

Wholesale & Retail

LEADERSHIP CHAIR



*"Collaboration opens the window
to a world of opportunities."*

PROJECT: 2014/07

**INTERVENTIONS TO ACHIEVE
EMPLOYMENT EQUITY OBJECTIVES
IN THE WHOLESALE & RETAIL SECTOR**

APPLIED RESEARCH
LEADERSHIP DEVELOPMENT
SERVICE TO RETAIL COMMUNITY

Project 2014/07

Interventions to Achieve Employment Equity Objectives in the Wholesale & Retail Sector

30 August 2015

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CONTENTS

LIST OF TABLES.....	vii
LIST OF FIGURES.....	viii
LIST OF ACRONYMS	x
 CHAPTER ONE INTRODUCTION	 1
1.1 BACKGROUND	1
1.2 RESEARCH AIMS AND OBJECTIVES.....	1
1.3 CONCEPTS OF EMPLOYMENT EQUITY	2
1.3.1 Equality and Barriers	2
1.3.2 Approach of the Wholesale & Retail SETA	3
1.4 EMPLOYMENT EQUITY DEFINITIONS AND OBJECTIVES.....	4
1.4.1 Numbers vs. Competency	7
1.4.2 Numerical Goals vs. Quotas	8
1.4.3 Difference between Affirmative Action and Employment Equity	10
1.5 THE HUMAN EQUITY ADVANTAGE: BEYOND DIVERSITY TO TALENT OPTIMISATION	10
1.6 LABOUR CASES RELATED TO EMPLOYMENT EQUITY	12
1.7 PERCEPTIONS OF EMPLOYMENT EQUITY	12
 CHAPTER TWO METHODOLOGY	 14
2.1 SAMPLE	14
2.2 METHODOLOGY ADVANTAGES AND DISADVANTAGES	15
2.3 LIMITATIONS	16
2.4 ETHICS	16

CHAPTER THREE INTERNATIONAL TRENDS IN EMPLOYMENT EQUITY	17
3.1 BENEFITS OF EMPLOYMENT DIVERSITY	17
3.2 MANAGERIAL AND HR RESPONSES TO MEET TRANSFORMATION CHALLENGES IN BUSINESS AND SOCIETY	18
3.3 PATTERNS IN EMPLOYMENT EQUITY: AN INTERNATIONAL PERSPECTIVE	18
3.3.1 The Sullivan Principles: A Case for Change	19
3.3.2 Employment Equity and Affirmative Action Strategies in Selected Countries	20
3.4 AFFIRMATIVE ACTION CASE STUDIES FROM SIX COUNTRIES	21
3.4.1 USA.....	21
3.4.2 India	21
3.4.3 Canada.....	22
3.4.4 Ireland	23
3.4.5 Namibia	24
3.4.6 Malaysia	25
3.5 LESSONS FOR SOUTH AFRICA	26
3.6 CONCLUSION.....	27
 CHAPTER FOUR OVERVIEW OF EMPLOYMENT EQUITY IN SOUTH AFRICA	 28
4.1 THE LABOUR LAW REVIEW PROCESS	29
4.2 BROAD-BASED BLACK ECONOMIC EMPOWERMENT: EFFECT ON EMPLOYMENT EQUITY	29
4.2.1 Management Control and Employment Equity	30
4.3 EMPLOYMENT EQUITY AMENDMENT ACT, 2013	31
4.4 LABOUR RELATIONS AND BASIC CONDITIONS OF EMPLOYMENT ACTS.....	33
4.5 NATURE OF EMPLOYMENT IN SMMES.....	34
4.6 WORKFORCE PROFILES: NATIONAL AND W&R SECTOR.....	36
4.6.1 Employment Equity Statistics, 2014.....	38

4.6.2 Workplace Skills Plans and Vacancy Analysis	44
4.7 CONCLUSION	46
CHAPTER FIVE EMPLOYMENT EQUITY IMPLEMENTATION IN SOUTH AFRICA	48
5.1 EMPLOYMENT EQUITY AND AFFIRMATIVE ACTION IN PRACTICE	48
5.1.1 Case Study 1: Company B	49
5.1.2 Case Study 2: Company A	51
5.1.3 Case Study 3: Company C	54
5.2 FINDINGS FROM INTERVIEWS	56
5.2.1 Interviews with government, unions and the W&RSETA	56
5.2.2 Organisational Philosophies on Employment Equity	58
5.3 FINDINGS FROM QUESTIONNAIRES	62
5.3.1 Key Findings	63
5.3.2 Attitudes Towards, and Understanding of, Employment Equity	66
5.3.3 Perceptions of Employment Equity	68
5.3.4 Findings Related to Employment Equity Management and Programmes	69
5.4 AFFIRMATIVE ACTION PLANS OF TEN MEDIUM RETAILERS	73
5.5 CONCLUSION	77
CHAPTER SIX THINKING THROUGH AFFIRMATIVE ACTION	78
6.1 CHALLENGES TO EE AND AA IMPLEMENTATION	78
6.2 CONSEQUENCES OF BARRIERS	81
6.3 SUCCESSFUL INTERVENTIONS TO ACHIEVE EMPLOYMENT EQUITY	83
6.4 OVERCOMING EMPLOYMENT EQUITY CHALLENGES	85
6.4.1 Integrating Competency and Career Management	85
6.4.2 Practical Implications for Human Resource Practitioners	89
6.4.3 Improving Employment relations in the Workforce	90

6.4.4 Use of Training, Systems, Procedures and Controls.....	91
6.4.5 Recommendations to Stakeholders	92
6.5 CONCLUSION.....	97
6.5.1 Recommendations for Further Research	99
BIBLIOGRAPHY	100
APPENDIX A: Letter of Informed Consent	109
APPENDIX B: Letter of Permission	110
APPENDIX C: Ethics Approval.....	111
APPENDIX D: Questionnaire: Large Organisations	112
APPENDIX E: Additional Information	114
APPENDIX F: Questionnaire: Small Enterprises and Skills Development Facilitators.....	115

LIST OF TABLES

Table 2.1: Sample composition and techniques used	14
Table 3.1: Strategies of EE/AA in selected countries	20
Table 3.2: Malaysian NEP: actions and results	26
Table 4.1: Labour laws affecting EE.....	28
Table 4.2: B-BBEE scorecard	30
Table 4.3: B-BBEE management control and EE criteria	31
Table 4.4: W&R vacancy analysis, 2013.....	44
Table 4.5: Employment Equity Reports received and analysed, 2009–2013.....	46
Table 5.1: Barriers and remedial action steps	52
Table 5.2: Perceptions of EE regarding organisational culture, legislation and race.....	68
Table 5.3: AA measures in EEPs of 10 retailers	75
Table 6.1: Successful interventions by respondents to achieve EE.....	84

LIST OF FIGURES

Figure 1.1: "Suitably qualified" conundrum.....	7
Figure 1.2: From group focus to individual focus.....	11
Figure 4.1: SMME employment by industry.....	34
Figure 4.2: Reasons for stagnant job creation in SMMEs.....	35
Figure 4.3: National economically active population by population and gender.....	36
Figure 4.4: National workforce profile for large organisations: race, gender and occupational level ..	37
Figure 4.5: Employment in Wholesale & Retail Trade and total employment, 2004–2013.....	38
Figure 4.6: National: population distribution in top management.....	39
Figure 4.7: W&R sector: population distribution in top management.....	40
Figure 4.8: National: population distribution in senior management	40
Figure 4.9: W&R sector: population distribution in senior management	41
Figure 4.10: National: population distribution in professionally qualified.....	41
Figure 4.11: W&R sector: population distribution in professionally qualified.....	42
Figure 4.12: National: population distribution in skilled technical.....	42
Figure 4.13: W&R sector: population distribution in skilled technical.....	43
Figure 4.14: Aggregated workforce (all employers) profile of people with disabilities	43
Figure 4.15: Workplace Skills Plan submission, 2013	45
Figure 5.1: Developing an Employment Equity Plan	49
Figure 5.2: Company A workforce profile	53
Figure 5.3: Sample respondents by size of company.....	62
Figure 5.4: EEA challenges faced by your organisation	63
Figure 5.5: Organisation level target groups for EE initiatives	65
Figure 5.6: Should South Africa strive for EE?	66
Figure 5.7: Is EE necessary for your company?	66
Figure 5.8: Understand the requirements of the EEA?	67
Figure 5.9: New legislation and your EE initiatives	67
Figure 5.10: Presence of an EE manager dedicated to driving the EE strategy	69
Figure 5.11: Presence of a senior employee as EE manager.....	69
Figure 5.12: Non-senior manager responsible for EE	70
Figure 5.13: Presence of an EE committee	70
Figure 5.14: Presence of a diversity programme.....	71
Figure 5.15: Presence of a formal HIV/Aids policy	71

Figure 5.16: Affirmative action targets of 10 retailers	73
Figure 6.1: Job profile and competency matrix.....	86
Figure 6.2: Individual Development Plan.....	87
Figure 6.3: Organisational effectiveness and competency development	88
Figure 6.4: Linking vacancies in the EE Report to the W&RSETA WSP	94
Figure 6.5: Insertion of "Interventions to reach EE objectives" into Annual Training Report	95

LIST OF ACRONYMS

AA	Affirmative Action
Aids	Acquired Immune Deficiency Syndrome
ATR	Annual Training Report
B-BBEE	Broad-Based Black Economic Empowerment
BEE	Black Economic Empowerment
CEE	Commission for Employment Equity
CPUT	Cape Peninsula University of Technology
DG	Director-General
DoL	Department of Labour
EAP	Economically Active Population
EE	Employment Equity
EEA, 1998	<i>Employment Equity Act, No. 55 of 1998</i>
EEAA, 2013	<i>Employment Equity Amendment Act, No. 47 of 2013</i>
EEP	Employment Equity Plan
FET	Further Education and Training
HIV	Human Immunodeficiency Virus
HR	Human Resources
NEP	New Economic Policy (Malaysia)
NQF	National Qualifications Framework
PWD	People With Disabilities
SBP	Small Business Projects
SDF	Skills Development Facilitator
SMME	Small, Medium and Micro Enterprise(s)
SSP	Sector Skills Plan
USA	United States of America
W&R sector	Wholesale and Retail sector
W&RSETA	Wholesale and Retail Sector Education and Training Authority
WSP	Workplace Skills Plan

CHAPTER ONE

INTRODUCTION

1.1 BACKGROUND

The Wholesale and Retail (W&R) sector contributes between 20% (Statistics South Africa 2014) and 24% of employment (W&RSETA, 2013: 35) in South Africa. Therefore it plays a vital role in the national wellbeing. Ensuring employment growth – or, at the very least, employment stability – in the sector will contribute to the objectives of the National Development Plan (NDP) 2030.

Institutional and organisational transformation is required for redressing employment disparities produced by the discriminatory laws of apartheid-era South Africa. This is why the *Employment Equity Act, No. 55 of 1998* (EEA, 1998) and the *Employment Equity Amendment Act, No. 47 of 2013* (EEAA, 2013)¹ exist: to assist in the creation of an equitable environment that will ensure competitive advantage and secure sustainable growth.

The current research was commissioned and initiated by the Cape Peninsula University of Technology (CPUT), in collaboration with independent researchers.

1.2 RESEARCH AIMS AND OBJECTIVES

With this background in mind, the following research aim was formulated: to determine the interventions required to achieve EE objectives in the W&R sector. Objectives supporting this aim were to investigate:

1. Concepts of EE;
2. International trends in EE, especially in terms of implementation;
3. The South African legal framework governing EE (EEA, 1998 and amendments) and their impact on the W&R sector;
4. Current status and challenges in implementing the EEA, 1998 and amendments in the W&R sector;
5. Interventions to achieve EE objectives in the W&R sector; and
6. Recommendations to improve and accelerate the achievement of EE.

¹ Labour legislation can be found online at <http://www.labour.gov.za/DOL/legislation/acts>

The report describes the status quo of these objectives and concludes with a summary of the main findings, and recommendations. Primary and secondary research, via literature reviews and structured-survey questionnaires, was conducted to generate the findings.

The findings will assist the W&RSETA and retailers in developing processes, systems and key competencies to manage their organisational talent, enabling the achievement of EE objectives.

1.3 CONCEPTS OF EMPLOYMENT EQUITY

A brief history is necessary to understand the journey of EE in South Africa, and the need for the current research to determine the interventions required to meet EE objectives.

1.3.1 Equality and Barriers

The notion of creating policies to remove discriminatory practices and create redress for the previously disadvantaged existed before the 1994 elections. Bezuidenhout *et al.* (2008) provide a comprehensive overview of the lead up to the EEA, 1998: the struggle against apartheid was characterised by a deep need to oppose discrimination against black² people (Africans, Indians and coloureds) and fight for equality, and resulted in the Freedom Charter's sentiment "Equality for all", becoming a tenet of South African identity. Typical of South African society, discrimination was (and still is) predominantly manifested in racial terms, and other forms of discrimination were hardly taken into account, including in the labour market. The South African economy, based largely on mining and agriculture, had required a large workforce of low- and semi-skilled workers; this role was largely allocated to black (most often, African) workers, and enforced through apartheid policies. The 1970s witnessed an increase in black labour unions which sought to achieve equality in wages, working conditions and rights in the workplace, and the creation of organisations such as the Black Management Forum (in 1976). The struggle for equality continued and eventually greater recognition was given to other previously disadvantaged groups, such as women, people with HIV (human immunodeficiency virus), and the disabled.

Various academic institutions, non-governmental organisations, and the International Labour Organisation participated in the journey leading to the creation of the Employment Equity Act, 1998; it formalised EE as a strategic initiative through the recognition of "the pronounced disadvantages for certain categories of people that they cannot redress by simply repealing discriminatory laws" (EEA,

² This report follows the usage per the Government Communication and Information Service in writing about ethnic groups in South Africa i.e. 'black' as a group term for Africans, coloureds, Indians and Asians, and the use of uppercase letters only for proper nouns (GCIS Style Guide, 2013).

1998: 1). The EEA, 1998 identifies and targets groups of employees and 'designated' employers and seeks to ensure that these employers set Human Resources (HR) policies and practices that reflect EE principles.

The Department of Labour (DoL) focuses on addressing four essential elements for staff development with regard to EE:

- General employment equity;
- Sexual harassment/bullying;
- HIV/Aids in the workplace; and
- Cultural sensitivity/managing diversity.

The EEA, 1998 outlines objectives and strategies to remove the barriers to equity in organisations, but according to research done by the Human Sciences Research Council (HSRC), Development Policy Research Unit and Sociology of Work Unit imbalances still exist between actual practices and the objectives of the EEA, 1998 (Bezuidenhout *et al.*, 2008). However, overall, little research has been done on the EEA implementation and its legislative impact in South Africa. Therefore, this study adds to the small body of research in this area, including Janse van Rensburg and Roodt (2005); Oosthuizen and Naidoo (2010) and Maboho, (2014).

This report argues that the nature of the EEA, 1998 favours a 'numbers game' over competency, and interventions should be made to achieve EE objectives without derailing core business goals. It analyses the EEA and EEAA, 2013 and seeks to illustrate the impact of these Acts on the W&R sector; it also highlights key areas for potential change that will be beneficial for other sectors as well. If progress towards full equality is to occur it is imperative that EE objectives are met and implemented successfully.

To bring about change and transformation, including successful management of diversity in the workplace, businesses need support from government and not a new penal code. While barriers to equity do exist in organisations, this should be seen as an opportunity to create a competent, skilled workforce that could overcome the barriers.

1.3.2 Approach of the Wholesale & Retail SETA

The Wholesale & Retail Sector Education and Training Authority (W&RSETA) supported this research to gain insight into how to enhance their service delivery in respect of EE.

Mbabane (2013:7) writes that senior and top managers from the designated groups could still do more with the authority they have. He claims that transformation requires a leadership that reflects the values and approaches necessary for promoting EE.

In their *Sector Skills Plan* (SSP) (W&RSETA, 2013: 9) the W&RSETA acknowledges that it faces challenges in fostering skills development to all sections of the workforce. One of the greatest needs the W&RSETA should address is skills development for the previously disadvantaged into the upper levels of management.

Companies such as Shoprite, Checkers, Mr Price, Spar and Mass Discounters, have rolled out their operations into African countries with growing retail sectors. This requires a new set of managers: people with a firm understanding of the functioning of the African business context, which presents additional challenges to the W&RSETA, including developing new skill sets to address local culture, labour law, consumer behaviour, language, etc.

1.4 EMPLOYMENT EQUITY DEFINITIONS AND OBJECTIVES

Key definitions and objectives in the EEA, 1998 pertinent to this report include:

Designated Employer:

- (a) A person who employs 50 or more employees;
- (b) A person who employs fewer than 50 employees but has a total annual turnover equal to or above the applicable annual turnover of a small business in terms of Schedule 4 of the EEA, 1998;
- (c) A municipality as referred to in Chapter 7 of the Constitution;
- (d) An organ of state as defined in Section 239 of the Constitution, but excluding the National Defence Force, the National Intelligence Agency and the South African Secret Service; and
- (e) An employer bound by a collective agreement in terms of Sections 23 or 31 of the *Labour Relations Act*, which appoints it as a designated employer in terms of this Act, to the extent provided for in the agreement.

Designated Groups: including black people, women, and people with disabilities, who

- (a) Are citizens of the Republic of South Africa by birth or descent; or
- (b) Became citizens of the Republic of South Africa by naturalisation –
 - i. before 27 April 1994; or

- ii. after 26 April 1994, who would have been entitled to acquire citizenship by naturalisation prior to that date but were precluded by apartheid policies.

Suitably Qualified Person: a person contemplated in Sections 20 (3), (4) and (5):

(3) For purposes of this Act, a person may be suitably qualified for a job as a result of any one of, or any combination of, that person's

- (a) Formal qualifications;
- (b) Prior learning;
- (c) Relevant experience; or
- (d) Capacity to acquire, within a reasonable time, the ability to do the job.

(4) When determining whether a person is suitably qualified for a job, an employer must

- (a) Review all the factors listed in subsection (3); and
- (b) Determine whether that person has the ability to do the job in terms of any one of, or any combination of, those factors.

(5) In making a determination under subsection (4), an employer may not unfairly discriminate against a person solely on the grounds of that person's lack of relevant experience.

Fundamental to the core context of the EEA, 1998 are redressing labour market inequities and minimising discrimination on the basis of demographic profile (race, gender), disability and HIV status. It seeks to eliminate unfair discrimination in employment and to achieve a diverse workforce broadly representative of the South African population (Bezuidenhout *et al.*, 2008). It does this in a number of ways related to Affirmative Action (AA), including

Section 13: Duties of a Designated Employer which states

- (1) A designated employer must implement AA measures for designated groups to achieve employment equity
- (2) To implement AA measures, a designated employer must:
 - (a) Consult with employees;
 - (b) Conduct an analysis;
 - (c) Prepare an Employment Equity plan; and report to the Director-General on progress made in the implementation of the plan.

Section 15 provides further AA measures to be implemented by the designated employer:

- (a) To identify and eliminate employment barriers, including unfair discrimination, which adversely affect people from designated groups;
- (b) To further diversity in the workplace, based on equal dignity and respect for all people.

Section 20 introduces the Employment Equity Plan (EEP) which specifies that designated employers must implement an EEP to facilitate reasonable progress towards EE in the employer's workplace. Part of the EEP entails determining the degree of representation of designated groups of people at all occupational levels in the workplace. To do this the employer must take both national and regional population statistics (demographics) into account. Section 20 is one of the key points of contention identified during the current research.

The EEA, 1998 requires that where underrepresentation of people from designated groups has been identified by the analysis, the employer must report on the following to achieve reasonable progress:

- (a) The numerical goals to achieve the equitable representation of suitably qualified people from designated groups within each occupational level in the workforce,
- (b) The timetable within which this is to be achieved, and
- (c) The strategies intended to achieve those goals (EEA, 1998, 20 (2) (c), as amended in the EEA, 2013).

Further, the EEA, 1998 defines a "suitably qualified" person, which can be interpreted in various ways. It states that the person must show the "capacity to acquire, within a reasonable time, the ability to do the job" (Section 20 (3) (d)). This clause gives rise to a number of questions and debate: How does one measure or define "a reasonable time"? Are companies being asked to hire less competent staff and train them, in the hope that "within a reasonable time" they will produce the results a competent employee would have been capable of immediately, had they been legally permitted to hire one? Can companies maintain a highly competent workforce and meet the numerical requirements of the EEA, 1998?

The potential confusion the HR department may face when considering factors to hire a "suitably qualified" candidate is illustrated in the cartoon below.



Figure 1.1: "Suitably qualified" conundrum

Source: Wiggett, 2007.

1.4.1 Numbers vs. Competency

Competency is an "underlying characteristic of a person which allows them to deliver superior performance in a given job role or situation" (HayGroup, 2003: 5). Two people may have the same qualifications but only one will be the more competent and better suited for the job. Selecting the 'right person for a job' requires more than just a comparison of applicants' technical skills or experience; thus it is not enough that a potential employee be "suitably qualified".

Bezuidenhout *et al.* (2008: 7) outline four processes crucial to understanding the progress and success of the EEA, 1998, viz. Incorporation, Allocation, Control and Reproduction. Allocation is the matching of workers with jobs, or, as sometimes happens, the process of how workers are allocated to certain jobs because of ideology or social prejudice, just as much as on their skills and proven qualifications.

The need to comply with the EEA, 1998 by changing the demographics of an organisation has led some companies to take a 'numbers' approach to EE. Jongens (2006: 33) states "For many companies, the need to comply has overshadowed the need to transform due to the financial

implications that come as a result of not complying". Companies face great difficulty when trying to achieve transformation goals as these may clash with the productivity goals of the company. Further, a quota system depersonalises people and sees them as numbers (Jongens, 2006).

The research showed that organisations have varied perceptions of the EEA, 1998: the most prevalent is that EE is necessary in South Africa, but the practicality and implementation of the requirements in the EEA, 1998 are questionable.

1.4.2 Numerical Goals vs. Quotas

Twenty-six significant amendments to the EEA, 1998 were introduced on 16 January, 2014 with the promulgation of the *Employment Equity Amendment Act, No.47 of 2013* (EEAA, 2013). These changes affect many aspects of businesses operation; including the hiring process; payments of wages and salaries; the way EE reports and plans are done; and staff training. The turnover threshold applicable to companies with fewer than 50 employees in the Wholesale Trade, Commercial and Allied Services sector was increased from R25 million to R75 million per annum. The EEAA, 2013 now requires all companies, large (over 150 employees) and small (0–149 employees), to produce an EEA2 (Employment Equity Report) and EEA4 (Income Differential Statement) every year. If any of these conditions are not met, the company guilty of contravening the Act will be subject to hefty fines which have also been adjusted from the EEA, 1998. The objectives of the EEAA, 2013 are designed to promote numerical representation; they express little regard to the effect this may have on strategic business effectiveness.

Cronje (2012), as quoted by Giles (2012), notes that the EEA, 1998 includes numerical goals, but excludes quotas. However, Cronje argues that where a base is determined, goals are the same as quotas: if a company has 10 white senior managers, and the goal is to have eight black senior managers, this is tantamount to a quota of 80 percent. Cronje writes

if we say 'Yes' to numerical goals and 'No' to quotas, this is disingenuous and ambiguous because unless the company or other organisation is rapidly growing, numerical goals are the same as quotas. Section 20 (2) (c) of the Act states that where designated groups are underrepresented, the company must state the numerical goals to achieve equitable representation. This in effect defines 'equitable' as statistical representation. What else can 'underrepresented' mean?

The Act therefore departs from the wording in Section 195 (1) (i) of the Constitution, which requires 'broad representation' of the various groups. It seems the Act is trying to insinuate blind statistical representation into the workplace, and that it is at odds with the Constitution.

Jeffrey (2012) also quoted by Giles (2012), concurs:

The authors of the Employment Equity Act of 1998 were, of course, careful to use the word 'numerical goals' rather than 'quotas'. But in practice it is quotas that are applied. ...

The difference in the words is anything but semantic. 'Numerical goals' are often voluntarily agreed by business to set objectives and guide activities. They can always be adjusted and there are no penalties for failing to fulfil numerical goals. ... Quotas are externally imposed — via legislation, for example — and the failure to fulfil them is punishable and subject to sanctions of various kinds. ...

In the case of the Employment Equity Act, employers are required to attain demographic representation at every level from top management down — and punishment starts with a fine of up to R500 000 for a first 'contravention' of this obligation. ...

Employers often do have to take on people 'regardless of whether they have the qualifications for the job'. This process is most advanced in the public sector, where (as the auditor-general now reports) officials in key positions in some 70% of local councils are 'incompetent' in applying essential financial controls.

Jeffrey argues that constraining, by means of ministerial regulation (as the EEAA, 2013 now does), national employers to use national demographics will do much harm in the provinces. She cites the example of the Western Cape where the Department of Correctional Services is pegging coloured representation at 11% (the national statistic) rather than 55% (the regional demographic), to the detriment of the local coloured population.

The regulatory change as per the EEAA, 2013 will give national departments, banks, retail chains, and other large organisations, a legal obligation to refuse employment to coloured people in the Western Cape once their 11% 'coloured quota' has been met.

Persistent skills shortages make it extremely difficult for employers to meet the ambitious racial quotas set down in the EEA, 1998 and reinforced by the EEAA, 2013. In these circumstances, taking employers battling to fill racial quotas to the Labour Court to punish them for this transgression will add significantly to the already heavy burden of doing business in South Africa.

