacks in senior posts. Affirmative action may be a motivator if the employees make an effort to use it as a platform to demonstrate their skills and better themselves.” (16)

Lowering of self-esteem was also seen as a result of how beneficiaries were viewed by their colleagues, and white counterparts;

“The effect of affirmative action on its beneficiaries depends on how your colleagues treat you once you've been appointed. One needs to go out there and prove him/herself for their own ‘real’ worth.” (4)

Similarly another respondent believes

“...it lowers ones esteem [if] a promotion for a black is regarded by his white counterparts on the basis of his colour and not of his knowledge and his ability to perform the job.” (17)

Affirmative action appointees placed in positions as tokens were seen as another factor attributing to lowering of self-esteem among the group;

“lowering of self-esteem is certain if one is appointed as a token.” (7)

One respondent argues that

“...while affirmative action is an effective tool to redress the imbalances of the past, if it is not implemented with care, it can lead to tokenism which, to my thinking, is detrimental to the organisation and the whole country economically.” (12)

It may also however depend as another respondent maintains

“...on the strategy that is used by a particular company...many companies fail to implement affirmative action properly, and this results in tokenism.” (13)

Also prevailing in AIM respondents answers is a perception that affirmative action can be implemented while retaining the criteria of merit, thereby avoiding problems relating to a lowering of self-esteem. One respondent postulates;

“Firstly, if I were to be promoted to the next level in our company, it must be purely on my educational background and experience I have with the company. This will motivate me further...If I were to be promoted only for the sake of affirmative action, I won't be motivated because I may lack the experience and be incompetent in my new job.” (3)

In the U.S. “people of colour” are often perceived by liberal minded whites as the collectively disadvantaged. Various programmes are implemented to aid target groups in empowering themselves. However this construction of minorities persists outside the context of empowerment and disadvantage. The ethnic or racial other is frequently accorded an identity which is irrelevant to the situation. Such labelling fixes minorities into a permanent victim stereotype. It has been argued that African-Americans perform poorly on many tests not as a result of cognitive deficiencies but due to a lack of self confidence. What psychologists have labelled “stereotype vulnerability” affects test-takers because of a self-fulfilling prophecy. When that internalised inferiority is largely absent, as it is among South Africa's majority, an equal performance with other groups results. Scores would only be affected by the potential cultural bias of the test, the

inferior apartheid schooling and, above all, by language deficiencies. Similarly, majority status of black South Africans militates against employer's calculation in the U.S. that blacks are bad for business because they are less likely to fit into the workforce or may "turn off" customers. Writers such as D'Souza⁸ contend that such behaviour in the U.S. based on hypothetical calculations, is a form of "rational discrimination." The action of a cab driver who refuses to pick up a young black male for instance is an example of "rational discrimination" because of a quick mental calculation of the risk of being robbed or killed. The results of such admissions of "rational discrimination", however, effectively deny stigmatised others equality of opportunity.

Performance expectations also have a powerful impact on the way in which people take on challenges in the workplace. Instilling positive expectancies may generate heightened motivation, self-confidence and affect the intensity of effort with which a task is taken on. Negative expectancies, on the other hand, may lead to demotivated and despondent outcomes. Expectations influence not only the way in which people explain their performance but also the causes to which successes and failures are attributed.

Not enough in-depth research has been conducted in probing manager biases which have tremendous effects on worker outcomes. The expectations and prejudices which white managers hold are as important to the success of affirmative action programmes as the beneficiaries' abilities themselves. Managerial prejudice, the impact of negative racial and cultural stereotypes, as well as the desire and motivation to develop and mentor subordinates, is crucial to the successful development of affirmative action

⁸ Dinesh D'Souza, The End of Racism: Principles for a Multicultural Society (New York: Free Press, 1995).

beneficiaries.

White Resentment and Fear

While the demand for more black faces at the top floor of many companies appears unrelenting, anxiety among whites is surfacing rapidly. According to Perry and Associates⁹, affirmative action is currently given such priority in the private sector that board approval for hiring whites is required at more and more companies. This goes further than anything which has been demanded publicly. The greatest threat, as many whites perceive it, is of becoming just as marginalised when jobs and promotions are handed out, as blacks once were. Strategies of public companies such as Transnet - which has placed a moratorium on hiring any whites - are particularly alarming. Unless affirmative action is implemented cautiously, political tensions will rise among minorities who find themselves discriminated against. Advertisements which call for “Xhosa speaking” or “would suit Soweto resident”, together with demands from lobby groups for racial employment quotas, could see an increasing trend toward emigration by young professional whites. As Charles Simkins has argued:

“There are two possible responses by minorities to these new circumstances. The first is expatriation. One does not foresee a great rush, but rather a slow and steady movement, particularly of the young. The number need not be large to cause considerable damage. We could lose 20,000 unskilled workers without much cost. But loss of 20,000 highly skilled people from an economy with a chronic skills shortage is another matter. The second is increased reliance on the family business. Minorities, long aware of themselves as such have often chosen this route.”¹⁰

⁹ South African Institute of Race Relations (SAIRR), *Frontiers of Freedom* September 1994: 10-11.

¹⁰ SAIRR, *Frontiers* 10.

Similarly, Eric Louw¹¹, a communications lecturer at Rand Afrikaans University, points out that ignoring the fears of white workers faced with affirmative action is a potential source of conflict. Key positions are held by white Afrikaner males who, if they choose to disrupt the workplace, could lead to “an awful backlash”.

AIM respondents were asked the question: “How do you think resentment and fear of affirmative action - particularly among white males - should be dealt with?”

Some respondents argued that their fears should be put to rest with reassuring dialogue;

“...they should be assured that they won't lose their current jobs and positions. Demotions would be unfair to them, but they must be informed that future promotions will be made available to all - the colour of skin should not be the criteria for jobs.” (14)

Yet another respondent stated

“...they have to grin and bear it, as it will die off within the next five years.” (17)

This comment pinpoints the fear of white middle managers, some of whom were on fast track positions at major corporations, and who say frankly that their careers have been put on hold for five years as the affirmative action machinery goes about equalising the system. The danger with such a stance is that South Africa cannot afford to discourage qualified whites and drive them from the system at a time when the country is critically short of qualified managers. The position which one respondent takes of

“...leave it as is...whites in South Africa must learn to get rid of all their privileges” (19)

¹¹ SAIRR, *Frontiers* 11.

ignores the fact that South Africa cannot afford an exodus of skilled professionals - given the projected shortage of skilled workers.

By the same token in which organisations conceive affirmative action as a strategic pragmatic response to the problem of a "skills shortage", South Africa cannot afford to neglect a reservoir of disadvantaged skilled professionals - regardless of colour. Statistics demonstrating a critical shortage of management skills have been widely publicised in South Africa¹² and it has been estimated that there will be a shortage of 212,000 managers and 200,000 skilled technical employees by the year 2000¹³. Social factors contributing to the skills shortage are the under-researched emigration from South Africa of white professionals and entrepreneurs and the introduction of advanced technologies such as computers which require specially trained personnel.

Many of AIM the respondents however, held more moderate views on how to tackle the issue. Competency at work, merit and qualifications were seen as determining factors in who should get the job rather than simply excluding all whites. As one respondent explains:

"...I don't think white males should be too worried about the whole issue, provided the criteria used will be based on education and experience. This will open up a lot of competition and the most determined and motivated male (irrespective of colour) will scoop up the job. If the opposite happens, then I think we are going back to reverse apartheid...this will make whites counter-productive - South Africa cannot afford this!" (3)

¹² Clem Sunter, The World and South Africa in the 1990's (Cape Town: Human and Rousseau, 1987); "Black Advancement: A Survey," Financial Mail supplement 14 February 1991, as well as recent scholarly works by L. Human and K. Hofmeyr.

¹³ This shortage is attributed to both demographic trends and social factors - for demographic trends see K. Hofmeyer and A. Templer, "Black Managerial Perceptions of Progress made in Black Advancement in South Africa," Wealth or Poverty: Critical Choices for South Africa ed. In R. Schrire (Cape Town: Oxford UP, 1992) 193-210.

Indeed, such exclusions may prove dangerous for the new South Africa. Although job opportunities for whites may still be there it is the perception of lost opportunities which may be most harmful in the end. However, given the cascade of opportunities in South Africa's new society,

“...affirmative action does not mean a sudden death to white career development and neither will white ambition be killed off. South Africa is rich in many resources and there is a place in the sun for all of us.” (9)

Indeed, given the projected shortage of skilled workers and managers, there should be opportunities for all the white and black graduates that universities and technikons can produce.

The need to assure those already with jobs that they did not stand to lose them was seen as crucial by respondents. As one reassuringly asserts:

“...their wives are included in affirmative action...and they should recognise that nothing is being taken away. They are not being discharged from work, neither is their property being taken over by the more disadvantaged.” (17)

One of the best ways to allay fears it was felt, was to

“...select affirmative action candidates on the basis of competency at work, irrespective of whether black, brown or white.” (2)

As one respondent puts it,

“...their fears and concern about affirmative action should not be viewed as a scapegoat but rather as a genuine one. They must also be considered for senior positions with the ratio of 3 Blacks: 1 Non-Black.” (12)

What is left unaddressed here is what criteria are used to define “competency,” and the bias of all recruiters and executives to surround themselves with people of their own cultural background with whom they feel more comfortable.

One respondent suggests a much more inclusive approach to affirmative action involving all South Africans;

“...I would think that affirmative action should not be a discriminating programme...if by any chance there are white males who were disadvantaged by apartheid, those people should also be affirmed.” (18)

Such a process of affirmative action would include everyone previously disadvantaged, with blacks in the majority and whites in the minority.

Some respondents assert, however, that it is whites who need to change their attitude and adapt to the new situation;

“...they should change their attitude and look at a black person as equally able to do what they (whites) have been doing.” (11)

Research into the attitudes of white male managers to the advancement of blacks has revealed that these attitudes are possibly the most important contributing factor to the failure of affirmative action in changing South Africa's management's colour. The findings of a number of researchers in the field are summarised by Human;

“Although respondents generally felt more positive about the principles of equal opportunity, fairness and non-discrimination many still express the belief that Blacks are inherently inferior to Whites.”¹⁴

Human cites Day as finding that

“discrimination on the basis of race and gender appears to be institutionalised in South African organisations and that white, male managers as an elite group continue to maintain their privileged position by closing off opportunities to white women and Blacks.”¹⁵

However this research predates the South African political transformation. The new political regime has also shaped new attitudes.

¹⁴ L. Human, Educating and Developing Managers for a Changing South Africa (Kenwyn: Juta, 1991) 5.

¹⁵ Human, Educating 52.

The older research identifies the phenomenon of psychological closure and its influence on the selection process within organisations. The white male South African manager whatever lip-service he may offer for the principles of affirmative action - still seeks to hire the psychological profile of “the right type” of manager. Berthon and Human argue that,

“managers may be selecting according to psychological type. This psychological closure would dictate that managers select in their own psychological image.”¹⁶

The implications of such a statement, if true, has grave consequences for business in South Africa. SACOB’s¹⁷ statement that “the long established criterion of “getting on well with colleagues” must be critically examined for hidden discriminatory implications” implicitly supports such claims.

