



TRANSFORMATION AND BLACK ECONOMIC EMPOWERMENT IN SOUTH AFRICA

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1. WHAT IS BLACK ECONOMIC EMPOWERMENT?

1.1 THE DEFINITION OF BLACK ECONOMIC EMPOWERMENT

South Africa's Department of Trade and Industries defines Black Economic Empowerment as follows:

"BEE is an integrated and coherent socio-economic process that directly contributes to the economic transformation of South Africa and brings about significant increases in the number of black people that manage, own and control the country's economy, as well as significant decreases in income inequalities.

Broad-based black economic empowerment (Broad-Based BEE) means the economic empowerment of all black people including women, workers, youth, people with disabilities

and people living in rural areas, through diverse but integrated socioeconomic strategies, that include, but are not limited to:

- a) *increasing the number of black people that manage, own and control enterprises and productive assets;*
- b) *facilitating ownership and management of enterprises and productive assets by communities, workers, co-operatives and other collective enterprises;*
- c) *human resource and skills development;*
- d) *achieving equitable representation in all occupational categories and levels in the workforce;*
- e) *preferential procurement; and*
- f) *investment in enterprises that are owned or managed by black people.”*

1.2 THE BACKGROUND OF BLACK ECONOMIC EMPOWERMENT

Black economic empowerment is firmly rooted in the struggle against apartheid and is an integral part of the ANC’s national democratic revolution.

The political and constitutional transformation of South Africa in April 1994 represented only a part of the overall goal of the ANC’s National Democratic Revolution (NDR). The NDR also requires the social and economic transformation of the country. The ANC’s 1969 Strategy and Tactics emphasised that:

“In our country - more than any other part of the oppressed world - it is inconceivable for liberation to have meaning without a return of wealth and land to the people as a whole. It is therefore a fundamental feature of our strategy that victory must embrace more than formal political democracy. To allow the existing economic forces to retain their interests intact is to feed the root of racial supremacy and does not represent even a shadow of liberation.”

According to the ANC’s Policy Guidelines of 1992:

“management of both the public and private sectors will have to be deracialised so that they rapidly and progressively come to reflect the skills of the entire population. Equity ownership will have to be extended so that people from all sectors of the population have a stake in the economy and power to influence economic decisions.”

The new ANC Government insisted that a central objective of the Reconstruction & Development Programme (RDP) would be *“to deracialise business ownership and control completely through focused policies of Black Economic Empowerment”*.

The ANC also viewed black economic empowerment as a central requirement for sustained economic growth, arguing that the economy would never achieve its full potential if the majority of the population remained effectively excluded from ownership and full participation. In July 2000 the ANC identified the need for targeted strategies in areas such as the control/ownership of productive property by black people and women, including the land; and the reduction of racial and gender disparities in income and wealth; and in the building of a more egalitarian society.

Comment

One of the transformation goals of the National Democratic Revolution is to gain control over the levers of state power including ...the public service, the security forces, the judiciary... and the public broadcaster.

The ANC believes that one of the strategic tasks of the National Democratic Revolution should be to “strengthen the hold of the democratic movement over state power, and to transform the state machinery to serve the cause of social transformation”. According to its 1997 Strategy and Tactics document “the levers of state power include the legislatures, the executives, the public service, the security forces, the judiciary, parastatals, the public broadcaster, and so on. Control by democratic forces means that these institutions should operate on the basis of the precepts of the Constitution; they should be guided by new doctrines; they should reflect in their composition the demographics of the country; and they should owe allegiance to the new order.”

1.3 THE GOALS OF BEE

Comment

Three of the BEE goals are generally acceptable. However, it is difficult to see how the ‘ownership, management and control of South Africa’s financial and economic resources’ can be substantially transferred to ‘the majority of its citizens’ ‘equitably’ and in such a manner that it does not undermine property and other guarantees in the constitution.

On 11 April 2001 the Black Economic Empowerment (BEE) Commission, under the auspices of the Black Business Council, submitted proposals for a National Integrated BEE Strategy to President Mbeki. It proposed that BEE should:

- be an integrated and coherent socio-economic process;
- be located in the context of the country’s national transformation programme, the RDP;
- ***be aimed at redressing the imbalances of the past by seeking to substantially and equitably transfer and confer the ownership, management and control of South Africa’s financial and economic resources to the majority of its citizens;*** and
- seek to ensure broader and meaningful participation in the economy by black people to achieve sustainable development and prosperity.

These proposals were adopted by the ANC’s Economic & Transformation Committee (ETC) on 3 March 2001.

Although the ANC accepted that BEE would and should lead to the development of a black middle class, it felt that the process could not depend only on black business and professionals, but that it also had to include the rural poor and the working class.

Black Economic Empowerment should be broadly based

The ANC agreed that the BEE strategy should be broadly based and should make provision for black employment equity; black ownership of equity and land and black human resource development. In particular, the process should

- make full use of government procurement programmes;
- provide support to small, micro and collective enterprises;
- make use of privatisation programmes;
- promote access to the productive use of natural resources and land (through the Integrated Sustainable Rural Development Programme) as instruments to deracialise of ownership;
- promote access to financial services and capital to facilitate affordable ownership and increase levels of savings;
- establish a legislative framework to promote uniformity in policy, establish the necessary institutional support and instruments and set guidelines to facilitate deracialisation of business ownership in the private sector;

- concentrate on skills development within the framework of the Integrated Human Resources Development Strategy; and
- promote partnerships between the state, the private sector, labour and civil society through social compacts and industry-based agreements.

1.4 BEE TARGETS

BEECom has set clear and ambitious targets for the ten-year period ending in 2011. However, the process is open-ended and minorities and companies can expect that as soon as these goals have been met they will be confronted with further targets during the second ten-year period.

The ANC also decided that clear targets should be set with regard to income levels, ownership, control and skills to provide a means of measuring the success of the BEE strategy. The BEECom set the following guidelines in its report for the ten-year period ending in 2011:

- The transfer of 30% of productive land to black individuals and collective enterprises;
- black equity participation in each sector of the economy should be increased to at least 25% including individuals and collective enterprises;
- black individuals, businesses and collective enterprises should hold at least 25% of the shares of companies listed on the JSE; at least 40% of non-executive and executive directors of companies listed on the JSE should be black;
- at least 50% of state owned enterprises (SOE) and Government procurement – at national, provincial and local levels – should go to black companies and collective enterprises. At least 30% of these companies should be black-owned SMEs;
- at least 30% of private sector procurement should be to black-owned companies, including SMEs and collective enterprises;
- at least 40% of senior and executive management in private sector companies (with more than 50 employees) should be black;
- the National Human Resource Development Strategy should ensure that black people comprise at least 40% of the number of people in the professions and in professional training;
- at least 50% of borrowers (by value) on the loan books of National Development Finance institutions should be black-owned companies and collective enterprises;
- at least 30% of the equity of restructured SOEs should be owned by black companies and collective enterprises;
- at least 30% of long-term contracts and concessions (PPPs) within the public sector should incorporate black-owned companies and collective enterprises up front;
- at least 40% of Government incentives to the private sector should go to black companies; and
- the banking sector and Government should agree on targets with respect to accessibility of financial services (Community Reinvestment) that should ensure an increase in advances to black entrepreneurs, SMEs and black households in rural and urban areas.

To give effect to the BEE Strategy the Government adopted the Black Economic Empowerment Act and established the Black Economic Empowerment Committee in the Office to the President to monitor and oversee progress with the strategy.

1.5 BROAD-BASED BEE CODES OF GOOD PRACTICE AND SCORE CARD

The Department of Trade and Industries has published a number of Codes of Good Practice to inform organisations and companies how they can best comply with BEE targets.

Economic entities are awarded broad-based BEE status according to the points they achieve in the BEE scorecard provided for by the Department of Trade and Industries' Codes of Good Practice or in a gazetted industry charter. The preferential categories include:

- | | |
|--|--------------------------------|
| a) Excellent contributor to broad-based BEE | - total score of 80% and above |
| b) Good contributor to broad-based BEE | - total score of 65% to 79.9% |
| c) Satisfactory contributor to broad-based BEE | - total score of 40% to 64.9% |
| d) Limited contributor to broad-based BEE | - total score of below 40% |

The BEE status of economic entities is awarded in terms of the scores that they achieve under the following seven categories in the broad-based BEE scorecard:

Category	Weighting	(Broad) Requirement
Ownership and control	20%	25% unrestricted ownership and voting rights of which 10% should be held by black women.
Management	10%	40% of managers must be black.
Employment equity	10%	Economic entity must achieve 50% in terms of weighted employment equity scorecard
Skills development	20%	Economic entity must invest 3% of payroll in skills development (in addition to skills levy) and 3% of employees should be in learnership positions.
Preferential procurement	20%	50% of procurement must be from BEE suppliers with excellent status. Lower marks are scored for procurement from suppliers with 'good' and 'satisfactory' status.
Enterprise development	10%	Investment of 5% – 10% of nett asset value/total procurement in a company with 'excellent' or 'good' BEE status.
Residual element	10%	Investment of 3% of net profit in industry specific initiatives to promote black economic empowerment and to promote health, education, poverty alleviation and community development.