Fines for non-compliance are still based on a percentage of turnover. Such fines could be high enough — as government's own regulatory impact analysis has warned (EEAA, 2013, 45 (1) (2)) — to close down many organisations causing the loss of thousands of jobs.

1.4.3 Difference between Affirmative Action and Employment Equity

Horwitz *et al.* (2005) implies that AA involves the monitoring of numbers achieved in specific time periods. However EE is very broad and includes:

- Culture and climate at the workplace, and
- The policies and procedures adopted in areas such as recruitment and appointments, promotion, and training.

1.5 THE HUMAN EQUITY ADVANTAGE: BEYOND DIVERSITY TO TALENT OPTIMISATION

Research shows that top management commitment is required to drive EE successfully in large companies; evidence of this is presented in Section 5.2, and supported in the discussion below.

Trevor Wilson is an international speaker and strategist on human equity and global diversity, well known for his knowledge on issues of:

- EE and AA;
- Human rights;
- Employee retention;
- Communication;
- Happiness in the workplace; and
- Business bottom line.

Wilson believes that organisations are “blind” if their focus to create a diverse workplace is based on gender parity and a balanced representation of different racial, ethnic, religious and social groups. He argues that people still in this mode of thinking, are still in an unpleasant phase of the 1990s, doing the same thing year after year but expecting different results (Wilson, 2013).

Instead he suggests that we need to stop associating individuals in terms of the different groups they belong to, and rather focus on their unique talents and strengths. He calls this “human equity”, which is closely linked to “human capital” that looks at the skills, knowledge and intangibles inherent in human resources. Human equity builds on the idea of seeing people as assets, and focuses on optimising human capital (Wilson, 2013).

Wilson warned that if the same thing (transformation and diversity) is preached for 20 years but has no tangible results, it will fall off the business agenda and become irrelevant. Therefore he argues

that the conversation should move beyond diversity and into one about human equity, where differences are recognised and celebrated as critical for organisational success.

These ideas are modelled in Figure 1.2, where Wilson claims that such a shift uses positive psychological strategies and focuses on the job/talent fit, which leads from a *group focus* of diversity toward the *individual focus* of human equity. This allows for:

- Talent differentiation;
- Differential investment in high performers; and
- The opportunity to discover and utilise the strengths of each individual/employee.

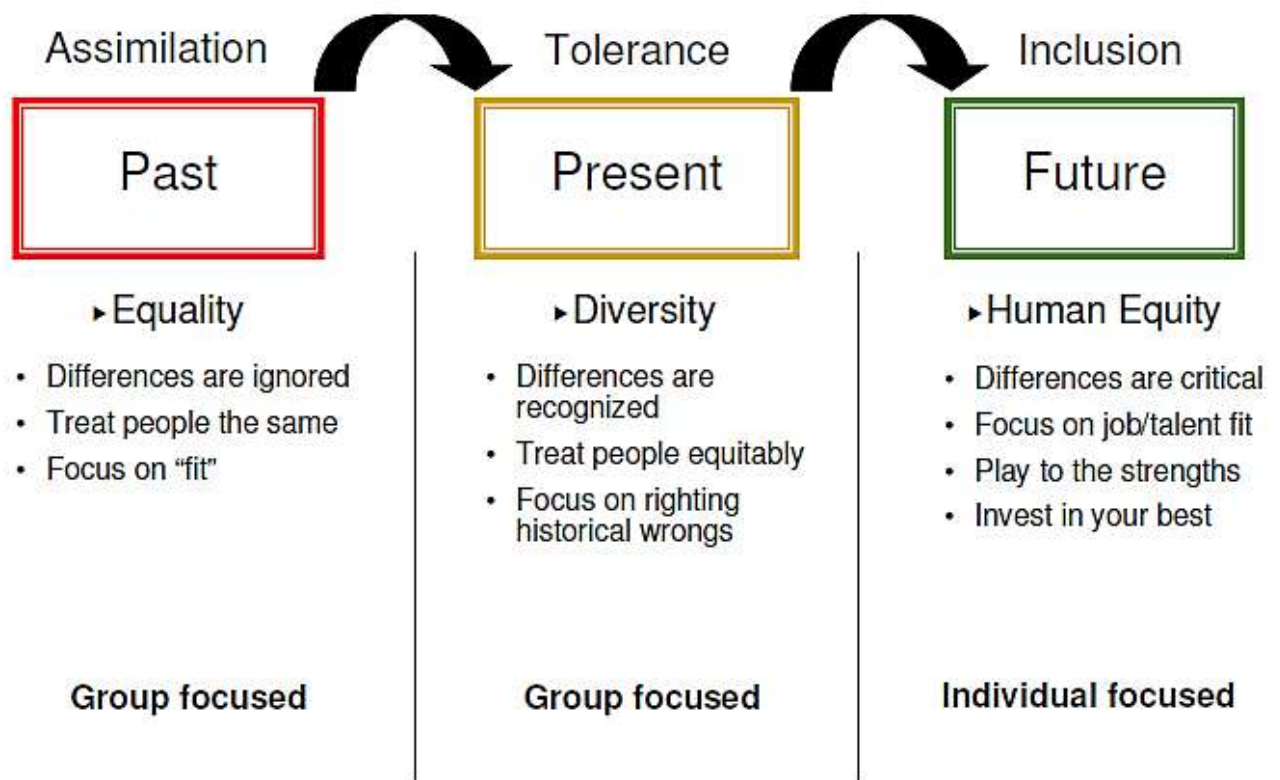


Figure 1.2: From group focus to individual focus

Source: Wilson, 1998: 20

Wilson believes that focusing on human equity – individuals rather than groups – can overcome the “diversity fatigue” that has plagued organisations globally. The goal is to find talent and the mission of the leader is to unleash that talent to the maximum benefit of the organisation.

1.6 LABOUR CASES RELATED TO EMPLOYMENT EQUITY

The EEA, 1998 and its implications are under constant debate. A brief summary of three cases that went to court between 2009 and 2013 follows:

Comair Limited vs. the Director-General of the Department of Labour, case number J2326/07.

This case shows that decisions of the Director-General (DG) can be overturned.

Comair was sent to the Labour Court as they had failed to comply with the recommendations of the DG. However, the decision was overturned because the DG had not considered thoroughly the factors listed under Section 42, which attest to the issues of anticipated economic and financial circumstances of the employer, the availability of a "suitably qualified" pool and present and economic factors relevant to the sector (CEE Report, 2013-2014: 5).

Solidarity vs. the Department of Correctional Services, case number C38/2012.

This case pertains to the requirement of meeting the national demographics of the economically active population (EAP). The Department of Correctional Services denied some employees promotions; they filed for unfair discrimination based on the Department's EEP targets. The Court ruled that the Department must adjust their EEP immediately, to take into account both national and provincial EAP. This resulted in the insertion of provisions 42 (2) and 42 (3) into the EEAA, 2013 which grant the Minister power to guide and make regulations pertaining to this matter (CEE Report, 2013-2014: 5).

Solidarity vs. South African Police Services (SAPS), case number 165/13.

An unfair discrimination case was filed against SAPS for not promoting a white female captain who had the required experience and was deemed most competent for the job. She was not appointed because this would have disrupted the representational proportions as outlined in the SAPS's EEP. The ruling thus explained that Section 15 does not require the establishment of "absolute barriers", and that these should not exist to make possible the appointment of someone in the designated groups over someone who is not. Following this ruling, an EEP template was developed and published for public comment (CEE Report, 2013-14: 6).

1.7 PERCEPTIONS OF EMPLOYMENT EQUITY

The need for EE is undeniable. For instance, in 2013 Statistics South Africa estimated the mid-year population as 52.98 million, with Africans comprising 79.8% of the population, coloureds 9.0%, whites

8.7% and Indians/Asians 2.5%. Approximately 51% (approximately 27.16 million) of the population is female (Stats SA, 2014). In 2000, women held just 13% of top management positions, and of these only 1.2% were African women or people with disabilities. By 2013 women in top management positions had increased to 20.6% (CEE Report, 2013-2014: 15).

The current report argues that attempting to assess the development and returns on national investment in EE by one all-encompassing measurement (of demographic representation) is a generalisation and neglects the complex structures of organisations. Employment practices, although similar in many businesses, have to function under varying factors unique to each company's operational circumstances. This is mirrored on a sectoral level where the sectors have vastly differing employment practices and needs.

This raises a central concern. The EEAA, 2013 exerts more pressure on businesses to drive numerical compliance instead of promoting competence. Will implementation of an EEP (fueled by the obligation to obey the law) operate to the detriment of a business' productivity?

The quota system could be beneficial, if there is a concentrated effort to train hired previously disadvantaged individuals. According to Chapter 3: 15(1)(d)(ii) of the EEA, 1998 "Affirmative Action measures should include retaining and developing people from designated groups and implementing appropriate training measures, including measures ... providing for skills development." However this is an added cost to business which not all can afford.

The current research proved that the notion of EE is supported by a majority of people and institutions. The questions lie in its implementation. Are the challenges faced by South Africa unique? EE is a long-term process: for instance it took Malaysia 20 years to complete its EE transformation, while still experiencing significant economic growth. However, as Oosthuizen and Naidoo (2010) note, unlike in Malaysia, South Africa does not have high levels of economic growth or expansion of formal employment, both of which contribute to the troubled atmosphere wherein EE is being implemented.

CHAPTER TWO

METHODOLOGY

The transformative process towards full EE is complex, and every company bears unique challenges. Nevertheless, the research seeks general patterns in the data, which can be used to make inferences about the national EE journey. To acquire this information, a mixed approach was adopted within the qualitative realm, with case studies, questionnaire surveys and in-depth interviews.

2.1 SAMPLE

The sample was chosen from a database of 1 104 retailers provided by the W&RSETA, which included mostly large retailers. The research adopted purposive sampling for the interviews, to select a sample based on knowledge of the population (Punch, 2005:187). Respondents with expertise and direct involvement with EE in their companies or associated organisations were selected as key respondents. This selection was done with help from knowledgeable managers in the W&RSETA and other retail associations.

Organisations involved in the research, whether businesses, unions, state or parastatal, had to operate within the W&R sector. Of 1 104 questionnaires emailed to all regions nationally where the W&RSETA has active Forums, only 33 completed responses were returned, from a mix of large-, medium-, small- and micro-retailers. Completing the survey was voluntary – thus the method used for the survey was a self-selected convenience sample.

Table 2.1: Sample composition and techniques used

Technique	Quantity	Details
Interviews	6	Retail CEOs, DoL, union official and W&RSETA managers
Case studies	3	Mixed analyses of EE plans of large retailers
Questionnaires/surveys	33	Mix of SMMEs and 3 large national retailers
Document analysis	10	Analysis of AA plans of medium rural retailers
Focus group sessions	3	Feedback on results from industry experts and representatives of the respondents

2.2 METHODOLOGY ADVANTAGES AND DISADVANTAGES

Data collection: As Table 2.1 illustrates, a mix of thirty SMMEs and three large (>100 employees) national retailers completed the questionnaires, on condition of anonymity. Ten AA plans of rural retailers were analysed and three case studies were conducted on the EE plans of three large retailers. Interviews were held with the Deputy Director (responsible for Labour Inspectors) at the Department of Labour (DoL) in the Western Cape; two W&RSETA Regional Managers; and the chairperson of the trade union representing most employees in the retail sector in the Western Cape.

Survey questionnaires can be administered to a large population and they are a good way to obtain precise information through close-ended questions. This represents the qualitative approach as surveys function as a “fast and inexpensive way to collect a lot of information about a sample’s attitude, beliefs and self-reported behaviours” (Mitchell & Jolley, 2012: 286).

The questionnaire, based on the literature review and the study objectives, was designed to extract information about actual EE practices of companies. It included direct questions asking what challenges they faced with the *EEA*, 1998; whether they had an established EE committee as stipulated by the *EEA*; and whether they had formal processes in place for talent management/succession planning and other strategies. The questionnaire consisted of 20 questions, covering the requirements of the *EEA*, 1998 for EE planning and reporting. In addition questions were asked about the organisational importance of achieving numerical compliance or meeting competence imperatives. Its very brevity was designed to persuade respondents to complete it. The questions were mixed, using open- and closed-formats, such as leading questions, importance questions, Likert-type questions, bipolar, and dichotomous questions.

Interviews provided a way to analyse data through inferences. The interactive nature of the interview process allows flexibility; the questions function as a guide, and enable the researcher to probe when a point seems relevant and worth further exploration (Seale, 2004:184). Wengraf (quoted in Babbie & Mouton, 2001) also credits the interview technique because it enables the researcher to entice information from the interviewee that may not be on the list of questions but is pertinent to the study. The major disadvantage of qualitative interviews is that it limits the researcher to very few respondents because it is time consuming; consequently the sample size is not representative of the total population and results cannot not be taken as representative of all.

Two-hour, in-depth interviews were conducted with representatives from the DoL, union and EE managers from the W&RSETA as the wealth of information they had would be better extracted

through a one-on-one process. In particular the DoL representative's input was invaluable to the process of understanding EE procedures.

The final research method adopted was the use of secondary data. Extensive research was done on EE through academic and scholarly journals (local and international), political viewpoints and critiques on EE implementation, media releases and documented articles and books, all part of the literature review. Ten Employment Equity Plans (EEPs) of medium retailers were also studied, which provided good insight into what they deemed important for their EE objectives.

Data analysis: The data was collated in MS Word and MS Excel, and analysed using MS Excel. Themes were identified from the survey data and were used as an indication of the key findings. The in-depth interviews were analysed through content analysis, deconstruction of the conversations, reconstruction within the themes and drawing meanings from words and phrases used (Lee, 1999).

2.3 LIMITATIONS

Surveys were distributed via emails, with the expectation that respondents could answer questions in the comfort of their offices/homes and thus would be willing to participate.

However, only 33 out of 1 104 surveys emailed, were completed and returned, representing a response rate of 3%. Contacting heads of EE in companies for the interviews was difficult, again resulting in a smaller sample than desired. Given the small samples, the findings should be seen as explanatory only, being indicative of the situation in the W&R sector rather than capable of reliable generalization. However, the findings are generally believed to be credible and trustworthy because of methodological triangulation, the use of peer debriefing, and checking results with a focus group made up of industry experts and representatives of the respondents (Padgett, 1998).

2.4 ETHICS

A letter of informed consent and ethics approval accompanied the questionnaires emailed to companies. Respondents were informed that the information was for research and that the process was voluntary and confidential. Names of responding companies and individuals would not be divulged.

The lead researched found that the notion of EE is supported by a majority of people and institutions. The question lies in its implementation. Are the challenges faced by South Africa unique to the nation? The following chapter provides a comparative analysis of international trends in EE.

CHAPTER THREE

INTERNATIONAL TRENDS IN EMPLOYMENT EQUITY

The adoption of EE strategies varies by country and not all are successfully implemented. Various forms of Affirmative Action (AA) strategies to achieve EE have been adopted by countries worldwide, each with different histories, ideologies and populations, to advance social justice and full utilization of the human capital invested in their citizens (Vilet, 2010).

This chapter briefly covers the benefits of EE strategies for organisations and national economies; the factors influencing EE success and the lessons from some international applications of EE practices.

It highlights the AA experiences of six countries: the United States of America (USA), India, Canada, Ireland, Namibia and Malaysia. Saha, O'Donnell, Mensik et al. (2002) in *Employment Equality Agendas: A Comparative Study of Canada, Ireland and Australia* reveal fascinating similarities to the South African situation although the rationales for EE and the histories in these countries differ. South Africa's primary motive for EE was, and is, to rectify the imbalances perpetuated and entrenched by apartheid. This is not true of other nations that seek EE advantages.

3.1 BENEFITS OF EMPLOYMENT DIVERSITY

South Africa has a very diverse and culturally complex workforce. There are multiple benefits to a diverse workforce, both on a local and international level. Morrison (1992), Thomas (1992) and Cox (1993) argue that a key benefit of EE is that it accesses skills that are not available to a homogenous workforce.

Thomas (2002) argues that a diverse environment fosters a spirit of company creativity; a high aptitude for effective problem solving; communication in matters that deal with diverse markets, suppliers and distributors; a culture of inclusivity; and enhanced team spirit because all employees feel their uniqueness is their value.

Holzer and Neumark's 2006 study, which focussed on both equity and efficiency, concluded that these attributes of EE illustrate its usefulness in an organisation. It is not a method to be adopted solely for AA purposes; it is an effective business strategy to increase productivity.

3.2 MANAGERIAL AND HR RESPONSES TO MEET TRANSFORMATION CHALLENGES IN BUSINESS AND SOCIETY

Spencer and Watkin (2006) suggest human resource (HR) professionals should consider the competencies the individual possesses and compare these to the ones that need further development for success. By looking at the employee's current competencies and comparing those to the skills necessary to fill a position, organisations can make better-informed decisions in hiring, developing, promoting talent and addressing transformation. The Aberdeen Group/Human Capital Institute (2005) study found that 85% of HR executives maintained that one of the greatest challenges in workforce management is creating or maintaining an organisation's ability to compete for talent.

3.3 PATTERNS IN EMPLOYMENT EQUITY: AN INTERNATIONAL PERSPECTIVE

Despite different rationales for initiating AA, the experiences of other countries reveal common threads and patterns in their AA/EE agendas. Do these countries' experiences shed light on South Africa's approach or is the South African approach unique?

The success or failure of AA plans is influenced by a country's:

- Economic standing,
- Division of labour,
- Religious affiliations (often influencing gender discrimination) and
- Social/demographic composition.

Hence there can be no one standardised AA/EE method that works effectively for every country. However, some similarities can be identified in the processes internationally, including

- Initiative for AA is driven by a need to rectify and eliminate past and present societal discriminations affect the society.
- The most-targeted designated groups are women, people with disabilities and racial minorities.
- Goals and timetables are preferred options over a quota system.
- Although not always significant, progress for women is more noticeable than for other designated groups.
- AA/EE measures are not voluntary: for large organisations (>100 employees) they are strictly guided by punitive control measures.

3.3.1 The Sullivan Principles: A Case for Change

In 1971 Rev. Leon H. Sullivan (the first African American appointed to the Board of Directors of General Motors Corporation) urged the corporate giant to disinvest from South Africa because of the inequalities in the workplace resulting from the apartheid system under white minority rule.

Sullivan visited several African nations in June 1975, and the issue of South African apartheid was raised by anti-apartheid activists. In September 1975 he publicly outlined the approach that would become associated with the ethical code of conduct and formal set of principles that bears his name, representing "a concerted double effort on the part of the government of the United States, and American-based businesses [to change] operating [practices] in ... South Africa." (Stewart, 2008:6) This statement would be the basis for the passage of the resolution submitted to the US Congress by Congressman Charles Diggs:

In the spirit of the Diggs Resolution dated April 22, 1975, businesses operating in South Africa that fail to comply with such equal fair employment practices, and equal opportunity provisions, should have all United States government contracts ... cancelled, terminated, or suspended absolutely, or their continuance conditioned upon an accepted program by the United States government of compliance along these lines. ...

The most prominent Sullivan Principles are

- Non-segregation of the races in all eating, comfort, and work facilities.
- Equal and fair employment practices for all employees.
- Equal pay for all employees doing equal or comparable work for the same period of time.
- Initiation of and development of training programs that will prepare, in substantial numbers, blacks³ and other nonwhites for supervisory, administrative, clerical, and technical jobs.
- Increasing the number of blacks and other nonwhites in management and supervisory positions.
- Improving the quality of life for blacks and other nonwhites outside the work environment in such areas as housing, transportation, school, recreation, and health facilities.
- Working to eliminate laws and customs that impede social, economic, and political justice. (added in 1984).

³ At the time of the compilation of the Sullivan Principles "blacks" was the term used to denote what this report refers to as "Africans".

These principles conflicted with the legislated racial discrimination and segregation policies of South Africa at a time when General Motors (GM) was the largest employer of Africans in the country. As a prerequisite to doing business, as per the Sullivan principles GM USA required that its local subsidiary ensure that all employees were treated equally regardless of race in an integrated environment, both in and outside the workplace. This had an effect on the apartheid system due to the economic pressure exerted on the South African government.

3.3.2 Employment Equity and Affirmative Action Strategies in Selected Countries

EE/AA programs in seven countries are summarised below, revealing similarities and discrepancies.

Table 3.1: Strategies of EE/AA in selected countries

COUNTRY	USA	CANADA	INDIA	MALAYSIA	SOUTH AFRICA	BRITAIN	NORTHERN IRELAND
TARGET GROUP	Women	Women	Scheduled castes and scheduled tribes	Majority of community that is Malay and indigenous groups.	Women	Women	Constitutional provisions
	Racial and other minorities	Racial minorities		Persons with disabilities	Majority ethnic community (blacks)	Racial minorities	
	Vietnam war veterans	Aboriginal persons			Persons with disabilities	Persons with disabilities	
	Persons with disabilities	Persons with disabilities					
SCOPE	Public and private sectors	Public and private sectors	Public sector	Public sector	Public and private sectors	Public and private sectors	Public and private sectors
RATIONALE	Political necessity for blacks e.g. Desegregation of schools etc.	Elimination of employment	Political necessity for elimination of societal and job discrimination	Political necessity due to riots in 1969	Political necessity	Elimination of employment discrimination	Elimination of employment discrimination
	Elimination of employment discrimination	Discrimination		Broader economic development objectives	Elimination of societal discrimination		
QUOTAS or GOALS AND TIMETABLES	Goals and timetables	Goals and timetables	Quotas or reservations	Quotas	Goals and timetables	No AA provision	

Source: Author

3.4 AFFIRMATIVE ACTION CASE STUDIES FROM SIX COUNTRIES

This section focusses on the similarities, effects and critique of AA in the countries surveyed, with a more in-depth look at Namibia and Malaysia at the end of the section.

3.4.1 USA

Similarities: Initiated in 1964, AA in the USA is aimed at the black minority. Legislation covers both public and private sectors, and applies to any company with 100+ employees (double South Africa's 50+ employee stipulation). Two similarities are, first, the existence of a "labour inspector" in South Africa and "federal contractor" in the USA; and second, companies assisted by the inspectors submit employment statistics, employment by race and other protected job categories.

Effects: A notable improvement has been made in the hiring of black minorities, and companies also take action to avoid discrimination on the basis of gender. The assignment of federal contractors has proven effective, as promises to employ more minorities are fulfilled in subsequent years, although set targets are not always achieved (Harish, *et al.*, 2003: 19).

Critiques: AA in the United States "has been on numbers with no due regard being paid to training and development of selected candidates, leading to little investment of human capital" (Thomas, 2002: 10). Many companies now wish to abolish AA as they feel it has outlived its usefulness.

3.4.2 India

India initiated AA to rectify imbalances initiated by historical inequalities. India is a country characterised by a highly diverse population, and once recognised a caste system (a system of hierarchical social classes, or a specific social class of people) that labelled some groups as "untouchables"; these are now known as 'scheduled castes' and 'scheduled tribes'. Akin to the blacks in South Africa, these groups were not privy to advantages reserved for the privileged population, such as access to good jobs, education and pleasant living spaces. In 1950, after the country gained independence from Britain in 1947, the Constitution of India required measures, in the form of reservations and quotas, put in place for the scheduled castes and tribes in education and employment in the public and private sectors. The Supreme Court ruled that quotas could not exceed 50% and some jobs were exempt from this, such as medical scientists, university professors, and research and defence personnel (Jain, 2000, cited in Thomas, 2002).

Effects: Thompson (1993) quoted in Thomas (2002) argues that the extensive poverty in India made it beneficial to be classified as one from a scheduled caste or tribe. Ratman and Chandra (1996)

(also quoted in Thomas, 2002) report that gains have been witnessed in the most disadvantaged sectors of India, especially in literacy and education, proportional representation in managerial and professional positions, and a rise in a middle class of these previously disadvantaged groups.

Critiques: Indian AA strategies were criticized for a number of reasons. Betille (1993, cited in Thomas, 2002) identifies the following: similar to South Africa, the implementation of the quota system led to a lowering of standards and resentment in companies. Political parties used the promise of increasing quotas to win votes. Domination by people belonging to a majority caste became evident in public departments; thus the policies were not reaching their primary target, the most deserving people in the country.

3.4.3 Canada

Similarities: Spawned from a vast number of human rights complaints, the Canadian federal Employment Equity Act of 1986 was created, and later amended in October 1995. The key aim of this legislation was the evaluation, identification and eradication of intentional and systematic discrimination faced by:

- Women,
- Aboriginal people,
- Persons with disabilities and
- Members of visible minorities in the workplace.

Although some voluntary measures were in place, the Canadian government noted that these were inadequate. Instead of implementing a quota system, organisations were required to develop an EE plan containing effective enforcement mechanisms (Saha *et al.*, 2002). The law targets large companies (100+ employees) that wish to bid on services or goods of \$200,000 or more. As part of the Canadian Federal Contractors Compliance program these companies are required to sign contracts stating their adoption of an EEP. The contract is not a strict obligation to register an EEP with the government, but rather functions as a promise that after an inspection from Human Resources Development Canada, a company that fails to meet EE review standards will implement an EEP. Failure to meet this commitment results in exclusion from receiving any future grants. Canadian legislation protects employers from reverse discrimination in Section 16 (1) of the Canadian Human Rights Act (Saha *et al.*, 2002).