Beneficiary Attitudes Toward Affirmative Action Legislation

While most companies have readily accepted the need for affirmative action and many have programmes in place, various lobbies nevertheless demand legislation to enforce and monitor programs. Numerous suggestions for legislation include various kinds of quotas and monitoring systems. Most demands for compulsory quotas come from black businessmen or from women, not the ANC government. Most significant is the Black Management Forum (BMF) affirmative action blueprint which calls for

¹⁶ P. Berthon, P. and P. Human, “Selecting in one's own image: Psychological closure in South African organisations.” Educating and Developing Managers for a Changing South Africa: Selected Essays ed. L. Human (Kenwyn: Juta and Co., 1991) 155.

¹⁷ “Affirmative Action Guidelines: A Summary of the SACOB Proposals on Affirmative Action,” The King Report on Corporate Governance (Johannesburg: The Institute of Directors, November 1994) 67-70.

negotiated employment targets and non-negotiable quotas to be imposed on businesses that fail to meet targets. The BMF asserts that by the year 2000, 80% of all trainees should be black, as well as 70% of supervisors, 50% of junior managers, 40% of middle managers, 30% of senior managers, 20% of executive directors and 30% of non-executive directors.

While ANC leaders and advisors have repeatedly argued that some type of legislation to enforce affirmative action seems inevitable, legislation of any kind has yet to be implemented. Yet perhaps the most compelling factor in motivating companies, regardless of whether they see benefits in terms of business or other rationale, is the “threat” - real or perceived - of legislation.

AIM respondents were asked the question: “Do you think that government legislation of some kind is necessary in order to ensure that business implements effective affirmative action? If so, what type do you think would be most effective?”

Respondents were closely split in their answers - either for or against government legislation to enforce affirmative action. A number of respondents were quite adamant that government not interfere with businesses' own implementation of affirmative action. As one respondent argued:

“I don’t think that government should involve themselves in this issue. If businesses are serious enough to contribute towards the RDP and make the economy a success, they will realise that the only way out, is to work together as one unit. Those promoted to higher levels, will be an inspiration for the shop-floor workers.” (3)

Thus, affirmative action was to have its own business incentives for companies serious about implementing it. As another respondent answered,

“legislation was not a necess[ity] because: ‘businesses’ incentive is its ability to prosper. Prosperity will not be achieved without the inclusion of everybody.” (11)

Company initiative in this sense was seen as adequate especially with the incentive of business rewards.

Affirmative action, it was felt by other respondents, should not be legislated by government because it was a worker's issue. The view was expressed that

“...affirmative action is not a government responsibility, but business must take the initiative to implement it without force...it must be a worker's issue. Blacks, ‘Coloureds’ and Indians must have a fair share in the business wealth.” (8)

This position echoes that suggested by the Congress of South African Trade Unions (COSATU) which argues that black advancement programmes should be negotiated directly with workers and resources should be made available for training and research. Also maintained was the opinion that “...affirmative action should not be perceived as the tool of the government to replace whites with blacks in management positions” (12) but, more importantly, to “transform” the shopfloor by training low-skilled workers.

Respondents who were more favourable towards traditional affirmative action expressed the need for legislation in terms of control, regulation and monitoring. As one respondent put it,

“legislation is necessary to ensure that each company reaches certain affirmative action requirements and to ensure continuous monitoring of the process.” (16)

Similar sentiment was expressed:

“it is important that government legislation have control of affirmative action so that it maintains law and order.” (1)

One respondent felt the government should set an example by

“...making sure all parastatals and public companies implement effective affirmative action. Private sector business also benefited immensely in the emergence of the New South Africa, so it is imperative that they must also make sure that their operations represent the demographics of the country.” (15)

One respondent justified legislation in terms of deserved reverse discrimination and following suit of the previous regime:

“yes, this has been practised by the previous government in favour of whites and now can be practised vice-versa. A soft-quota strategy seems to be relevant to South Africa, to ensure that the right person gets the right job.” (13)

Such a rationalisation couched in terms such as “vice-versa” and reverse apartheid is unashamedly racist in its strategy to redress past injustices.

Other respondents argued that legislation was necessary,

“...otherwise the legacies of the previous policies would not be practically eradicated. Businesses should be required to disclose the academic qualifications of all its employees. The provision of sound and relevant job training should be legally enforced - most of the present training courses provided by businesses are limiting people to advance into management levels.” (14)

While some type of legislation to effect affirmative action seems inevitable - ANC leaders and advisors have repeatedly argued that such legislation is necessary - it seems unlikely that this will include inflexible targets or mandatory racial quotas, particularly now after the ANC has moved closer to a business vision with its neo-liberal “Growth Employment and Redistribution” (GEAR) macro-economic policy. If affirmative action legislation were to endanger investment willingness and job creation, it would be relegated to a lower priority.

Accusations of Opportunism

The shortage of black South African managers has lead companies to pay high premiums on white salaries to attract top black personnel. FSA Contact - a firm of human resources consultants - has said that a third of companies recently surveyed pay up to 50% premiums on white salaries, the average premium being 25% to 30%¹⁸. In this context of scarce skills, the broad perception of job-hopping amongst employers is that black management candidates are milking the system for inflated salaries at the cost of building solid expertise.

AIM respondents were asked the following question: “Companies often complain that affirmative action has lead to black professionals demanding higher salaries and changing their jobs more frequently than their white counterparts. In your opinion is this view justified? Please explain.”

The majority of respondents did not feel that such a view was justified and expressed opinions of why blacks might be more inclined to change jobs frequently. Black managers they point out, cite other legitimate reasons for changing jobs within a short period. It was suggested that changing jobs frequently indicated dissatisfaction of some form or another. As one respondent expressed:

“High labour turnover is a sign of inefficiency or dissatisfaction in one way or another. Some businesses are maintaining 2 to 3 different pay structures - one for “blacks” and the other for “whites.” Blacks on the same level with whites would earn far less than their white counterparts doing the same job within the same company.” (14)

¹⁸ SAIRR, Frontiers.

While this respondent suggests that unequal pay scales are a source of job dissatisfaction, others felt it was not necessarily higher salaries which kept blacks job-hopping, but rather a search for real challenge and development in place of “window-dressing” positions. As one respondent explained:

“This view is not justified. People are now finding some mobility which was impossible before. One does not have to stay in one particular job if it does not provide them with the necessary challenge and development.” (4)

Another respondent pursues this argument further blaming companies themselves for a high turnover of black employees:

“If companies do not have clear career paths for their employees, one should not be blaming them for going to “greener pastures” in businesses. Whites have been staying quite long in their companies because they received what they believe they deserve. “One never disappoints what is dear to him/her in all respects especially with respect to prosperity and financial position.” (16)

It was also pointed out that

“...money is not the only incentive, but it is the way you feel treated and the type of pride that motivates people to move and change.” (8)

However, when the demand of qualified black professionals far exceeds their supply, there is obviously a situation in which a limited number of black professionals are in an advantageous position to demand the salaries they want. As these respondents assert:

“...In any situation of this nature where demand is higher than supply, people will naturally hop from one job to another depending on the salary scale.” (15)

Similarly, it was argued that

“...every job must still be paid according to its value in the company. Changing of jobs depends on individual marketability and cannot be stopped. Everyone wants salaries which are equal to their input.” (13)

Such responses seek to put critical whites straight about who is to blame for the situation. Most felt that job-hopping was natural in most situations given the shortage of black professionals, and would continue for at least a decade in which black professionals could finally choose who they would work for, at what price and for how long.

Another set of opinions expressed by respondents highlighted white panic and bigotry as explanations for the perception that black professionals receive exorbitant salaries and continually job hop. As one respondent argued:

“This is sheer jealousy. They (whites) have been doing exactly that for the past decades and now they complain that blacks change their jobs frequently! Is there anything wrong with changing jobs? That's unjustified!!!” (12)

Also of the opinion that blacks should be allowed to move up the corporate ladder as best they could was a respondent who argued:

“This has been happening to whites as well, why can't it happen to other people. Let everyone break the ceiling as long as they are qualified.” (10)

In general, respondents felt that blacks should not be curtailed from using the same tactics that whites used to advance their professional status and income:

“Yes, as it was with whites when they had the chance, they chopped and changed jobs to suit their pockets. Money is of major importance now.” (17)

After all as one respondent put it,

“...now that doors are open for everyone, I think that they are just exercising their rights.” (18)

Question 10 was intended to provoke respondents to comment in general on the negative consequences affirmative action could have. Respondents were asked the question: “What do you see as the ill-effects or drawbacks of affirmative action?”

One drawback mentioned repeatedly by respondents was that of reverse discrimination. It was acknowledged that the perception of affirmative action as a punitive action against those previously advantaged was a dangerous one. One respondent listed his concerns as “1) Inter race relations, 2) Resistance to change by certain white managers, 3) Panic by white managers” (2).

Discrimination in reverse was perceived as affecting not only whites but other groups as well. As one respondent put it:

“Coloureds, Indians and Whites are being discriminated in reverse. Unemployment in white community. Unemployment in Coloured community. Unemployment in Indian community.” (6)

One respondent commented that affirmative action

“... will ‘frustrate’ and ‘counteract’ reconciliation between black and white.” (9)

One consequence of such a scenario was seen as

“...the possibility of withdrawal from Industry ... Economics, and money spent by companies on affirmative action” (13)

were also factors to be taken into consideration.

The issue of “window-dressing” was raised repeatedly as cause for serious concern. One respondent argued that

“a lot of ill-suited people are being trained for the sake of affirmative action.” (17)

While affirmative action was viewed as essential to increasing access to jobs, it was also seen as an inappropriate tool for promoting people simply because they were black or female. Respondents acknowledged that promoting people beyond their level of competence was a disservice to both the beneficiaries involved and to the company. As these respondents argued:

“If blacks are given positions without appropriate responsibilities...(and) when people are not properly trained for the positions,...(this) leading to poor performance. Both the individual and the company have a lot to lose.” (16)

Similarly, another respondent comments:

“Workers should not just be put to certain positions because there are abnormalities, but skills and potential should be considered.” (20)

Thus, one respondent concluded that beneficiaries of affirmative action will always have their appointments questioned:

“People will always question such appointments. People will constantly have to prove themselves because if they can fail it will be blamed on who they are instead of colleagues probably looking at what was problematic with the job that made the appointee a failure.” (4)

On the whole the answers reflect a realistic and at times self-critical appraisal of some of the shortcomings and predicaments of affirmative action.

Changing Perceptions - 1997 Beneficiaries

How the recipients of affirmative action viewed the experience was again probed in 1997 with the same and a few additional questions. The 1997 AIM class consisted of 30 students, all black with two exceptions. The predominantly male group (90%), with an average age of 33, came from all regions of South Africa for the one year course.

Reasons for the renewed probe were suggested by the potentially changed discourse after two years of increasingly self-confident ANC rule. Assertions of black empowerment by a self-named “patriotic bourgeoisie” had grown more vigorous. The move out of politics into private business, even by some prominent ANC figures, was no

longer stigmatised¹⁹. Some white conglomerates had seriously started “to unbundle” by selling parts of their holdings to black controlled companies. It was hypothesised that these changes could have diminished as well as increased demands for affirmative action by an emerging black bourgeoisie. Overall, the socio-political development between 1995 and 1997 left few new marks on the new sample.