According to the Department of Trade and Industries, information required in terms of the BEE scorecard should be submitted timeously; and must be complete, reliable and comparable. It is envisaged that 'rating agencies' will assist economic entities to comply with the scorecard requirements.

Adherence to 'Sound Economic Principles'

The DTI insists that, for "the BEE process to be sustainable, and for it to contribute meaningfully to the economic growth of South Africa, it must adhere to sound economic principles". Sound economic principles are the fundamental principles that govern the efficient and effective functioning of economies and are supported by rigorous empirical testing and broad application both globally and locally.

However, on 20 May 2005 DTI Minister Mandisi Mpahlwa said that the Government was not rigid in insisting that everyone would have to fall in line with the codes the day that they were published. He also acknowledged that the codes might create problems for small business:

We also highlighted the fact that we have to have some reflection on the codes and how they impact on small business, black and white, and whether their obligations are going to be the

same in regard to the codes. We also raised the issue of multi-national corporations, which is another big issue which we have to deal with".¹

Comment:

Clearly, however desirable BEE might be, it is difficult to see how it can be viewed as adhering to the sound economic principles "that govern the efficient and effective functioning of economies". Indeed, it could be argued that BEE breaches several fundamental economic principles a) by artificially endeavouring to determine ownership levels on a racial and gender basis; b) by introducing race rather than merit, suitability and experience as a key factor in the appointment of management and other staff; c) by dispensing with price, quality and service as the main factors in procurement; and d) by shifting onto companies social responsibilities that should be addressed by government.

1.6 THE ANC APPROACH TO BEE

The ANC has adopted a flexible, reasonable and apparently inclusive approach to the implementation of BEE. It should, however, be noted that the broad framework and principles governing BEE were developed by the ANC and the BEE Commission without negotiation or consultation with representatives of the minorities and businesses whose interests will be closely affected by the process.

The ANC has pointed out that many aspects of affirmative action and black economic empowerment will be achieved simply through the enforcement of equal rights and the provision of good government and equal services to all South African citizens. Thus the provision of equal high quality education; health and social services; regional equalisation and equal protection from discrimination will go far toward the goal of black empowerment.

ANC spokesmen have also stated that affirmative action should be implemented in a manner that is

- fair and equitable;
- inclusive, to ensure that those most directly affected, whether positively or negatively, have the greatest say in implementation decisions;
- consistent with the constitution and legislation, and should not be dependent on the subjective whims or the fluctuating zeal of particular officials;
- proportionate to the ends to be achieved; and
- transparent, non-corrupt and accountable.

2. WHAT DOES THE CONSTITUTION SAY ABOUT THE RIGHT OF PEOPLE TO EQUALITY AND AFFIRMATIVE ACTION?

According to section 9(2) of the constitution, the state evidently has a right to discriminate *in favour* of certain persons to promote the achievement of equality. It defines equality as including 'full and equal enjoyment of all rights and freedoms'. The constitution goes on to stipulate that 'to promote the achievement of equality, legislative and other measures designed to protect and advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.'

In terms of section 9(3) the state may not *unfairly* (emphasis added) discriminate directly or indirectly against anyone on a large number of grounds, including race, gender, ethnic or social origin etc. The constitutional protection that various classes of citizens enjoy accordingly depends

¹ Business Report, 23 May 2005

entirely on the concept of fairness. Fairness is not defined except that section 9(5) stipulates that discrimination is unfair 'unless it is established that it is fair'. In addition, Section 195(1)(i) appears to lay down two additional requirements, firstly that the "public administration must be broadly representative of the South African people", and secondly that employment and personnel management practices must be "based on ability, objectivity, fairness, and the need to redress the imbalances of the past to achieve broad representation".

What this would seem to indicate is that each act of state discrimination would then presumably have to be tested against certain criteria: Is it arbitrary? Does it promote equality? Are its beneficiaries persons or categories of persons who have been disadvantaged by unfair discrimination? Does it promote representivity? Is it based on ability, objectivity and fairness?

The manner in which affirmative actions measures may be implemented is further determined by the Employment Equity Act (No. 55 of 1998). According to Prof Pierre du Toit's analysis of the Act²,

- affirmative action includes "measures designed to ensure that *suitably qualified* people from the designated groups (i.e. everyone except white males) have equal employment opportunities and are equitably represented in all occupational categories and levels in the workforce of a designated employer (i.e. any firm that employs more than 50 people)."
- affirmative action measures include the elimination of barriers created by "unfair discrimination"; measures aimed at increasing diversity in workforces; "preferential treatment", including skills training, numerical goals promoting equitable representation, *but not including quotas*. The concepts of "equitable representation" and "preferential treatment" are not defined.
- the sole specific rule protecting white men appears in section 15(4), which prohibits a designated employer from setting up an "absolute barrier" to the employment of "people who are not from designated groups".
- the exact composition of a workforce is, in terms of section 42, made subject to practical considerations such as: the national *and* regional demographic profiles of the "economically active population"; the pool of suitably qualified people from the designated groups that are available for appointment or promotion; the economic and financial circumstances of the firm; and progress already made in the implementation of equity plans.

It is also clear that contrary to the ANC's professed goal of 'strengthening the hold of the democratic movement over state power – including the public service, the judiciary and the security forces', the Constitution requires a more impartial and apolitical approach. Sections 165(2) and (3) stipulate that "The Courts are independent and subject only to the Constitution and the law, which they must apply impartially and without fear, favour and prejudice," and that "no person or organ of state may interfere with the functioning of the courts." Section 165(4) requires that organs of state must "assist and protect the courts to ensure the independence, impartiality, dignity, accessibility and effectiveness of the courts". The constitution also stipulates in section 196(2) that the Public Service Commission is 'independent and impartial'. In section 197(3) it requires that "no employee of the public service may be favoured or prejudiced only because that person supports a particular political party or cause." Section 199(7) of the constitution states that 'neither the security forces, nor any of their members, may, in the performance of their functions – a) prejudice a political party interest that is legitimate in terms of the constitution; or b) further, in a partisan manner, any interest of a political party.'

² Du Toit, Pierre. 2004. *Affirmative Action and the Politics of Transformation: A Survey of Public Opinion*. The FW de Klerk Foundation. March 2004.

3. WHAT PROGRESS HAS BEEN MADE WITH TRANSFORMATION SINCE 1994?

To what extent has South Africa succeeded in promoting the goals of BEE and in creating a more equal society since its first democratic elections in 1994?

3.1. DISTRIBUTION OF INCOME

The gap between rich and poor has grown since 1994. This has been mirrored by a substantial increase in the income gap within the black community.

South Africa has failed quite markedly to realise one of the central goals of the constitution – the promotion of greater equality between all South Africans.

- The HSRC reports that South Africa's Gini coefficient rose from 0,69 in 1996 to 0,77 in 2001. In 2004 57% of South Africans were living below the poverty line of R1 290 a month for a family of four.³ At the R10 000 per capita per month income levels, less than 10% of Africans, 20% of Coloureds and 40% of Indians have this real monthly income or more, whilst the equivalent proportion of whites is just under 80%.⁴
- The Eastern Cape and Limpopo have the highest proportion of poor people, with 77% and 72% of their population respectively living below the poverty line. The Western Cape has the lowest proportion of people living in poverty (32%), followed by Gauteng (42%). In 2001, 25% of South Africa's poor lived in KwaZulu- Natal and 20% in the Eastern Cape.⁵
- The IJR's Economic Transformation Audit of 2004 found that the trend of increasing inequality within each population group is particularly acute within the black population. This is underscored by the Theil index⁶ that shows a declining share of between-group inequality from 62% to 40% between 1975 and 2001, whilst within-group inequality rose from 38% to 60% during this period.⁷ According to van der Berg & Louw⁸, the Gini coefficient within the black population was 0.49 in 1975; 0.56 in 1993, and in 2000 it was 0.59. The HSRC estimates an even higher Gini coefficient for the black population which rose from 0.62 in 1991 to 0.72 in 2001. The growth in inequality can probably be ascribed to the higher incomes earned by black unionised workers and more latterly by the emergent black middle class on the one hand, and growing unemployment among the lower deciles of the black population on the other.
- The main cause of black poverty is unemployment, which increased for the black population from 36.2% in 1995 to 46.6% in 2002⁹. Less than 10% of the total number of people in the poorest decile of the population is employed compared with more than half of the total number of people in the top income decile.
- South Africans who belong to unions are much less likely to be poor than those who do not: only 2% of trade union members were classified as poor in 2000¹⁰. Another cause of poverty is

³ Mail & Guardian. 2004. [Available] online: <www.mg.co.za>, 21 July 2004.

