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AFFIRMATIVE ACTION**A long way to go**

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Affirmative action has always been a political hot potato. The policy was designed to redress injustices and inequalities, but it has instead become a battleground for a divisive ideological war. Is it necessary or should it be canned?

It has been 10 years since the legislation for affirmative action was promulgated, but it remains controversial for both government and its detractors. There is still no national consensus on whether it should be scrapped, subject to a sunset clause, or stay in its contentious form. It seems to be on shaky ground at a time of severe skills shortages.

There is no quick-fix answer, but commentators on both sides acknowledge that the results so far have been disappointing. And, for the first time, backers of affirmative action are uniting in a call for a review of the entire policy.

Statistics from the most recent Commission for Employment Equity paint a bleak picture, revealing that the participation of black people in mainstream economic activity, and mainly within private corporations, is still marginal (see accompanying table).

Representation of black people (Africans, coloureds and Indians) at top management level appears to have stagnated at around 22,2% (see "Affirmative Action"). Black females make up 6,6% of top management, while white women account for 14,79%.

WHAT IT MEANS

**In its current form, the policy is failing
A review is needed to build skills at schools**

At senior management level, 26,9% are black people, 8% of whom are black women. Of all employees at the professionally qualified and middle management level, black people make up 36,5%, of whom 13,8% are black women.

The results of a survey by executive search firm Landelahni make for equally sombre reading. Just 18% of directorships of the Top 100 companies on the JSE are occupied by black men (while black women occupy 7%, and white women 4%).

What should be done next with affirmative action? "Get rid of it and strengthen the education system," says businessman and commentator Moeletsi Mbeki. "We need training to redress the past, not affirmative action. If we are not producing science and maths students, employment equity quotas aren't going to help us."

He believes trade unions and other workplace structures should deal with issues of

discrimination in the workplace. "The mentality of black economic empowerment is one of saying black people are helpless and inferior."

But Jimmy Manyi, chairman of the commission, sees nothing wrong with the policy - just the manner in which it is implemented: "Progress in implementing the act by employers is still too slow. The snail-paced movement only perpetuates and entrenches the racial and gender disparities that exist in the SA economy."

DEFINITION - Affirmative Action

It is a general philosophy which seeks to achieve diverse and equitable participation (mainly economic) of all components of a given population. The philosophy was adopted by the post-1994 government to redress the race and gender imbalances inherited from apartheid by giving opportunities to previously disadvantaged groups. This objective takes form mainly through giving preference to "suitably qualified people" from designated groups. In SA, affirmative action was given life mainly through the enactment of the Employment Equity Act of 1998. The objectives of the act were later infused into the broad-based BEE scorecard and given a range of targets spanning a period of 10 years from the date of inception.

On the other side are a host of organisations, vociferously led by trade union Solidarity and political parties like the DA and the Freedom Front Plus (FF+), who tend to see the race-based criteria simply as racism.

This week, FF+ leader Pieter Mulder entered the fray by suggesting that economic considerations should play a role when considering affirmative action. He was reacting to reports that businessman and ANC national executive committee member Tokyo Sexwale said his children (of mixed race) should not be excluded from the benefits of affirmative action.

"For what reason should the coloured children of the multimillionaire Tokyo Sexwale benefit from affirmative action, while white children of unemployed white people are disadvantaged as a result of the same policy?" Mulder demands. "As long as race alone, without any economic guidelines, is being used for affirmative action, the FF+ will criticise the policy as racist."

Nowhere has the issue been more contested than in the public service. Chapter 10 of the SA constitution sets out the basic principles and values of the kind of public service the country should have, with the provision that it needs to be broadly representative of the demographic. It also provides for the need to redress historical discrimination and overturn imbalances in the workplace.

So, affirmative action policies were conceived and formulated on the noble principle of benefiting those who had been historically disadvantaged by racial and gender discrimination.

"But like most policy issues, it ran into a lot of realities," says Mcebisi Ndletyana, a research analyst with the Human Sciences Research Council. He identifies two critical areas where affirmative action has been undermined: poor appointments to top government positions, many of which were made as a result of political connections under the guise of affirmative action; and an obsession with numbers and quotas.

"The implication of this is that the implementation has been bungled, blunting the effectiveness of the policy," says Ndletyana.