The primary motivations for affirmative action were viewed similarly by this batch of AIM respondents: economic growth and political necessities. As one respondent put it:

“For business to be fully productive... the managerial position should reflect demographic representation of S.A. Black people in S.A. are (as) capable as any white person but were never given the opportunity.” (21)

The political cost of remaining white was stressed more:

“Most large companies in South Africa are still white-owned/controlled. For these companies to obtain support from the SA government (investments etc.), they must be seen as promoters of affirmative action.” (11)

Another respondent stressed that:

“Affirmative action makes good business sense. Whites in SA comprise a minute percentage and for them to control the whole economy puts a heavy burden on the economy. This is because Black People’s skills are either underutilized and a growing economy cannot rely on white people skills only.” (6)

Business was still not perceived as genuine in affirmative action attempts in 1997.

As one Swazi speaker explains:

“This has to be understood in the context of where the country comes from and the mindset of the current cadre of white management in the country. Though, there could be a genuine effort to implement affirmative action, there already exists a phobia in the existing stock management of them

¹⁹ See H. Adam, F.V. Zyl Slabbert and K. Moodley, Comrades in Business (Cape Town: Tafelberg, 1997).

being pushed out of positions and this of course (has) exacerbated the general loss of privileges previously enjoyed for being white.” (9)

Another respondent argues that “... it is like a camouflage because of wanting to boost the business” (19). Frequently mentioned was that affirmative action was merely a window-dressing exercise. Perceptions of tokenism and window-dressing were rampant among respondents who felt many firms had introduced half-hearted affirmative action programmes.

The question of whether business is directing affirmative action programmes solely at Africans, at the expense of coloured and Indian employees, provided some new answers. Many of the 1997 respondents articulated quite firmly that Africans *deserve* preference over Coloureds and Indians because they suffered most under apartheid. Many respondents commented that this depends to a large extent on which particular geographical area one examines. Unlike the 1995 respondents who were very divided in their opinions on this subject, the majority of the 1997 respondents felt that preference for Africans over Coloureds and Indians could be justified. As one respondent wrote:

“I think so. There is however justification for that. The Coloured and Indian population are much smaller than the African population and also the fact that the Coloured and Indian population had a relatively better chance to get to top positions than blacks. My opinion: affirmative action should go as follows, Black (M&F), Coloured (M&F), Indian (M&F), White (F&M).” (3)

It is interesting to note that this respondent would only give females preference over males if they were white. Black, Coloured and Indian women all follow their male counterparts in preferential treatment according to this respondent. Another Xhosa speaker replies to the question:

“Yes, though we were all oppressed, but not at the same standard. Coloured and Indians (were) given some managerial position(s). The

Blacks are a large percentage in SA. Therefore in numbers they will be more, which (are) represent(ed) proportional(ly) to other groups.” (9)

“Definitely, the stats show that affirmative action has to be introduced at a certain ratio (6 Black: 3 Asian: 1 White). Therefore there is no question that AA favours the African Black population. This is in essence a direct reverse of the Apartheid regime (what's the saying? caught between a rock and a hard place? I think this aptly describes the so-called Coloured and Indian predicament).” (28)

On the issue of beneficiaries and self-esteem the 1997 respondents, similarly to 1995 respondents, did not perceive any lowering of confidence or self-worth among recipients provided that the organisation in question hired a competent individual for a position with “real” responsibilities. As one respondent wrote:

“It really depends mainly upon the organisation followed by the individual's own motivation. If the organisation is genuine about affirmative action, it will give encouragement and support to the appointee and thus the individual is more motivated. On the other hand, a non-genuine organisation will throw the individual into the deep-end of the pool and expect him to either swim or sink.” (23)

Once again this group of respondents perceived affirmative action as a motivator provided the company environment was suitable.

On the question of legislation virtually all 1997 respondents agreed that affirmative action legislation was necessary. As one respondent summarised:

“Generally I feel that there is a need for some sort of affirmative action (I disagree with the methods and motivation sometimes); however, affirmative action is needed to redress the wrongs of apartheid, so yes, measures such as 'monitoring', tax incentives and penalties should be applied.” (2)

Yet doubts also persist as to the costs of this legislation at the expense of white expertise:

“As it is the government's objective to implement it, I am sure they need to monitor it - my opinion is that business should not be pressured, because

they will be forced to lower the standards by just accommodating blacks. We will then loose the experts (from the whites).” (16)

The perception of black managers job-hopping for inflated salaries was once again tested on 1997 AIM respondents. The majority of respondents still felt that the perception that black professionals demand higher salaries and change jobs more frequently than their white counterparts was unjustified. As one respondent summarised:

“It depends, competent blacks (or anyone else for that matter) should be adequately rewarded and compensated. Changing of jobs could be as a result of hostile attitudes from whites or frustration due to incompetence.” (2)

Another respondent argues that the perception of job-hopping by highly paid black managers is:

“very unjustified. Surely the market dictates what skills are worth? I therefore do not buy that one. Secondly, all applicants are interviewed before being appointed and therefore “job hoppers” would be punished by not being hired and this would put a stop to the practice if it exists. I think here we have the problem of companies paying individuals with similar qualifications and experience according to skin colour or race which has been the practice for centuries and which will lead black appointees to seek companies willing to pay their market value. Nothing wrong with that!!!” (23)

As another respondent points out :

“Once in this position, the candidate can ‘shop around’ for other companies who would like to have an affirmative action person on its payroll. In my company the senior manager HR was in his position for 1 year and he left the company with a severance package and 15% increase in salary at his new job.” (20)

The final question enticed 1997 AIM respondents to comment on the new statement: “It is often argued that affirmative action has led to increased white emigration and resentment, and that the only beneficiaries of the policy will be a small elite from the ranks of the formerly disadvantaged while the disadvantage of the great

majority increases. Please comment.” Some very lengthy, thoughtful responses emerged.

“Unfortunately the small group of blacks had a privilege to study and now they are the ones who can be appointed in managerial position. Companies can also help to advance other people in the lower ranks who never had the opportunity to study and learn skills that will make them better people who will contribute to the growth and prosperity of our country. Some of these people have wealth of wisdom, and intelligence with them, and untapped potential which can contribute in the positive growth of our economy. They just were unfortunate to be the worst victims of apartheid ... In Conclusion. Affirmative action I believe it is also meant for the, sweepers, handyman etc. who has the potential and have the will power to progress. To be given the opportunity by the business as they see suitable. The successful implementation of affirmative action will benefit all South African both black and white. It might be rough now. But there are long lasting benefits for the country and its future.” (9)

“That can be true more especially if the blacks who come from the disadvantaged fail to allocate equal opportunities among themselves, and if they fail to recognise the fact that the expertise which SA need for development is still in the hands of the white minority. Therefore blacks should not undermine the role the whites can play in making affirmative action more effective.” (4)

“It is true. If whites are retrenched to accommodate blacks they will feel discriminated and these that can leave will do so. Furthermore the majority of the blacks will suffer. They never had proper education to compete with the elite the business world. The small elite will only help themselves. The only ones to benefit will be those that have access the wealth of this country.” (16)

“Affirmative action has led to increased white emigration and resentment and the up and coming black emerging class is definitely forgetting the vast majority of blacks in grass root levels. This small elite group... through radical policy changes tasting the fruits of capitalism, sometimes forgetting who placed them in power. White emigration on the other hand are the one's who goes on “the chicken run” thinking or believing that the pasture is “greener on the other side”. Many return with their tails between their legs.” (17)

“I personally do not have any regard for people who feel resentment and emigrate because of affirmative action since they have had it so good for so long at the expense of the people and country they now spurn. Good

riddance. Nature does not allow vacuums. Others will come and fill the skills they are taking away, which is good as it encourages cross pollination of ideas and skills. If I were a captain of a ship in rough seas, I would rather sail with inexperienced but *willing* (his emphasis) deck hands than experienced but *unwilling* and unmotivated and *unhappy* hands.” (23)

What emerges as a conclusion from these and other typical answers of aspiring black business executives is an enhanced self-confidence of ostensible beneficiaries of more widely embraced redress policies in the new South Africa after a few years of ANC rule. Scepticism about the intentions of white controlled business to genuinely deracialise persists, despite the much publicised emergence of black-controlled conglomerates. A strengthened perception that black Africans deserve preferential treatment over other previously disadvantaged minorities rests on the fact that the Indian and coloured middle groups enjoyed some privileges denied to other Africans under apartheid. This racialised divide and rule strategy seems to have survived its formal demise by leaving a legacy of future racialised competition. This bodes ill for the official ANC policy of nonracialism and intergroup reconciliation. Indifference towards the career prospects of other citizens at whose expense past injustice is compensated, combines with lack of concern for loss of precious expertise through continued white emigration of scarce skills. The overconfidence in filling this vacuum could easily backfire in the long run in diminished economic performance. It could also undermine the official policy of reconciliation. The challenge for a feasible redress policy lies in the delicate balance between necessary structural transformation of a minority controlled economy on the one hand and on the other hand the need to utilise the skills and potential of all citizens without alienating important segments of the population to the point of non-identification with the new order. The remarkable high self-esteem of past victims

of discrimination both contributes to the recovery of a fledgling new democratic order as well as undermines its liberal pretensions of nonracial individual equality.

Conclusions

This chapter has examined one of the most contentious issues in the literature on affirmative action; whether preferential policies actually harm their ostensible beneficiaries. Besides the claim that preferential treatment exacerbates racial resentments, entrenches divisiveness, and thereby undermines the consensus necessary for effective reform, it is the psychological damage of being selected by ascriptive rather than achieved characteristics that critics consider the most invidious consequence. The label "affirmative action beneficiary" is said to stigmatize minorities not considered as having achieved status on merit. This chapter dealt with these contentious issues in a unique manner by probing the perceptions of black aspiring business executives within a project enabling underqualified managerial students from educationally deprived backgrounds to compete for entry into the elitist University of Cape Town MBA programme.

The vast majority of South African recipients of affirmative action probed in this research did not however, consider themselves passive recipients of company largesse, but instead perceived themselves as having rightly earned a place in the accelerated business training program. Far from victimizing themselves by claiming compensatory preferential treatment, the respondents in this sample of black management students proudly insist on their past individual achievements as entitlement to their career. This

finding contradicts the conventional wisdom among critics, that appointees on merit differ from affirmative action appointees in their approach to work.

SECTION III

EVOLVING CONCEPTIONS OF AFFIRMATIVE ACTION IN SOUTH AFRICA

CONCLUSIONS

INCORPORATING NEW ELITES

This study has focused on the politics of redress in South Africa's private sector and the implication of group based affirmative action or preferential labour policies for a society in the throes of national reconciliation. This conclusion highlights findings based on field research conducted in South Africa from 1992-1997. It assesses the implications of preferential policies for new class formations and ensuing political alliances. The problem of racialised competition is probed and a policy of non-racial, class-based affirmative action is suggested as the more feasible way to facilitate racial reconciliation.

The debate on affirmative action can be periodized. During the first period of apartheid-driven preferential policies since 1948 ethnic nepotism prevailed for Afrikaners and for Coloureds in the Western Cape. Legislation favored racial minorities over the African majority. With the liberalisation of South African politics since 1990 and particularly the installation of an ANC government in 1994, the debate ensued as to whether equity legislation is needed to rectify the racial legacies of the first phase. This study has focused on the discourse during this second period. Does a disadvantaged majority need corrective measures, particularly when its party holds political power? This question is discussed with frequent references to a similar situation in Malaysia but also in light of a discredited affirmative action policy for a minority in the US.