⁴ Leibrandt, M., Naidoo, P., Poswell, L., Welch, M. and Woolard, I. 2004. "South African Poverty and Inequality: Measuring the Changes in *Taking Power in the Economy: Gains and Directions*. The Institute for Justice and Reconciliation: Economic Transformation Audit 2004.

⁵ Leibrandt et al.

⁶ The Theil index is a measure that allows national inequality to be broken down into a contribution due to inequality within groups and a contribution due to inequality between groups.

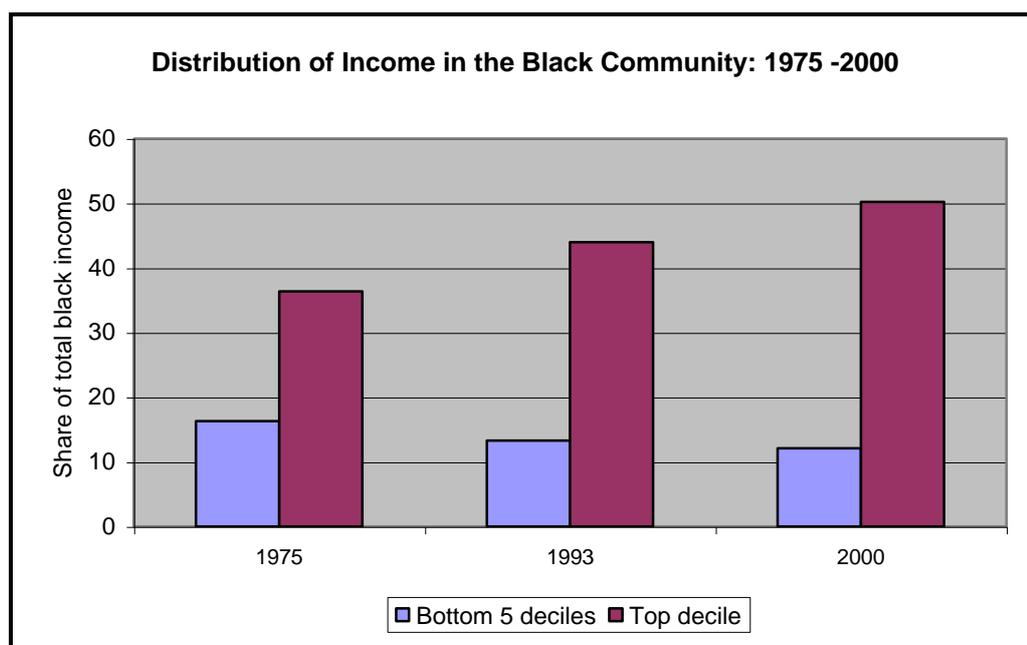
⁷ Leibrandt, et al.

⁸ Van der Berg, Servaas & Louw, Megan. 2003. "Changing Patterns of South African Income Distribution. Towards Times Series Estimates of Distribution and Poverty". Paper delivered to the *Conference of the Economic Society of South Africa*. Stellenbosch: 17-19 September.

⁹ Haroon Borhat. 2003. Unpublished document, based on October Household Survey 1995 and Labour Force Survey February 2002, University of Cape Town. Quoted by Servaas van den Berg in *Cape Times*, 27 February 2004.

¹⁰ Van den Berg, Servaas & du Plessis, Stan. 2004. *Cape Times*, 27 February.

evidently family size. More than 40% of the people in the poorest decile are below the age of 15 compared with less than 0% of the top income decile.



The redistribution of income has probably slowed down since 1994

According to a study by Servaas van den Berg and Megan Louw¹¹ the steady redistribution of racial income that took place between 1970 and 1995, actually appears to have slowed down between 1995 and 2000 (although van der Berg and Louw warn that statistics for the period after 1996 may be unreliable).

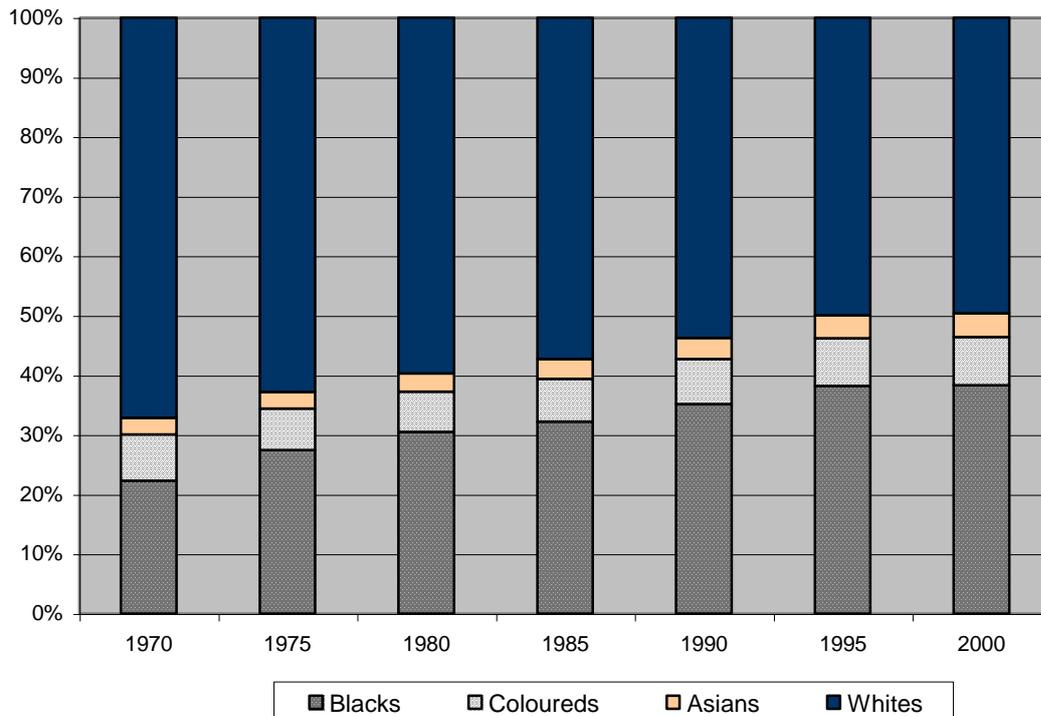
- Between 1970 and 1995 the black share of income rose from 22.3% to 38.2% but then increased only to 38.3% in 2000.
- The white share of income declined from 67% in 1970 to 49.9% in 1995. Between 1995 and 2000 the decline in the white share of income slowed to 0.3% - to 49.6% - compared to an average decline of 3.4% for each of the five-year periods between 1970 and 1995.
- Between 1970 and 1995 coloured share of income increased from 7% to 8% and then between 1995 and 2000 to 8.1%. Indian income increased from 2.8% in 1970 to 3.8% in 1995 and then to 4% in 2000.
- The IJR's Economic Transformation Audit¹² also reports that the share of income for the Black group rose strongly between 1970 and 1996, but that the long-term shift of share in income to the African group was halted between 1996 and 2001. Whilst the white and Indian shares of total income increased between 1996 and 2001 from 47% to 48% and from 5% to 6% respectively, the Black's share of income remained at 38% during this period.
- The disparity between mean white income per person and income per Black and Coloured person widened between 1996 and 2001, after 26 years of narrowing. The disparity between incomes decreased between 1970 and 1996, whilst white per capita income increased from nine times higher than Black income in 1996 to 11 times higher in 2001. The disparity between coloured and white also increased between 1996 and 2001, while the Indian/white disparity ratio remained the same.¹³

¹¹ Van der Berg, Servaas and Louw, Megan. 2003. "Changing patterns of South African income distribution: Towards time series estimates of distribution and poverty." Paper to the *Conference of the Economic Society of South Africa*. Stellenbosch, 17-19 September 2003.

¹² Leibbrandt, et al.

¹³ Leibbrandt, et al.

Distribution of Income in SA: 1970-2000



The emergent black middle class is the largest component in an increasingly multiracial national middle class.

Transformation is succeeding with its goal of establishing a black middle class.