Effects: AA programs in Canada have had varying effectiveness, leaving some groups lagging. The effects of EE efforts are determined by the type of designated group. Women have made significant progress, especially in the scientific and professional group, although they still lag behind men in

being appointed to high salary positions. This level of progress is not reflected by other groups. Whilst there have been increases for members of the visible minorities group, and aboriginals, they still do not match the availability quotas from the 2006 census (Jaffer & Ataullahjan, 2013). Saha *et al.* (2002) reflect that Canada still has a long way to go towards a "just society".

3.4.4 Ireland

Similarities: The Irish Employment Equity Act of 1998 establishes the grounds of discrimination, namely:

- Gender,
- Marital status,
- Family status,
- Sexual orientation,
- Religious belief,
- Disability, and
- Race and membership of the Traveller family.

This Act is complemented by the Equal Status Act, 2000, which bans the same grounds for discrimination in the provision of good and services (Saha *et al.*, 2002). Equality in pay should be adhered to between men and women. Unlike other countries, the Act does not specify the need for an EEP but establishes a Central Equality Authority whose sole task is to promote equal employment opportunities and eliminate discrimination in the workplace (Saha *et al.*, 2002). The 2000 Equality Authorities Annual Report identified gender discrimination as the greatest form of inequality, with cases of sexual harassment and pregnancy-related issues being the main indicators (Irish Equality Authority, 2000). The Act has features which include responsibility for sexual harassment being placed on the company if it has not implemented "reasonably practicable" steps to prevent the harassment (Hannon & Sinclair, 1999).

Effects: Ireland's EE legislation is very broad and because it is relatively new, evidence of its results is slowly becoming apparent (Saha *et al.*, 2002). Similar to Canada, progress has been made with regard to the female group. Hannon and Sinclair (1999) quoting Ruane and Sutherland (1999), noted that although the female workforce increased to almost 40% of the total workforce over a 25-year period, and the entry of married women into the labour force particularly accelerated, women's overall participation remained below the EU average. In terms of race, programs such as the National Racist Awareness Program were established as well as an "Equality Audit". Cases based on disability grounds

are punishable by heavy financial measures and are taken very seriously by the Irish media. This encourages organisations to adhere to the Act (Saha *et al.*, 2002).

3.4.5 Namibia

Affirmative Action in Namibia was implemented to redress social, economic and educational imbalances as a result of past discriminatory laws, and its advent is a result of the transition to full democracy. Zimbabwe (1980), Namibia (1990) and South Africa (1994) all attained majority rule after long periods of struggle but economic power still remained with the white minority (Jauch, 1998).

Much like in South Africa, its implementation was met with criticism and some labelled AA as reverse discrimination while others saw it as only benefiting the black middle class as it did not cover all sectors (Jauch, 1998).

The key aims of AA in Namibia (Jauch, 1998) are to

1. Contribute to the implementation of a culture of transformation in institutions;
2. Bring about greater representation of other ethnicities where there had been domination by the white minority; and
3. Attain socio-economic redistribution.

Critique: Debates on AA by the National Assembly, the public and community-based organisations expressed confusion around the policy, with ministries and municipalities practicing it as each saw fit. These bodies found AA difficult to understand at all levels: the descriptive (what it meant), the philosophical (the ethics behind it) and the ideological (the differences of what constitutes equality). Without a clear understanding of or consensus on what AA is, it was difficult for Namibia to formulate an effective AA plan (Jauch, 1998).

On taking power in 1990, SWAPO (South West Africa People's Organisation) initiated a policy of national reconciliation to overcome racial divisions and social, political and ethnic inequalities. This resulted in ending political violence but as the policy did not define its political, economic and social measures, it was open to much misinterpretation (Jauch, 1998).

One initiative arising from the policy was the integration of the army into a unified entity out of opposing combatant groups. A second initiative saw the passing of the Land Act in 1994 to achieve land reform. This provoked debates on how to acquire land (forceful removal or purchase) and who was to receive it. Jauch (1998) noted that the Act targeted a broad range of people including peasants, ex-combatants, urban professionals and government officials who did not own or use

agricultural land, and how they had been socially, economically or educationally disadvantaged. By not defining clearly who was to benefit, ambiguity surrounded this AA initiative.

Education reform included the provision of free primary school education in terms of Article 20 of the Constitution. This included a School Readiness Programme for grade ones that ensured that children who had not received pre-school education were not disadvantaged (Jauch, 1998). Adult and non-formal education enabled people who could no longer enrol in the formal school system to do distance learning and complete grades 10–12. Vocational training and in-service training for public servants were also initiated. All these efforts were aimed at reducing high unemployment among black workers. Unfortunately despite these efforts, the education field still remains unequal.

Other AA measures included affirmative loan schemes for farmers in communal areas, and the allocation of fishing quotas.

Namibian attempts at AA show the difficulties in identifying the right plans and defining what a country needs. Some successes were identified, such as the increase of access to education and employment in the public sector. However, there has been a neglect of designated groups, such as women, where the quota system has been unfruitful.

3.4.6 Malaysia

Malaysia's ethnically-based AA plan is recognised as a more successful attempt (Jauch, 1998). It was initiated by the Alliance party which came into power in 1957.

Malays, who constitute 50% of the population, were considered victims of historical discrimination. They were structurally denied economic advantages at the time of independence and were largely engaged in subsistence farming and small rubber cultivation. The AA policy was put in place to correct the socio-economic differences inflicted against Malays by other groups (Jauch, 1998).

The Malaysian AA plan was called the New Economic Policy (NEP). It practices a quota system limited to the public sector. The NEP had a timescale of 20 years and included other policies that ensured rural development, such as rural settlements development projects, land settlement schemes, marketing facilities, credit facilities and the provision of schools and clinics (Jauch, 1998:). Table 3.2 below illustrates some of the results of the NEP.

Table 3.2: Malaysian NEP: actions and results

NEP Actions	Results
Reservation of positions in the public service for Malays	Higher degree of ethnic balance and the establishment of a Malay business community
Reservation of scholarships and other educational privileges for Malays	A greater representation of Malays in the urban community
Preferential treatment in terms of licenses and trade permits for Malays	75% of students at institutions of higher learning were Malay
	Increase of Malay share in wealth of the corporate sector

Source: Author

3.5 LESSONS FOR SOUTH AFRICA

Emsley (1996) noted that South Africa was of the same economic standing as Malaysia, thus AA is not a luxury for rich states like the USA, but a means for economic and social redress that even poor countries can strive for as long as the economy is growing. Malaysia's approach was economic development which resulted in a less unequal society. Lessons that South Africa can draw from this example include:

1. South Africa could adopt a plan that has a time limit; this may limit negative response to the quota system during this period.
2. A focus on education is essential, as this would reduce the majority black uneducated group and move them towards an AA pool of "suitably qualified" people.
3. The Malaysian government was based on national unity and the incorporation of opposition viewpoints "was important to ensure that the Chinese and the Indians [were] left with sufficient economic space to make co-operation preferable to opposition" (Emsley, 1996: 9).

Non-Malays public servants had the right to keep their jobs and those with scholarships would retain their financial support until their training was completed. The approach taken was to limit the impact of AA on the other groups to achieve AA in an equitable manner. However, similar to the South African experience, the Malaysian government found that although there was an increase of Malays in the labour market, they were highly concentrated in administrative and sub-professional jobs (Jauch, 1998). Despite this, Malaysia's AA programme has been called successful.

3.6 CONCLUSION

The common goal of EE legislation in the countries investigated in this chapter is the attempt to redress past and present inequalities experienced by members of designated groups. The most targeted groups for AA/EE are women, the disabled and racial minorities. Although all countries had different starting points, all show some positive impact on the designated groups. For instance, Canada, South Africa and Ireland show an increased participation of women in the workplace, but not a significant increase in access to executive and high-paying jobs. The segregation and division of labour in the market leaves women disproportionately concentrated in certain narrow sectors with lower levels of pay, such as work in the service industry, technical work and clerical work (Hannon & Sinclair, 1999). Other than in Ireland, as a designated group people with disabilities are not focused on significantly enough. Reasons for this are not explored in literature and this gap should be studied in future research.

There are two possible forms of AA, mandatory and voluntary: both Canada and Ireland started off with voluntary policies. However, although companies may agree that EE is necessary in a country (see Chapter 4), it is evident that a voluntary policy is not sufficient to carry through EE goals; thus most countries enforce the need for companies to produce an EE plan.

Three of the countries surveyed did not practice a quota system. This may be attributed to the effect of concerns regarding productivity that are associated with this method of attaining EE. For countries such as India however, such a strong measure of redress may be necessary as its society bears a profound form of diversity and segregation due to historical processes. The re-designation of groups and adoption of preferential targets and quotas, albeit for a good reason, will never be a simple task.

There is no universal method that determines the absolutely correct way of attaining equality in society and in the workplace, but learning from other countries' experiences could improve the methods adopted in South Africa.

CHAPTER FOUR

OVERVIEW OF EMPLOYMENT EQUITY IN SOUTH AFRICA

This chapter covers the South African EE legal framework and employment, growth and equity in the W&R sector.

The World Bank ranks South Africa as an upper middle-income country and it has one of the largest economies in Africa (Media Club South Africa (2014). South Africa also has a very progressive, world-class legal framework that conforms to international standards and norms on:

- Commerce governance;
- Labour relations;
- Employment equity;
- Basic conditions of employment;
- Maritime Policy
- Laws on competition policy;
- Copyright policy;
- Patents;
- Trademarks and
- Disputes

Table 4.1 lists the applicable legal framework that defines the full scope of EE requirements and therefore impact on organisations' ability to achieve EE objectives.

Table 4.1: Labour laws affecting EE

Act	Commonly used acronym
Employment Equity Act, No. 55 of 1998)	EEA
Employment Equity Amendment Act, No. 47 of 2013	EEAA
Broad-Based Black Economic Empowerment Amendment Act, No. 53 of 2003	B-BBEEA
Labour Relations Amendment Act, No. 66 of 1995	LRA
Basic Conditions of Employment Amendment Act, No. 20 of 2013	BCEA
Skills Development Act Amendment Act, No. 97 of 1998	SDA
Occupational Health and Safety Amendment Act, No. 181 of 1993	OHSA

Source: Labour legislation acts, online at <http://www.labour.gov.za/DOL/legislation/acts>.

4.1 THE LABOUR LAW REVIEW PROCESS

In 2009 government first announced its intention to amend the labour laws. In June 2010 the first drafts of the Labour Relations Amendment Bill, the Basic Conditions of Employment Amendment Bill, the Employment Equity Amendment Bill and the newly created Employment Services Bill were presented to Cabinet, which rejected them. Cabinet instead called for a Regulatory Impact Assessment to determine the impact on the economy, and on government's plans for rapid job creation in particular.

The Regulatory Impact Assessment, commissioned by the DoL, was undertaken by the University of Cape Town and amongst others, law professor Paul Benjamin. This research predicted that the proposed laws would have a profoundly negative effect on flexibility in the labour market and would hamper the ability of South African companies to compete in the global market.

Having reviewed the literature on practices in- and outside South Africa, what is the South African EE reality? This chapter now looks at this by exploring the current status, statistics and challenges faced in the implementation of EE labour legislation in the W&R sector.

4.2 BROAD-BASED BLACK ECONOMIC EMPOWERMENT: EFFECT ON EMPLOYMENT EQUITY

The black economic empowerment (BEE) programme, similar to the EEA, 1998, was established to redress past inequalities by giving Africans, coloureds and Indians increased economic opportunities. However, the first Broad-based Black Economic Empowerment Act, No.57 of 2003 (South Africa. Department of Trade and Industries, 2003), was criticised for benefitting only a limited number of people. Thus on 9 February 2007, the Codes of Good Practice of Black Economic Empowerment were gazetted, to strengthen BEE (South Africa. Department of Trade and Industries, 2007). A further update was gazetted in 2013, as the Broad-Based Black Economic Empowerment Amendment Act, No 46 of 2013 (South Africa. Department of Trade and Industries, 2013).

Although BEE is voluntary, companies are encouraged by the benefits garnered by having BEE points. Possessing a valid B-BBEE certificate gives an organisation a competitive advantage. In what is known as preferential procurement, one of the five pillars of B-BBEE legislation, organisations earn higher B-BBEE scores if they procure goods or services from other companies which are B-BBEE compliant. Organisations with low BEE points may be barred from winning government grants and may struggle to obtain certain permits required by the state (Jeffery, 2013). The B-BBEE scorecard is weighed against five pillars, as shown in Table 4.2.

Table 4.2: B-BBEE scorecard

B-BBEE Element	Weighting points
Ownership	25
Management Control and Employment Equity	15
Skills Development	20
Enterprise and Supplier Development and Preferential Procurement	40
Socio-economic Development	5

Source: South Africa. Department of Trade and Industries, 2013

Designated employers that chose not to comply with the EEA, 1998 would not have acquired any points on the EE element on the B-BBEE scorecard. However, the amendments contained in the EEAA, 2013 require that all organisations with an annual turnover over R10m must comply with all five elements or face penalisation as per the B-BBEE Amendment Act, 2013 (South Africa. Department of Trade and Industries, 2013).

4.2.1 Management Control and Employment Equity

Employment Equity and Management Control together make up the element now known as Management Control. Given the EE focus of this report, this pillar has been selected for more in-depth discussion.

The amendments in the B-BBEE Amendment Act significantly impact the management sector: senior and middle management from the old EE element are still in the criteria, but junior management has been taken away. This poses a great challenge for employers as this category is where quick wins were obtained. The junior management level is heavily populated as this is where employers sought to develop employees in great numbers, thereby reaching their "EE numbers" target. With the amendments there is no longer a concentration on this level of management. Consequently employers are forced to give more attention to the movement of senior and middle managers into the higher tiers of management.

Table 4.3 provides an overview of the major elements of the Management Control and EE pillar.

Table 4.3: B-BBEE management control and EE criteria

Measurement category and criteria	Weighting points	Compliance targets
1. Top Management		
1.1 Black top management as a percentage of all such employees	2	60%
1.2 Black female top management as a percentage of all such employees	1	30%
2. Senior Management		
2.1 Black employees in senior management as a percentage of all such employees	1	60%
2.2 Black female employees in senior management as a percentage of all such employees	1	30%
3. Middle Management		
3.1 Black employees in professionally qualified and experienced specialist and mid-management as a percentage of all such employees	2	75%
4. Disabled Employees		
4.1 Black disabled employees as a percentage of all employees.	2	25%

Source: South Africa. Department of Trade and Industries, 2013

In terms of the revised B-BBEE Act, 46 of 2013, the definition of 'black' is a composite term for Africans, coloureds and Indians (South Africa. Department of Trade and Industries, 2013). Hiring Africans into top, senior, middle and junior management is rewarded with higher B-BBEE points. This could result in companies being forced to pay more attention to their EEPs, ensuring that they effectively target Africans in recruitment and selection, training, development and promotion.

4.3 EMPLOYMENT EQUITY AMENDMENT ACT, 2013

In his article, *Impact of Amendments of the EEA*, Truter (2012) outlines the notable amendments proposed by the Employment Equity Act Amendment Bill, 2013 (which was enacted as Act No. 47 of 2013). These were the first proposed amendments to the EEA since its adoption in 1998. The changes included enforcement procedures such as permitting inspectors to issue a certificate of compliance without having to obtain a written undertaking from the employer, among others (Truter, 2012). Further key amendments in the EEA Amendment Act, 2013 are:

Amendment to the definition of designated groups: This revision ensures that only people who were citizens of South Africa before 1994 can benefit from AA as stipulated in Chapter Three of the EEA.

Addition of Work of Equal Value: This amendment is found in Section 6, and deals with discrimination of pay of employees doing work of equal value or similar in nature. If an employer is challenged with this, they must show that the differences in pay are based on other merit- or experience-based reasons. The Minister of Labour is authorised to publish a code of good practice, which will attend to the criteria of evaluating work of equal value.

Section 10 amendment: This revision allows for certain disputes to be taken up at the Commission for Conciliation, Mediation and Arbitration (CCMA) and not solely with the DoL. This provision comes with particular circumstances, outlined in this section.

Burden of Proof: In an instance where an employee alleges discrimination based on race, gender, pregnancy etc., it is the onus of the employer to prove that the alleged discrimination did not take place, or otherwise is genuinely justified.

Total annual threshold: The total annual threshold that an employer must surpass to be categorised as a “designated employer” has been increased threefold over the threshold of the EEA, 1998. However, companies with 50 or more employees are still regarded as designated employers irrespective of their annual turnover.

Annual Reports: All designated employers are required to submit their EE reports annually, including those that employ fewer than 150 employees.

Labour Brokers: When an employee is placed into a company by a labour broker, if they are employed in the company for longer than six months they shall be considered employees of the company for the purposes of AA.

Increase of fines: Sections 59 and 61 now include an increase in fines for guilty designated employers. The minister is also granted authority to adjust the fines to counter inflation.

Expansion of discriminatory grounds: This change affects Section 6 of the EEA, 1998 and stipulates that discrimination will not only occur on grounds stated in this section but on other arbitrary grounds. This change is consistent with the terminology used in s187 (1) (f) of the Labour Relations Act of 1995, that bans unfair dismissals.

4.4 LABOUR RELATIONS AND BASIC CONDITIONS OF EMPLOYMENT ACTS

Singer (2012) writes that South Africa is recognised as having some of the most rigid labour legislation in the world, based on the following data: the 2011 World Employment Forum ranked South Africa 138th (out of 139 countries) in both flexibility of wage determination and cooperation in labour-employer relations, and worst, 139th, in respect of hiring and firing practices. This clearly supports the argument that existing regulations are already too stringent in the current economic climate.

The real issue however relates to compliance and enforcement. Currently there is no effective deterrent for non-compliance as those companies that operate outside of the legislation are not being investigated and punished.

Singer (2012), further notes business' concern that attempts to further regulate the South African labour market, could result in (further) over-regulation, and would only serve to increase the cost burden on the already compliant and drive more businesses underground, thereby increasing the non-compliant element. This would have a severe impact on the number and quality of jobs in South Africa. As costs increase, compliant businesses will seek opportunities through automation and mechanisation to reduce the number of people employed, resulting in the loss of jobs.

The changes to the LRA and BCEA, in particular the curtailment of the use of atypical employees (temporary, fixed-term and part-time) by limiting the time of such employment to six months before the employee is considered to have all the rights of an employee in permanent employment, including access to benefits, will have dire consequences for the labour market. It is estimated that almost four million people are employed in atypical arrangements in South Africa, the majority of whom are employed directly by companies: the local labour market is simply not able to absorb all of these. Further, the poor drafting of the proposed legislation has already led to confusion in the marketplace with different lawyers interpreting the drafts differently. This uncertainty, rather than specific legislative amendments, is more likely to cause a loss of jobs as businesses battle to come to terms with administering it internally.

Singer (2012) further notes that government and unions in South Africa (and elsewhere) are struggling to come to terms with the changing world of work and the increasing use of flexibility within the labour market. Gone are the days when an individual was employed 'for life' at a single employer with full benefits and a gold watch on retirement. Chronic skills shortages, increasing global competition and improving technology have created a labour market that favours flexible, project-based employment. To remain competitive, companies are choosing to outsource their non-core

functions and to bring in specific skills, for specific projects. The nature of these employment relationships varies but is most often defined as "a-typical". To manage the sourcing, recruiting, assessing and administering of flexible labour effectively, businesses have turned to specialists, in the form of temporary employment services companies. South Africa is no different.

4.5 NATURE OF EMPLOYMENT IN SMMES

The W&RSETA Job Opportunity Index Report (2011), states that business needs and the environment are rapidly changing and creating an uncertain future. It thus requires talent and vision at the top – but these skills are not easy to find. Therefore at this time it is important for businesses to develop existing talent, in a "grow-your-own" approach, which will identify talent and reduce time spent trying to fill positions.

Employment by Industry (Non Agriculture) 2013 (000')			
Industry	Formal	Informal	Total
Mining	364	1	365
Manufacturing	1530	223	1753
Utilities	116	1	117
Construction	734	286	1020
Wholesale & Retail Trade	1894	961	2855
Transport	601	212	813
Finance	1630	150	1780
Community and Social Services	2716	356	3072
Other	2	0	2
TOTAL	9586	2192	11777

The table reveals the following:

- There are 11 777 million people employed in the non-agriculture sector SA.
- The W&R Sector employs 2 855 million people comprising 24% of the total labour force.
- 66% of people in the W&R Sector are in formal employment, whilst 34% are in informal employment.
- There is a growing trend of informalisation in the sector.
- The high number of people in informal employment in the W&R Sector presents the SETA of finding ways to promote skills development and Decent Work.
- A significant number of people in the labour market are in informal employment. This suggests that the informal sector also acts as an absorber of labour for those who have lost their jobs in formal employment.

Figure 4.1: SMME employment by industry

Source: Statistics South Africa, 2013a

The potential of SMMEs as employment generators is acknowledged (SBP, 2011: 4). As shown in Figure 4.1 the sector is very diverse and businesses are owned and managed by people with a wide range of motivations, aspirations and expectations of growth. Figure 4.2 shows the primary reasons that small organisations do not grow their employee numbers

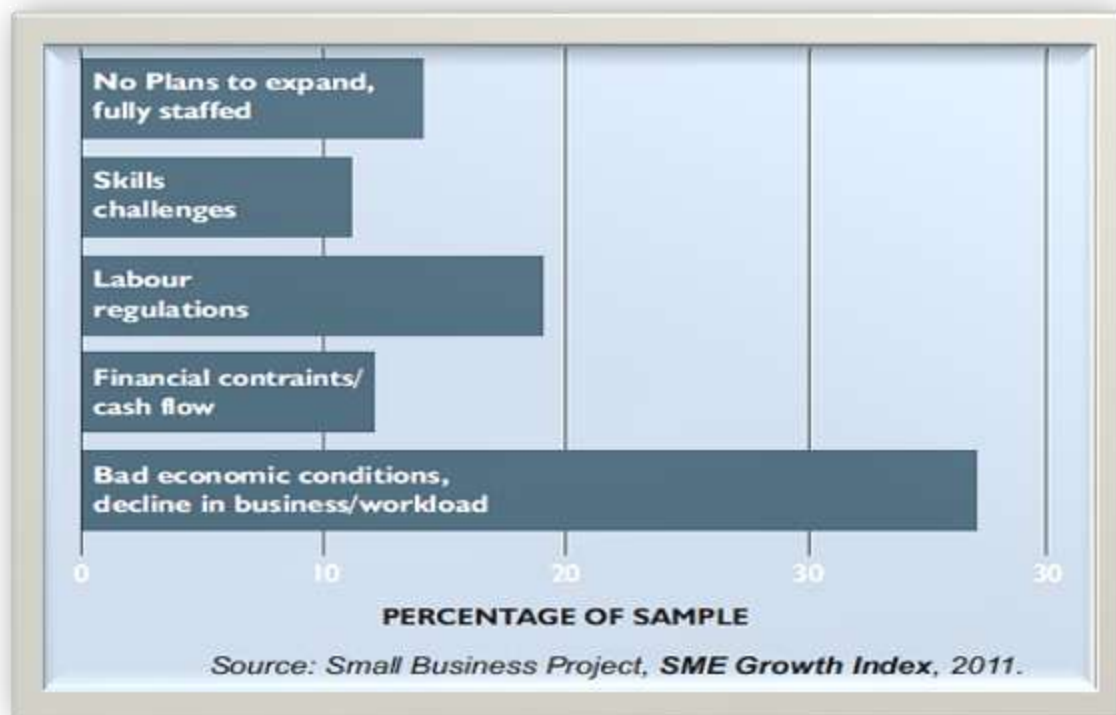


Figure 4.2: Reasons for stagnant job creation in SMMEs

Source: Small Business Project, 2011

The main reason is the current economic environment followed by the labour environment, no plans to expand, financial constraints and skill challenges. The challenge is therefore twofold, to create:

1. A more enabling environment for small enterprises to grow, expand their operations and employ more people;
2. The conditions under which start-ups can flourish and more entrepreneurs enter the market.

Interventions to support both these outcomes will be mutually reinforcing for the sector.

4.6 WORKFORCE PROFILES: NATIONAL AND W&R SECTOR

The following section examines the workforce profiles of South Africa and the W&R sector, as detailed in the Commission for Employment Equity (CEE) Report, 2014 (South Africa. Department of Labour, 2013a) and the W&R Sector Skills Plan Update, 2013 (W&RSETA, 2013). Note that the SSP only presents the first four occupational levels. This is a disadvantage for this study, as other secondary research shows that lower occupational levels also experience the benefits of the EEA.

The EEA defines large employers as those with 150 or more employees and small employers as companies with fewer than 150 employees. The CEE Report focuses on the years 2003, 2005, 2007, 2009, 2011 and 2013.

Note that for continuation and comparative purposes, tables which are directly linked to a previous figure are labelled as a 'Figure' and not 'Table'.

Figure 4.3 below, as researched by Statistics South Africa (2013b) delineates the national EAP by race so that comparisons can be made when looking at the workforce profiles by occupational levels.

NATIONAL EAP BY POPULATION GROUP AND GENDER			
Race	Male	Female	Total
African	40.3%	34.9	75.2
Coloured	5.6%	5.0%	10.6
Indian	1.9%	1.2%	3.1
White	6.2%	4.6%	10.8
Total	54.0%	46.0%	100%

Source: Statistics South Africa, (QLFS 3 2013) (all percentages are rounded to one decimal point)

Figure 4.3: National economically active population by population and gender

Source: Statistics South Africa, 2013b

White males constitute a small percentage (6.2%) of the EAP in comparison to African males, at 40.3%; similarly, white and African females represent 4.6% and 34.9% respectively. The majority of the national EAP (75.2%) is African.