In the meantime the debate has moved into a third phase. No longer is the merit of an equity policy the main issue but how equity legislation is to be implemented. The details of the Equity Bill as well as the ambiguities and compromises agreed upon are

assessed. However, it is too early to give a firm verdict on the overall effects and costs of the legislation. With the enactment of affirmative action legislation in 1998, South Africa embraced group based policies at the same time as such stances were being phased out in the US. While the majority opinion in the US reasserted the individualised liberalism discussed in Chapter I, South Africa turned towards the social-democratic liberalism, which Michael Walzer and the communitarians refer to as liberalism II. South Africa has conceded to some recognition of group obligations and claims. Human beings are seen to act both as individuals as well as collective agents. Thus, it is acknowledged that human agency exists on a number of levels - not only individual. As the social historian William Sewell Jr. has argued, individual agency is itself "profoundly social or collective".

"Moreover, the extent of the agency exercised by individual persons depends profoundly on their positions in collective organisations. ...Personal agency is, therefore, laden with collectively produced differences of power and implicated in collective struggles and resistances."¹

In this process, where the special needs of a historically disadvantaged black majority are considered, non-racialism has been redefined as requiring racial categorisation in order to achieve colour-blindness. Affirmative action policy in South Africa justifies a departure from "difference-blindness" on the grounds that historical discrimination placed blacks in a pattern of disadvantage and persistent inequality. It seeks to recognize and highlight difference between groups because of its enduring

¹ William H. Sewell Jr., "A Theory of Structure: Duality, Agency and Transformation," American Journal of Sociology 98.1 (July 1992):21.

legacy.

However, more than the philosophical and moral considerations, it would seem that political pressure from an electoral majority forced the SA government to back equity legislation. This pressure differs from the situation in the US, where there is a contrary move from the majority to disband affirmative action. In South Africa it would seem suicidal for even ultra-conservative firms to ignore the black consumers and sentiments of political powerholders. The parallel emphasis on black empowerment deals, enthusiastically supported by "unbundling" white conglomerates and most financial institutions, hints at how important the economic establishment considers it to have a black face. Backed by "affirmative procurement" policies, i.e. government contracts to firms with the correct racial mix, diversified hiring became imperative for economic survival.

Increasingly less resistance was found among white male executives to broaden their recruitment pool by including qualified blacks and women. Even conservative Afrikaner firms now vie for black managers who are poached and head hunted with generous inducements, at the expense of training the broad class of workers at a lower level. Hence the debate focused largely on 1) how the pool of talent could be broadened and 2) what constituted proper admission criteria or how "standards" could be maintained.

Unlike other contexts where affirmative action has been imposed by national or provincial governments in the form of "contract compliance" regulations, large competitive business organisations in South Africa view affirmative action as an essentially pragmatic response to a number of perceived problems: 1) the potential

“threat” of punitive legislation, 2) to capture an expanding black consumer market, 3) to woo the allegiance of a black middle class and, to a lesser extent, 4) in response to a “skills shortage” with the potential to hamper economic growth. Usually categorised as a human resource issue, affirmative action is utilised to boost the number of blacks in companies’ senior and management positions in order to give the organisation a more representative face. At the risk of generalisation, the business sector in South Africa has realised that it needs 1) to recruit far more representatively if it wishes to outperform competitors and situate itself strategically in an ever more economically significant black consumer market, 2) to be at a competitive advantage by recognizing the importance of a black majority culture where a black manager carries political capital with the state. Hence, increasingly more business executives argue that affirmative action is not a choice, but essential to the legitimacy and credibility of business in the short term and its general success in the long term. This voluntary adoption of affirmative action in South Africa, prior to legislation, could be deemed *anticipatory compliance*. Such pressure is absent where the target groups of affirmative action policies are powerless minorities, dependent on the goodwill of the dominant sector, as in the U.S. and Canada. Existing management structures in South Africa on the other hand, are seen to be challenged because of the political cost if they remain white.

Another aspect of this thesis explored to what extent recipients of affirmative action experienced self-doubt and low self-esteem, in light of prevailing claims in the literature that preferential policies harm their ostensible beneficiaries. The label “affirmative action beneficiary” is said to stigmatise blacks not considered to have achieved status on their earned merit.

Indeed, the vast majority of recipients of affirmative action probed in this thesis did not consider themselves passive recipients of company largesse, but instead perceived themselves as having rightfully earned a place in the accelerated business training programme. This finding contradicts the conventional wisdom among the critics of affirmative action that appointees on merit differ from affirmative action appointees in their approach to work. For example Lawrence Schlemmer elaborates the alleged differential values:

“ A person appointed on merit tends to see a new occupation as an opportunity to perform, whereas a person who enjoys an allocated appointment more easily sees the job as a privilege to be enjoyed.”²

The data of this research do not support this “free-rider” mentality. All AIM respondents maintained in some way or another that they were selected for the program because they had “delivered the goods” to their employers through commitment, discipline and perseverance and, in so doing, proved their “potential” when given the chance. The passive “victim” mentality of affirmative action beneficiaries, so often pointed to as a pitfall of preferential policies, was totally absent from this sample.

This self-assured response needs to be viewed against the background of the socio-political contexts in which affirmative action takes place in South Africa. In South Africa, this context consists of what was once the most overtly structured and politically entrenched racist society in the world. The belief in the legitimacy of newly created opportunities for the formerly excluded in this case is unshaken because of the unquestioned injustice of the formally discriminatory state policy. In the view of

² Lawrence Schlemmer, “The Nemesis of Race in South Africa: The Liberal Response,” Frontiers of Freedom 10 (Fourth Quarter 1996): 29.

beneficiaries, they now occupy what rightfully belongs to them in a space from which they were previously barred. In contrast, in the pseudo equal opportunity realm of North America, failure is often attributed to individual shortcomings. South African blacks, in contrast, share the experience of a much more uniform exclusion on the basis of race, which now warrants rectification by racial compensatory measures.

Affirmative action in South Africa's case therefore needs to be seen in relation to the degree of illegitimacy of apartheid society. In South Africa the absolute unquestioning nature of discrimination prevails. Lack of doubt about group-based discrimination combines with an awareness that societal positions were apartheid-determined. Within this framework, AIM respondents see their position as one of communal group disadvantage. Therefore their selection for the AIM programme is viewed as quite just and fair, not based on their personal shortcomings but on systemic exclusion in apartheid South Africa. In this context, the South African beneficiaries of affirmative action merely see the removal of previous barriers as the gateway to their "natural" right to ascendancy in the educational hierarchy. Redress for the recent historical injustices of apartheid is not a favour - rather it is owed in order to create equal opportunities. Once competition on an equal playing field is achieved, blacks are quite confident that they do not need to be pampered with special treatment. As Sejamathopo Motau the general manager of public affairs for SASOL, expresses it,

"(affirmative action) is transitory - a means to an end ... a way to positively affect the collective psyche of the captains of industry to become inclusive of their employment practices."³

³ Sejamathopo Motau, "A Price Worth Paying," *Sidelines* 10 (Autumn 1997): 54.

This self-confident embrace of the liberal ideal of individual rights and achievements denies that group rights need to be invoked. Similar to Steele⁴, the ethos among upwardly mobile blacks paints racial privileges as an insult to the capabilities of people who merely need to be rewarded fairly on the basis of their performance rather than skin colour. This would also seem to explain why several leading black SA intellectuals, such as Vincent Maphai and Khehla Shubane, have expressed strong reservations about affirmative action policies. In contrast, African-Americans often labour under the pretence of an unproblematised merit driven order and therefore can never be certain whether failure has to be blamed on individual performance or racial discrimination.

A conclusion may well be drawn that where the society is perceived as having a high degree of illegitimacy - an unequivocal illegitimacy - affirmative action is seen as a legitimate consequence. Conversely in pseudo non-racial democracies, such as the U.S., the overriding promise of equality and the belief that all individuals have equal access, leads to a concomitant belief that subordinate groups are offered affirmative action opportunities due to their own inadequacies.

While a new black elite, who needs affirmative action least, benefits most from racial preference policies in senior management, the majority of poor and unemployed are not affected by these policies. Their vast numbers already exclude them as state-sponsored beneficiaries. Unlike their fewer "poor white" predecessors during the first period, when the entire white working class was taken on board the ethnic community through "civilised labour policies" both in the public sector as railway and postal workers and in expanding enlarged para-statal, they remain in their impoverished position.

⁴ Shelby Steele, The Content of Our Character (New York: St. Martin's Press, 1990).

Previously, in the ideological construct of a national family, the more powerful members looked after their poor kin, because they needed them as voters and active agents in securing dominance against a black majority and, initially, also against rival English competitors.

It is doubtful that an ANC project of similar ethnic mobilisation would succeed in securing a unified material interest in black domination, because the poverty of poor blacks is unlikely to be alleviated by limited state resources. In addition, the entrenched power of white business would be able to prevent a real restructuring and redistribution at its expense. Unlike Afrikaner mobilisation which benefited all ethnic class sectors, black empowerment and affirmative action now rewards only a small elite⁵. It cannot be otherwise because the economic empowerment of a vast poor majority lies beyond the resources of the state and would amount to a real revolution, unless an unlikely phenomenal economic growth emerges.

The survey data in this study show that a majority of white executives as individuals, and some white-owned business conglomerates as organisations, are quite willing and eager to accommodate a black elite in a nonracial capitalist alliance. Already, blacks control 8.6% of the market capitalisation of the Johannesburg Stock Exchange in 1997, a leap from scratch in three years that exceeds the previous state-sponsored Afrikaner embourgeoisment⁶. Like Anglo American's creation of General Mining in 1963, it binds the newcomers into the paradigms and vested interest of the economic

⁵ The dramatic nature of intra-black income differentials is revealed in World Bank figures, showing that the wealthiest 10% of black households have incomes over 60 times higher than those of the poorest 10%. See *Frontiers of Freedom* (Third Quarter 1996): 22.

⁶ According to McGregor Information Services reported in *Southern Africa Report* 15.17 (25 April, 1997): 8.

powerholders. Similarly, talks of an “African Broederbond” (Africanbond of black business executives) would resemble the Afrikaner struggle of professionals with their English counterparts for valued prestige, positions and influence⁷.

However, networking and lobbying for special interests now operates in a climate of inclusive nation-building and a liberal constitution with universal rights in contrast to an openly exclusive and racial practice under Afrikaner hegemony. On the other hand, the worldwide relegitimation of ethnoracial groups lends support to demands for racially based correctives despite the obvious stigmatisation of race-based policies under apartheid. For example the president of the Black Management Forum, Lot Ndlovu, explicitly opines that a reintroduction of race classification would be supported by blacks, “if this were done for a good purpose – for their benefit”⁸. This exception to a colour-blind equal rights stipulation is also allowed in the new South African constitution. Its’ rationale is that blacks were discriminated against, not as individuals, but because of their racial group membership. Hence the need for redress as a racial collective. However, there were also black beneficiaries of apartheid, such as collaborating civil servants in the Bantustan bureaucracies and township councils just as there are “nouveau riche” beneficiaries of the new order. This poses the question do all these individuals deserve preferential treatment indiscriminately?

On the question of which blacks are acceptable for admission into the corporate sector, a widespread perception exists among blacks, that only “tame” candidates receive appointments. It is said that fitting into an alien corporate culture by giving up your own,

⁷ Southern Africa Report 14. 41 (11 October 1996): 3.