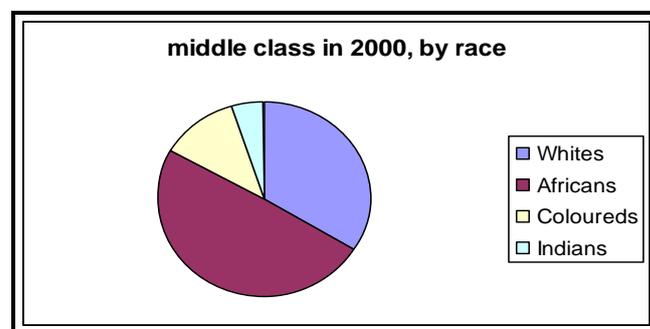
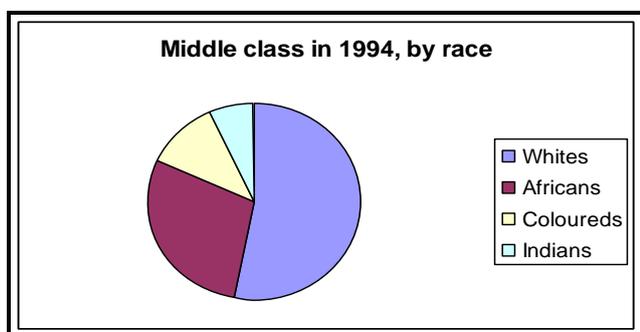
- Extrapolating from data provided by van der Berg and Louw¹⁴, the top decile of the black population had a per capita income of R36 000 in 2000 – which is more than the per capita incomes of the bottom four deciles in the white population.
- Using the same data it would appear that there are about 7.5 million South Africans who have per capita incomes over R35 000 per annum. This number includes 3.5 million Black South Africans (10% of the black population); 3.25 million Whites (60% of the white population); half a million Coloureds (15% of the population); and a quarter of a million Indians (25% of the Indian population).
- In a 2003 study, Pierre du Toit and Hennie Kotzé found that what they described as ‘the new middle class’ had increased considerably between 1994 and 2000. According to them the percentage of the total population in the middle class increased from 8.8% in 1994 to 11.9% in 2000. Most of the increase was due to the rapid growth of the black middle class which more than doubled from 3.3% of the total black population in 1994 to 7.8% in 2000. This meant that blacks comprised 49% of the middle class in 2000, compared with 34% for whites (drawn from the 2nd – 4th income quintiles); 5% Indians and 12% Coloureds. In 1994 blacks comprised 29% of the middle class, coloureds 11%, Indians 7% and whites 53%.¹⁵
- According to the IJR’s Economic Transformation Audit, there is a general trend of upward mobility of Blacks into the top sections of the income distribution. The percentage of Blacks in the upper six deciles has increased between 1996 and 2001, with an increase of 7% in the second highest decile during this period. The share of Black income in the lower deciles remained fairly constant over the period which helps to explain some of the widening inequality within the Black group. The shares of coloureds and Asians, and of whites in the bottom 8

¹⁴ Van der Berg, Servaas and Louw, Megan. 2003.

¹⁵ Du Toit, Pierre. 2004. *Affirmative Action and the Politics of Transformation: A Survey of Public Opinion*. The FW de Klerk Foundation. March 2004.

deciles, remained fairly constant during this period, while the white population experienced a decrease in the shares of the upper two deciles.¹⁶

- A study conducted by Prof Helgard van Wyk from the Bureau for Market Research (BMR)¹⁷ shows that the number of black households in the high-middle and high income groups increased by 368% to 440 000 between 1998 and 2004. During the same period, the number of white households in the same category increased by 16% to 642 000. The research also shows that whilst white households in the lowest income group increased by 30%, and black households in the same category decreased by 16%.
- The BMR forecasts that by 2007, black households will have a larger share of personal disposable income (46.5%) than whites (40.4%), which is a turn-about from 1960 when whites earned 69.4% of the total income and blacks a mere 23%.



3.2. EMPLOYMENT EQUITY

The following developments have taken place in the sphere of employment equity since 1994 based on reports submitted by 2 369 companies (employing a total of 2.4 million people) to the Commission for Employment Equity in 2002.

Black South Africans and women are still seriously under-represented in top and senior management posts.

Although Blacks, Coloureds and Indians make up 77% of the workforce, they hold only

- 25% of all top management positions (Blacks 8%, Coloureds 13%, Indians 4% and women of all races 12%);
- 20% of all senior management positions (Blacks 10%, Coloureds 5%, Indians 5% and women of all races 18%);
- 28% of all legislators, senior officials and managers (Blacks 15%, Coloureds 7%, Indians 6% and women of all races 25%).
- A 2005 census commissioned by the Businesswomen's Association¹⁸ shows that although women represents 52.1% of South Africa's adult population and 41.3% of the worker population; only 19.8% of all executive managers, 10.7 % of all directors, and 6.2% of all chief executive officers and board chairs are women. The figure for women executive managers and directors increased by respectively 5.1 and 3.6 percentage points from 2004.
- According to this census, women held only 306 of a total of 2851 directorships, whilst 48.4% of these directorships were held by black women, 43.8% by white women, 4.6% by coloured women and 3.2% by Indian women.

¹⁶ Leibrandt, et al. 2004.

¹⁷ Visser, A. 2005. "Nie-wit Superrykes meer as Wittes" in *Die Burger*, 1 February.

¹⁸ Mail & Guardian. 2005. *SA women hold less than 20% of top jobs*, 20 April 2005. Online [Available]: <www.mg.co.za>

Black South Africans and women are increasingly well represented in professional, technical and middle management posts.

Blacks, Coloureds and Indians comprise

- 65% of employees in the professions (Blacks 50%, Coloureds 11%, Indians 4% and women of all races 53%);
- 50% of professionally qualified and middle management posts (Blacks 40%, Coloureds 6%, Indians 4% and women of all races 38%);
- 59% of the positions in the technical and associated professions (Blacks 41%, Coloureds 10%, Indians 8% and women of all races 46%);
- The IJR's Transformation Audit reports¹⁹ that when the 2003 data is taken by occupational category, altogether 56% of all professionals are African (Black, Indian and Coloured) and that 41% of professionals are African according to the 2003 Labour Force Survey. There were 74% more Black professionals in 2003 than in 1995.

There are few indications that White South Africans have been disproportionately disadvantaged in employment practices – except in the area of management terminations and promotions.

According to the Commission for Employment Equity in 2002 Whites accounted for²⁰

- 27% of all recruitment, compared with Blacks 51%; Coloureds 16%, Indians 6% and women of all races 43%;
- 30% of promotions, compared with Blacks 53%, Coloureds 12%, Indians 5% and women of all races 31%; and
- 25% of employees whose services were terminated, compared with Blacks 62%, Coloureds 10%, Indians 3% and women of all races 26%.

According to the Breakwater monitor reports approximately 65% of all managers recruited in 1999-2000 were white. During the same period white managers accounted for 70% of promotions and for 82% of the management terminations – thus opening the way to more Black empowerment managerial appointments.²¹

The Public service has made substantial progress in achieving employment equity goals.

The Public Service, which employs over a million people, has predictably been a pacesetter in the implementation of employment equity.²²

- Black representation in the public sector increased from 76% in 1995 to 86% in 2001.
- By 1998 60 000 public servants – including many senior and middle level white officials – had accepted retirement packages from the Public Service. By 2002 this figure had increased to 120 000.²³
- Between 1995 and 2001 the proportion of Black managers in the public service increased from 30% to 51% and that of Coloured and Indian managers, from 10 to 12%.
- During the same period the proportion of senior Black managers increased from 37% to 55%, and the proportion of Blacks in middle management from 41% to 64%.

¹⁹ Bodibe, L. & Mhango, C. 2004. "Briefing 2: Employment Equity: Uneven Progress" in *Taking Power in the Economy: Gains and Directions*. The Institute for Justice and Reconciliation: Economic Transformation Audit 2004.

²⁰ Horwitz, F.M. & Bowmaker-Falconer, A. 2003. "Managers" in HRD Review. [Online] Available: <http://hrdreview.hsrc.ac.za> [September 2004]

²¹ Horwitz, et al.

²² Bodibe, L. & Mhango, C. 2004.

²³ Giliomee, Hermann. 2004, *Die Burger*, 20 July.

- The proportion of women managers increased from 17% in 1995 to 35% in 1999. This figure, however, dropped between 1999 and 2001.
- By 2001 the overall composition of the Public Service closely reflected the composition of the population as a whole.

The Public Service has experienced some management and delivery problems:

- a quarter of the government's procurement budget is spent on consultants (who are often retrenched former public servants);
- a third of the state's 163 agencies were not in a position to present their accounts to the Auditor-General; and
- the welfare department has lost more than 15 billion rand through fraud and corruption²⁴.

3.3. OWNERSHIP OF THE ECONOMY

A substantial increase in Black ownership of the economy is a central goal of transformation. After ten years of the new South Africa it is possible to reach the following broad conclusions in this regard:

Efforts to increase black share ownership in companies listed on the Johannesburg Securities Exchange have been disappointing.

- According to McGregor's 'Who owns whom in South Africa', Blacks owned only 4% of the shares on the JSE compared with 69% for Whites and 27% for foreign interests. Much of the foreign-owned equity represented former South African companies that had listed overseas since 1994.
- However, these figures do not include shares owned in listed companies by state owned corporations, or the black interest represented by pension funds, insurance companies and other institutional investors.
- Black controlled companies accounted for about 7% of market capitalisation in 1998, which then declined rapidly to 2.2% in 2002. BEE transactions involved investment portfolios rather than operational control over productive assets, since it is estimated that over 80% of the 260 'previously disadvantaged individuals' that held 367 directorships in 387 JSE listed companies in September 2002 were non-executive.²⁵
- The Public Investment Commission, which is responsible for investments on behalf of the Government Employees Pension Fund, now has funds totalling R378 billion under its management. Even though only a third of these funds are invested on the JSE they already represent 7% – 8% of the total share value. Presumably a considerable portion of these funds is invested on behalf of black public servants²⁶.