As demonstrated below, the highest level that sees the least improvement at both national and local levels is in the top management and senior management positions.

OCCUPATIONAL LEVELS	Male				Female				Foreign National		Total
	AM	CM	IM	WM	AF	CF	IF	WF	FM	FF	
Top Management	3 048	790	1460	11 811	1 416	356	419	2 338	816	117	22 571
	13.5%	3.5%	6.5%	52.3%	6.3%	1.6%	1.9%	10.4%	3.6%	0.5%	100.0%
Senior Management	12 701	3 786	5 793	34 888	6 791	2 098	2 692	13 253	2 036	489	84 527
	15.0%	4.5%	6.9%	41.3%	8.0%	2.5%	3.2%	15.7%	2.4%	0.6%	100.0%
Professionally qualified and experienced specialists and mid-management	82 596	21 139	22 526	103 951	77 805	18 933	16 789	63 931	7 651	2 675	417 996
	19.8%	5.1%	5.4%	24.9%	18.6%	4.5%	4.0%	15.3%	1.8%	0.6%	100.0%
Skilled technical and academically qualified workers, junior management, supervisors, foremen, and superintendents	447 378	82 463	44 660	173 627	410 235	80 569	40 779	145 269	17 722	4 522	1 447 224
	30.9%	5.7%	3.1%	12.0%	28.3%	5.6%	2.8%	10.0%	1.2%	0.3%	100.0%
Semi-skilled and discretionary decision making	872 001	102 223	30 464	49 345	578 643	120 122	30 855	78 962	48 048	3 766	1 914 429
	45.5%	5.3%	1.6%	2.6%	30.2%	6.3%	1.6%	4.1%	2.5%	0.2%	100.0%
Unskilled and defined decision making	521 315	49 203	5 482	6 691	300 977	45 298	3 272	2 691	27 072	3 695	965 696
	54.0%	5.1%	0.6%	0.7%	31.2%	4.7%	0.3%	0.3%	2.8%	0.4%	100.0%
TOTAL PERMANENT	1 939 039	259 604	110 385	380 313	1 375 867	267 376	94 806	306 444	103 345	15 264	4 852 443
	40.0%	5.3%	2.3%	7.8%	28.4%	5.5%	2.0%	6.3%	2.1%	0.3%	100.0%
Temporary employees	310 216	40 170	7 341	23 170	272 809	40 383	7 708	23 154	11 413	4 519	740 883
	41.9%	5.4%	1.0%	3.1%	36.8%	5.5%	1.0%	3.1%	1.5%	0.6%	100.0%
GRAND TOTAL	2 249 255	299 774	117 726	403 483	1 648 676	307 759	102 514	329 598	114 758	19 783	5 593 326

Figure 4.4: National workforce profile for large organisations: race, gender and occupational level

Source: South Africa. Department of Labour, 2013a

Figure 4.4 summarises the national workforce profile. Key findings reflect that:

- Although white males constitute the smallest percentage of the EAP, the top three occupational levels have white male dominance at 52.3% of top management jobs; 41.3% of senior management positions and 24.9% of professionally qualified and experienced specialists and mid management.
- At the skilled level, African males and females comprise 59.2% of the workforce; this is the first category where another race group has a higher percentage than white males.
- In top management and senior management positions, African males and white females are almost even: African males make up 13.5 and 15.0% of top management and senior

management positions and white females make up 10.4 and 15.7% respectively. This shows a continued gender bias towards males.

- As the occupational level drops, other races have more people in the workforce: the highest being 54% African males at unskilled and defined decision making.
- The results show a general pattern: for top male and female management positions it is whites, followed by Africans, Indians and coloureds. At the lowest occupational levels, the pattern is African males, then coloured, white and Indian males. This pattern is replicated in the female workforce, except that Indian females are third and whites lowest.

Employment in Wholesale & Retail Trade and Total Employment 2004-2013 (000')			The table reveals the following:
Sector	Wholesale & Retail Trade	Total Employment	
2004	2 748	12 044	<ul style="list-style-type: none"> Between 2004 and 2013 employment in the W&R sector grew by 3.7%, whilst total labour force employment increased by 12%. This implies that the sector is not keeping up with total employment growth in SA. From 2004 to 2007 employment in the W&R Sector grew steadily from 2 748 million to 3 342 million. This represents an increase of 18% in employment. As the global economic crisis unfolded in 2008, the economy lost 412 000 jobs between 2008 and 2009, whilst the W&R Sector flat-lined. Employment rebounded in the W&R Sector in 2012 with 3 057 million jobs but has since declined. The sector's job creation performance over the 10 year cycle has been modest.
2005	3 180	12 769	
2006	3 450	13 419	
2007	3 342	13 467	
2008	2 975	13 867	
2009	2 927	13 455	
2010	2 995	13 061	
2011	2 962	13 265	
2012	3 057	13 421	
2013	2 855	13 621	

Figure 4.5: Employment in Wholesale & Retail Trade and total employment, 2004–2013

Source: Statistics South Africa, 2013a

4.6.1 Employment Equity Statistics, 2014

The following section (extracted from the CEE Report 2014, Chapter 4: 15-19) provides trends analyses of the first four occupational levels (top management, senior management, professionally qualified, and skilled) in terms of population group from 2003 to 2013. These are then paired against

the W&R sector. Note that the DoL only reported data for foreign nationals from 2007 onwards (South Africa, Department of Labour, 2014).

Only limited and patchy progress has been made since 1994 in transforming all demographic profiles of the workforce, especially in the upper echelons. This should alarm policy makers and role-players. However, while the period did see a significant upward trend in the level of Africans employed in all echelons of top management, senior management, professionally qualified and skilled workers, the employment of people with disabilities (PWDs) dropped by 0.4% although the actual number increased.

In all instances females were underrepresented across all race groups. Figures 4.5, 4.7, 4.9 and 4.11 draw upon actual organisational data and provide telling evidence of the ineffectiveness of workplace-transformation legislation and lack of progress. This is disturbing because the professional and middle management level is considered a talent pool for senior and top management positions. If the trend of female underrepresentation across all race groups continues, it will not be possible to fill these positions with African males and females. Furthermore, EE benefits have largely not accrued to African, coloured and Indian females, who continue to be poorly represented in top management. White females (5.3% of EAP) are still dominant, with 10.1% employment in the W&R sector.

4.6.1.1 Top management

Figures 4.6 and 4.7 show the impact, nationally and in the W&R sector, of EE over the 10-year period 2003 to 2013, on the highest level of management.

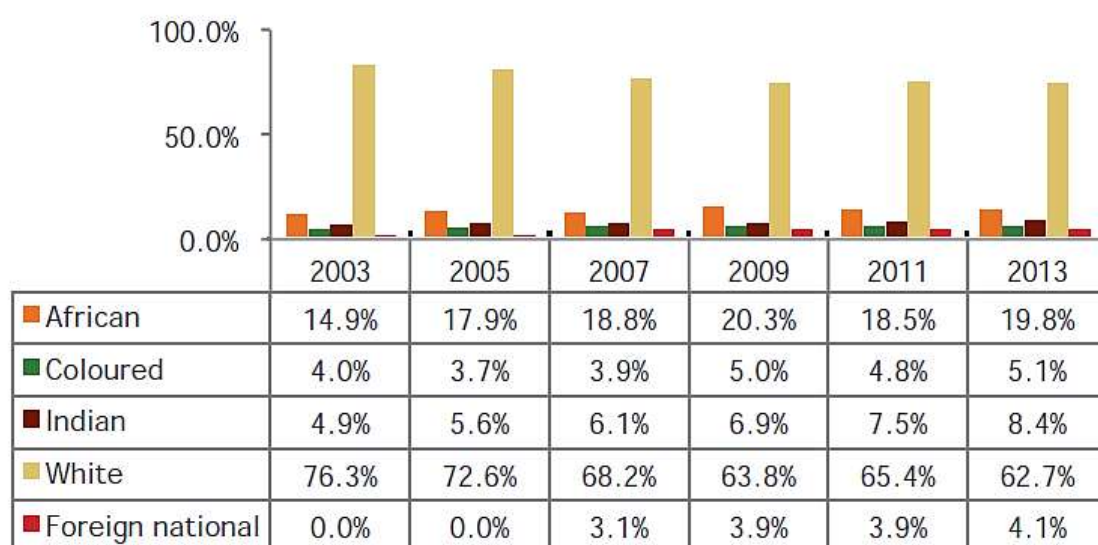


Figure 4.6: National: population distribution in top management

Source: South Africa. Department of Labour, 2013a

Figure 4.6 shows increases of 4.9% for African; 3.5% for Indian and 1.1% for coloured top managers, with a corresponding decrease of 13.6% for whites over the period of review. Since foreign nationals were measured only from 2007, it is noticeable that their representation increased by 1% over a six year period.

Top Management Profile: W&R Sector											
	MALE				FEMALE				FOREIGN		TOTAL
	A	C	I	W	A	C	I	W	M	F	
EAP	40.3%	5.9%	1.8%	6.6%	33.8%	5.2%	1.1%	5.3%	0%	0%	100.0%
W&R	4.8%	2.1%	10.1%	63.0%	2.7%	1.1%	1.7%	10.1%	4.2%	0.2%	100.0%

Figure 4.7: W&R sector: population distribution in top management

Source: Mbabane, 2013

The W&R sector mimics the national demographic representation in Figure 4.3 above. Despite African males being the largest economically active group (40.3%), their overall representation in top management (4.8%) is very low. In contrast, white males form only 6.6% of the EAP, whilst representation in top management is 63%. A similar pattern prevails for females. Blacks are seriously underrepresented at top management compared to whites: collectively, blacks account for only 22.5% (Africans represent 7.5%, coloureds 3.3%, Indians 11.8%) while whites still account for 73.1%.

4.6.1.2 Senior management

Figures 4.8 and 4.9 show the impact of EE over the 10-year period 2003 to 2013 on senior management, the second highest job level, nationally and in the W&R sector.

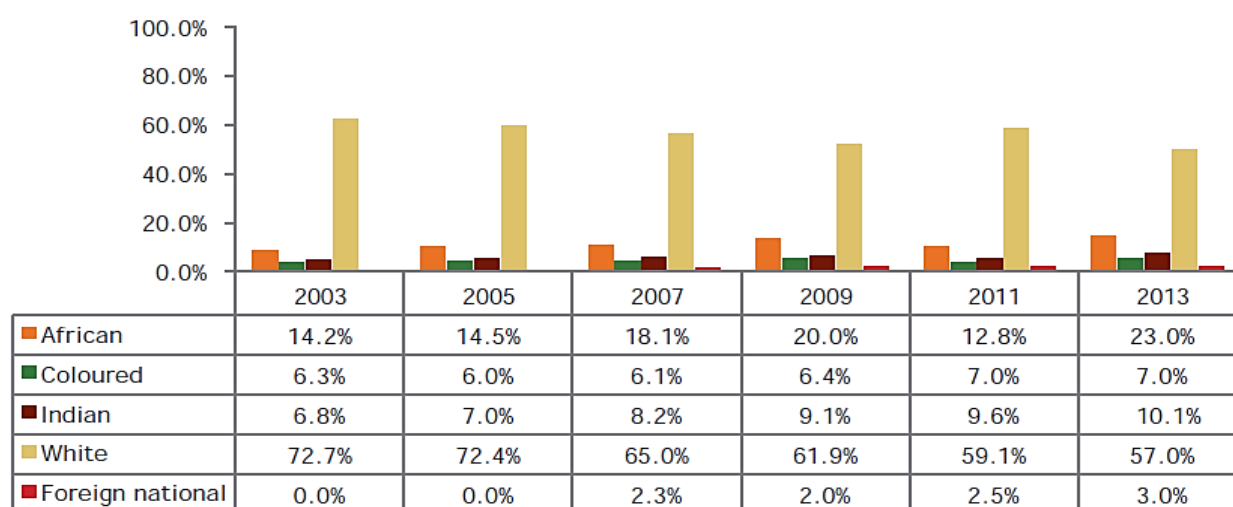


Figure 4.8: National: population distribution in senior management

Source: South Africa. Department of Labour, 2013a

Figure 4.8 shows increases of 8.8% for African; 3.3% for Indian; 0.7% for coloured and a decrease of 15.7% in white representation in senior management for this period. Foreign nationals representation increased by 0.7% over a six year period, from 2007 when this was first measured.

SECTORS	Male				Female				Foreign National		TOTAL
	African	Coloured	Indian	White	African	Coloured	Indian	White	Male	Female	
Retail and Motor Trade/Repair Service	9.1%	6.2%	7.8%	44.0%	4.3%	4.1%	3.7%	19.2%	1.2%	0.4%	100.0%
Wholesale Trade/Commercial Agents/Allied Services	10.8%	4.3%	10.3%	43.6%	4.5%	2.7%	2.9%	18.0%	2.2%	0.6%	100.0%

Figure 4.9: W&R sector: population distribution in senior management

Source: South Africa. Department of Labour, 2013a

Figure 4.9 notably shows that white males and females still dominate senior management workforce representation in the W&R sector.

4.6.1.3 Professionally qualified

Figures 4.10 and 4.11 show the impact of EE over the 10-year period 2003 to 2013 on the professionally qualified level, nationally and in the W&R sector.

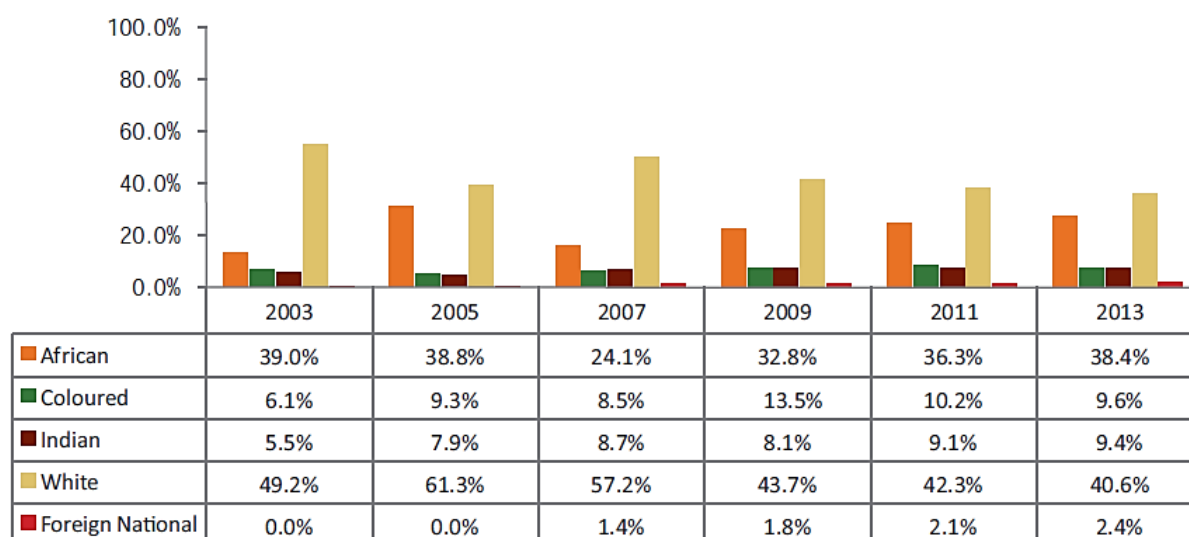


Figure 4.10: National: population distribution in professionally qualified

Source: South Africa. Department of Labour, 2013a

Figure 4.10 shows that, unlike in top and senior management, African representation in the professionally qualified level actually *decreased* over the period under review (by 0.6%), as did white representation (by 8.6%). However, in line with the previous categories, Indian and coloured

representation increased by 3.9 and 3.5% respectively. Since foreign nationals were measured only from 2007, it is noticeable that their representation increased by 1% over a six year period.

SECTORS	Male				Female				Foreign National		TOTAL
	African	Coloured	Indian	White	African	Co- loured	Indian	White	Male	Female	
Retail and Motor Trade/Repair Service	16.6%	7.4%	7.1%	25.3%	11.6%	7.5%	4.6%	18.9%	0.7%	0.3%	100.0%
Wholesale Trade/Commercial Agents/Allied Services	16.4%	5.6%	7.7%	29.8%	10.2%	4.6%	3.9%	20.1%	1.2%	0.3%	100.0%

Figure 4.11: W&R sector: population distribution in professionally qualified

Source: Source: South Africa. Department of Labour, 2013a

As noted earlier, the top three occupational levels reflect a bias towards white males as they have the highest representation at both national and local level. However it is evident that there has been some successful EE as white representation has dropped at all three top levels.

4.6.1.4 Skilled technical

Figures 4.12 and 4.13 show the impact of EE over the 10-year period 2003 to 2013 on the skilled technical occupational group. For the first time, this level shows decreases in coloured and Indian representation simultaneous with an increase in African representation.

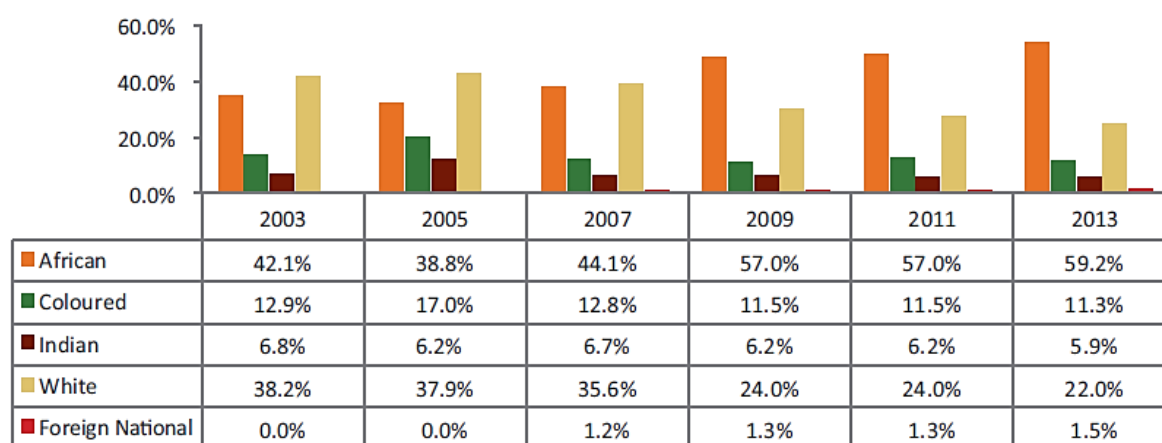


Figure 4.12: National: population distribution in skilled technical

Source: South Africa. Department of Labour, 2013a

Figure 4.12 shows an increase of 17.1% for African representation in this level, and decreases of 16.2% for white; 1.6% for coloured and 0.9% for Indian representation.

Since foreign nationals were measured only from 2007, it is noticeable that their representation increased by 0.3% over a six year period.

SECTORS	Male				Female				Foreign National		TOTAL
	African	Coloured	Indian	White	African	Coloured	Indian	White	Male	Female	
Retail and Motor Trade/Repair Service	24.2%	7.1%	5.0%	13.2%	22.8%	10.7%	4.3%	12.2%	0.4%	0.2%	100.0%
Wholesale Trade/Commercial Agents/Allied Services	27.8%	6.7%	5.3%	16.9%	16.3%	6.5%	4.2%	15.5%	0.7%	0.3%	100.0%

Figure 4.13: W&R sector: population distribution in skilled technical

Source: South Africa. Department of Labour, 2013a

As can be seen in Figure 4.13, Africans (male and female) dominate the skilled technical occupational group in the W&R sector.

As indicated in Figures 4.6, 4.8, 4.10 and 4.12 above, it is evident that white representation has decreased and African increased. The decline in white representation is attributable to people retiring, leaving the country and the employment of fewer whites at these levels. For fast-tracking African employees into EE positional targets, great use could be made of the retired white population for skills and knowledge transference through coaching and mentoring of Africans and others.

South African organisations face the double challenges of moving towards a uniquely South African working environment that truly values everyone's contribution, by recruiting and retaining competent PDIs (previously disadvantaged individuals) and implementing learning and development strategies, while simultaneously also fulfilling business strategies and remaining self-sustaining, through achieving organisational objectives (Horwitz et al., 2002; Sadler & Erasmus, 2003; Thomas, 2004; Horwitz, Jain & Mbabane, 2005; Selby & Sutherland, 2006).

4.6.1.5 People with disabilities

Year	2003	2005	2007	2009	2011	2013
All Employees	3 296 844	2 365 259	2 030 837	4 426 972	5 174 860	5 593 326
All PWD	44 725	43 716	10 700	40 830	43 666	50 867
% of PWD	1.3%	1.8%	0.5%	0.9%	0.8%	0.9%

Figure 4.14: Aggregated workforce (all employers) profile of people with disabilities

Source: South Africa. Department of Labour, 2013a

People with disabilities (PWDs) accounted for 50 867 or 0.9% of the total number of employees (5 593 326) reported by all employers in 2013. In 2007 there was a deep drop in the reported number

of people with disabilities; the CEE believes this could have been due to employers not reporting on PWDs (South Africa. Department of Labour, 2013a).

4.6.2 Workplace Skills Plans and Vacancy Analysis

This section covers the top twelve occupations in the W&R sector, and the submission rate and quality of workplace skills plans (WSPs).

Table 4.4: W&R vacancy analysis, 2013

TOP 12 OCCUPATIONS WITH OVER 50 VACANCIES						
NO	OCCUPATIONS	OFO CODES	LABOUR DEMAND (Job Adverts)		LABOUR SUPPLY (Job Applications)	
			JULY 2012	JUNE 2013	JULY 2012	JUNE 2013
1	Retail Manager	142103	90	116	938	1 811
2	Sales Consultant	522301	908	1059	8 547	11319
3	Sales Executive	122102	223	234	1 193	1 790
4	Operations Manager	121901	49	84	474	876
5	Retail Supervisor	522201	32	43	437	808
7	Retail Buyer	332301	181	158	2 303	3 801
8	Supply & Distribution Manager	132401	63	67	807	1 395
9	Sales & Marketing Manager	122101	82	82	1231	1 939
10	Accountant	241101	47	37	579	553
11	Electrician	671101	41	52	309	614
12	Debtors Clerk	431101	54	53	426	1 175

Source: W&RSETA, 2013

Table 4.4 shows that from July 2012 to June 2013:

- Labour demand trended upwards for all occupations, except accountants.
- Labour demand was very high for sales executives, sales consultants and retail buyers.
- There was moderate demand for retail managers and sales and marketing managers.

- In all instances it is notable that labour supply far outstripped labour demand.

Figure 4.15 shows that the majority of companies in the sector are small (5 948) compared to medium (1 114) and large (477) companies. In total 7 539 companies had submitted WSPs.

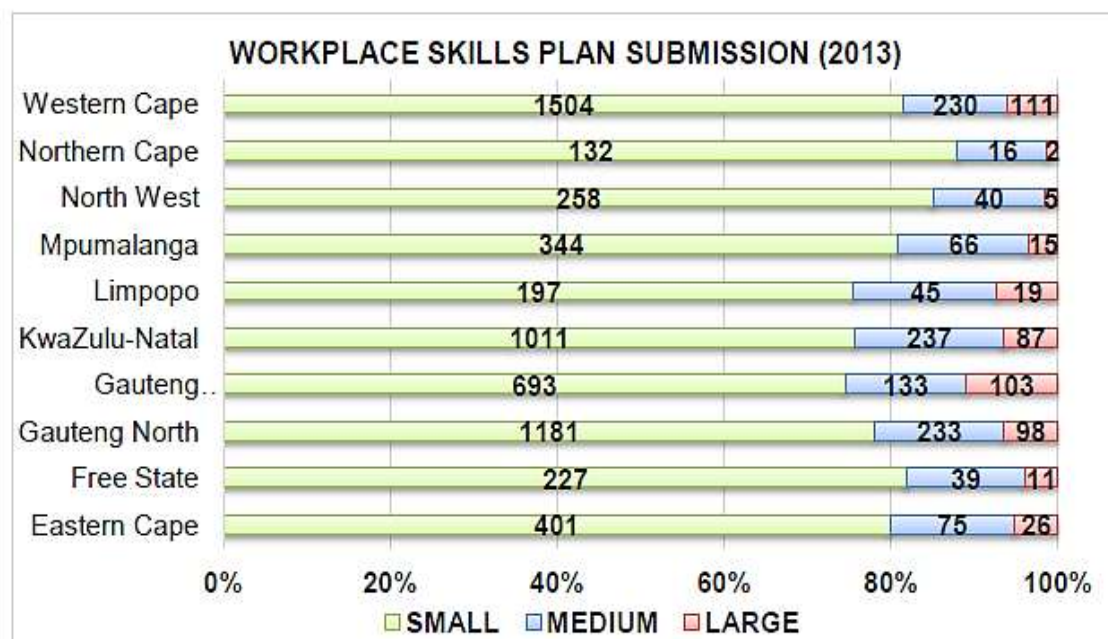


Figure 4.15: Workplace Skills Plan submission, 2013

Source: W&RSETA, 2013

Given that this size distribution is consistent across all provinces, it implies that the W&RSETA should give considerable attention to skills development in small companies.

The CEE, 2014 report (South Africa. Department of Labour, 2013a) which documents the number of EE reports submitted and analysed, shows that since the regulations became more stringent there has been a steady increase in both the number of reports received, and in their accuracy and completion.

Table 4.5 below provides reporting information for large employers only, for 2009, 2011 and 2013. Large employers are required to report annually while small employers are required to submit a report every second year, in years that end with an even number.