⁸ Jill Wentzel, “Recycling Race in the Rainbow Nation,” Frontiers of Freedom 10 (Fourth Quarter 1996): 26.

remains a precondition for a career. Ideal appointees would be coconuts: “dark on the outside but white on the inside”⁹. A correspondent in the SA Labour Bulletin expressed this view most succinctly:

“Currently, affirmative action appointments are done by white managers opposed to the process. They select black candidates whom they think would not be a threat to Eurocentric norms and values of conducting business. Blacks who appear to be critical seldom get posts in white-owned companies.”¹⁰

This research provides contradictory evidence to this view. In all the questionnaires and focus groups of white executives, nobody hinted that cultural whiteness for black appointees was a desirable attribute. On the contrary, white business looked for “credible” blacks. Credible was defined as being representative of a majority constituency rather than compliant to minority values. After all, the Ramaphosas of Jonnic, the Mosenekes of Telkom, the Khumalos of African Mining or the Ramphelas of UCT - all selected and appointed by predominantly white boards - could hardly be considered uncritical apologists of Eurocentric values. Authenticity and credibility rather than clones would seem to constitute the profile of black business leadership.

How these contending trends will play themselves out in South Africa at the turn of the century remains to be seen. Unlike the early apartheid era when South Africa was relatively isolated from ideological trends elsewhere, the new state is fully incorporated into a world economy whose dominant norms will make themselves felt in the post-apartheid state. The strong economy of an isolated colonial outpost in the 1930s that was linked to a rising gold price, contrasts with the globalised and depressed South African

⁹ An expression frequently mentioned in focus group discussions and personal interviews.

¹⁰ Mac Ntlabati, “Affirmative Action: Unions Must Take the Lead,” South African Labour Bulletin 20.1 (February 1996): 4.

political economy of the millenium. The inequitable education system blacks were forced to endure places even greater pressure on new black appointees – higher qualifications are aimed at and there is less tolerance for incompetence than was the case with civil servants of the old order. The drive to blacken post-apartheid South Africa's private sector and civil service is seen as urgent for very different reasons than those that motivated Afrikaner advancement. As Hermann Giliomee points out:

“Although there were some high profile dismissals of English speakers in the wake of the 1948 election there was no rush to Afrikanerise the civil service or to “transform” the private sector.”¹¹

In contrast, the majority government now has to show tangible proof of African progress in light of previous legal disadvantage that did not exist in the Afrikaner case. The ANC does not have the resources required to reward a faithful constituency. Nevertheless it has to defend itself against the sentiment that “nothing has changed” in the same exploitative order. Blacks in high profile managerial positions constitute the most visible evidence that occupational redistribution has taken place as well, obliterating the fact that the new faces operate within the old paradigm. Although the process hardly meets the needs of “the masses”, as Afrikaner nationalism did with its ethnic poor, it can also not be dismissed as mere window dressing, because a certain redistribution of power and control is taking place.

Shula Marks and Stan Trapido have pointed out that, in the Afrikaner case, “the need to create a new ‘imagined community’ arose at the moment of greatest external challenge and internal disintegration”¹². These conditions do not apply to the new ANC

¹¹ Cape Times, 6 February 1997.

¹² The Politics of Race, Class and Nationalism in Twentieth Century South Africa ed. Shula Marks and Stanley Trapido (London: Longman, 1987) 16.

regime that after the 1994 liberation election is at its greatest moment of triumph. There is no cultural oppressor to accelerate a nationalist movement, similar to the momentum gained for Afrikaners “as a result of the Anglicising policies of the British regime which set out to exclude them from educational and administrative positions”¹³. Hence, a “frustrated intelligentsia” and professional and bureaucratic African elite as the crucial agent for ethnic mobilisation continues to be further removed from its poorer fellow ethnics rather than drawn into an alliance of empathy with marginalised outsiders as Marks and Trapido describe it for the Afrikaner case after the Anglo-Boer war:

“It (the post-war distress) forced them (the new intelligentsia) into proximity with the Afrikaner lower classes, and gave them insights into their plight. This proximity made efforts to alleviate distress natural enough, although the ministering petty bourgeoisie did so within the confines of, and were influenced by, the prevailing imperial ideology of urban welfare. This led them to pursue ‘good works’ as part of a campaign to ‘contain and moralise’ the poor.”¹⁴

In the Afrikaner case, the ethnic elite was mobilized for nationalism through exclusion; in the African case now, the elite is weaned away from group identification through co-optation. While the new black elite certainly does not lack proximity to the plight of its poorer sectors, the end of apartheid has also weakened racial solidarity. As pointed out earlier, class cleavages among Africans are likely to deepen. It is precisely this incorporation which “black empowerment” signals, and it is the new black elite in alliance with white business interests that is now pressing for a neoliberal policy.

The ANC’s macro-economic policy blueprint “Growth, Employment and Redistribution” (GEAR) of July 1996, marks a decisive shift towards a new alliance of

¹³ Politics of Race ed. Marks and Trapido 15.

¹⁴ Politics of Race ed. Marks and Trapido 16.

the formerly “socialist” oriented movement with established capital interests. A lengthy 20 page ANC internal discussion document of November 1996, “The State and Social Transformation”, reportedly written by Thabo Mbeki and other influential leaders in cabinet, spells out the rationale for the new partnership:

“Proceeding from the objective reality of the place and role of private capital described above, which exists independent of our subjective wishes, the correct strategic decision the democratic movement must take is that the democratic state must establish a dialectical relationship with private capital as a social partner for development and social progress. The defining element is a working and harmonious ... relationship between the democratic state and capital...complex and dialectical rather than simple and linear.”¹⁵

However, as it becomes increasingly inevitable that the ANC dominated state has to make concessions to private capital, the more black internal class stratification is accentuated and the ruling party has to stress that it also represents “the poorest of the poor”.

“The most important current defining feature of the South African democratic state is that it champions the aspirations of the majority who have been disadvantaged by the many decades of undemocratic rule. Its primary task is to work for the emancipation of the black majority, the working people, the urban poor, the rural poor, the women, the youth and the disabled. It is the task of this democratic state to champion the course of these people in such a way that the most basic aspirations of this majority assumes the status of hegemony which informs and guides policy and practice of all the institutions of government and state.”¹⁶

To cultivate both a “harmonious social partnership” with private capital interests and really champion the black majority indicates a difficult, if not contradictory, balancing act in the best of worlds, let alone in a society so divided by a gulf of privilege

¹⁵ “The State and Social Transformation,” ANC discussion document, unpublished manuscript, November 1996: 5.16. See also the debate in various journals of the alliance, particularly Alec Erwin, Hein Marais and Silumko Nondwanga, The African Communist 145 (Third Quarter 1996).

¹⁶ “State and Social,” ANC 4 - 5.

and past racial cleavage. Affirmative action bridges the gulf at the elite level. It is symbolic in that it adds colour to the boardroom. With GEAR's deficit reduction policy, fiscal responsibility, privatisation strategies and "regulated wage flexibility", little leverage exists for Keynesian interventionism as serious government policy to champion the poor. Black advancement in the civil service and organisational transformation in the private sector at least provides some tangible evidence that the populist promise is being fulfilled. This stance has been aptly characterised as "populist elitism".

As Afrikaners are increasingly displaced in the civil service and whites in general view themselves as discriminated against in the name of affirmative action, a renewed Afrikaner nationalism could derive from this perceived deprivation. This would be a high price of affirmative action and would undermine the propagated national reconciliation. But an equally high cost would be incurred by retaining the status quo or "letting the market cope" with the gross black underrepresentation. This poses the challenge as to whether a synthesis between the two equally disastrous causes can be found?

In summary, South Africa's "negotiated revolution" reflects a compromise between elites. It does not amount to a peoples-driven transformation, although it has always been presented as popular liberation of the masses. The accommodation focused on broadened access to the state and a limited redistribution of its spoils, not a restructuring of private wealth and property. The rapid rise of a new black middle class has deepened the intra-black stratification while the old black-white economic gap has narrowed. According to R.W. Johnson's apt diagnoses, "seldom has South Africa seen

class politics in so straightforward a form”¹⁷. Ironically, the left literature on apartheid has always insisted on class exploitation as the crucial rationale for a system that in reality was much more an ethnic struggle of Afrikaners to monopolise the state for ethnic patronage. By contrast, nowadays, racial competition is often too easily highlighted when the blatant shortchanging of the poor would be more effectively addressed through a class analysis. In short an ethnoracial system of stratification is being replaced by a multiracial class structure.

While the average white South African benefited from the elite compromise in manifold ways, affirmative action pressure ensures that the competition for whites, particularly less skilled persons, has become much tougher. With bureaucratic careers blocked and state contracts increasingly allocated to black-run companies, frustrations are likely to rise. As mentioned previously, one outlet for this resentment remains Afrikaner nationalism. Its often pronounced death may be premature. Displaced unemployed Afrikaners may yet prove an underestimated reservoir for nationalist mobilisation. Schlemmer’s warning about a racial backlash may also be apt. He maintains that unless racial engineering is miraculously accompanied by prosperity for everyone: “it will force retaliation from those whites who are not in their own businesses and cannot emigrate”¹⁸. However, increased emigration of skilled white professionals constitutes another outlet for releasing internal pressure. This continuous haemorrhaging of scarce expertise hampers growth and constitutes a personal tragedy for many a politically uninvolved family. It is also possible, as Schlemmer points out, that affirmative action increases the

¹⁷ R.W Johnson, “On the Way to First Base,” (London Review of Books, 17 October 1996).

¹⁸ Schlemmer, “Nemesis,” Frontiers 30.

white-black income gap among the economically active sections in the long run. Since public sector wages tend to be lower than the income of self-employed persons, the move out of the civil service and formal employment into self-employment on the part of many whites may well improve their comparative collective affluence, particularly if civil service wages remain frozen. It was reported that by February 1995 some 28,000 whites had already left the civil service, and by the end of 1995 some 40% of civil servants with the status of director and above were not white¹⁹.

Dan O'Meara's analysis of the decaying National Party states as his central concern the "political question of the capacity of the newly reconstituted South African state to construct a new hegemonic project given both the domestic balance of forces and the highly unfavourable emerging global order in which a democratic South Africa now finds itself"²⁰. Ironically, affirmative action could be seen to undermine the capacity of the new state to administer its reconstruction and development programme effectively. One reason for the loss of bureaucratic capacity lies in the lure of the private sector that offers substantially better wages and career opportunities than the civil service. Not only are experienced Afrikaner civil servants lost to private business but African administrators are constantly poached as well. The longitudinal analysis of the business discourse on affirmative action between 1993 and 1997 revealed an increased readiness "to blacken" management profiles at all costs to the extent of head-hunting for experienced African executives. The greatest reservoir of scarce African skills lies in the civil service and poorly paid NGOs. The track record of a candidate can be easily

¹⁹ Schlemmer, "Nemesis," *Frontiers* 30.

²⁰ Dan O'Meara, *Forty Lost Years: The Apartheid State and the Politics of the National Party, 1948-1994* (Randburg: Raven Press, 1996) 489.

assessed and the risks of a problematic appointment are minimised when the recruit has already proven her capacity in the limelight of a public service role. The movement of many high-profile black politicians into private business must be seen against this background. Yet the individual advancement takes place at the expense of a weakened state. Similarly unions complain that as soon as an articulate shop steward or effective union official comes to the attention of management, the human resource department tempts the adversary with offers of promotion into its own ranks. This crude co-optation practise has demoralised some unions²¹. As Sakhela Buhlungu describes:

“The advent of affirmative action has made the issue of shop stewards leaving unions even more serious. In many cases shop stewards come from the ranks of the better educated among the workforce ... The implication of this is that most shop stewards are the most eligible candidates for affirmative action in the workplace.”²²

Affirmative action must be evaluated in the context of minimal transformation within a compromise among elites. Affirmative action, in this sense of increased representation of blacks in management and public office, accommodates the aspiring new elites at no costs to the old ones. On the contrary, the old establishment hugely benefits from the new faces who, in addition to their previously overlooked talents, bestow legitimacy and political correctness on business as usual. Black-led corporations are also better placed for government contracts, even if their real owners represent different interests. Moreover, foreign investors look for joint ventures with black rather than white business.