Black shareholding is likely to increase during the next few years.

- McGregor predicts that black shareholding will increase to 6% by 2007 and that foreigners will increase their shareholding from 27% to 45%.
- During 2003, black shareholding on the JSE grew by 2,3% as a result of empowerment deals amounting to more than 42.2 billion rand²⁷. At this rate, the BEECom target of 25% black ownership of the shares on the JSE should be reached by 2013.
- Black shareholding should increase quite substantially with the implementation of various sectoral charters during the next ten years.

²⁴ Giliomee, Hermann. 2004, *Die Burger*, 20 July.

²⁵ Gelb, S. 2004. "Economic Growth and Development" in *Taking Power in the Economy: Gains and Directions*. The Institute for Justice and Reconciliation: Economic Transformation Audit 2004.

²⁶ This Day, 5 August 2004

²⁷ Ernst & Young Management Services quoted in 'This Day' on 8 April 2004.

Thus far, the main beneficiaries of empowerment transactions have been a small number of black businessmen.

- 60% of empowerment deals during 2003 (R25.3 billion) accrued to the companies of two men, Tokyo Sexwale and Patrice Motsepe. Tokyo Sexwale's Bathos Bonke company derived 10 per cent of the value of the ABSA empowerment deal which was valued at between R3.5 and R5 billion, compared with only 1% that was set aside for workers as part of an employee shareholder initiative.²⁸
- Eight individuals (one of them white) will, between them, benefit by one billion rand from the recently announced Standard Bank BEE deal. Cyril Ramaphosa and Saki Macozoma will each make R192 million from the transaction.
- The directors of MTN have received 70% of the benefit arising from the empowerment purchase by their company Newshelf 664 of Transnet's 18,7% interest in MTN at the end of 2002. Phuthuma Nhleko owns 7,9% of Newshelf valued at R655 million. Three other black directors of Newshelf 664 have shares valued at R456 million each.
- In November 2004 it was announced that 15.1% of Telkom would be sold to a consortium including Andile Ngcaba (Chairman of Didata and former DG of Department of Communications), Gloria Serobe (former FD of Transnet), and Smuts Nkonyama (ANC spokesman and head of the presidency) and not previously famous for his corporate finance skills). This consortium would buy the 15.1% share of Telkom owned by Thintana (the former US-Malaysian strategic equity partner). There were rumours that the Public Investment Corporation was involved in the deal.
- This situation has been the cause of considerable introspection within the Black community – and particularly within COSATU which insists that workers should derive greater benefits from the process.

Very little progress has been made with land redistribution in South Africa.

Although the Black Economic Empowerment Commission set the goal of transferring 30% of the productive land of South Africa to Black South Africans by 2011, little has been achieved:

- 70% of productive agricultural land remains in the hands of Whites;
- The Government's land programmes have succeeded in redistributing less than 3% of the country's land;
- In July 2004, the Minister of Agriculture, Thoko Didiza, announced a draft agricultural charter that set goals for Black South Africans to own 35% of agricultural business by 2008 and 50% of farmland by 2014. Farmers were expected to procure 70% of their inputs from black-owned companies by 2015 and to make 10% of their farmland available to their farm workers for their own crops and livestock. The proposals drew a negative response from farmers' organisations, which complained that they did not reflect consultations that had taken place, that the goals were unrealistic and created expectations that could not possibly be met.
- The government recently announced steps to make more than 15 million hectares in the former homelands available for freehold ownership.

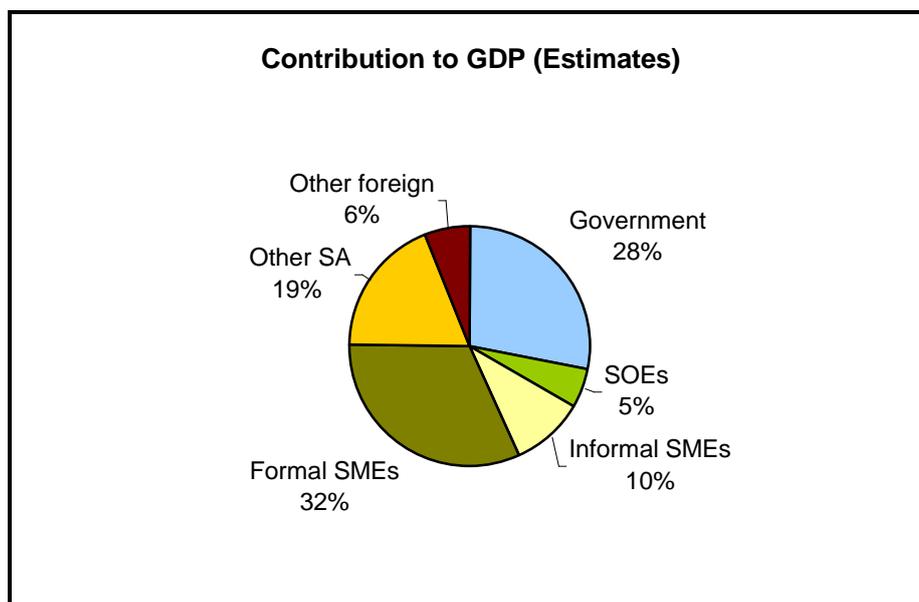
3.4. CONTROL OF THE ECONOMY

One of the central goals of black economic empowerment is to ensure that the economy is controlled by the majority of the population. Control of the economy should not be confused with ownership of shares listed on the JSE, since such companies represent only a relatively small portion of total economic activity in the country. The following developments have taken place in this regard since 1994:

²⁸ This Day, 8 April 2004

Black South Africans have made very substantial progress in achieving control over the economy.

- Black South Africans control virtually all levels of government and of public administration representing 28% of GDP.
- Black South Africans control and direct state economic, fiscal, commercial, labour and industrial policy.
- Small, medium and micro enterprises account for 42% of GDP and employ more than half of the people in the private sector in some 3 million enterprises.²⁹ This sector includes the informal sector which is estimated to account for 10% of GDP and which is owned overwhelmingly by black South Africans.
- Black South Africans control extensive state owned enterprises, which, together, contribute 5.4% of the GDP. Four SOEs - Telkom, Eskom, Denel and Transnet – account for more than 90% of SOE activity.
- A significant part of the remaining economic activity is controlled by foreign owned companies, including 27% of the shareholding on the JSE. Foreign direct investment amounted to R 371 billion at the end of 2001³⁰ compared with a JSE capitalisation of R 1.7 trillion. However, many other foreign owned companies with extensive activities in South Africa are not listed on the JSE – especially those companies that dominate the automobile and oil sectors.



3.5. HUMAN RESOURCE DEVELOPMENT

Human Resource Development is a key factor in broad-based black economic empowerment. Clearly, it will be difficult to reach many BEE targets if there is not a sufficient pool of trained black South Africans to fill empowerment posts. The following developments have taken place in the sphere of human resource development:

There is a significant skills shortage in South Africa.

Despite the high general unemployment level in South Africa there is a significant shortage of skilled workers.

- According to an analysis by Iraj Abedian of the Standard Bank there are at least 300 000 vacancies for skilled employees in the private and public sectors.

²⁹ South African Government. 2004. [Online] Available: <[www/info.gov.za/yearbook/2001/economy.html](http://www.info.gov.za/yearbook/2001/economy.html)>

³⁰ Sixth Census of foreign liabilities, investments and assets, 31 December 2001, South African Reserve Bank.

- Two-thirds of the total value of all goods and services produced in South Africa is produced by the most highly skilled sector of the economy.³¹
- The occupations where there were the greatest shortages in 2000 were technicians, craft workers, managers, service and sales staff, professionals and operators.³²
- South Africa has an over-supply of unskilled labour whilst it is experiencing a serious shortage of skilled workers. The increase in the unemployment rate for students with tertiary education indicates that the shortage is skills-specific.³³
- Between 1995 and 2002 changes in the occupational composition of employment varied between the population groups. Whilst the share of skilled workers in the African group remained at 5% during this period, the share of skilled workers within the white group increased from 23% to 33%. The share of semi-skilled workers in the African group increased from 54% to 61% whilst the share of these workers dropped in the white group from 74% to 65%.³⁴

Occupational composition of employment by population group, 1995 and 2002

	Year	Skilled	Semi-Skilled	Unskilled
African	1995	5%	54%	41%
	2002	5%	61%	34%
Coloured	1995	4%	56%	40%
	2002	6%	60%	34%
Indian	1995	17%	75%	7%
	2002	27%	67%	6%
White	1995	23%	74%	3%
	2002	33%	65%	2%
Total	1995	9%	59%	32%
	2002	11%	62%	27%

Despite the allocation of more resources to schools, South Africa is a poor performer in national and in world terms.