Table 4.5: Employment Equity Reports received and analysed, 2009–2013

YEAR	REPORTS RECEIVED	REPORTS EXCLUDED	REPORTS INCLUDED IN ANALYSIS	% REPORTS FOR ANALYSIS
2009	3695	326	3369	91.2%
2011	4492	122	4370	97.3%
2013	5102	118	4984	97.7%

(All percentages are rounded to one decimal point)

Source: South Africa. Department of Labour, 2013a

In 2013, 5 102 reports were received and 4 984 (97.7%) reports were analysed, and included in the analysis. More than 98% of these reports were submitted on-line, which dramatically improved the accuracy of reports received, as did the introduction of the provision that employees handing in inaccurate reports are deemed not to have handed in at all (South Africa. Department of Labour, 2013a). The control measures in place in the EE reporting system help ensure that inaccuracies are noticed and users become aware of these problems.

The CEE Report 2013-2014 does not table a breakdown of reports received per sector, which makes it impossible to compare W&RSETA WSPs and DoL EE Reports.

4.7 CONCLUSION

Overall, white representation in various occupational groups has decreased and African increased. Females are underrepresented across all race groups at a national level and in the W&R sector.

The workplace profile of professional and middle management is a source of concern; transformation needs to happen here urgently as the talent pool for top and senior management is drawn from this group.

The W&R sector resembles the national profile in many ways; thus it can be deduced that legislative change for the nation affects the sector in a similar way. Although the SSP and the CEE Report focused on the top occupational levels, the increased representation of blacks in technical skills marks the greatest measurable shift of EE improvements. At lower levels, companies may be able to accommodate people from designated groups with lower educational qualifications. These groups need mentoring and training to enable greater movement between levels, creating a talent pool for the top and senior management levels which show the least transformative progression.

It is clear much is still to be done to achieve equitable representation at all levels in designated employers. Figure 4.15 and Table 4.5 show how many organisations submit WSPs and EE Reports, which leads to the following questions: Are we looking at quantity, rather than quality? At paper compliance, to avoid paying hefty fines? Or are these genuine exercises to ensure equitable employee representation?

CHAPTER FIVE

EMPLOYMENT EQUITY IMPLEMENTATION IN SOUTH AFRICA

This chapter opens with the findings discovered through cases studies conducted in three large retailers in South Africa: the presentation and brief analysis of Company A's current EEP; a review of an interview conducted in 1993 that shows how and where progress has been made in a large retailer; and a brief analysis of Company C's methods. These case studies reveal the challenges faced in the implementation of the EEA, which complements what was identified in the literature review in Chapter Three. The chapter concludes with the summary of the findings from the quantitative surveys and in-depth interviews. Through this it becomes evident which interventions are necessary to improve EE in South Africa.

5.1 EMPLOYMENT EQUITY AND AFFIRMATIVE ACTION IN PRACTICE

One of the core requirements of the EEA, 1998 is the development and adoption of an organisation's EEP. The Act provides guidelines for this plan. A good place to start is with the auditing of the companies' employment policies and procedures, and a profile of the workforce to identify problems relating to EE. According to Section 20, the plan should include the following:

- Objectives to be achieved for each year of the plan.
- The numerical goals to achieve equitable representation of people from designated groups, the timetable within which this is to be attained, and the strategies which the company plans to achieve these goals.
- A plan for achieving other non-numerical goals.
- The internal procedures for resolving disputes about the interpretation of implementation of the plan.
- The persons in the workforce, including senior's managers, responsible for monitoring and implementing the plan.
- The duration of the plan cannot be longer than five years and not shorter than a year.

Although the Act provides additional details, these conditions are the most relevant for the purposes of the study. Tinarelli (2000) outlines the processes in developing a plan in sequential stages as shown in Figure 5.1 below.

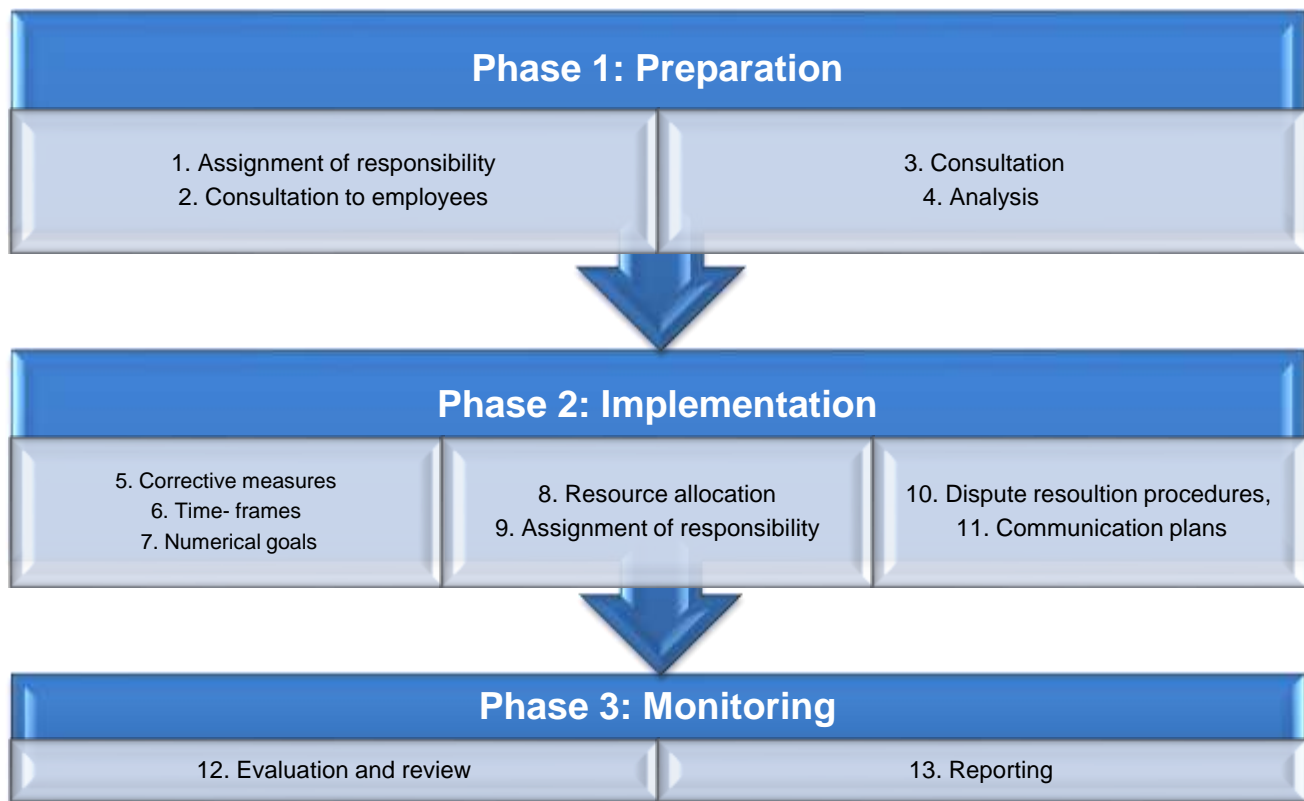


Figure 5.1: Developing an Employment Equity Plan

Source: Tinarelli, 2000: 62

5.1.1 Case Study 1: Company B

The case study below was reported on in 1993, yet many of the issues raised are still relevant today. The second benchmark on the generic B-BBEE scorecard is management control and employment equity (see Table 4.2 and Section 4.2.1). As required by the B-BBEE Act these targets are to be met in five to 10 years. Using this benchmark, Company B's main goal was to increase blacks in senior management. Targets were accompanied with strategies which included recruitment, retention and development.

5.1.1.1 Can competence and AA co-exist in business?

'People power' has always been a critical component of Company B's corporate culture. The company understands that sound employee relations are an essential basis for all good customer relations. Company B's philosophy includes a belief in non-discrimination and an acknowledgement that a company has a responsibility to provide growth opportunities based on merit.

The quote above (De Wet, 1993: 91) is evidence of Company B's longstanding commitment to a strong 'people development culture': one indicator of this is that at the time of this interview (1993), in

over 25 years of operation, all store managers had been promoted from within Company B. This approach had rendered Company B in violation of some apartheid legislation, for example the Group Areas Act, when in the 1970s they appointed a coloured person as a store manager in a team with white employees; and when they allowed their black employees to join unions despite legislation to the contrary (De Wet, 1993: 91). As De Wet (1993: 93) remarked

Retailing has changed much over the years, including longer and flexible working hours, regular Sunday trading, and changes in technology. These changes have dictated a greater role for supervisors, who, with the right education, training and guidance, are able to progress to senior management positions. For Company B, they form a pool of management talent.

In the mid-1980s, Company B attempted a more aggressive form of AA and instituted a policy that required that 50% of the new trainee managers were to be black. This venture was unsuccessful. De Wet (1993: 93) quoting a manager, outlined the reasons:

"There was no real support from line management and no support programme for the trainees. We had to adopt the same 'sink or swim' on-the-job training programme other trainee managers were subject to, which allowed little margin for error.

Compounding all of this was the fact that most black trainees simply got left behind as our rapid expansion programme took off. Our monitoring and mentoring programmes were largely ineffectual. And of course, the industrial relations climate at that time left much to be desired."

Many of these challenges remain common in the retail sector in efforts to implement AA strategies.

However, the programme was not entirely unsuccessful. With the advent of computers an opportunity arose for employees to seek advancement to management positions from clerical ones. In the HR division, Company B achieved a situation where HR managers "of all race groups perform on merit in a multi-racial environment" (De Wet, 1993: 93).

De Wet did not support a strict quota system, and believed in commitment to structured goals for Company B's regional units. He argued for an adjustment to selection and promotion, including not focusing on the immediate work performance of an individual when assessing their potential but rather involving shop stewards and management in the selection process and providing education and skills training before an individual is promoted to ensure they do not fail. The selection process should also focus on promoting people whose skills match to the job and performance should be monitored continuously (De Wet, 1993: 102).

Although conducted over 20 years ago, this case study is useful because organisations are at different stages in their life cycle, so what was relevant for Company B then will be relevant for many companies now.

5.1.2 Case Study 2: Company A

This case study presents a summary of an EEP formulated by a large retailer, Company A. It meets all the steps required by the EEA which is immediately apparent from their well organised Table of Contents. The document identifies and assigns a Senior Manager for EE, and his roles are clearly outlined in the plan. Company A has both an EE Manager and an EE Committee to assist in certain tasks, such as reviewing recruitment policies.

The key challenges faced by Company A were in the hiring of “suitably qualified” people and consulting with and informing employees after implementation. To address these, Company A

- Created EE strategies to target recruitment and selection processes, including formal processes for talent planning, talent management and succession planning which also build behavioural and technical competency.
- Valued achieving increased competency levels and coupled this with ensuring that numerical goals were created and achieved as far as possible.
- Has a bursary scheme for employees.

5.1.2.1 Barriers and remedial actions

After reviewing their company and workforce profile, Company A identified areas that functioned as barriers and formulated actions to address these, as described in Table 5.1.

Table 5.1: Barriers and remedial action steps

Barriers identified	Actions taken
Corporate culture: Lack of sensitivity towards cultural and gender diversity	Include diversity sensitivity in induction programme and people management training
Low level of secondary education hampers progression	Focused training based on individual needs analyses (potential assessment) to ensure designated employees are given all the support needed to perform on next levels
Loss of internally developed skills	Talent Rollout Project
Other companies pay high premiums for "suitably qualified" people from the designated groups and "headhunt" them from other employers	Track reasons for offers not accepted to determine if we lose strong EE candidates based on uncompetitive remuneration packages
Discipline to be applied fairly in compliance with Schedule 8 of the LRA	Address specific concerns that may arise with specific reference to the application of the principals contained in Schedule 8 of the LRA.
Company's facilities not always convenient or accessible to employees with disabilities	Company adheres to the national building regulations and building standards that also provide clear regulations in terms of facilities for disabled persons All reasonable steps will be taken to ensure that the work environment and facilities are accommodative of disabled employees – EE Forum to report on matters of concern to be investigated on a continuous basis
Retention of designated groups	Exit interview survey to determine reasons for leaving the organisation and appropriate steps to be taken to rectify identified problems if is so desired
Succession and experience planning	Talent management and training and development to identify and develop people from the designated groups Report back to EE Committee at scheduled meetings or as and when required
Sexual Harassment	Design policy and hand copy to Union (employee representation) Awareness campaign to inform all employees

Source: Company A, 2014, summarised by the author

5.1.2.2 Approach to numerical goals

Company A adopted a strategy that aims to reach these goals in all occupational levels. The targets were realistic as the retailer based them on conservative information which could be verified and predicted with a high level of certainty from their knowledge and experience in the sector (Company

A, 2014: 11). As a national business targets were set on a national basis, taking into consideration the regional profiles of the different divisions, because these divisions are not equally spread out.

Difficulties Company A faced in setting numerical goals were the size of its workforce and the economic dynamics of the retail sector. Rather than on actual headcounts, it set its targets by planning on the percentage composition of the workforce, based on the profile of the adjusted EAP per the June 2009 Quarterly Labour Force Survey. In Company A's case the most realistic and practical method to setting numerical goals would be a regional approach.

Comparison with previous EEPs shows that from 2005–2009 progress was experienced in employing people from the designated groups, as seen in an increase in all occupation levels except for black females in management (Company A, 2014).

Company A's current workforce profile is presented in Figure 5.2 below:

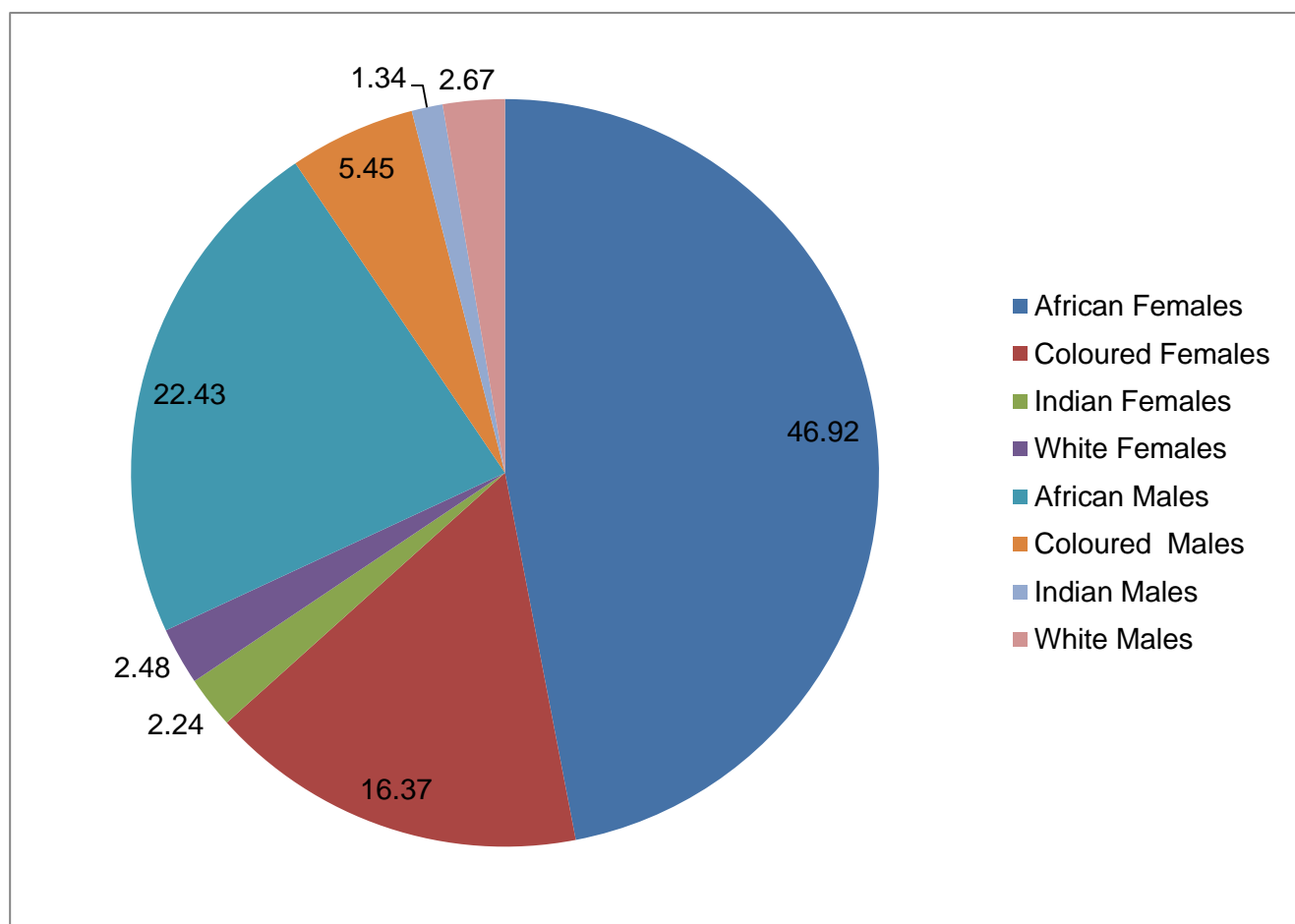


Figure 5.2: Company A workforce profile

Source: Company A, 2014

When broken down, the data in Figure 5.2 reveals that women make up almost 70% of the workforce, with African women dominating the entire workforce. Yet, according to the EEP, white males dominate the top tier management positions with African males following second. When matched against the South African EAP profile, it becomes evident that within the top levels of management, the over-representation of white males and females, as well as Indian males, needs to be reviewed. This is in contrast to the semi-skilled and unskilled levels where the over-representation of females needs to be reviewed, as well as the fact that black women in general are under-represented on management and supervisory levels (Company A, 2014).

5.1.3 Case Study 3: Company C

During the 2012 DG review process, the company was found to be operating with an EEP that did not meet the requirements of Section 20 (2) of the EEA, 1998. At that time the company lacked strategies to create and accelerate a pool of “suitably qualified” designated groups in corporate and junior management levels, and women leaders, including buyers and planners, with a sound understanding of retail. The company also had challenges in accountability for transformation (extract from CEE Report, 2014).

5.1.3.1 Interventions undertaken

Company C’s responses to these challenges included:

- Creating a Merchandise Academy which accelerates the development of merchandise competencies;
- Incentivising recruitment agencies with level 3-4 recognition to ensure the suitable placement of designated groups;
- Creating a recruitment tracker to provide the company with a more powerful approach to managing placements of designated groups;
- Participating in the WRSETA NQF (national qualifications framework) Level 5 Buying and Planning Learnerships;
- Creating a female consumer panel to gauge insights from women on various areas of business and consumer patterns;
- Developing an internal management bridging programme; and
- Developing a unique E-based learning programme.

5.1.3.2 Outcomes

In 2013 the DoL conducted a follow-up to monitor Company C's progress in achieving its numerical goals through implementing these interventions, contained in its EEP approved by the DG. The interventions returned the following results:

- Numerical goals in senior management and professionally qualified levels were surpassed in the last 2013 reporting cycle of the approved EEP.
- Sixty-eight percent of designated groups placed in the merchandising team are providing exceptional results, and the company now has several African male and female buyers at strategic level.
- Although the female consumer panel only started in 2013, it had already contributed to the placement of the first black female, who is heading a regional distribution centre.
- Forty-one women make up the panel, which has started to add value to the company by providing feedback on the expectations of female consumers.
- Internal management bridging programme was developed and they launched the first Admin Manager Supervisory Programme (NQF4). Ninety-one Deputy Admin Managers completed a 12-month accredited programme aimed at bridging the gap between supervisory and management levels.
- It had developed a unique E-based learning programme (supported by Wal-Mart International), with 29 students, 60% of whom are black; the programme equips students with critical management skills, empowering them to transform the business themselves.

5.2 FINDINGS FROM INTERVIEWS

This section contains key results from the four interviews conducted with a representative from the DoL, the trade union chairperson and two W&RSETA managers. These are contrasted with the organisational philosophies of the CEOs of two large retailers.

5.2.1 Interviews with government, unions and the W&RSETA

The major points arising from the interview with the trade union chairperson were

- Unions promote a quota system.
- EE plans are made via discussions in EE Forums, but are not always fulfilled.
- Lack of commitment by senior managers.
- Lack of general understanding of requirements and content of the EEA.
- Quota system “number pushing” is desirable where progress is not being made.
- There is a disjunction between EE and skills development.

The trade union chairperson did not support sentiments expressed in the literature on numerical goals; he stated “I see no problem in pushing numbers”. This may be because he felt that despite negotiations, no or little progress was made; thus an aggressive approach such as a quota system would be advantageous. He mentioned that although there are negotiation teams that represent workers on the EE Forums, which are given the opportunity to give their input, “plans are placed on the table and two years later we still don’t see any implementation or transformation taking place” (Retail Union, 2014).

Unions do have the option of reporting organisations to the DG at the DoL, based on their observation of non-implementation by employers.

The second interview, with The Deputy Director of the DoL, yielded results similar to the findings from the questionnaires (see Section 5.3 below).

She identified a variety of shortcomings in companies in the W&R sector with regard to fulfilling their obligations in terms of the EEA, including:

- People running EE in the company are junior, whereas the Act requires them to be senior staff.
- EE forums are not well constituted.
- Companies could not produce an EE analysis (workforce profile).
- Companies do not make/know the distinction between the EE plan and EE report.

She observed of the staff running the forums

They do not know their mandate or their role, i.e. consultation or why they are consulting. Why are they consulting? No one is giving the employees the training on why they are there. They don't even know that they are to report on the analysis, plan and on the report and they also don't even have a copy of the Act (W&RSETA, 2014).

She recognised the need for the DoL to run training workshops for EE forums, including general training on the EEA, with a focus on senior management as commitment from them would result in progress on transformation, as evidenced by Company C.

The final interview findings were from two W&RSETA retail managers. These interviews outlined the role played by the SETA and the challenges that it faces. The first manager noted that it is important for the SETA's skills development facilitators (SDFs) to know about EE implementation as skills development is about increasing the number of competent EE candidates. The SETA has programmes such as the ILDP (International Leadership Development Programme) which "focuses on equity candidates. The SETA is very focused on EE (the national demographic focus) – we try to practice what we preach" (W&RSETA, 2014).

The second manager elaborated on the activities of the SETA, such as programmes that target specific occupational profiles and then equip managers via these programmes to further their careers. According to this manager

The problem is: how will they be getting the opportunity for higher positions? This is something out of our control. There is a small progress measured a year later of candidates being in higher positions. There is a disjunction between EE and skills development. In my opinion the two should have been made one. When it comes to reporting, you can only do a once-off. This is one of the reasons, when it comes to EE, we push numbers – when it comes to skills development we push numbers. From a policy perspective it could be better if the SETA monitors both because it's integrated. The EE plan could have been incorporated with the WSP [workplace skills plan] and ATR [Annual Training Report] – but this is a policy issue. In companies, the EE plan does not match the Skills Development Plan. The dates of reporting differ as well. This in itself makes it that the two plans will not speak to each other. Scarce skills in the sector also need to be linked to the EE plan and report of organisations.

These interviews confirmed that the idea of pushing numbers was encouraged because, from the perspective of the DoL, SETA and unions, progress was deemed to be too slow or non-existent. This view is not supported by many organisations.

5.2.2 Organisational Philosophies on Employment Equity

This section presents the philosophies of the CEOs of two large retailers, and the impact these have on EE implementation in their companies. The significance of implementing EE in these companies is wholly due to the emphasis and commitment of the CEOs. These two top managers have put in place formalised strategies for the growth and advancement of designated groups in their respective companies. The information presented here is taken from the companies' annual reports and presentations to their EE forums; per agreement with the CEOs the names of the companies will not be divulged.

5.2.2.1 Organisation 1: CEO's EE philosophy

Business context

In view of existing EE policy, changes in legislation, the implications of B-BBEE (broad-based black economic empowerment) on industry, and the changing socio-political environment, the main purpose of management is to provide guidelines and principles for the implementation of an EE strategy and the actualisation of the strategies.

Strategy

Driving a sustainable and high-performance organisation (HIPO) through an EE strategy means that the HIPO strategy needs to:

- Institutionalise an EE focus into all managerial performance scorecards;
- Develop and implement an EE strategy that demonstrates active commitment to attracting, developing and retaining talent at underrepresented levels in the organisation;
- Ensure superior talent is employed and/or developed to maximise organisational performance;
- Develop leadership at all levels that will demonstrate commitment to the EE vision;
- Design and deliver plans to build and sustain core competencies to support group strategy; and
- Ensure measurement of effectiveness as part of every intervention.

Medium-term plan

To ensure effective deployment of the EE strategy, the action plan for EE comprises four key areas:

Attract

- Setting EE targets;
- EE and disability recruitment: separate policy to support this focus; and

- Identifying specific positions for targeted recruitment of historically disadvantaged individuals (HDIs).

Retain

- Competency profiling;
- Career management process;
- Climate surveys; and
- Exit interviews.

Develop

- Conduct leadership development programmes with the assistance of the Leadership Pipeline;
- Continue existing training and development programmes including generic sales and marketing training; Customer Service Consultant training; growing the Marketing Academy; expanding brand awareness through promoting the brand board game;
- Align operational training with the competency module and career management process;
- Continue diversity training; and
- Provide and promote EE Forums, through member and chair training.

Communicate

- Website;
- E-magazine; and
- Staff newsletter.