²¹ See Ntlabati, “Affirmative Action,” Labour Bulletin.

²² Sakhela Buhlungu, “The Big Brain Drain: Union Officials in the 1990’s,” South African Labour Bulletin 18.3 (July 1994): 31.

Virtually all affirmative action policies have been proclaimed as *temporary* measures until greater representativeness has been achieved or gross inequities have been overcome. However, legitimate doubts about the temporary nature of such policies have been expressed, particularly in a society with enduring poverty as exists in South Africa. Schlemmer has speculated that

“the emerging black middle class would be foolish to dispense with the identity politics of claiming to be part of, or spokespeople for, the disadvantaged majority. What better way to continue to extract a rent based on the fact of being black, which is what affirmative action has become in India and other societies.”²³

Indicatively, the 1998 Employment Equity Bill does not mention an end date. Ideally affirmative action should be a corrective process of limited duration and not an end in itself. Indeed the temptation exists to defend concessions beyond their initial utility, whether they are tender or employment advantages or tax incentives, once beneficiaries rely on them. This self-perpetuating permanency of what had been conceived as temporary corrective measures requires exploring socio-economic criteria to achieve greater equity.

What would happen if class position or regional location were to be made the reasons for corrective measures instead of race? With class or region as the basis for corrective policies a black middle class loses its legitimacy to clamour for special treatment. Such measures benefit those most in need of assistance regardless of race. Nonracial equity measures would at the same time avoid renewed racialisation that threatens to undermine national reconciliation.

²³ Schlemmer, “Nemesis,” *Frontiers* 23-24.

Any decision on the duration of preferential policies also needs to take into account the difference between equality and equity. Mamphela Ramphele advocates a “vision of equity” which would facilitate an appreciation of the tension between equality and equity²⁴. While equality of all citizens before the law is regarded as non-negotiable, the equal treatment of different categories of people may not always be equitable. In essence, Ramphele argues, an equity framework would permit the formulation of feasible strategies at appropriate levels to bring about greater equality. In this sense affirmative action incorporates a number of measures which become valuable tools in facilitating the access to equal opportunities. However, while government has a responsibility to restore equal opportunities and create an equitable framework for its citizens, this right does not mean the right to successful outcomes. Emphasis should be placed on “equality of opportunity” and not “outcome”. Individuals given the opportunities must be held accountable for their own performance or lack thereof. Expertise, according to Ramphele, must not be delegitimised and compromised in the name of addressing past injustice. Excellence, however is a contested concept and cannot be applied in an unproblematic way.

Canada – which figured as a model for South Africa’s equity legislation – is one example of a country which has chosen equal opportunity commissions to manage the process of dealing with inequality. Clearly articulated in Canada’s Employment Equity Act is the link between affirmative action and equal opportunity. The purpose of this Act is to achieve equality in the workplace, to ensure no person is denied employment

²⁴ Mamphela Ramphele, “A Vision of Equity is What the Doctor Prescribes,” Democracy in Action 19.2 (18 April 1995): 23.

opportunities or benefits for reasons unrelated to ability, and to correct disadvantage by giving effect to the principle that employment equity means more than treating people in the same way but requires special measures and the accommodation of differences. For example, eliminating barriers such as testing requirements unrelated to jobs, reviewing selection and promotion procedures and ensuring that positions are widely advertised are all important aspects of affirmative action programmes. The provision of accelerated training is also likely to be an essential aspect of successful affirmative action programmes, given South Africa's past. Wilmot James, Executive Director of IDASA, contends corrective action

“means that all people should have an equal chance to gain access to jobs and opportunities, and that we should adopt strategies in education and training to prepare previously disadvantaged people to be as good as, and preferably better than, the previously advantaged.”²⁵

The crucial issue of whether affirmative action is merely a commitment to equalising allocation of resources or a formal commitment to educating people for equality would change its definition from an instrument of distribution to one which examines the ways in which some environments impact differently on certain groups of people resulting in their exclusion. In this regard it is not the intent behind institutions and organisational life, but rather the *effects* on their inclusion or exclusion.

Politically relevant is the way in which affirmative action tends to legitimise formal categorisations of the population. In the U.S., laws are traditionally founded on an ideology of individualism, of individual rights and responsibilities, and of individual obligation. D'Souza argues that entitlement to proportional representation based on group

²⁵ Wilmot James, “Mandela Advocates ‘Corrective Action’”, Democracy in Action 9.5 (1 September 1995): 3.

membership is too contrary to basic American beliefs to be a credible policy²⁶. While many US whites may feel guilty about racial discrimination, which is also seen as incompatible to core American values, most are not in favour of sacrificing their own job prospects or life chances for those they believe are less deserving. Although affirmative action can be defended as a credible policy to redress specific forms of discrimination against individuals, it is much more difficult to justify it by emphasising group rights – especially those based on race. Originally conceived as an instrument to advance equal rights and opportunities for individuals, stemming from the civil rights movement, affirmative action has been obscured by a contradictory emphasis on proportional group entitlements based on race.

As elaborated in Chapter I, liberals argue that liberal opposition to affirmative action can often be explained in terms of an alleged conflict between individual and collective rights²⁷. Kymlicka, for example, stresses that there is little room within the moral ontology of liberalism for the idea of collective rights. Individuals are conceived as the ultimate units of moral worth and the community, unlike the individual, is not as Rawls notes, a “self-originating source of valid claims”²⁸. The school of communitarianism (M. Walzer; A. Etzioni; M. Sandell) challenges this conceptualisation and pleads a “politics of recognition” of self defined collectives. Yet the communitarians have not addressed what kind of meanings are involved when racial communities are

²⁶ Dinesh D’Souza, The End of Racism: Principles for a Multicultural Society (New York: Free Press, 1995). See also Thomas Sowell, Preferential Policies: An International Perspective (New Haven: William Morrow and Co., 1990); “Affirmative Action: A Worldwide Disaster,” Commentary 88.6 (December 1989) for similar reasoning.

²⁷ Will Kymlicka, “Liberal Individualism and Liberal Neutrality,” Ethics 99.4 (1989): 883–905.

²⁸ John Rawls, A Theory Of Justice (Oxford: Oxford University Press, 1980) 543.

formally recognised²⁹. Moreover, their critics rightly argue that affirmative action policies only benefit a small segment within the target group they intend to aid, primarily those who are already privileged by their class status. Thus affirmative action exacerbates class differences within the target group.

In South Africa, the race-based group rationale that since all blacks suffered discrimination, all require redress, obscures the fundamental question of which individuals within the group really benefit. Race-based affirmative action does not seek to eliminate class distinctions, but facilitates the acquisition of wealth by an already privileged enclave. A consistent focus on race rather than socio-economic disadvantage and need (class) ensures this. While all blacks were oppressed and disadvantaged by apartheid, not all were equally affected. It would seem absurd therefore, as Khehla Shubane points out in an extreme example,

“to extend benefits of affirmative action to black high achievers such as University of Cape Town deputy vice-chancellor Mamphela Ramphele or Telkom chair and advocate Dikgang Moseneke – to name a few – simply because they are black.”³⁰

To insist that such individuals need affirmative action only because they are part of a disadvantaged group is to devalue their talents. On the other hand, an overemphasis on isolated instances of people who reached the top despite apartheid is not unproblematic. Proponents of race-based affirmative action counter that, while not all members of the target group will benefit from the policy, facilitating the opportunity of some, creates role models and enhances the standing of the entire group. However, weighing the benefits of

²⁹ Charles Taylor, “The Politics of Recognition,” Multiculturalism and the Politics of Recognition ed. Amy Gutmann (Princeton, N.J.: Princeton UP, 1992) 25-73.

³⁰ Khehla Shubane, “The Wrong Cure: Affirmative Action and South Africa’s Search for Racial Equality,” Policy: Issues and Actors 8.4 (Johannesburg: Centre for Policy Studies CPS, February 1995): 16.

useful role models and the pride they generate among potential emulators seems to be overshadowed by the more destructive racialisation of society as the price for the success of the few.

As the struggle for employment intensifies, awarding jobs on the basis of race has the potential to divide South Africa into conflicting polarised racial groups and destroy reconciliation. In order to avoid this new racial competition, the qualifications for affirmative action preference could be based on the non-racial criteria of class. It would achieve the same results without racialisation and the promotion of an already privileged elite. Income based affirmative action would ensure that redress is an inclusive rather than exclusive policy since class and race still overlap in South Africa to a large extent. Class would provide a more valid and legitimate criterion for achieving the same effect of greater equality. Socio-economic factors, such as household income, personal or family wealth, could be the decisive factor for preferential treatment. Just as persons are differentially taxed in progressive taxation systems the world over, so they could be differentially treated when allocating scarce resources such as educational and employment opportunities, provided they have acquired more or less the same formal qualifications. For example, black students from underresourced township schools would receive preference in the allocation of scholarships while their peers whose parents could afford to send them to elite private schools would not. Similarly, a black or a white student from an impoverished rural background would receive additional points while black and white school leavers from privileged urban schools would receive none. A differential sophisticated point system, similar to those several states use to admit preferred immigrants, could clearly spell out the nonracial criteria for preferential

treatment. As greater representativity is reached in one area but lacking in other realms, the criteria combatting inequity could be adjusted.

Such a system would secure blacks as the majority of the impoverished as beneficiaries while including members of other race groups who also need assistance because of their impoverished background. Intervention of this nature treats all citizens equally, regardless of race. The policy would be far more acceptable to all segments of the population. In light of the Malaysian and Indian experiences, rather than identifying beneficiaries on the basis of race or caste, it may be preferable to designate “disadvantaged” groups with enough margin to allow the courts to develop socio-economic criteria and flexible termination dates, according to progress or lack thereof.

In addition, the criteria of potential needs to be taken into account far more seriously, although “potential” is always difficult to ascertain let alone measure precisely. Ideally, offering places and positions on the basis of individual achievement and potential would take account of past discrimination without necessarily raising the controversial issue of race. Thus a student from an impoverished family who has made it through a township school with a “C” average may display just as much promise as a student from a private school with an “A” aggregate. Such an emphasis on class background and potential would help guard against the co-optation by affirmative action policies of only the upper stratum of the stigmatised group. Judge Richard Goldstone has suggested:

“Other criteria (than race for affirmative action) could be, for example, living in squalor or other bad conditions, not having had a proper environment for developing in one’s school years, and having to live in exile or having been a political detainee. I believe that these are objective criteria and that they are important for this reason, mainly because they do not just assume that people deserve the benefit of affirmative action simply because of their skin colour...At the same time they also carry with them, I believe, an automatic end to any affirmative action programmes.