The IJR's Transformation Audit of 2004³⁵ reveals that international tests indicate that South African students perform weakly, even when compared with much poorer countries with far fewer resources than those that were available to African schools under apartheid.

- Tests conducted in 2000 by the Southern African Consortium for Monitoring Educational Quality in 11 Southern African countries revealed that South African students performed extremely weak in literacy and mathematics. South Africa's Grade 6 reading comprehension and mathematics scored the third worst on both tests.
- South Africa scored 275 for mathematics and 243 for the science section in the Grade 8 Mathematics and Science Study conducted in 2003, whilst the mean score for all 38 countries that participated was 487 and 488 respectively.
- The Monitoring Learning Achievement Study conducted in 1995 found that South African Grade 4 students performed by far the worst of 12 African countries in terms of numeracy. The numeracy score of 30% was well below that of the second lowest country and South Africa outperformed only 3 of the 12 countries in the literacy test.

³¹ This Day, 19 April 2004.

³² Kraak, A. 2003. "HRD and the Skills Crisis" in *Human Resources Development 2003*. Published by HSRC. [Online] Available: <http://hrdreview.hsrc.ac.za>

³³ Burger, Rulof. 2004. "Changing Dynamics of Employment: What Drives the Post-Apartheid Labour Market?" in *Taking Power in the Economy: Gains and Directions*. The Institute for Justice and Reconciliation: Economic Transformation Audit 2004.

³⁴ Burger, Rulof. 2004.

³⁵ Van der Berg, Servaas. 2003. "Education: The Crisis in Schooling" in *Taking Power in the Economy: Gains and Directions*. The Institute for Justice and Reconciliation: Economic Transformation Audit 2004

- Only 27% of all matrics passed mathematics at some level in 2002, - only 4.6 % of all matriculants passed HG whilst another 23% passed Standard Grade mathematics.
- Fewer than 22% of all matrics passed physical science in 2002.
- Only 50% and 42% of all teachers teaching mathematics and science, have studied these subjects beyond secondary-school level.

The Western Cape Education Department released statistics on the literacy and numerical skills of Grade Three learners in the Western Cape³⁶. The study showed that only 39.5% of Grade Three pupils passed the literacy test conducted in November 2004, which increased by 3 percentage points from 2002; and only 37.3% met the numerical requirements, an increase of 4 percentage points from 2002. According to the study most of the Grade Three pupils were only as literate as Grade Ones and met the numerical levels of Grade Ones.

The pattern of matriculation results highlights large inequalities in performance in spite of a more equitable allocation of resources across schools.

South Africa's pattern of matriculation results fails to reflect the major progress made towards more just allocation of resources, funds and teachers, and in opening access to all. An analysis of the 2003 matriculation results by the IJR's Economic Transformation Audit of 2004³⁷, exposes some troubling trends.

- Inequality in terms of the quality of matric passes is still acute between different population groups. Although Blacks now constitute 71% of all matrics that passed in 2003, only 5.2% of the whole Black cohort achieved results that would gain them university entry; whilst 35.9% of the white cohort and 42.1% of the Indian cohort passed with endorsement. White students achieved 97% of the A+ (90% and higher) aggregates for the 2003 matric examination (although they represent only 13% of total candidates for the examination), and Blacks received 88% of the F aggregates and comprised 95% of candidates who failed.
- Previously disadvantaged schools continue to produce the highest number of matric failures. Black pupils that attend formerly white schools outperform Black pupils that attend previously Black schools, despite more funding allocated to the latter. The percentage of Blacks in formerly white schools that passed matric (62.4%) and passed with endorsement (26.3%) in 2003 is considerably higher compared with Black students in formerly Black schools that achieved a 54.5% pass rate and an 11.4% endorsement rate. Deracialisation and large resources shifts thus gave rise to little improvement as the matriculation pass rate in 1994 was 49% for Blacks and 97% for whites.
- Matriculation performance differs acutely between the provinces and poor matriculation performance was the most severe in the poorest provinces. Whilst Gauteng and the Western Cape had the highest matriculation pass rates at 40.6% and 40.3% respectively, poorer provinces such as the Eastern Cape and Limpopo had much lower pass rates at 21.6% and 33.6%.

Black South Africans are acquiring post matriculation qualifications at a faster rate than other South Africans and now comprise more than 60% of university and technicon students.

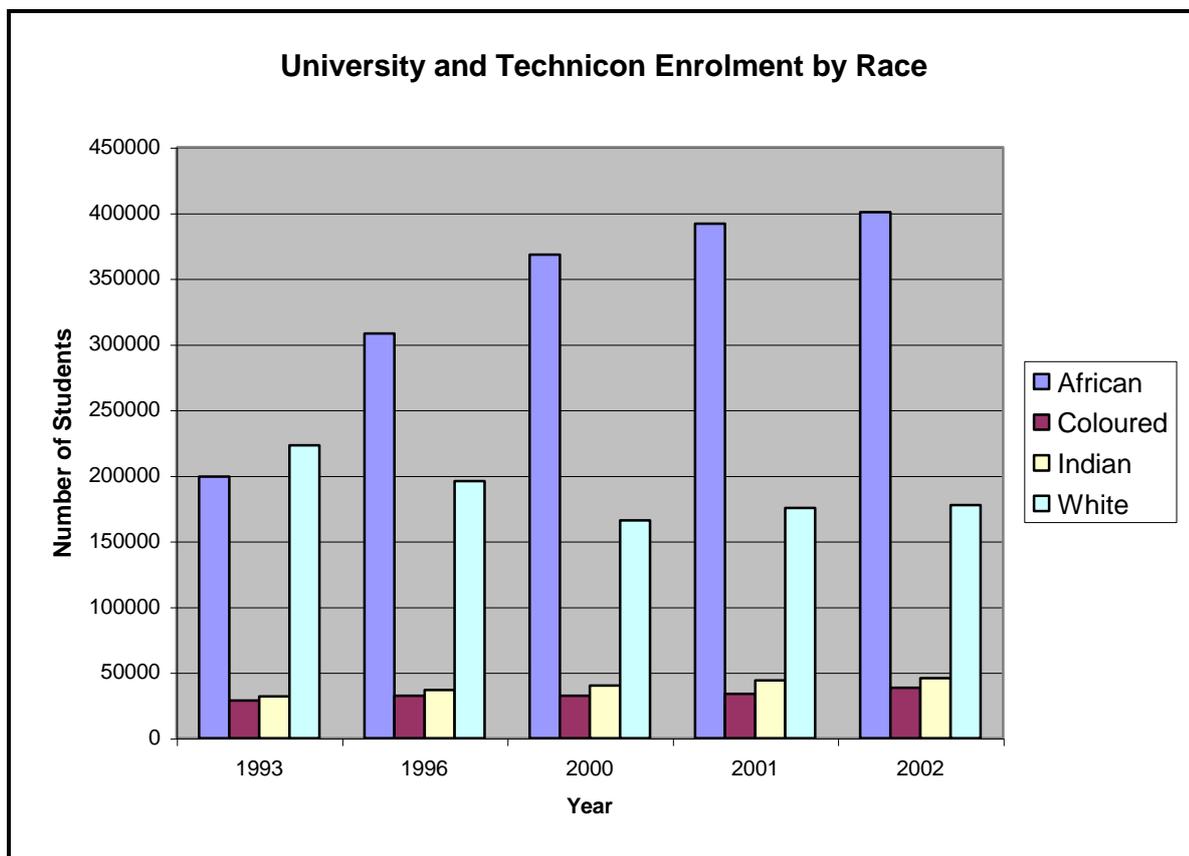
- The number of graduates from South African universities doubled from 478 198 in 1992 to 975 993 in 2001.³⁸
- In 2003 blacks comprised 38% of all South Africans with post matric qualifications compared to 29% in 2000 - the number of blacks with post matric qualifications increased by 29%.

³⁶ Merton, M. 2005. "Taakspan van WKOD gaan help ingryp by skole na studie" in *Die Burger*, 25 Mei 2005. Kassiem, A. 2005. "Over 50% of Grade Three pupils fail at three Rs" in *Cape Times*, 25 May 2005.

³⁷ Van der Berg, Servaas. 2003.

³⁸ SA Department of Education National Learners Database, based on statistics from the SA Qualifications Authority.