Identifying the business needs

1. EE is an organisational strategy initiative; all HR policies and practices should reflect the spirit and principles of this policy.
2. EE is a critical component of our mission. A positive contribution from our employees will bring about a positive affirmative culture and programme.
3. EE will be driven by line management.
4. EE will form part of team and individual goals. We set ourselves numerical targets aimed at addressing representation not only at entry, but all, levels of our organisation. The targets are used for statistical monitoring of progress at regional and organisational level.

5. Failure to deliver on Point 4 above will be treated as a performance issue.
6. HR will ensure creation of an enabling environment through HR processes and procedures.

Whilst embracing the principles and ideas of EE, the current shortage of critical skills in certain areas of the business is a national challenge; some cases will need much creativity in addressing this lack of capacity. Actively pursuing diversity is the mission for competitive advantage: Affirmative Action is a means to achieving and maintaining desired diversity at all levels of the organisation.

5.2.2.2 Organisation 2: CEO's EE philosophy

Business context

The company's ambition is to be an employer of choice in the retail sector in South Africa. A strategic process of developing and supporting employees is in place so that in turn they can help develop the company and add value to its operations. To sustain this, comparable benefits and conditions service is part of the offering, whilst continually seeking opportunities to contribute to the welfare of employees. Commitment to the entrenchment of equality is a core value in the organisational culture. The significance of HR is acknowledged, as is the value that diverse groups bring to the workplace. EE initiatives are endorsed by top management as a business imperative; measures taken in this regard form part of the company's overall business strategy.

Strategy

The long-term goal is to have a workforce representative of the society and communities within the area of business. Special measures to ensure equal participation by black people, women of all races, and people with disabilities, are being taken. Active development of the potential and competence of these designated groups will receive much attention.

The EEP was formulated in good faith after consultation with various role players. Regular consultation takes place with the representative union on behalf of their members. The forum includes employee representatives from both designated and non-designated groups across all categories and levels within the organisation.

Broad objectives

Endorsement of the key areas of EE, as identified in the EEA, 1998, namely the:

- Elimination of all forms of unfair discrimination;
- Eradication of all forms of harassment;
- Promotion of employee diversity;

- Reduction of barriers to access and advancement for previously disadvantaged groups;
- Implementation of positive measures to further the interests of black people, women of all races, and people with disabilities, at all levels and categories; and
- Achievement of equitable demographics in the workplace.

Promoting Employment Equity and eliminating barriers

Through consultation with the EE Committee, the company identified a number of barriers within the organisation that have to be addressed. Affirmative Action measures include:

- Corrective steps to address the barriers identified;
- Measures to further diversity in the workplace;
- Reasonable accommodation measures to ensure equal participation in the workplace; and
- Measures relating to the training and development of the designated groups.

Affirmative Action initiatives must avoid tokenism and can only be implemented in so far as they sustain economic viability.

5.3 FINDINGS FROM QUESTIONNAIRES

Retailers across the spectrum of large, medium, small and micro enterprises were asked to complete an extended version of the survey questionnaire (see Appendices D–F). Only 33 completed responses were returned, from those regions where the W&RSETA had active forums, out of 1 104 questionnaires mailed. The fact that completion of the survey was voluntary is a probable reason for the low response rate. Figure 5.3 shows the sample respondents by size of the business enterprise, where $n = 33$.

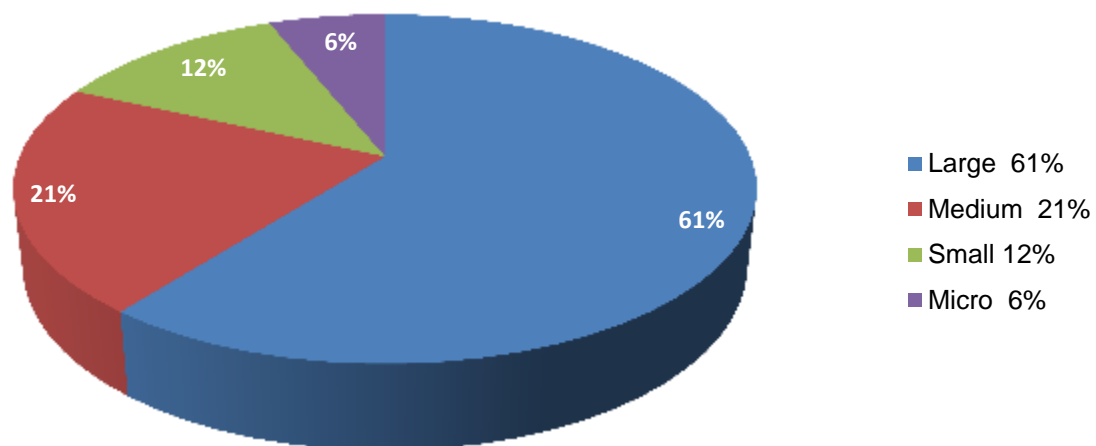


Figure 5.3: Sample respondents by size of company

Source: Survey questionnaires

According to Figure 5.3, 61% of completed questionnaires were from large (>100 employees) companies. As 21% came from medium companies (<100 employees), 12% from small (5–50 employees) and 6% from micro (<5 employees) companies, these results do not adequately represent the small and micro organisations.

5.3.1 Key Findings

Survey Questions 5 and 10 were deemed to be the most important questions, as they probed the biggest challenges faced by companies, and the groups targeted for EE initiatives.

In response to Question 5, viz. "Name some of the *Challenges* or *Barriers* your organisation faces with the EEA?" Figure 5.4 presents a summary of the challenges experienced by both large organisations and SMME retailers (note that more than one answer was allowed):

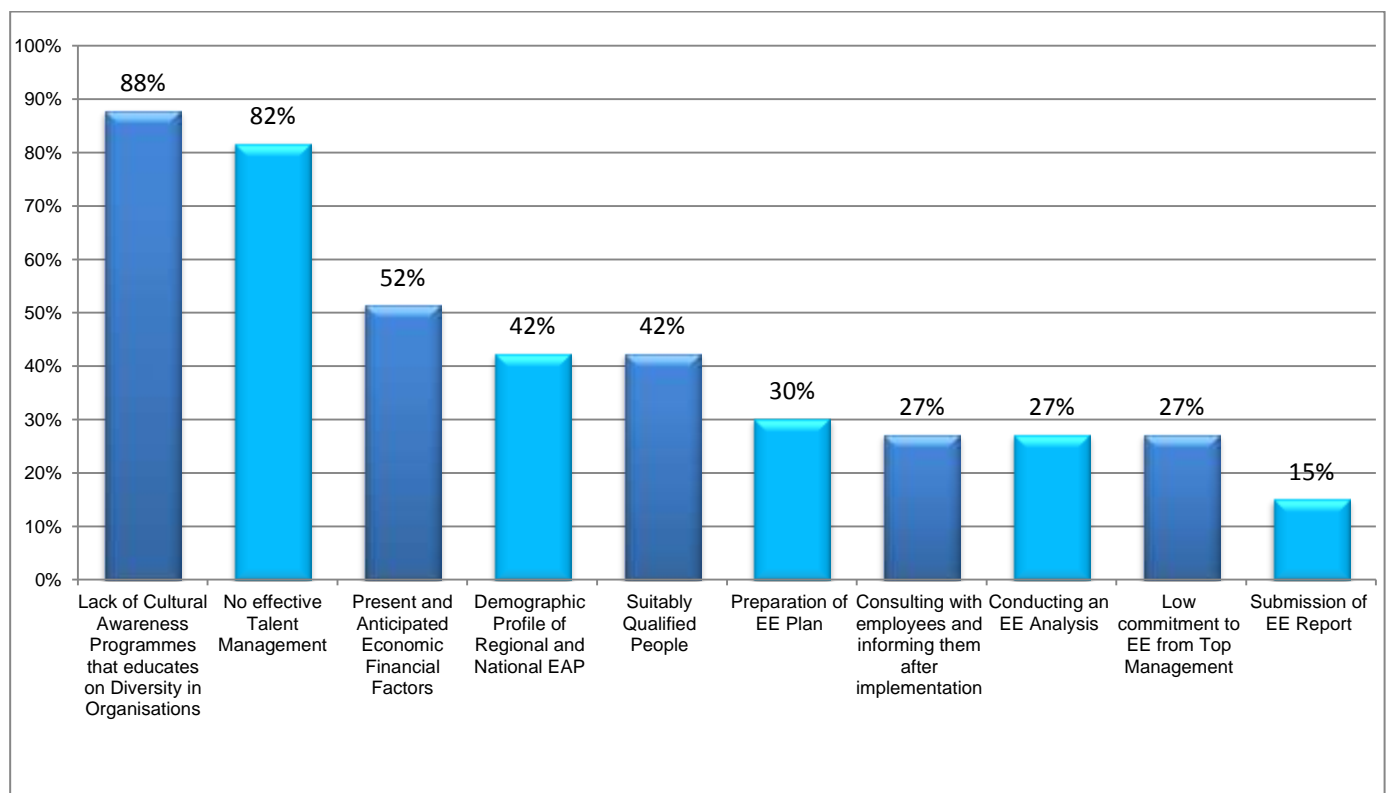


Figure 5.4: EEA challenges faced by your organisation

In ascending order the challenges experienced by the 33 responding retailers were:

1. *Submission of EE report*: 15% had difficulty in compiling or completing their EE report for submission.
2. *Consulting with employees and informing them after implementation*: 27% of organisations acknowledged they do not consult with employees after implementation of the EEP.
3. *Conducting an EE analysis*: 27% did not have the resources or competency to conduct an EE analysis.
4. *Low commitment to EE from top management*: 27% declared low commitment from top management.

5. *Preparation of the EE plan:* 30% had difficulty with starting the preparation of their EEP.
6. *Demographic profile of regional and national EAP:* 42% claimed that they would have difficulty in filling positions if they took the prescribed demographic profile of the regional and national EAP into account in their EE planning.
7. *"Suitably qualified" people:* 42% found it is difficult to define "suitably qualified" as stated by the EEA, 1998.
8. *Present and anticipated economic financial factors:* 52% reported the economy has a definite bearing on their EE implementation.
9. *Lack of talent management systems:* 82% do not have a formal talent management system in place.
10. *Lack of cultural awareness programmes on diversity in organisations:* 88% have not rolled out any form of change or diversity management programmes.

Figure 5.5 shows the occupational levels mostly targeted for EE intervention, in response to Question 10 which asked "At which occupational levels are your EE targets/ plans (if any) aimed?"

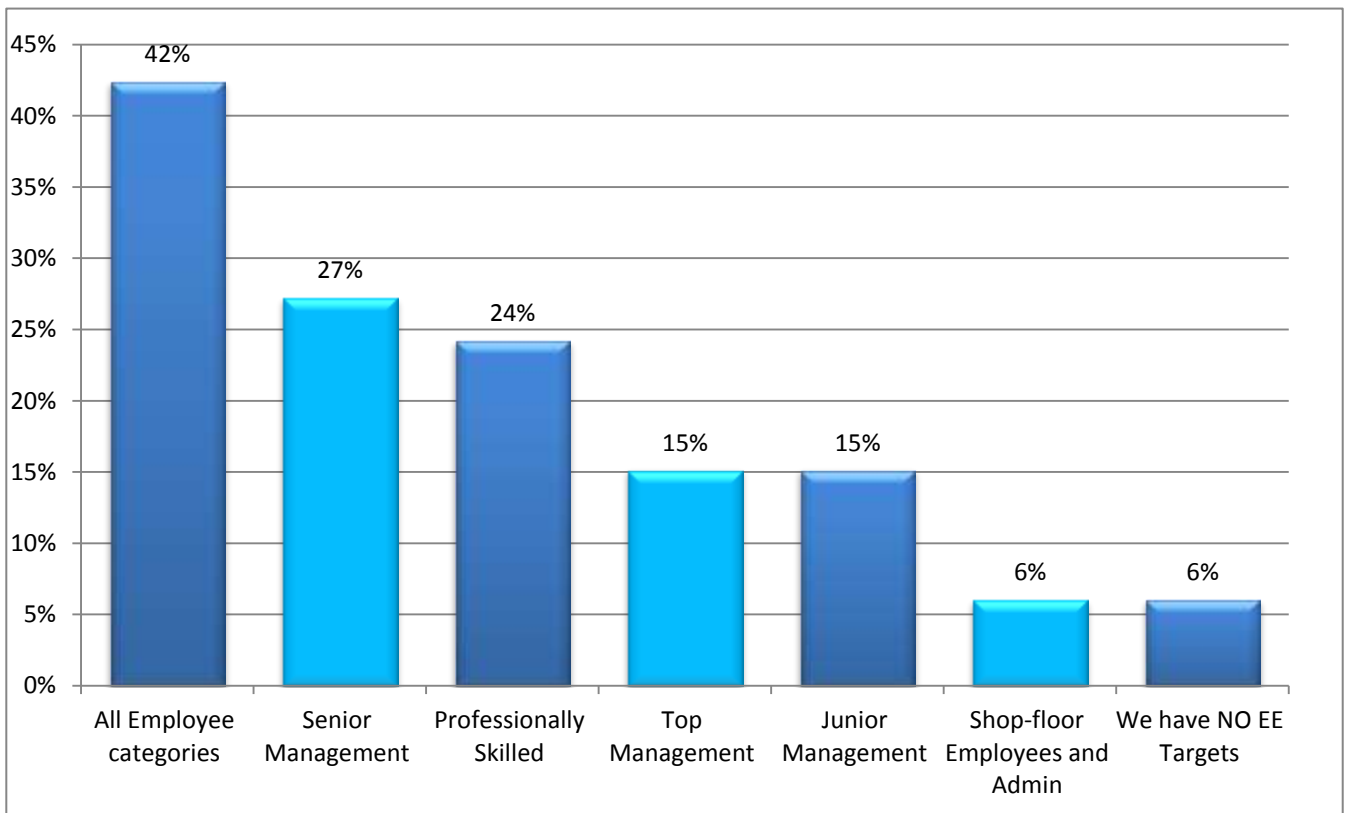


Figure 5.5: Organisation level target groups for EE initiatives

Forty-two percent of respondent organisations apply their EE focus throughout the company, i.e. to all employee categories; 27% focus on senior management as their EE target group, while 24% target the professionally skilled category. Top management and junior management are equal at 15%. Those answering "We have no EE targets" accounted for 6%; this response came mostly from medium and micro organisations.

5.3.2 Attitudes Towards, and Understanding of, Employment Equity

Employees clearly believe EE should be implemented: over 58% of the companies surveyed think it very necessary for South Africa to strive for EE (Figure 5.6), and 84.8% (combined figure) indicate that the implementation of EE is necessary to very necessary (Figure 5.7). From these results it is clear that business, across all size categories, supports EE and its implementation.

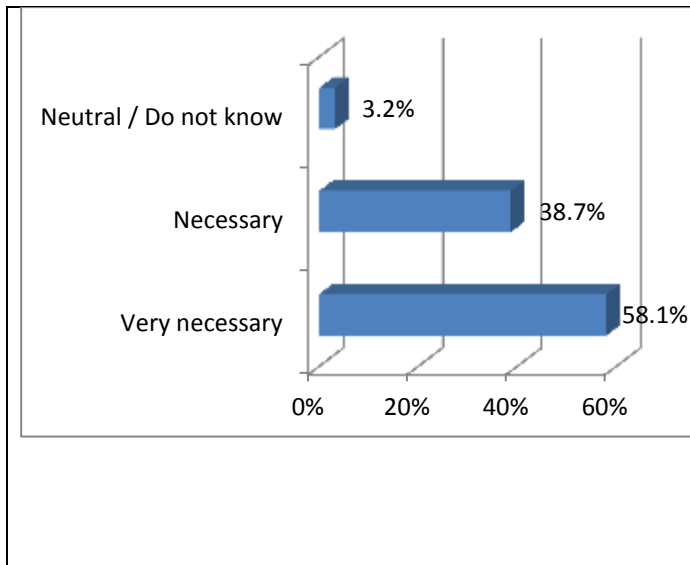


Figure 5.6: Should South Africa strive for EE?

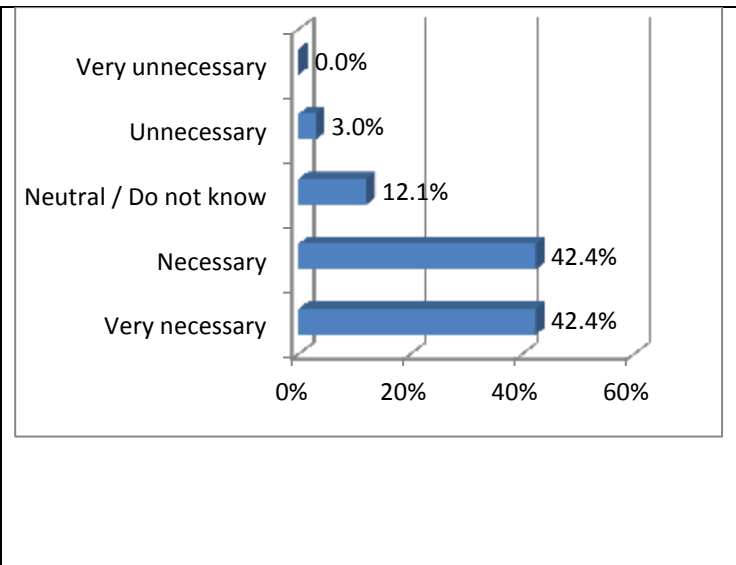


Figure 5.7: Is EE necessary for your company?

Figure 5.8 shows that vast majority (97%) of organisations interviewed believe they know some to all of the requirements of the EEA; only 3% said they understood very few of the requirements.

Over 90% of respondents felt that the "new" legislation contained in the EEAA, 2013 has considerable impact on the EE activities in companies, with half feeling it had an enormous impact (Figure 5.9). This indicates the EEAA, 2013 should have a positive influence on EE implementation in the future.

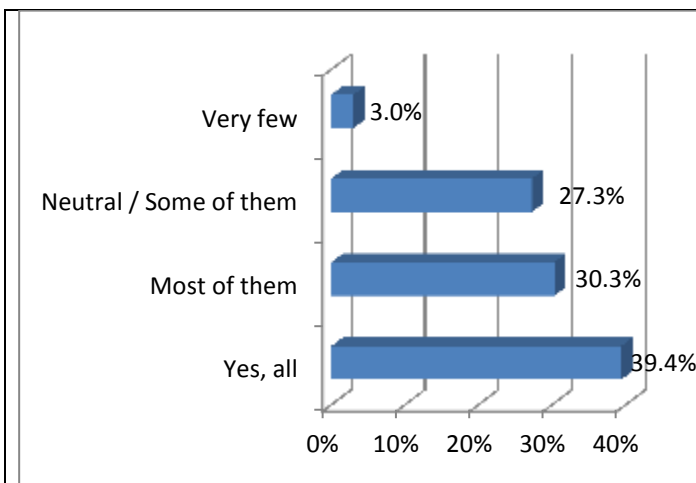


Figure 5.8: Understand the requirements of the EEA?

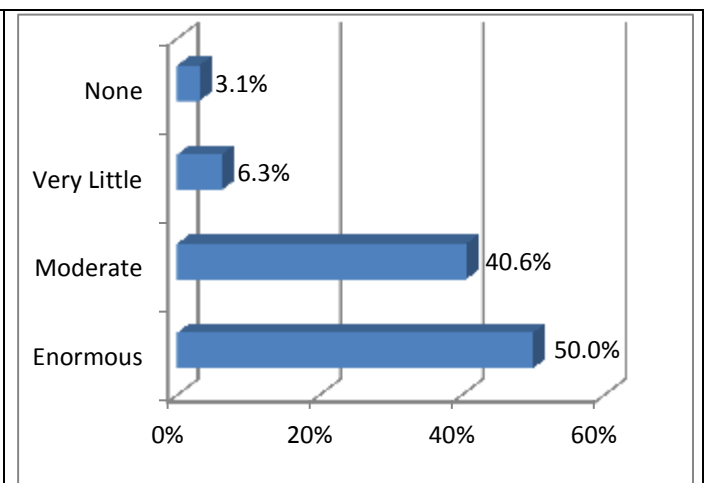


Figure 5.9: New legislation and your EE initiatives

5.3.3 Perceptions of Employment Equity

Table 5.2 records answers to questions that probed about EE and organisational culture, EE and race, perceptions of EE and EE legislation in practice. These indicate the attitudes and beliefs that underpin and influence companies' actions and attempts to implement EE. The findings underline how deep seated are many of the issues around EE, and retention of the designated groups.

Table 5.2: Perceptions of EE regarding organisational culture, legislation and race

EE and organisational culture			EEA legislation in practice	
Lack of cultural sensitivity where new recruits are expected to assimilate into the current organisational culture	Lack of cultural awareness programmes Lack of an organisational culture that values diversity	Low commitment to EE from top management Lip service by leadership about the need for EE	Slow EE progress at management level Inconsistent progress across departments in organisations	Ineffective consultation and communication around EE progress and implementation

Perceptions of EE			
58% of companies believe South Africa should strive for EE and that it is necessary in their specific place of work	50% of companies believe labour legislation (LRA, EEA, BCEA, B- BBEE) has an enormous impact on their actions in striving for EE (41%: moderate impact)	65% of companies have a dedicated EE manager 73% of companies have an EE manager who is a senior manager as defined by the EEA	30% of companies mostly understood the requirements of the EEA, but not always

EE and race		
A white male dominant organisational culture that continues to exclude black recruits, formally or informally, through exclusionary network practices	Black people are selected as tokens Not fully integrated into companies Little delegation of real responsibility or decision-making authority Persistence of stereotypes	Black staff not systematically developed and trained No effective talent management

5.3.4 Findings Related to Employment Equity Management and Programmes

Findings from the questionnaires relating to who manages the EE strategy in a company, the presence or absence of an EE Committee, and of required policies on diversity and HIV, are presented in Figures 5.10 to 5.15 below.

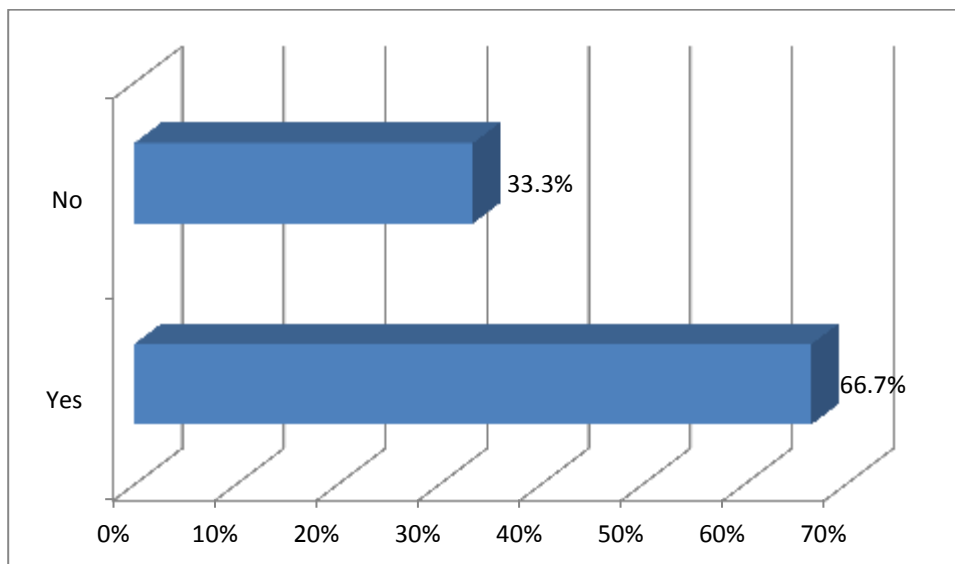


Figure 5.10: Presence of an EE manager dedicated to driving the EE strategy

66.7% of the companies interviewed had managers specifically appointed to drive EE implementation (Figure 5.10) and 57.6% of respondents named theirs as a senior manager as defined by the EEA (Figure 5.11).

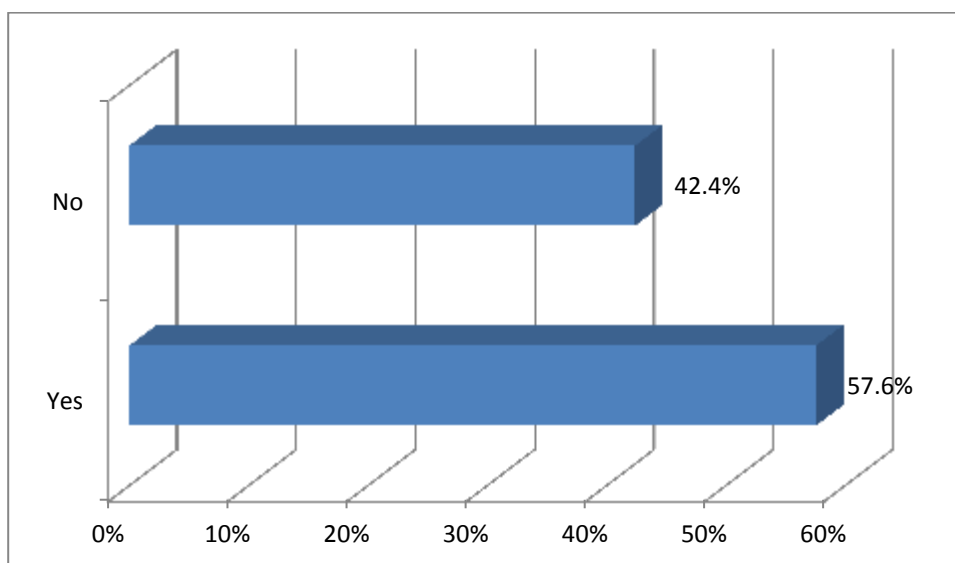


Figure 5.11: Presence of a senior employee as EE manager

In the one third of companies which do not have a dedicated EE manager (Figure 5.10), EE is managed by the HR manager (Figure 5.12).