While implementation has been the biggest headache, government has also been losing skilled and experienced managers, especially at provincial and local level. "I don't think you can find a policy without pitfalls, but what you need is to manage it properly. Bring in black workers, but retain those skilled workers we already have," says Ndletyana.

Over the past two years, white resentment has been growing, especially among young graduates who complain they are being held responsible for past sins in which they had no part.

In recent months political parties, such as the FF+, and Solidarity have been

lobbying to have whites born after 1994 exempt from affirmative action policy. The DA's argument is that "this policy cannot and must not continue for an indefinite period. There is such a skills shortage... to bring about an appropriate diversity, we must ensure that black people are properly educated and skilled and they will, on merit, take their place in every area of our economy."

DEFINITION - Employment equity

This principle was made law under the Employment Equity Act of 1998 and is administered by the department of labour. Its principal objective is to create opportunities for previously disadvantaged groups in the workplace. Other key objectives stated in the law are to eliminate unfair discrimination in employment practices, achieve a diverse and broadly representative workforce and promote constitutional right of equality. The objectives of the law cover physically disabled and medical conditions, which can be used in the workplace to unfairly discriminate against certain people. The law requires all designated employers to file annual employment equity reports with the department of labour.

Solidarity has been more strident, saying the commission for employment equity data should be treated with circumspection. It says that since larger employers submit annual reports and smaller employers submit reports every two years, this makes comparison difficult.

The trade union says the data is also flawed because so many employers do not submit reports.

For example, in 2005, 25 municipalities (including large metro-politan councils like Tshwane and Johannesburg), 13 provincial government departments and nine national government departments failed to submit reports. That year, parliament and the director of public prosecutions also failed to submit reports.

"If employers whose transformation is far advanced do not deem it necessary to submit reports, the employment equity reports will be skewed, and black representation will be underestimated," says the union in its own study, *The Truth about Employment Equity in SA*.

Most crucially, Solidarity contends that the commission's report cannot be representative of the entire labour force since it covers just 1,6m workers or 9,82% out of the 16,7m labour force. Added to the debate is the question of whether white women should still be beneficiaries of affirmative action.

But with little to show after more than a decade in place, Ndletyana wants to see some sort of review: "There is a recognition that things have gone wrong and there is now a need to modify the policy in a way that it still affirms black people without appearing hostile to whites."

Unlike Mbeki, he does not want the policy scrapped, just modified.

But businessman Reuel Khoza is firmly in Manyi's corner: "What is there to review? Anyone who is asking for that is blind or does not live in SA to see how the executive teams and the boards are still dominated by white people.

"Black people are not uneducated or stupid. They just need to be given an opportunity to prove themselves. If any review is done I would say it is time to accentuate it."

Affirmative action can come with its own stigma. Landelahni CE Sandra Burmeister says an increasing number of black candidates who are supposed to be beneficiaries of affirmative action are dissociating themselves from it, largely because of the perception that the appointments are not based on merit.

"Our own business, a black-owned search firm, is a product of affirmative action," she says. "We were given a chance to prove ourselves on the market. We grabbed the opportunity and delivered. Had we not delivered, we would not have been offered further growth opportunities."

Burmeister suggests that the phrase "affirmative action" might be outdated.

"It seems to have developed negative connotations. Perhaps it is time to do away with the term, but ensure that we still maintain the original concept or reasoning behind it."

Bill Lacey of the SA Chamber of Commerce & Industry supports the principle of affirmative action, but argues for a "sunset clause" which could kick in after a generation.

"There have to be some compensatory measures to redress the past, but then implementation has caused a lot of problems," says Lacey. "We must focus on the education system to ensure that it is good enough to provide the required skills."

This notion is echoed by both Mbeki and Ndletyana, who believe that by turning the focus to schools and training colleges, there is more likely to be a steady stream of skilled and qualified black people entering the workforce, which in turn will ensure that the quotas and targets are met with the best-qualified candidates.

There is a quiet optimism that there will be a more profound debate on one of the most sensitive issues of post-apartheid SA. Many agree that much of government's position on affirmative action and empowerment has been driven by President Thabo Mbeki, who Ndletyana describes as being "imprisoned by ideological dogma".

In his successor as ANC president, Jacob Zuma, commentators see a more "common sense" approach, which signals a level of openness to explore issues even if he doesn't agree with them.

Judging the success of affirmative action policies may in the end depend on where you stand. Many people have been empowered; many more have not. Society is not where it was, but it has a long way to go.

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