- The proportion of university qualifications awarded to black students increased from 37% in 1992 to 53% in 2001 while those awarded by technicians to black students increased even more rapidly from 24% to 74%.¹⁶
- The number of black students enrolling at university and technicons increased by almost 101% between 1993 and 2002. By 2002 they comprised 60% of the total – compared with 40% in 1993. The number of coloured student enrollments increased by 34% between 1993 and 2002, but their share of the total number of students declined very marginally from 5.9% to 5.8%. The number of Indian students increased by 45% during the same period and their share of the total increased slightly from 6.6% to 6.9%. The number of white students enrolled at university and technicons declined by 20% between 1993 and 2002 and their share of the total plummeted from 46.2% to 26.8%.³⁹
- According to a survey conducted by the Institute for Race Relations, the number of Black graduates increased by 259% between 1991 and 2002, Indians by 104%, and coloured graduates by 27% and the number of white graduates declined by 11%.⁴⁰
- The FET⁴¹ college sector has also been accompanied by a substantial rise in enrolments, especially of African students. FET college enrolments of African students increased from 12% of total enrolments in 1990 to 75% in 2000. During the same period white enrolments decreased from 68% to 18%.⁴²



¹⁶ SA Department of Education National Learners Database, based on statistics from the SA Qualifications Authority.

³⁹ Subotzky, G. 2003. "Public Higher Education" in *Human Resources Development 2003*. Published by HSRC. [Online] Available: <http://hrdreview.hsrc.ac.za>.

⁴⁰ South African Institute for Race Relations, SA Survey 2003

⁴¹ The FET sector consists of all education and training from National Qualifications Framework (NQF) Levels 2-4 (the equivalent of Grades 10 to 12) and National Technical Certificate 1 to 3 in FET colleges.

⁴² Gewer, Anthony. 2004. "Briefing 2: Further Education and Training: Restructuring and Responsiveness" in *Taking Power in the Economy: Gains and Directions*. The Institute for Justice and Reconciliation: Economic Transformation Audit 2004.

The fields of study in which South Africans are acquiring post matric qualifications do not meet the needs of the economy.

In 2001, only 26% of enrolments in public higher education institutions were in the sphere of science, engineering and technology whereas the greatest need reported by South African companies in 2000 was for professionals, technicians, craftsmen and operators.

- In 2002, Black students (53% of all students enrolled) made up 25% of business and commerce graduates, 28% of computer science graduates, 22% of engineering graduates; 69% of public administration and 84% of education graduates. 16% of Black students obtained degrees in natural sciences as opposed to 31% of Indians, 29% of whites, and 22% of coloureds.
- Indians (9% of university students) accounted for 15% of business, commerce and management science graduates, 12% of medical graduates, and 11% of engineering graduates.
- Coloureds (5% of university students) accounted for 3% of engineering graduates, 4% of mathematical science graduates, 9% of public administration and 7% of psychology graduates.
- Whites (33% of university students) accounted for 18% of public administration graduates, 11% of education graduates, 56% of commerce and business graduates; 55% of computer science graduates, 65% of engineering graduates, and 48% of mathematical science graduates.⁴³
- The number of graduates in the financial sector increased from 75 178 in 1991 to 158 891 in 2001 in the accounting, business management and commerce disciplines. However, of these over 14 498 were unemployed of whom 69% were black.⁴⁴

Headcount enrolments by major field of study in public higher education institutions in 2001⁴⁵

Institutions	Major Field of Study				
	Science, Engineering & Technology	Business & Management	Education	All other Humanities & Social Sciences	Total
Universities	98728	92147	109821	148171	448868
Technicons	71071	102162	12271	30994	216499
Total	169800	194310	122093	179164	665367
	26%	29%	18%	27%	100%

South Africa is not doing well in entrepreneurship development.

According to the 2003 Global Entrepreneurship Monitor South Africa slipped from 19th to 22nd position out of the 32 countries that were surveyed. It was the only developing country, which recorded a lower ranking in the 2003 survey. South Africa fared badly, not only with regard to entrepreneurial activity in the establishment of new businesses but also with regard to entrepreneurial activity in existing businesses. The poor performance was ascribed to inadequate education and lack of finance as well as by ineffective government support for small businesses⁴⁶.

The GEM's Total Entrepreneurial Activity (TEA) index⁴⁷, which measures the proportion of a country's adults who are involved in starting or running new businesses, illustrates that South

⁴³ South African Institute for Race Relations, SA Survey 2003.

⁴⁴ Shubash Lalloo, Industrial Development Corporation, 6 July 2004

⁴⁵ Department of Education. 2003. Education Statistics in South Africa at a Glance in 2001.

⁴⁶ Hancock, M. & Fitzsimons, P. 2004. "National and Regional Summaries" in the *Global Entrepreneurship Monitor* 2004. [Online] Available <<http://www.gemconsortium.org/download.asp?fid=386>>

⁴⁷ Global Entrepreneurship Monitor. 2003. *South African Executive Report*, 2003. [Online] Available <<http://www.gemconsortium.org/download/1114779494453/GEM%202003%20Update.pdf>>

Africa's TEA rate is substantially below the average for developing countries. In 2004, South Africa scored a low 5.4% compared to the average of 21.2% for the other developing countries. This poor TEA rate is largely due to South Africa's poor start-up activity rate which dropped from 4.7% in 2002 to 2.7% in 2003. During the same period South Africa's start-up ranking fell from 15th out of 37 to 24th out of 31.

South Africa is experiencing a disturbing loss of skilled manpower through emigration.

South Africa has been experiencing a brain drain since the 1990s⁴⁸. At the same time, the flow of skilled immigrants into the country has slowed down.

- According to a study in 2001 by the SANSA project at UCT over 233,000 South Africans emigrated permanently to five countries - the United Kingdom, the USA, Canada, Australia and New Zealand - between 1989 and 1997.⁴⁹ This represents a rate during this period of almost 30 000 emigrants per annum.
- 2% of the respondents to a recent survey on the 'emigration potential' of skilled South Africans reported that they had a 'very high potential' to emigrate and 10% had a 'high potential'. It was not only whites who were potential emigrants: 1% of black respondents had a 'very high' potential to emigrate and 4% had a 'high potential' to do so.
- Between 1994 and 2001, the percentage of enterprises that regarded the emigration of skilled manpower as "significant" rose from 2% to 33%.
- The sectors of the economy that were most concerned about emigration were education and health (59%), business services (47%), banking and finance (43%), computers and IT services (35%) and industrial high tech (35%).

The Southern African Migration Project⁵⁰ conducted research on the emigration potential of final-year students in six SADC countries⁵¹. The Potential Skills Base Survey illustrates that the emigration potential of SADC students on graduation is high and that economic factors have the biggest impact when students are considering what to do in the future.

- Whilst all students in all countries showed very high levels of patriotism and pride in their identity as citizens of their own country (80%), and felt committed to the future of development of their country; 79% of students had considered moving to another country when they graduated, and only 17% had never considered it.
- 19% had applied or were in the process of applying for work permits abroad and 11% were applying for permanent residence elsewhere and 11% for citizenship.
- South Africa was likely to be both a victim and a beneficiary of the brain drain. While students from South Africa and Botswana chose Europe as their first choice destination, students from the other SADC countries saw South Africa and Botswana as the most desirable destinations. Salaries, cost of living, ability to find the wanted job and prospects for professional advancement were considered to be better in the first choice destination.

4. PERCEPTIONS OF BLACK ECONOMIC EMPOWERMENT AND OF AFFIRMATIVE ACTION

⁴⁸ According to Bailey (2003) the primary reasons why skilled South Africans emigrate have to do with concerns about crime and violence, poor economic growth rates, the decline in public services in the country, and lucrative job opportunities overseas. The globalising labour market for highly skilled professionals is also impacting on skills migration trends.

⁴⁹ Jonathan, C., McDonald, D., Williams, V., Mattes, R., Richmond, W., Rogerson C.M., and Rogerson, J.M. 2001. "Losing our Minds: Migration and the 'Brain Drain' from South Africa", 10 October 2001.

⁵⁰ A large sample of almost 10 000 final-year students was interviewed in tertiary training institutions across the region, including universities, technikons, teacher-training colleges and nursing-training colleges.

⁵¹ South Africa, Namibia, Botswana, Zimbabwe, Swaziland and Lesotho.

An analysis of recent opinion surveys reveals that race remains one of the most significant variables in determining attitudes on most political, economic and social questions. Questions relating to black economic empowerment and affirmative actions are no exception:

A survey conducted by Research Surveys (RS) at the end of October 2004 among 500 SA adults in metropolitan areas found that:⁵²

- 70% felt that BEE had enriched a select few (Whites 77%, Blacks 65%).
- two thirds felt BEE was necessary in order to address the wrongs of the past. (Coloureds and Indians 75%; Blacks 70%; Whites 64%).
- 65% believed that BEE had had a positive impact (Coloureds 75%; Blacks and Indians 65%; Whites 58%).
- 44% felt BEE was stifling the country's growth, 48% felt that this was not the case; and 43% felt BEE created an environment which fostered corruption (whites 52%); 48% disagreed.

Black and white South Africans differ fundamentally on the question of whether affirmative action is necessary to make up for the wrongs of the past.