In most companies (73%) an EE committee is in place (Figure 5.13).

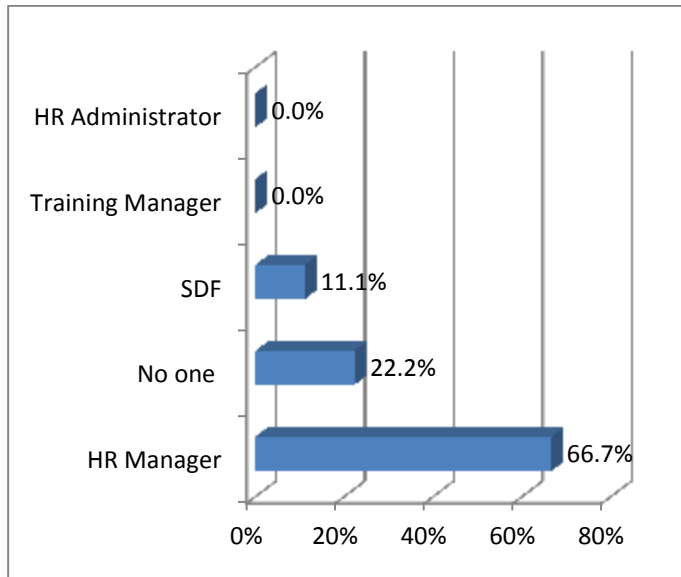


Figure 5.12: Non-senior manager responsible for EE

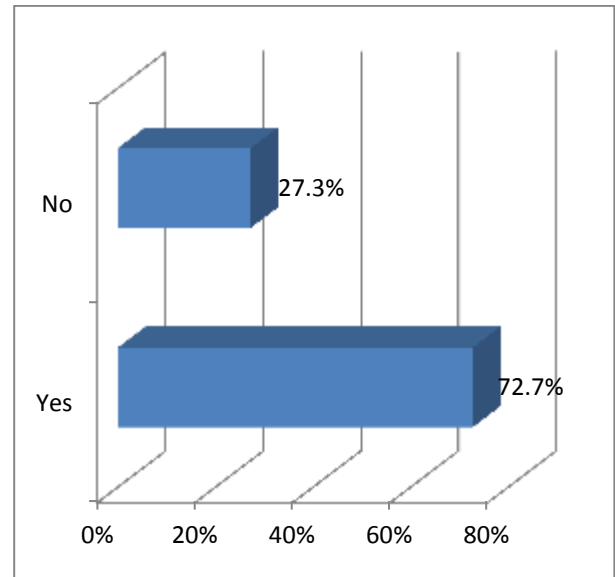


Figure 5.13: Presence of an EE committee

The 22% of responses which claim that no one is in charge is a concern. This links to the concern expressed by the DoL and unions that EE isn't a management focus. It is likely that this response comes from smaller firms which lack the human resources to manage this as an independent function. However, this should be seen against the EE focus of the CEOs of two of South Africa's largest retailers, who devote significant personal time and resources to driving the fulfilment of EE objectives.

In contrast to the presence of EE committees, in the previous 12 months 88% of organisations did not have a diversity programme in place (Figure 5.14). The 12% that did implement a diversity programme were mostly large organisations.

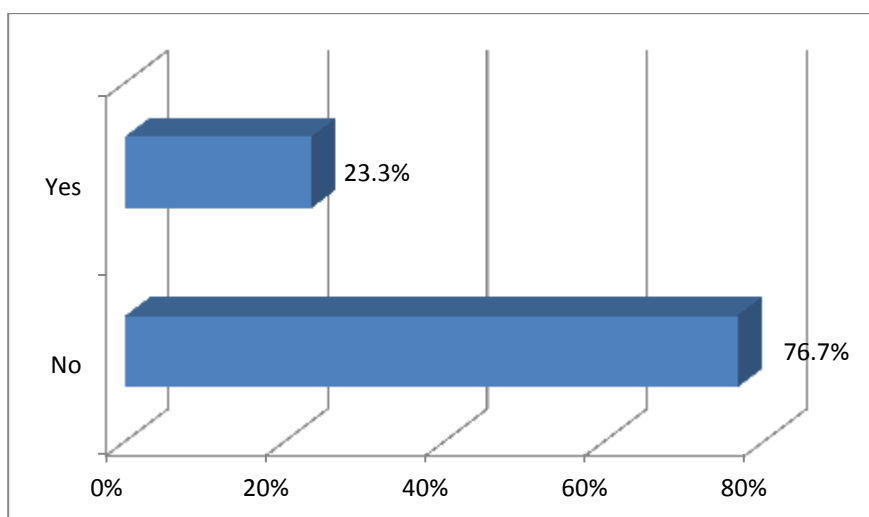


Figure 5.14: Presence of a diversity programme

Most organisations (61.1%), usually the large organisations, had a formal HIV/Aids policy (Figure 5.15) in place.

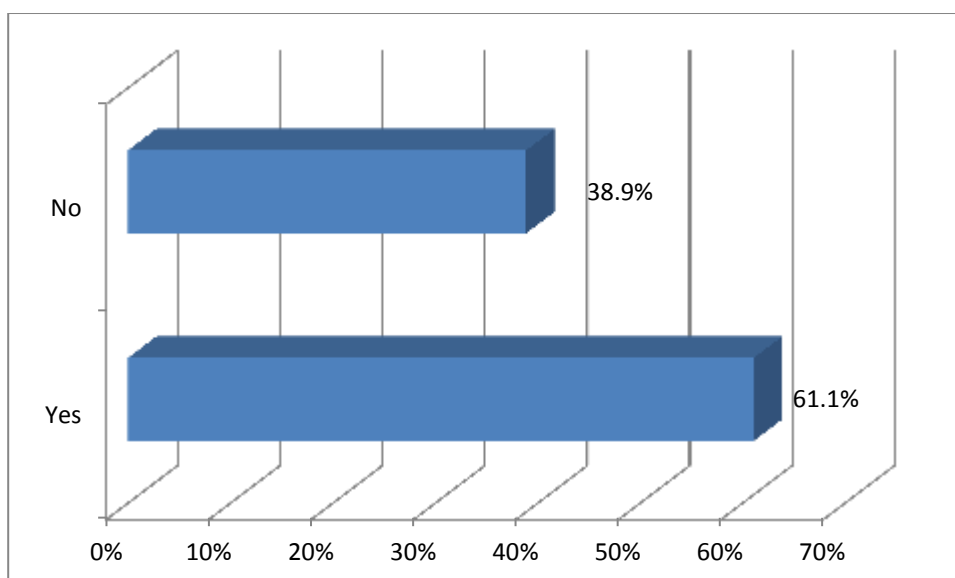


Figure 5.15: Presence of a formal HIV/Aids policy

Further general observations include

- When considering EE targets, increased competency levels are regarded as more important than achieving numerical goals, although this is not presented as a figure in this report.
- EEPs are based on the specific company profile; no general pattern was observed.
- None of the respondent organisations has done any international EE benchmarking.
- There is a low response for formal strategies of achieving EE: 82% of respondent organisations do not adhere to official processes for talent planning/talent management, succession planning and change and transformation programmes.
- Although not all companies proposed specific recommendations, there was a general feeling that the DoL needs to be more involved, especially delivering workshops around lack of cultural awareness programmes and on diversity management (in response to the key finding from the questionnaires, as shown in Figure 5.4) and preparation of EEPs and the EE reports.

5.4 AFFIRMATIVE ACTION PLANS OF TEN MEDIUM RETAILERS

The final element in the study was the analysis of the EEPs of 10 medium retailers, specifically regarding the AA measures they put in place to achieve their EE targets, including their preferred demographic profile; recruitment, selection and placement; impact of personnel turnover; economic climate; working hours; skills development; retirement and promotions; HIV/Aids, sexual harassment, grievance, and EE policies; and business and industry culture.

All 10 retailers were of medium size and were situated in agricultural (rural) geographical locations. They experienced a particular challenge with recruitment and selection processes in that it was difficult to obtain "suitably qualified" black staff. Although positions are advertised in newspapers, very few applicants are black. Figure 5.16 shows the focus of their occupational groups for AA purposes: the strongest focus is on top management, followed by general workers and then senior management. Specific demographic profiles are shown in Table 5.3 below.

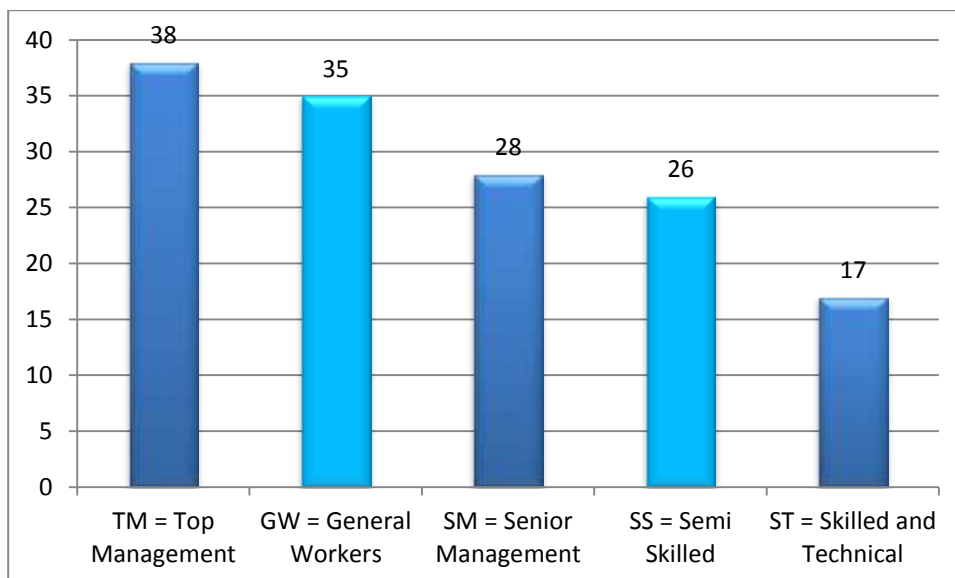


Figure 5.16: Affirmative action targets of 10 retailers

Figure 5.16 shows that the following positions were filled by designated groups:

- 38 top management positions;
- 35 general worker positions;
- 28 senior management positions;
- 26 semi-skilled positions and
- 17 skilled and technical positions.

As shown in Table 5.3 below, top management positions:

- are earmarked by 80% of retailers for African males,
- are earmarked by 80% of retailers for African females,
- are earmarked by 70% of retailers for coloured males and females
- are earmarked by 60% of retailers for white women and
- only 20% focus on white males for this occupational group.

The rest of the preferred demographic profiles are self-explanatory in Table 5.3. For transformation purposes, 80% of the retailers stated they would place white females in the general worker category and 60% would do the same for white males.

As stated in the EE plans, personnel turnover was low. However vacancies will open up for identified designated employees as a result of retirements, people exiting the organisation and a challenging economic climate.

Working hours were a challenge because of the late and long shifts, especially for African females. Sixty percent of retailers found that they would have to address their business culture, which reflected their geographic location or the specific type of work they performed. In one organisation that had previously only employed men due to the nature of the work, language turned out to be a problem. In this instance preference would be given to women that had the ability, skill and experience to operate in a male-dominated environment. Four retailers indicated that they still needed to draft or revise their HIV/Aids and sexual harassment policies.

















One retailer acknowledged it did not have a policy regarding handling EE disputes.

It was disconcerting to note that only 50% of these retailers reported having skills development initiatives in place for identified employees in the preferred demographic profiles groups. The retailers may all have declared their intentions in their WSPs in this regard.

Overall, the analysis of the plans indicated that the retailers were taking a 'numbers' approach and there was no clear evidence to indicate that competency development ran parallel to their identified preferred demographic profile groups. However, it was evident that the 10 retailers had achieved more than the sector norm on the subject of 'demographic profile' and they were in line with the requirement of meeting the national demographics of the EAP.

Table 5.3: AA measures in EEPs of 10 retailers

Activities to Improve/Enhance Affirmative Action Implementation	Retailer 1	Retailer 2	Retailer 3	Retailer 4	Retailer 5	Retailer 6	Retailer 7	Retailer 8	Retailer 9	Retailer 10
1. Preferred Demographic Profile:										
1.1 African Male (AM)	SS/GW	SS/ST/ GW	TM/SM	TM/SM/ SS/GW	TM/SM/ GW	TM	TM/ST/SS	TM/SM/ SS	TM/SM/ GW	TM/SM
1.2 African Female (AF)	SS/GW	SS/ST/ GW	TM/SM/ SS/GW	TM/SM/ SS/GW	TM/SM/ GW	TM/SS	TM/ST/SS/ GW	TM/SM/ SS/GW	TM/SM/SS /GW	TM/SM/SS/ GW
1.3 Coloured Male (CM)		SS/ST	TM/SM	TM/SM	TM/GW	SM/ST	TM	TM/SM/G W	TM	TM/SM
1.4 Coloured Female (CF)		SS/ST	TM/SM	TM/SM		TM	TM/ST/SS/ GW	TM/SM/ SS	TM/SM/SS /GW	TM/SM/SS/ GW
1.5 White Male (WM)		SS/ST/ GW		SM	TM/SM/ GW	TM	GW	GW	SS/GW	GW
1.6 White Female (WF)		SS/ST/ GW	TM/GW	TM/SS/ GW	GW	TM/SM/ST /SS	TM/ST/GW	TM/GW	GW	TM/SS/GW
2. Recruitment, Selection and Placements										
3. Personnel Turnover										
4. Economic Climate/Activity										
5. Working Hours										
6. Skills Development										
7. Retirement and Promotions										

8. HIV/Aids Policy										
9. Sexual Harassment Policy										
10. Grievance Policy										
11. Business/Industry Culture										
12. Employment Equity Policy (Disputes)										

LEGEND: TM = Top Management; GW = General Workers; SM = Senior Management; SM = Senior Management; SS = Semi Skilled; ST = Skilled and Technical

5.5 CONCLUSION

The concept of EE is familiar to organisations, and although the necessity for it is appreciated, organisations in this sector are generally failing to comply fully with the regulations of the EEA. There is a great lack of knowledge on the writing and creation of EEPs and EE reports. Even in situations where plans are made, organisations experience difficulty in following through on the planning and implementation.

The biggest challenges faced by organisations were:

1. Lack of cultural awareness programmes on diversity management: 88%.
2. No effective talent management system, policy or process in place: 82%
3. Present and anticipated economic financial factors which have a direct impact in the implementation of EE in their organisation: 52%.
4. "Suitably qualified" people and demographic profile of regional and national EAP: 42%.

There are risks in running a business in an unsteady economy that cannot be predicted and thus are difficult to plan for. A fluctuating and ever-changing economy has a great impact on the working of organisations.

As observed by the Deputy Director of the DoL, it is clear that bodies such as the W&RSETA and DoL need to implement programmes that focus on training senior employees on the concepts and application of the EEA. This, however, is only the beginning: training managers does not guarantee the success of measures implemented, but would strengthen the process of transformation.

Chapter Six delves deeper into AA initiatives in South Africa, and suggests possible interventions and recommendations to attain EE in the W&R sector.

CHAPTER SIX

THINKING THROUGH AFFIRMATIVE ACTION

The literature review, interviews, analyses of case studies and the survey results identified general challenges faced by organisations when implementing EE in the W&R sector, including:

- Preparation of the report,
- Implementation of an EEP,
- The demographic profile of an EAP,
- Finding and hiring “suitably qualified” people,
- Dealing with present and anticipated economic factors and
- Lack of cultural awareness programmes and diversity education.

This chapter discusses these problematic areas in attempting to achieve EE, and offers recommendations to various role players. It starts with a discussion of barriers, such as insufficient focus, co-ordination and integration of existing implementation processes in organisations, which accentuate the challenges being faced.

6.1 CHALLENGES TO EE AND AA IMPLEMENTATION

Six years after Booysen’s 2007 study looked at the reasons why organisations lost black staff as fast as they were recruited, the findings of the current research confirmed her results, showing just how deep-seated are the issues around EE implementation. The barriers and reasons for the high attrition rates Booysen (2007) identified also point to the slow pace of transformation, a concern raised by some of the interviewees:

- Slow EE progress at management level and inconsistent progress across departments in organisations;
- Low commitment to EE from top management, with lip service by leadership about the need for EE;
- Ineffective consultation and communication around EE progress and implementation;
- A lack of cultural sensitivity where new recruits are expected to assimilate into the current organisational culture;
- A lack of cultural awareness programmes and of an organisational culture that values diversity;

- A white, male-dominant organisational culture that continues to exclude (formally or informally through exclusionary network practices) black recruits;
- Black people are selected as tokens and not fully integrated into companies because of little delegation of real responsibility or decision-making authority;
- Black staff are not systematically developed and trained; there is little or no effective talent management; and
- Lack of black mentors and role models.
- Most companies apply their EE focus throughout the company, with the second most targeted group being top management; and
- Lack of black mentors and role models.

Supporting and adding to these, the current study identified the following:

- 30% of respondents mostly understood the requirements of the EEA, but not always;
- 50% of respondents believed that legislation such as the EEA, and allied legislation including the LRA, BCEA and B-BBEEA, have an enormous impact on companies' actions in striving for EE, while 41% believe the impact of this legislation has a moderate impact;
- Increased competency levels are regarded as more important than achieving numerical goals when considering EE targets; and
- Education levels among blacks are generally low, which may make hiring a pool of "suitably qualified" staff difficult (Statistics South Africa, 2015).

The lack of understanding of EEA requirements in one third of respondents may be a result of the frequent delegation of driving EE processes to junior employees (see Table 5.11) who are not trained to run EE forums effectively or formulate EEPs. Without this training, knowledge of the EE process is vague; employees may recognise its existence but feel no urgency in completing it efficiently. This is especially likely in smaller firms as training and development budgets are small and often not prioritised.

These findings are consistent with the issues identified by the Deputy Director of the DoL, and findings from the literature review which emphasised the lack of commitment from senior managers.

The questionnaire findings also identified specific organisational culture issues and external barriers, which may be grouped into three categories: implementation, organisation culture and external forces. Respondents viewed these barriers as contributing to the gap between espoused EE policy and EE practices and progress.

In addition, as confirmed by the questionnaires, recruitment, development and retention processes that do exist are fragmented and are not integrated or aligned with one another. The overarching reason for this may be due to a lack of commitment from senior managers to adopt seriously a transformative approach to EE in their businesses.

This lack of commitment causes a trickledown effect which in turn hinders compliance with the EEA, regarding preparation of EE reports and EEPs; discussions with employees, conducting an EE analysis and talent management.

These barriers can be dealt with if senior managers are committed to attaining EE in their organisations, as they have the structural power to drive change.

6.2 CONSEQUENCES OF BARRIERS

Oosthuizen and Naidoo's (2010) report revealed many large corporations faced the dilemma of maintaining high productivity levels while having to comply with the legislation. The authors found that the perception of shop floor employees was that managers at all levels are not committed to the EE implementation process and the following problems cropped up repeatedly:

- The existence of systematic discrimination;
- Transformation;
- Questions over leadership; and
- Difficulties retaining black people.

In addition Gama (the DoL's Chief Director: Provincial Operations in the Eastern Cape) (2013) lamented the facts that:

- Many companies do not have EE forums;
- Junior human resource practitioners are delegated to take charge of EE as it is not seen as a business imperative but as an administrative burden;
- Some employers do not have EEPs;
- Employers submit reports long after the closing date; and
- EEPs and EE reports contain incorrect and inaccurate information.

Gama noted that if EE is seen as a burden, 'malicious compliance' could occur, where EEPs are submitted just for the sake of compliance.

Other challenges for business in EE implementation are found in the practicality of consulting with employees and informing them before implementation and the size of the organisation which influence the feasibility of dialogue.

The EEA requires that one or more managers are assigned to the implementation and monitoring of the EEP. The business is required to conduct an analysis and show in their EEP how they intend rectifying areas that do not meet required standards. Questions arising from these challenges are:

- Is one person adequate to take on the task of organisational or institutional transformation?
- Do all companies have the ability and capacity to undertake this role?

The EEA requires that one or more managers are assigned to the implementation and monitoring of the EEP. The business is required to conduct an analysis and show in their EEP how it intends to rectify areas that do not meet required standards. This leads to the following questions:

- Is one person adequate to take on the task of organisational or institutional transformation?
- Do all companies have the ability and capacity to undertake this role?

Other concerns are:

- The ability to submit the report on time;
- Satisfying the demographic requirements of the regional and national EAP; and
- The task of hiring previously disadvantaged people who are "suitably qualified".

6.3 SUCCESSFUL INTERVENTIONS TO ACHIEVE EMPLOYMENT EQUITY

As one of the largest employers in the country, responsible for employing between 20 and 24% of the workforce, the W&R sector provides a perfect platform for EE implementation (Statistics South Africa 2014; W&RSETA, 2013: 35).

The literature and research results show there is no debate about the need or desirability for EE. Rather, questions relate to the methodology of implementation and the issues of checks and balances between EE and productivity. Table 6.1 (next page) shows a range of interventions successfully undertaken by respondents to progress EE in their workplaces.

Since differences, diversity and conflict are inherent ingredients of employee relation dynamics, and lack of cultural awareness programmes that educate on diversity in organisations was identified as the chief challenge to EE in organisations (Figure 5.4) “diversity management” is a longer-term strategic imperative that should form an integral part of a “world-class” business model (Slabbert & Swanepoel, 2002; Kossek, et al., 2003; McCuiston, et al., 2004).

Table 6.1: Successful interventions by respondents to achieve EE

	Intervention	Rationale
1	High level retail management and leadership programmes in middle and senior management for women of all races	
2	Coaching, especially <ul style="list-style-type: none"> • Training coaches on how to be culturally diverse in their approach • Training skilled black individuals on how to coach 	Assigning retired/experienced coaches on specific days to identified EE candidates in talent management programmes
3	Mentoring	<ul style="list-style-type: none"> • Leaders are responsible for monitoring the effective utilisation of black employees • Each black professional employee is assigned or may choose a mentor • One of the responsibilities of this mentor is to ensure effective quality utilisation
4	Succession planning, talent planning, and talent management workshops for retail	
5	Targeted recruitment, planning, and selection practices	
6	Retention and development workshops	To retain highly competent EE employees
7	Aligning key competencies and role profiles to achieve EE and business objectives simultaneously	To assist employers in knowing what to look for when recruiting and aligning to business goals
8	Diversity and disability sensitisation programmes in the workplace	<ul style="list-style-type: none"> • Will meet the lack of cultural awareness programs that educate on diversity • Not only a "sensitisation hour" but a full programme rolled out to the entire organisation, from top management to shop-floor employees • Will increase cultural awareness, create understanding of the value and needs of disabled people in the workplace and increase the chances of placing disabled individuals in retail
9	Understanding organisational change and transformation in the South African context	
10	For SMMEs: how to sustain and diversify business in a complex and challenging economy	
11	English proficiency and business communication for those already employed/informal sector/SMMEs	Geared especially for those whose first language is not English
12	Work readiness programmes: skills-programme based (e.g. FET college graduates)	

6.4 OVERCOMING EMPLOYMENT EQUITY CHALLENGES

In this final section we link the findings (Chapter 5) and the challenges and barriers to EE implementation to provide practical solutions to promoting EE in the workplace. It also provides recommendations to the principal role players in achieving EE in the workplace: employers, the W&RSETA, and the DoL.

6.4.1 Integrating Competency and Career Management

The lead researcher proposes a career management and competency model that identifies the skills, abilities and behaviour needed to perform effectively in an organisation. Identified competencies would form a basis for the planning and development of all the human resource management activities.

Furthermore, the model helps to communicate a company's strategic intentions and needs, and gives organisations a 'common language' that can be used to discuss performance, selection, development, career advancement and succession planning.

Effectively the model integrates a competency methodology with a performance management system, and shows all external and internal factors that can promote an efficient EE talent management process in an organisation.

POSITION:																				
DEPARTMENT:																				
DATE:																				
JOB PROFILE				COMPETENCY MATRIX																
				TECHNICAL / FUNCTIONAL												BEHAVIOURAL				
No.	KPA	KPI	Measures / Standards	Accounts Management	Budgeting	Business Acumen			Customer Needs	Management Information Systems	Market/Intelligence Strategy	Networking		Sales	Talent Management	Thinking / Strategy	Action / Focus	Relationship Building	Emotional Intelligence	Leadership
1	Achieved Sales Strategies and plans in support of Corporate and Segment Objectives			X	X	X			X	X	X	X		X		X	X	X	X	X
2	Aligned Sales Functional Excellence to changing market demands			X	X	X			X	X	X	X		X		X	X	X	X	X
3	Establish winning Trading relationships			X		X			X	X	X	X		X		X	X	X	X	X
4	Established internal / Cross Functional Relationships			X	X	X			X		X	X		X		X	X	X	X	X
5	Leadership Behaviour reflecting company values, Code of Conduct, Culture Corporate Governance				X	X			X	X	X	X		X	X	X	X	X	X	X

Figure 6.1: Job profile and competency matrix

Source: Author



INDIVIDUAL DEVELOPMENT PLAN

PERIOD:	DATE:
NAME:	EMPLOYEE NUMBER:
DEPARTMENT:	JOB TITLE:
Note: The personal development plan is to ensure advanced performance in the employee's current position. Where developmental initiative is for future application, please mark with *	

ON - THE - JOB DEVELOPMENT / COACHING

Linkage to KPI's	Competencies to be developed	Development actions / objectives / time lines	Agreed standards / responsibilities

FORMAL TRAINING

Linkage to KPI's	Competencies to be developed	Suggested Course / Intervention	Institution	Target Date	Cost

We the undersigned agree to the development areas and actions (Copy employee & HR)

Agreement	1st Review	Final Review	Budget Approved:
Employee:			Manager:
Manager:			Exec Manager:

Figure 6.2: Individual Development Plan

Source: Author

Figure 6.2 addresses the issues of structured internal coaching and formal training being set in place.