By this I mean that as more and more South Africans receive a decent education and as more and more South Africans live in decent circumstances, the need for people to receive the benefits of affirmative action will slowly disappear.”³¹

Justice Goldstone may be overoptimistic about the eradication of poverty in South Africa and about "an automatic end to any affirmative action programmes". As gross inequality is likely to endure, lasting policies to rectify such material discrepancies will at least be more legitimate than racial preferences. In a minority dissenting report to the Labour Market Commission recommendations for traditional affirmative action policies, commissioner Nicoli Nattrass suggested a similar strategy and criticised the commission for not problematising race as the sole criterion for redress policies³².

One of the greatest inherent risks of affirmative action lies in nurturing the same racial divide which underpinned apartheid. One of the disadvantages which emerged from the U.S. experience is that an emphasis on group characteristics has perpetuated race consciousness. Using race-based affirmative action to benefit blacks as a group, without distinguishing between the relatively privileged stratum and those who are “truly disadvantaged”, detracts from assisting those most in need, particularly in a society in which the target group forms the numerical majority.

³¹ Richard Goldstone, “Affirmative Action,” Trends in South African Labour Law (Johannesburg: Taylormade Administrative Services, 1992) 5.

³² See South Africa, Report of the Presidential Commission to Investigate Labour Market Policy, “Labour Market Commission,” Restructuring the South African Labour Market (Cape Town: Government Printer, June 1996).

APPENDICES

APPENDICES

STATISTICS: THE REALITY OF RACIAL EMPLOYMENT IN SOUTH AFRICA

The following statistics are based on the bi-annual Breakwater Monitor (BWM), a quantitative national human resource database which provides labour market information according to economic sector. Established in 1991 at the University of Cape Town's Graduate School of Business (GSB), the BWM has included the voluntary participation of 150 leading South African firms. They report regularly on the racial and gender composition of their labour force and thereby indicate trends in the implementation of affirmative action. The project is unique in that organisations *voluntarily* submit a range of internal labour market information for comparative analysis with a focus on tracing the implementation of employment equity practices in South Africa. Organisations who participate are able to determine how they rank, compared to their competitors, in terms of racial and gender representation. Launched by progressive South African employers and the GSB there is no legislative pressure behind this initiative. Of particular interest to companies who participate in the study are comparative developments in affirmative action implementation. The report serves as a national database to observe this rate of change in particular.

The sample for the reporting period October 1995 - March 1996 represents 5.9% of the "Economically Active Population" and 12.59% of total formal sector employment. The national sample staff strength for this reporting period was 843 011 employees¹. Human resource information is collected and analysed according to Paterson Level

¹ Breakwater Monitor (Cape Town: Graduate School of Business, September 1996): 17.

(occupational level), Race and Gender. The following Paterson Job Grades are used to indicate organisation/skill levels.

Table 6: Patterson Job Grades

Paterson Grade	Description
NE	Non-Executive Directors
F	Executive Directors
E Upper (EU)	Senior - Executive Management
E Lower (EL)	Senior Management
D Upper (DU)	Middle - Senior Management
D Lower (DL)	Junior - Middle Management
C Upper (CU)	Assistant Management, Senior Supervisory & Junior Professional
C Lower (CL)	Supervisory, Artisan & Technician, Senior Operative & Senior Admin/Clerical/Secretarial and Graduate Entry Level
B	Apprentice & Trainee Technician, Operative, Admin/Clerical/Secretarial
A	Entry Level Operative/Labourer
U	Ungraded Staff

These Paterson job grades remain the most commonly used “classification of skills” in South Africa. For the purposes of this study, Paterson Bands D-F will be examined as this band represents Management in the BWM and includes both Managers and Professionals.

According to the September 1996 publication of the BWM, the national representation of Black management has reached 4.72%. The collective representation of Black, Coloured, and Asian managers has increased from 7.3% in September 1994 to

10.36% of all managers in September 1996. In this same time period the representation of women in all management also slightly increased from 11.2% to 12.29%.

Table 7: Management by Race and Gender, 1996

N = 45 402 Managers; 107 Organizations; 843 011 Employees

Sector Name	White (n=40 699)	Black (B) (n=2 144)	Coloured (C) (n=1 175)	Asian (A) (n=1 384)	B,C,A (n=4 703)	Women (n=5 582)	Mgt. Total	Mgt. as a % of Total Staff	
Banking	95.42%	1.83%	1.06%	1.68%	4.58%	14.77%	10 050	9.42%	1:11
Building and Construction	88.91%	2.89%	1.95%	6.25%	11.09%	6.02%	1 280	5.21%	1:19
Financial Services	89.18%	5.49%	3.38%	1.96%	10.82%	17.63%	3 170	10.99%	1:9
Financial Field Staff	74.53%	16.77%	3.66%	5.04%	25.47%	2.77%	793	4.84%	1:21
FMCG	81.61%	9.64%	3.79%	4.96%	18.39%	16.47%	2 240	6.54%	1:15
Industrial	93.56%	2.89%	1.52%	2.03%	6.44%	9.56%	3 495	3.54%	1:28
Industrial food	85.08%	5.80%	2.47%	6.65%	14.92%	7.91%	1 984	5.53%	1:18
Media	92.21%	4.26%	1.91%	1.62%	7.79%	20.74%	680	7.90%	1:13
Mining	96.66%	2.10%	0.65%	0.59%	3.34%	4.04%	4 430	2.21%	1:45
Motor	87.81%	3.10%	4.92%	4.16%	12.19%	5.39%	1 707	8.84%	1:11
Oil	74.77%	8.44%	11.25%	5.55%	25.23%	11.80%	1 280	25.11%	1:4
Paper & Packaging	91.80%	2.37%	2.11%	3.71%	8.20%	5.82%	1 940	4.82%	1:21
Retail	84.30%	5.84%	5.33%	4.53%	15.70%	32.33%	2 382	6.98%	1:14
Service & Head Office	89.47%	2.34%	2.22%	5.96%	10.53%	22.34%	855	6.69%	1:15
Utilities	86.09%	7.63%	2.89%	3.39%	13.91%	10.34%	9 116	5.15%	1:19
Total	89.64%	4.72%	2.59%	3.05%	10.36%	12.29%	45 402	5.39%	1:19
Women	87.87%	5.93%	3.49%	2.71%	12.13%				

Source: Breakwater Monitor, GSB, September 1996: 21. The last line indicates the race of all women managers.

As Table 7 - Management by Race and Gender - indicates, of all 45 402 managers surveyed across 15 sectors, 89.64% are White, 4.72% Black, 2.59% Coloured and 3.05% Asian. Of all women in management 87.87% are White, 5.93% Black, 3.49% Coloured and 2.71% Asian. Tables 9 and 10 give the exact figures of managers in the different ranks according to race and gender. As could be expected, the higher the managerial position, the lower the percentage of blacks and women.

Table 8: Permanent Staff Strength by Occupational Level and Race

October 1995 – March 1996
(n = 107 Organisations; 843 011 Employees)

	White	Black	Coloured	Asian	Total
Ungraded	40.22%	38.47%	16.83%	4.48%	4 624
Non Executive	76.47%	19.61%	1.96%	1.96%	51
F	96.38%	2.99%	0.43%	0.21%	469
EU	98.30%	1.13%	0.00%	0.57%	1 061
EL	95.36%	2.68%	0.68%	1.29%	3 101
DU	92.41%	3.78%	1.73%	2.08%	9 214
DL	87.88%	5.35%	3.15%	3.63%	31 557
CU	83.55%	7.83%	4.36%	4.26%	58 214
CL	66.82%	18.67%	8.32%	6.20%	150 022
B	31.07%	49.54%	13.27%	6.13%	310 669
A	1.85%	89.01%	7.94%	1.20%	274 029
Total	293 066	434 305	79 943	35 697	843 011
As a % of Total	34.76%	51.52%	9.48%	4.23%	100%

Source: Breakwater Monitor, GSB, September 1996: 19

Table 9: Men by Occupational Level and Race

	White	Black	Coloured	Asian	Total
Ungraded	31.88%	49.46%	13.77%	4.88%	3 071
Non Executive	76.47%	19.61%	1.96%	1.96%	51
F	96.96%	2.39%	0.43%	0.22%	461
EU	98.24%	1.17%	0.00%	0.59%	1 023
EL	95.75%	2.40%	0.67%	1.18%	2 964
DU	92.74%	3.48%	1.63%	2.15%	8 456
DL	87.91%	5.29%	3.05%	3.75%	26 916
CU	83.40%	7.80%	4.28%	4.52%	47 405
CL	63.52%	22.27%	7.85%	6.36%	109 590
B	15.98%	67.05%	11.39%	5.58%	202 998
A	0.78%	92.15%	6.28%	0.79%	245 071
Total	180 329	393 364	50 541	23 772	648 006
As a % of Total	27.83%	60.70%	7.80%	3.67%	100%

Source: Breakwater Monitor, GSB, September 1996:21

Table 10: Women by Occupational Level and Race

	White	Black	Coloured	Asian	Total
Ungraded	56.73%	16.74%	22.86%	3.67%	1 553
Non Executive	0.00%	0.00%	0.00%	0.00%	0
F	62.50%	37.50%	0.00%	0.00%	8
EU	100.00%	0.00%	0.00%	0.00%	38
EL	86.86%	8.76%	0.73%	3.65%	137
DU	88.79%	7.12%	2.77%	1.32%	758
DL	87.70%	5.65%	3.73%	2.93%	4 641
CU	84.22%	7.95%	4.71%	3.13%	10 809
CL	75.75%	8.91%	9.59%	5.75%	40 432
B	59.51%	16.53%	16.81%	7.15%	107 671
A	10.87%	62.47%	21.99%	4.67%	28 958
Total	112 737	40 941	29 402	11 925	195 005
As a % of Total	57.81%	20.99%	15.08%	6.12%	100%

Source: Breakwater Monitor, GSB, September 1996:20

As the above tables indicate, the number of blacks in the highest echelons of management, specifically Paterson Band F remain scarce. Out of the total number of 469 staff in the highest Paterson Level F, only 14 are Black. Out of these 469 staff only 8 are women and of these 8 only 3 are Black women.

It is often assumed that blacks occupy mostly “soft” or “support” functions (e.g., Human Resource Management, Public Relations, Sales, Marketing, etc.) at management levels. To test this assumption, the BWM conducted a qualitative investigation into the job positions held by Blacks, Coloureds and Asians at management levels for the period April - September 1993. Forty-six organisations reported a total of 995 Black, Coloured and Asian managers by job title.

The results of these findings suggest that Black, Coloured and Asian managers are predominantly employed in core business areas. However, blacks alone tend to be employed more frequently in the areas of Human Resource Management and Marketing as well as Sales Management functions. Black men have the highest representation in these functions (18.4% and 15.2% respectively). Black men also have the highest representation in General Management (3%) and Public Relations (5%). When split by race, the findings are as follows:

Table 11: Top 3 Functional Areas by Race

Race	Top 3 Functional Areas	
Black	Operations Management	(29%)
	Human Resource Management	(18%)
	Marketing & Sales	(15%)
Coloured	Operations Management	(26%)
	Information Services	(15%)
	Finance	(15%)
Asian	Operations Management	(30%)
	Finance	(19%)
	Engineering	(14%)

Source: Breakwater Monitor, GSB, September 1996: 21

Women represented only 13% of the sample (130 out of 995) and Black Women had the highest representation in Professional Support Services (17%). However, it is important to note that it is not possible to generalise from these specific findings given the relatively small sample size and other limitations of the study.