Both Figures 6.1 and 6.2 show a very structured, formal process of integrity-driven competency development. These are possible solutions to enable organisations to avoid being “numbers” driven when it comes to an issue of EEP implementation.

Figure 6.3 includes the competency methodology presented in Figures 6.1 and Figure 6.2, and provides an integrated framework for attracting, developing, motivating and retaining talent. It supports the assertion that human equity should be at the heart of any successful organisation (Wilson, 2013).

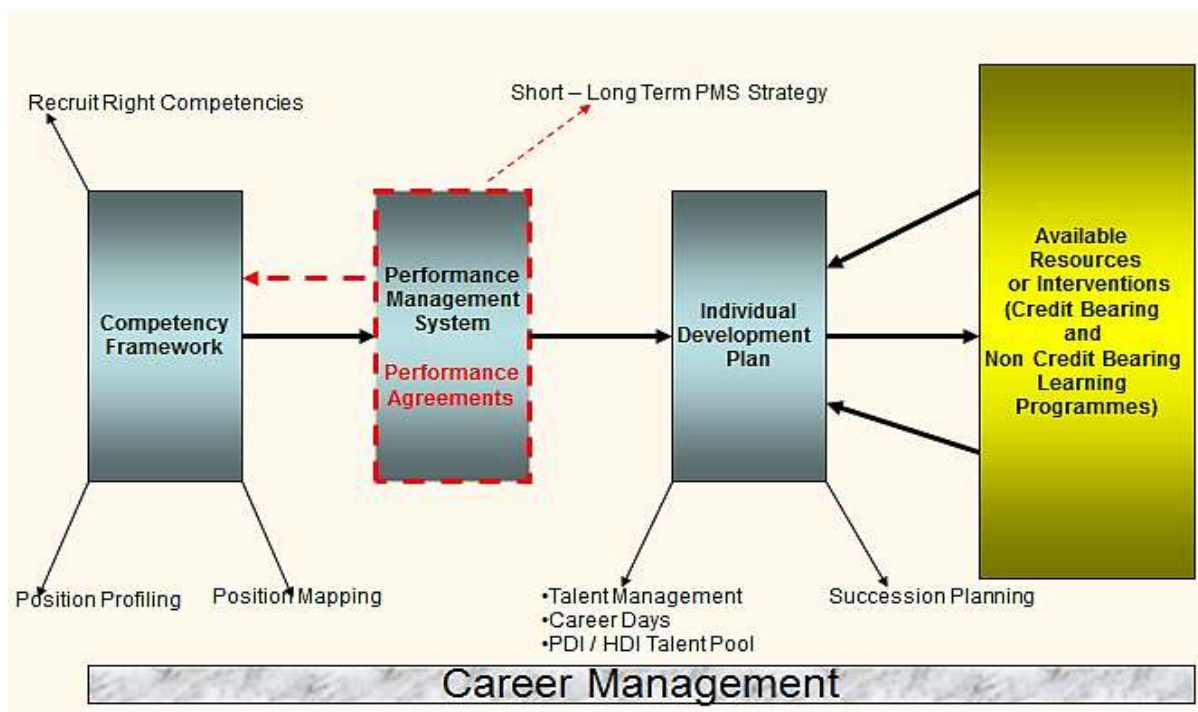


Figure 6.3: Organisational effectiveness and competency development

Source: Author's own model

This proposed framework is also applicable to attracting, developing, motivating and retaining talent. The process in the model can shed light on, and give direction to, the subjective, phenomenological matter of “suitably qualified”.

6.4.2 Practical Implications for Human Resource Practitioners

The career management model can be used as the basis for human resource management to create a continuity of competent people to drive future performance. It can be used to

- Understand competencies and how they impact on performance;
- Ensure that human resource (functional and behavioural) competencies are aligned with roles and responsibilities in support of corporate, segment and functional strategies;
- Integrate a variety of performance measurement, reward and career management models;
- Align training and development processes (skills planning);
- Align recruitment and selection processes (interview guides); and
- Identify interventions (training, on-the-job-training, coaching, etc.) per competency per level.

6.4.3 Improving Employment relations in the Workforce

If implemented in terms of the proposed model, the following steps would provide clarity of roles, expectations, sanctions and rewards in the workplace, which would promote better communication, reduce sources of friction and result in improved employment relations:

- Job profiles must be standardised as far as possible;
- The communication strategy must address all employees affected, especially in preparation of required EE assessments;
- All team leaders, managers and HR managers to understand the bigger picture and longer term benefits of EE to the organisation;
- The roles and expectations of general managers, HR managers and team leaders must be made clear;
- Communication protocols must be well defined and established, especially with HR managers;
- Every employee must receive structured performance feedback;
- Competencies must form the basis of development and training interventions;
- Competencies and job profiles must be verified top-down and cross-functionally; and
- Increase employees' understanding of the term "supply chain".

6.4.4 Use of Training, Systems, Procedures and Controls

Developing a proper “people strategy” requires a systematic method and commitment to the long-term development of people. It must ensure that competencies drive performance at all levels within the organisation, and also form the basis of human resources enablers such as recruitment and selection practices, performance management systems, training and development strategies and career guidance principles.

- Organisations need to be committed to the continuous development of their people, in line with meeting the business objectives;
- A strategy document should be developed to align training and development needs with tangible development objectives;
- The objective of this strategy are to put the training needs of the organisation into context and to align the training needs of the business to the core competencies needed in each job family; and
- The training needs of the individual should be aligned with the development needs identified by management, and aligned with the National Qualification Framework, standards, and legislative requirements.

6.4.5 Recommendations to Stakeholders

6.4.5.1 Employers

1. For larger companies, employ specialist agencies which focus on assisting organisations to meet their EE objectives.
2. Ensure there is an EE policy and increase awareness of its existence and requirements;
3. Encourage worker representative bodies (e.g. workplace forums) to include EE on their agendas.
4. Use worker representative bodies to keep workers informed about EE initiatives by the company.
5. Ensure that the company has a good understanding of the changing retail environment and markets, as these will have implications for skills development at organisational level.

6.4.5.2 W&RSETA

The W&RSETA should support actively the concept of decent work and implement a Sector Skills Programme to improve conditions of employment. Growing prosperity among the majority of the black population provides tremendous opportunities for local businesses to meet growing consumer demand.

The W&RSETA also has the power to make many beneficial changes to the sector through supporting job creation and skills development efforts, although the sector.

Growth in the retail sector, even though it is susceptible to instability in the wider economy, will create a need for more skilled labour, creating in turn the potential to improve the skills base of the sector, particularly at the lower and middle management level. Therefore the W&RSETA should invest in training in scarce and critical skills.

A number of major retail chains have ventured into sub-Saharan Africa, and there is room for further growth in various parts of the world. Businesses with cross-border operations require a significantly larger pool of highly skilled and capable managers from South Africa to work in foreign markets.

Given these indicators and opportunities, the following specific recommendations are made:

1. Integrate EE and skills development planning, to ensure they support one another e.g.
 - Link initiatives in the WSP to the EEP, especially in scarce and critical skills (see Figure 6.4);
 - Track vacancies difficult to fill (in the W&RSETA Workplace Skills Plan);
 - Include "Interventions to reach EE objectives" in the Scarce Skill section of the Annual Training Report.
2. Identify scarce and critical skills for SSP formulation and for contributing to EE objectives in organisations.
3. Collaborate with universities to initiate higher education courses for senior to top management e.g. retail-specific skills programmes at CPUT.
4. Initiate education improvement projects which promote the W&R sector to help create a pool of people "suitably qualified" and prepared especially for this sector.
5. Offer bursaries and scholarships to promote further education and training in the sector. Target employees excelling in their roles and base acceptance criteria on academic merit and financial need. Ensure these are also available to W&R sector employees in rural and outlying urban areas.

Figure 6.4 illustrates the W&RSETA WSP/ATR, where difficult-to-fill vacancies are tracked. Using this and aligning it with organisational EE objectives would assist in targeting recruitment and specific key competencies needed in the sector.

Back to WSP
Vacancies difficult to fill (1 April 2011 to 31 March 2012)

Occupational Code

Job Title

Number of Vacancies

NQF Level

Degree of scarcity

Sub Sector

Province

Is this reflected in your EE Plan? Yes ☐ No ☐

Occupational Description

A			C			I	
M	F	D	M	F	D	M	F
<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>

Add

This section is crucial for the Scarce Skills Project initiated by the Departments of Education & Labour. The main thrust of obtaining this data is for effective planning in terms of de
In the comments column, please indicate whether the scarcity is based on gender or colour. E.g. there may be sufficient actuaries generally.
Indicate the race/gender and disability that the company is targeting for filling the vacancy.
The degree of scarcity is indicated as:
 • 1: Moderate (often cyclical) scarcity 0 - 3 months
 • 2: Serious Scarcity problems 4 - 6 months
 • 3: Extremely Scarce/Severe problems 7 - 12 months

Figure 6.4: Linking vacancies in the EE Report to the W&RSETA WSP

Source: W&RSETA WSP/ATR (2014)

In Figure 6.5 the lead researcher proposes including "Interventions to reach EE objectives" in the Scarce Skill (ATR) section. This information could assist in correctly identifying scarce and critical skills for a Sector Skills Plan formulation, as well as contributing towards meeting EE objectives in organisations. There is a need to integrate EE and skills development planning to ensure that these support one another.

Back to WSP
Scarce Skills (ATR) (1 April 2011 - 31 March 2012)

Scarce Skill		<div style="border: 1px solid #ccc; height: 20px;"></div>										
Occupational Code		<div style="border: 1px solid #ccc; height: 20px;"></div>										
Occupational Description		<div style="border: 1px solid #ccc; height: 20px;"></div>										
Critical Skills		<div style="border: 1px solid #ccc; height: 20px;"></div>										
Intervention		<div style="border: 1px solid #ccc; height: 20px;"></div>										

African		Coloured		Indian		White		People with Disability		Age Group		
M	F	M	F	M	F	M	F	M	F	<35	35-55	>55
<div style="border: 1px solid #ccc; width: 30px; height: 20px; line-height: 20px;">0</div>	<div style="border: 1px solid #ccc; width: 30px; height: 20px; line-height: 20px;">0</div>	<div style="border: 1px solid #ccc; width: 30px; height: 20px; line-height: 20px;">0</div>	<div style="border: 1px solid #ccc; width: 30px; height: 20px; line-height: 20px;">0</div>	<div style="border: 1px solid #ccc; width: 30px; height: 20px; line-height: 20px;">0</div>	<div style="border: 1px solid #ccc; width: 30px; height: 20px; line-height: 20px;">0</div>	<div style="border: 1px solid #ccc; width: 30px; height: 20px; line-height: 20px;">0</div>	<div style="border: 1px solid #ccc; width: 30px; height: 20px; line-height: 20px;">0</div>	<div style="border: 1px solid #ccc; width: 30px; height: 20px; line-height: 20px;">0</div>	<div style="border: 1px solid #ccc; width: 30px; height: 20px; line-height: 20px;">0</div>	<div style="border: 1px solid #ccc; width: 30px; height: 20px; line-height: 20px;">0</div>	<div style="border: 1px solid #ccc; width: 30px; height: 20px; line-height: 20px;">0</div>	<div style="border: 1px solid #ccc; width: 30px; height: 20px; line-height: 20px;">0</div>

Save

Figure 6.5: Insertion of "Interventions to reach EE objectives" into Annual Training Report

Source: W&RSETA WSP/ATR (2014)

6.4.5.3 Department of Labour

1. Follow through on the promise to initiate workshops and learning programmes to ensure companies have adequate knowledge of the EEA.
2. Simplify process and requirements for smaller organisations which may not be able to afford the training necessary for implementing successful EE measures.
3. Create offense-specific consequences which are not monetary for employer shortfalls identified in this study e.g. tasking junior staff as EE managers.

6.5 CONCLUSION

Employment Equity is not about hiring or promoting unqualified candidates, or about having an organisation suffer undue hardship. Rather, it is about taking the steps necessary to ensure that competent designated group members are hired, promoted and retained equitably.

This research illustrates that the solutions to the challenges encountered by organisations in the W&R sector are complex.

There is no single solution. It is the onus of each organisation to approach these recommendations as suggestions that, if implemented, need to be accompanied with precise steps and a plan to ensure their success.

Efforts to achieve EE should not be the sole responsibility of the EE managers but a combined effort from all levels of management. However, as required by the EEA, a senior manager must be tasked with its implementation.

Although as of 2012 white males still comprised 65.4% of top management positions, six times the portion of the economically active population they represent, there are some signs of improvement. Donnelley (2012) noted that progress was visible in the national population distribution trends in terms of race at the professionally qualified level:

- African representation rose from 24.4% in 2007 to 36.35% in 2011;
- Coloured and Indian representation grew from 8.5% to 10.2% and from 8.7% to 9.1% respectively; and
- White representation declined from 57.2% in 2007 to 42.3% in 2011.

The workforce profile at the skilled level has also shown some improvement in terms of race:

- African representation was at 57%,
- White at 24%,
- Coloured at 11.5% and
- Indian at 6.2% (Donnelley, 2012).

The research also shows how some companies have moved towards managing diversity, as measured in dimensions such as gender equity, disability management, and fairness of policies and procedures.

The example of Company B proves that EE can be managed without the loss of competency. However this may not be easy for smaller companies which cannot afford to adopt strategies possible in the large retailers.

Authors including Herholdt and Marx (1999) and Tinarelli (2000) have identified valuable ways of approaching EE for managers which should be adopted rather than simply read.

Employment equity plays a vital role in change and transformation in the South African workplace, and while a large number of South African organisations are required to report annually to the DoL, many still fail to comply despite hefty new fines to enforce compliance.

The EEA cannot be effective unless it is applied, and management, especially the Human Resource practitioner, plays a vital role in its implementation.

If these provisions were implemented consistently and fairly, the EEA would enjoy broader support and appeal among citizens: after all, the intention of the Act is to encourage organisations to develop their own human potential, through spending time, mentoring, and coaching and developing staff.

Staff training, having a crafted career path, and mobility in the workplace will grow both the person and the organisation. South African employers spend too little on training their staff and investing in their long-term potential. There is still an unfortunate notion in some organisations that if their training budget exceeds the fine they would have to pay for non-compliance, they would follow the cheaper route. If more staff were better trained, the economy would perform better and the incentive to job-hop would be reduced. Government may need to review the present incentives embodied in the Skills Development Act to ensure higher spending on staff development.

Short-term solutions, such as overpaying for scarce skills, are counterproductive to the long-term development of both the individual and the organisation.

Three other factors affect skills and staff development:

- Rapid economic growth, which would lead to greater career opportunities;
- Rising incomes; and
- An improved education system, producing ever greater numbers of skilled black and female work entrants.

Through research such as this, the W&RSETA has initiated a path towards improving EE for the future of the South African workforce.

6.5.1 Recommendations for Further Research

1. The initiatives outlined in Table 3.1 (EE/AA strategies in different countries) should be followed up to determine the current status of EE/AA implementation. Which countries are still implementing EE/AA? Why have some stopped doing so? Have they adopted other (better?) approaches?
2. A comparison of organisations in other sectors in South Africa and their holistic approaches to achieve their EE objectives should be undertaken.
3. Further study on the mechanisms and systems used to achieve effective selection processes (Strategic Business Approach to Human Resources).
4. The use of regional vs. national demographic figures remains very contentious and calls for further research.
5. Further research on the implementation of the model proposed by Trevor Wilson (Figure 1.2) and the lead researcher's own competency model (Figure 6.3) to create an instrument/tool/philosophy for the W&R sector with an emphasis on *human equity*. This could also give direction on the subjective matter of what constitutes "suitably qualified".

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APPENDIX A: Letter of Informed Consent

73 Gothenburg Street
Avondale
Atlantis
7349
25th March 2014

Interventions to achieve Employment Equity Objectives in the Wholesale & Retail Sector

Dear Participant,

I am currently undertaking a Research Project on behalf of the W&RSETA Retail Leadership Chair (WRLC) at Cape Peninsula University of Technology. The study aims to address:

- The Nature, Philosophies and Concepts of Employment Equity.
- International trends on Employment Equity.
- The South African Legal Framework and its Impact on the Wholesale & Retail Sector.
- The Current Status and challenges with the implementation in the Wholesale & Retail Sector.
- Interventions to achieve Employment Equity objectives in the Wholesale & Retail Sector.
- Recommendations to achieve Employment Equity objectives.

Would you agree to be interviewed for the study? The interview will take approximately 30 minutes. Participation is voluntary and you are free to refuse to participate at any time without giving reasons, and without prejudice or any adverse consequences. The information you give will only be used for research purposes and will be aggregated with other responses and only the overall or average information will be used. Your identity and individual answers will be kept totally confidential. If any quotations are used, these will remain anonymous. Should you wish to discuss this further please feel free to contact me on the number below, or the W&RSETA Chair, Professor Roger Mason, on masonr@cput.ac.za or 021- 460 3040

By being interviewed you are confirming that the study has been adequately explained to you, that you understand that you may withdraw from it at any time without giving reasons, and that you are taking part voluntarily.

Your assistance will be much appreciated,

Yours faithfully,

Dr Leon Roman

082 3977 231

humcatr@gmail.com

APPENDIX B: Letter of Permission

To whom it may concern

Date: 01st April 2014

Dear Sir/Madam

- I am currently undertaking a Research Project on behalf of the W&RSETA Retail Leadership Chair (WRLC) at Cape Peninsula University of Technology. The study aims to address:
 - *The Nature, Philosophies and Concepts of Employment Equity.*
 - *International trends on Employment Equity.*
 - *The South African Legal Framework and its Impact on the Wholesale & Retail sector.*
 - *The Current Status and challenges with the implementation in the Wholesale & Retail sector.*
 - *Interventions to achieve Employment Equity objectives in the Wholesale & Retail Sector.*
 - *Recommendations to achieve Employment Equity objectives.*

As a result I would like to interview your Expert/Specialist Employees that work with Employment Equity Plans or a Senior Manager in charge (or higher). These respondents will be asked to participate voluntarily and all responses will be totally confidential. They will be free to refuse to participate, or withdraw from participating, at any time, and will not be pressured in any way.

I would like to carry out this research in your Organisation and hereby request permission for such data collection.

For more information please contact me or the W&RSETA Chair, Professor Roger Mason, on masonr@cput.ac.za or 021-460 3040

Kind Regards

Dr Leon Roman
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APPENDIX C: Ethics Approval



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Symphony Road Bellville 7535


Office of the Chairperson Research Ethics Committee	Faculty: BUSINESS
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At a meeting of the Research Ethics Committee on 4 March 2014, Ethics Approval was granted to DR LEON ROMAN for research activities Related to the: Retail Chair in the RETAIL BUSINESS MANAGEMENT DEPARTMENT, Business Faculty at the Cape Peninsula University of Technology

Title of Project:	Interventions to achieve employment equity of objectives in W & R Researcher: DR LJ Roman
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Comments:

Decision: **APPROVED**

 Signed: Chairperson: Research Ethics Committee	04 MARCH 2014 Date
Signed: Chairperson: Faculty Research Committee	Date

Clearance Certificate No | 2014FBREC163

APPENDIX D: Questionnaire: Large Organisations

Project Research: 2013/07

Leon Roman

Employment Equity Questions

1. What impact does new legislation (e.g. EEA, LRA, BCEA, B-BBEE) have on your Company's initiative to drive Employment Equity?
2. Name some of the challenges your Organisation face with the EEA.
3. What barriers do you experience during EE Plan implementation? (*unaided recall - will prompt/aid for proper response*)
4. Do you have a dedicated appointed EE Manager (Senior Management) to drive your Employment Equity Strategy and what are the challenges you encounter? – if any
5. Do you have an established EE Committee as per EEA?
6. How does your Learning and Development initiatives address the Competencies needed for EE identified Candidates?
7. Are your EE Targets/Plans aimed at ALL Levels and Categories in the Organisation or only on the upper echelons?
8. Do you have a formal process in place for Talent Planning/Talent Management/ Succession Planning Process and does this somehow relate/link to the Sector Skills Plan of the W&RSETA or is it purely based on business needs?
9. What are the most relevant skills needed in your industry to add value to the Organisation and assist in growing your Talent Pool Competencies (better flow of Talent Management and greater Success in the right Candidates for Succession Planning)
10. What are the challenges that TM, SM and MM have to facilitate/embed EE?
11. Which type of International best practice on EE methodologies/trends have you adopted/implemented/learned from: (e.g. US, Canada, UK, etc.) – If any?
12. How has the Competence Levels grown in your upper echelons? (TM, SM, Professional) – Taking into account: race, gender and disability.
13. When considering EE Targets what would you regard as more important:
 - Achieving Numerical Goals
 - Increased Competency Levels?

14. As a Designated Employer - currently – what would be your approach be to comply with the EEA to reach goals:
15. Numerical or Competence: to ensure that people from the designated groups have equal employment opportunities and are equitably represented in all occupational levels in the workforce.
(Answer will give insight into "quick wins/just to comply" or strategic/committed action plan to address redress irrespective of EE points impact)
16. Is there participation of all relevant stakeholders (TM, SM, Unions, Employee Reps, L&D, SDF, etc.) for input into the EE Plan? Any barriers/challenges with regards to participation?
17. Does your EE Strategy have a direct link to Targeted Recruitment and Selection Processes?
18. Do you have a bursary scheme in place for existing employees to further their studies?
(Retention and Development)
19. Can you name any recommendations on interventions, (maybe already declared in WSP), to assist your Organisation to achieve your EE Objectives?
20. How do you apply and utilise Funded Interventions or Pivotal Funding from W&RSETA to skill/re-skill/up-skill identified candidates in your EE Plan?
21. What type of improvements would you like to see/offered from the SETA that will assist a Designated Employer in EE Implementation?

APPENDIX E: Additional Information

(As interview progress, to be ticked off)

- ☐ Adopt an accountability mechanism and appointed a Senior Manager
- ☐ Established an effective Communication Strategy
- ☐ Consult and collaborate with employee representatives and/or bargaining agents
- ☐ Collect workforce data
- ☐ Retrieve relevant workforce data and determine gaps in representation
- ☐ Conduct additional analysis
- ☐ Prepare a report on the analysis of gaps in representation of designated groups
- ☐ Established employment systems review methodology
- ☐ Reviewing the results of all analyses conducted
- ☐ Relevant Policies, Procedures and Practices in place (HR)
- ☐ Analyse employment systems to identify adverse effects
- ☐ Recommendations to eliminate barriers
- ☐ Create an action plan for eliminating barriers in the short term
- ☐ Establish long-term representation goals
- ☐ Establish monitoring and revision mechanisms
- ☐ Sustaining accountability, communication, consultation/collaboration and record keeping
- ☐ Make all reasonable efforts for implementation of EE plan
- ☐ Monitor for reasonable progress
- ☐ Monitor and assess new employment policies and practices
- ☐ Continuous review and revise of EE plan

APPENDIX F: Questionnaire: Small Enterprises and Skills Development Facilitators

1. Do you think South Africa should strive for Employment Equity?
2. Do you think Employment Equity is necessary for your company/place of work?
3. Do you fully understand ALL the requirements of the EEA?
4. What impact does new legislation (e.g. EEA, LRA, BCEA, B-BBEE) have on your company's initiative to drive Employment Equity?
5. Name some of the challenges or barriers your Organisation face with the Employment Equity Act? (You can select more than one)
 - ☐ Consulting with Employees
 - ☐ Conducting and EE Analysis
 - ☐ Preparing an EE Plan
 - ☐ Implementation of EE Plan
 - ☐ Submission of Report
 - ☐ Demographic Profile of EAP
 - ☐ Present and anticipated Economic and Financial factors
 - ☐ Suitably Qualified People
6. Do you have a dedicated appointed EE Manager to drive your Employment Equity Strategy?
7. If "YES" in Q6, is this person a Senior Manager as defined by the EEA?
8. Have your Organisation adopted or implemented any International Best Practice on EE methodologies trends? If yes, please name the Country/Countries in the grey space.
9. Do you have an established Workforce Representation EE Committee as per EEA?
10. At which Occupational Levels are your EE Targets/Plans (if any) aimed?
 - ☐ Only Top Management
 - ☐ Only Senior Management
 - ☐ Top and Senior Management
 - ☐ Mostly Senior Management and professionals
 - ☐ Only professional and skilled
 - ☐ Shop floor employees and admin
 - ☐ General workers
 - ☐ All

- ☐ We have no EE targets
- 11. Do you have a formal process in place for Talent Planning/Talent Management and Succession Planning?
- 12. Does your Organisation have a Change and Transformation Program in place?
- 13. When considering EE targets, what would you regard as more important?
 - ☐ Increased Competency levels
 - ☐ Achieving Numerical goals
- 14. Did your Organisation run a Diversity Program in the last 12 months?
- 15. Any recommendations on interventions to assist your Organisation to achieve your EE objectives?