Table 12: Attitudes of Business Executives to Aspects of Affirmative Action

1) Affirmative action is a form of reverse discrimination		
	1994 (198)	1997 (121)
Agree	40 %	34 %
Disagree	38	30
Neutral / No answer	22	36
	100 %	100 %
2) Affirmative action cannot work in South Africa		
Agree	13	7
Disagree	60	51
Neutral / No answer	27	41
	100	100
3) Affirmative action basically means quotas		
Agree	30	27
Disagree	54	46
Neutral / No answer	16	27
	100	100
4) Affirmative action does not necessarily lead to lowering standards		
Agree	53	36
Disagree	22	30
Neutral / No answer	25	34
	100	100
5) Affirmative action means merit will continue to be the first criteria used in hiring		
Agree	25	17
Disagree	57	58
Neutral / No answer	18	25
	100	100
6) Black managers who are appointed because of affirmative action may feel a lowering in their self-esteem.		
Agree	37	42
Disagree	31	20
Neutral / No answer	34	39
	100	100
7) South African Business has no choice by to go along with affirmative action		
Agree	72	69
Disagree	14	17
Neutral / No answer	14	14
	100	100

8) Affirmative action is a business imperative if companies are to survive in the New South Africa

Agree	76	60
Disagree	11	12
Neutral / No answer	13	28
	<u>100</u>	<u>100</u>

9) White employment and career chances will be limited by affirmative action in the future

Agree	57	52
Disagree	30	16
Neutral / No answer	13	32
	<u>100</u>	<u>100</u>

10) Affirmative action will lead to feelings of resentment among white males

Agree	65	67
Disagree	10	3
Neutral / No answer	25	30
	<u>100</u>	<u>100</u>

11) Affirmative action has the potential to increase SA business competitiveness both locally and internationally

Agree	40	41
Disagree	29	27
Neutral / No answer	30	31
	<u>100</u>	<u>100</u>

12) Affirmative action merely compensates for the injustices of apartheid by creating equality of opportunities *

	1994
	(198)
Agree	<u>50</u>
Disagree	33
Neutral / No answer	17
	<u>100</u>

* Questions 12 -13 were asked in 1994 only, questions 14 - 17 in 1997 only, because of changes in the debate.

13) Affirmative action is an American import not suitable for SA

	1994
	(198)
Agree	<u>14</u>
Disagree	59
Neutral / No answer	<u>28</u>
	100

14) Affirmative action has led to black professionals earning higher salaries than their white counterparts

	1997
	(121)
Agree	<u>42</u>
Disagree	33
Neutral / No answer	<u>25</u>
	100

15) Government legislation of some kind is necessary

	1997
	(121)
Agree	<u>54</u>
Disagree	22
Neutral / No answer	<u>24</u>
	100

16) Affirmative action should be abolished once substantial progress towards equity has been achieved

	1997
	(121)
Agree	<u>65</u>
Disagree	12
Neutral / No answer	<u>23</u>
	100

17) Affirmative action should not be based on race but on need, regardless of colour

	1997
	(121)
Agree	<u>51</u>
Disagree	29
Neutral / No answer	<u>20</u>
	100

SAMPLE QUESTIONNAIRES

Questionnaire 1: Administered to 198 business executives in March 1994 at the

Graduate School of Business at the University of Cape Town

Survey on AFFIRMATIVE ACTION

This study aims at comparing the experience of South African managers with their counterparts abroad. Your assistance in giving us your frank opinion is greatly appreciated. All answers confidential.

Background Statistics:

Which sector does your company's main activity fall into:

☐ Financial	☐ Paper and Packaging
☐ Industrial Food	☐ Public Service
☐ Industrial Other	☐ Retail
☐ Mining	☐ Service and Head Office
☐ Oil	☐ Other _____

What is the approximate number of total employees in your company?

☐ Under 10	☐ 500 - 1000
☐ 10 - 50	☐ 1000 - 5000
☐ 50 - 100	☐ 5000 +
☐ 100 - 500	

Occupational position: _____

Childhood language: _____

Age: _____

Sex: M / F

Please tick your response to the following statements:

Affirmative action is a form of reverse discrimination.

☐ Agree	☐ Neutral / Depends	☐ Disagree
	Don't know	

Affirmative action cannot work in South Africa where the policy favours the majority.

☐ Agree	☐ Neutral / Depends	☐ Disagree
	Don't know	

Affirmative action is a business imperative if companies are to survive in the New South Africa.

- ☐ Agree ☐ Neutral / Depends ☐ Disagree
- ☐ Don't know

White employment and career opportunities will be limited by affirmative action in the future.

- ☐ Agree
 ☐ Neutral / Depends
 ☐ Disagree
 ☐ Don't know

Affirmative action will lead to feelings of resentment among white males in South Africa.

- ☐ Agree
 ☐ Neutral / Depends
 ☐ Disagree
 ☐ Don't know

Affirmative action has the potential to enhance / increase South African business competitiveness both locally and internationally.

- ☐ Agree ☐ Neutral / Depends ☐ Disagree
☐ Don't know

Please give us your candid response to the following questions:

1. What do you understand by the term 'affirmative action'?

2. Does your company have a specific policy / program or directive on affirmative action? ☐ YES ☐ NO

If yes, how does your company justify its affirmative action policy? Is it seen in terms of a business imperative...? In terms of a moral / social responsibility...? For political reasons...? Which factor do you feel is most important and why?

3. Please describe your company's practice on hiring at present.

4. Assuming you had an equally qualified White, Indian, Coloured and Black candidate applying for the same opening in your company, would they be considered entirely on a personal basis or would race be a factor in who gets the job? Please Explain.

5. Is there any particular method which your company has adopted to search for qualified blacks? For example...the use of agencies, headhunting, networking, special adverts? Please comment.

6. Is there any resentment among members of your company toward those hired under affirmative action?

7. In your opinion, what are the major problems or drawbacks of affirmative action?

Questionnaire 2: Administered to 121 business executives in April 1997 at the
Graduate School of Business at the University of Cape Town

Survey on AFFIRMATIVE ACTION.

Your assistance in giving your frank opinion is greatly appreciated. All answers will be treated as confidential.

Background Statistics

In which area of South Africa or foreign country have you been brought up and spent most of your youth?

Childhood language: _____

Age: 20 - 24: _____ 25 - 30: _____ 30-40: _____ 40-50: _____ 50+: _____

Gender: Male / Female: _____

Please tick your response to the following statements:

Affirmative Action essentially means reverse discrimination

_____ Agree _____ Neutral / Depends _____ Disagree

Affirmative Action cannot work in South Africa for a variety of reasons

_____ Agree _____ Neutral / Depends _____ Disagree

Affirmative Action basically means quotas everywhere, reflecting the racial composition of the population

_____ Agree _____ Neutral / Depends _____ Disagree

Affirmative Action has led to black professionals earning higher salaries than their white counterparts

_____ Agree _____ Neutral / Depends _____ Disagree

Affirmative Action does not necessarily lead to the lowering of standards

____ Agree ____ Neutral / Depends ____ Disagree

Affirmative Action still means that merit will continue to be the number one criteria used when hiring

____ Agree ____ Neutral / Depends ____ Disagree

Black managers who are appointed because of Affirmative Action may feel a lowering in their self-esteem

____ Agree ____ Neutral / Depends ____ Disagree

South African business has no choice but to go along with Affirmative Action, even if it disapproves of it

____ Agree ____ Neutral / Depends ____ Disagree

Affirmative Action is a business imperative if companies are to survive in the New South Africa

____ Agree ____ Neutral / Depends ____ Disagree

White employment and career opportunities will be limited by Affirmative Action in the future

____ Agree ____ Neutral / Depends ____ Disagree

Affirmative Action will lead to feelings of resentment among white males in South Africa

____ Agree ____ Neutral / Depends ____ Disagree

Affirmative Action has the potential to enhance / increase South African business competitiveness both locally and internationally

____ Agree ____ Neutral / Depends ____ Disagree

Government legislation of some kind will be necessary in order to ensure business implements effective Affirmative Action

_____ Agree _____ Neutral / Depends _____ Disagree

When substantial progress towards equity has been achieved, Affirmative Action must be abolished and a definite time-limit announced

_____ Agree _____ Neutral / Depends _____ Disagree

Affirmative Action should not be based on race but on need, regardless of colour

_____ Agree _____ Neutral / Depends _____ Disagree

Please give your candid response and thoughts to the following questions:

1. What do you think is business' primary motivation for implementing Affirmative Action? (For example, is it a business imperative for future growth, a moral / social responsibility or a political necessity?)

2. Is it your impression that business is genuine in its attempt to increase the real participation of blacks in management and senior positions in the private sector? Please explain.

3. Do you think that business is directing Affirmative Action programmes mainly at Africans - at the expense of 'Coloured' and Indian employees? Please explain.

4. In the current South African debate on Affirmative Action, it is often argued that Affirmative Action appointees suffer a lowering of self-esteem. Others counter that Affirmative Action actually acts as a motivator. In your experience what do you think the effects of Affirmative Action are on its beneficiaries?
5. Do you think that government legislation of some kind is necessary in order to ensure that business implements effective Affirmative Action? If so, what type do you think would be most effective? (e.g. Quotas, tax incentives, penalties, timetables, monitoring). Please comment.
6. Companies often complain that Affirmative Action has led to black professionals demanding higher salaries and changing their jobs more frequently than their white counterparts. In your opinion, is this view justified? Please explain.
7. It is often argued that Affirmative Action has led to increased white emigration and resentment, and that the only beneficiaries of the policy will be a small elite from the ranks of the formerly disadvantaged while the disadvantage of the great majority increases. Please comment.

**Questionnaire 3: Administered to Associate in Management (AIM) students in
March 1995 and April 1997 at the Graduate School of Business at the University of
Cape Town**

Survey on AFFIRMATIVE ACTION

Your assistance in giving your frank opinion is greatly appreciated. All answers will be treated as confidential.

Background Statistics:

What sector would your company's main activity fall into?

What is the approximate number of total employees in your company?

Childhood language: _____

Age: 25-29 _____ 30-34 _____ 35-39 _____ 40-49 _____ 50+ _____

Please give your candid response and thoughts to the following questions:

1. Is there any particular method or criteria which your organisation or sponsor has adopted to select candidates for the AIM programme? What were the main factors which were taken into consideration? Why, do you think, you were selected?

2. What do you think is business' primary motivation for implementing affirmative action (AA)? (For example, is it a business imperative for future growth, a moral / social responsibility or a political necessity)
3. Is it your impression that business is genuine in its attempt to increase the real participation of blacks in management and senior positions in the private sector? Please explain.
4. Do you think that business is directing AA programmes mainly at Africans - at the exclusion of 'Coloured' and Indian wherever employees? Please Comment.
5. In the current South Africa debate on AA, it is often argued that AA appointees suffer a lowering of self-esteem. Others counter that AA actually acts as a motivator and leads to increased initiative. In your experience, what do you think the effects of AA are on its beneficiaries?
6. How do you think resentment and fear of AA – particularly among white males – should be dealt with?

7. Do you think that government legislation of some kind is necessary in order to ensure that business implements effective affirmative action? If so, what type do you think would be most effective? (eg. Quotas, tax incentives...) Please explain.
8. Companies often complain that affirmative action has lead to black professionals demanding higher salaries and changing their jobs more frequently than their white counterparts. In your opinion is this view justified? Please explain.
9. In your opinion, what should be done to avoid a conflict of expectations when black professionals with high hopes are frustrated from hearing repeatedly about training and career planning?
10. What do you see as the ill-effects or drawbacks of AA?

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