- In 1997 72.3% of Blacks agreed that there was a necessity for affirmative action contrasted with only 19.6 % of whites who agreed with this proposition. The two races also appeared, if anything, to be moving further apart on this question: the previous year the figures had been 71.8% and 24.6% respectively. The white attitudes did not reflect a general unwillingness to work with black South Africans since approximately 60% of whites who disagreed with affirmative action also supported integrated schools and communities⁵³.
- 78% of whites also opposed the idea that people from previously disadvantaged groups should be given preferential treatment in the allocation of employment opportunities. More than 60% of blacks, 43% of Coloureds and 47% of Indians agreed that such treatment was necessary⁵⁴.
- Interestingly, most South Africans agreed that people who had suffered under apartheid had received sufficient financial compensation. 34% of blacks agreed and 29% disagreed while 69% of whites agreed with the proposition while only 8% opposed it.⁵⁵
- In a November 2003 survey 47.4% of blacks agreed that it was fair that the people who discriminated against others during apartheid should feel what it was like to be discriminated against – compared with 14.8% of whites.⁵⁶

Black and white South Africans differ strongly on questions relating to land ownership

According to a survey conducted by Markinor for Prof Pierre du Toit in February and March 2004⁵⁷, 72.1% of Black South Africans agreed, or strongly agreed, with the statement that '*all the land whites own, they stole from the blacks*', while only 3.4% of whites agreed. 88.7% of whites disagreed with the statement, while only 7.7% of blacks did so. 47.6% of Coloureds and 61.3% of Indians also disagreed with the statement.

Blacks and Whites disagree on the right of landowners to protect their property rights by approaching the constitutional courts

⁵² Research Surveys. 2004. [Online] Available: < <http://www.biz-community.com/PressOffice.aspx?i=275>>

⁵³ Macdonald, H & Gibson, L. 2000. *An Empirical Snapshot of the Nature of Racial Attitudes in South Africa*. Submitted to the National Conference on Racism, Presented by the Institute for Justice and Reconciliation. Sandton, 30 August to 2 September 2000. <http://www.ijr.org.za/empirical/em6.html>.

⁵⁴ Democracy SA: Public opinion on national priority issues: HSRC March 2000.

⁵⁵ Lombard, K. 2003. "Revisiting Reconciliation: The People's View", *Research Report of the Reconciliation Barometer Exploratory Survey*, Institute for Justice and Reconciliation. 15 March 2003.

⁵⁶ Lombard, K. 2003

⁵⁷ Du Toit, Pierre. 2004. *Affirmative Action and the Politics of Transformation: A Survey of Public Opinion*. The FW de Klerk Foundation. March 2004.

In response to a question in the same survey 46.9% of Black South Africans agreed with the statement that '*Landowners who dispute land claims by going to court are misusing the constitution*' while only 22.9% disagreed with the statement. 66.6% of whites disagreed or strongly disagreed with the statement while only 10.8% agreed with it.⁵⁸

White companies and commentators have serious concerns regarding aspects of BEE

Although they agree with many of the broad goals of BEE, companies complain that it

- creates additional onerous and costly administrative burdens – particularly for small and medium size enterprises;
- discourages entrepreneurship by increasing costs, diluting equity and management autonomy;
- undermines efficient government by removing cost-effectiveness, proven quality and service and success in open competition as the main determinants for government tenders;
- undermines property rights and accordingly discourages both foreign and local investment;
- creates enormous demand for the small pool of suitably trained and experienced black South Africans who command astronomical salaries and who are soon head-hunted by competitors;
- leads to the loss of irreplaceable skills and experience as whites are forced out of companies or emigrate because of affirmative action policies.

5. AFFIRMATIVE ACTION IN OTHER SOCIETIES

5.1. AFFIRMATIVE ACTION IN MALAYSIA

Introduction

Affirmative action policies were implemented in Malaysia since the 1970s to eliminate the socio-economic imbalances between Malays (Bumiputera) and non-Malays (non-Bumiputera), as brought about by colonialism. With the 13 May 1969 racial riots, the National Alliance government was finally convinced of the necessity of implementing affirmative action to create a more balanced society⁵⁹. Highlights of affirmative action include:

- The government introduced the New Economic Policy (NEP) in 1970, which accorded the Bumiputera preferential treatment in order to correct the racial imbalances between the Malays and non-Malays⁶⁰. A target was set that within a period of 20 years (1971-1990), Malays would own and manage at least 30% of the commercial and industrial activities of the economy⁶¹.
- The Industrial Coordination Act (ICA) of 1975 provided the state with the means to implement the equity policies.
- Opposition from the non-Bumiputera community was discouraged by Constitutional amendments which made it seditious to question provisions in the Constitution pertaining to the "special rights and privileges" of the Malays.

The development of affirmative action

⁵⁸ Du Toit, 2004.

⁵⁹ Abdullah, F.H. 1997. "Affirmative Action Policy in Malaysia: To Restructure Society, to Eradicate Poverty" in *Ethnic Studies Report*. XV (2), July. [Online] Available: <http://www.ices.lk/publications/esr/articles_jul97/Esr-Abdullah.PDF>

⁶⁰ Guan, L.H. 2000. "Ethnic Relations in Peninsular Malaysia: The Cultural and Economic Dimensions" in *Social and Cultural Issues No 1*. August. Institute of Southeast Asian Studies. [Online] Available: <www.iseas.edu.sg/sc12000.pdf>

⁶¹ The ownership pattern of share capital in limited companies was to change from the ratio of 2.4: 34.3: 63.3 (bumiputera: non-bumiputera: foreign) to 30:40:30 by 1990.

The NEP stressed national unity as the overriding objective and it contained a two-pronged development programme. The first prong aimed at reducing and eventually eradicating poverty by raising income levels and increasing employment opportunities for all Malaysians. The second prong, which was the essence of the affirmative action scheme, aimed at accelerating the process of restructuring Malaysian society to correct economic imbalances. The government set up a timetable of 20 years from the inception of the NEP for the achievement of the “restructuring targets”.

In 1991 the National Development Policy (NDP) replaced the NEP, which marked a retreat from state-interventionism and a greater acceptance of policies shaped by market forces⁶². The NDP placed less emphasis on setting targets for ethnic restructuring and income redistribution and more emphasis on growth- and income raising policies. The NDP, which formed part of Malaysia’s 2020 Vision, emphasised the eradication of hardcore poverty whilst reducing relative poverty.

The outcome of affirmative action policies

Positive Trends:

The NEP successfully improved the socio-economic positions of the long neglected and economically backward Bumiputera groups and eliminated the identification of ethnic groups with economic function. Overall income inequality as well as inter-ethnic and rural-urban inequality has declined since the mid-1970s. Malaysia achieved remarkable economic growth and development since the 1970s and it emerged as one of the most successful economies in Southeast Asia by the late 1980s. The expanding economic pie made it easier for the Chinese to accept preferential treatment of Malays, including Malay domination of Malaysian politics and the bureaucracy⁶³. The structural changes brought about by the NEP, moreover, were accompanied by political and economic stability.

- Malaysia experienced an average annual growth rate of 6.7 percent during the NEP’s life span.
- The Bumiputera ownership of corporate wealth grew from 2.4% in 1970 to 27.2% in 1988.
- The overall incidence of poverty in Malaysia fell from 49.3% in 1970 to 22.4% in 1987.
- The total number of Bumiputera professionals in various fields increased from 4.9% in 1970 to 25.1% in 1988.

Negative Trends:

Despite Malaysia’s phenomenal economic growth and success in narrowing the inter-ethnic inequality gap, intra-ethnic income inequality, particularly intra-Malay inequality, has started to rise since 1990.

- Inter-Malay inequality has risen from 0.4 in 1968 to 0.4495 in 1997, according to the Gini-coefficient.

The Bumiputera preferential treatment provided for by the NEP alienated the Chinese population in general, as they felt that it discriminated against them⁶⁴. As Constitutional amendments made it seditious to question provisions in the Constitution pertaining to the preferential treatment of Malays, little dialogue about affirmative action took place, and non-Malays were not allowed to express their views about these policies, which increased their sense of alienation.

Conclusion

⁶² Henderson, J., Hulme, D., Phillips, R. and Nur, N.A.M. 2002. Economic Governance and Poverty in Malaysia. [Online] Available: <<http://www.gapresearch.org/governance/MalaysiaReportMay2002.pdf>>

⁶³ Koon, H.P. 1997. “The New Economic Policy and the Chinese Community in Peninsular Malaysia” in *The Developing Economies*. XXXV-3: 262-292. [Online] Available: www.ide.go.jp/English/Publish/De/pdf/97_03_03.pdf

⁶⁴ This alienation was illustrated by the drop in Chinese domestic investment from 66.9% before the implementation of the NEP to approximately 30% in 1975.

Malaysia's affirmative action policies under the NEP had successfully improved the socio-economic positions of the long neglected and economically backward *Bumiputera* groups, even though the NEP did not achieve all of its targets. The increase of intra-Malay inequality, however, cannot be addressed by focusing on race alone, but by a larger focus on eradicating hardcore poverty.

5.2. AFFIRMATIVE ACTION IN THE UNITED STATES OF AMERICA

Brief history

Since the 1960's, affirmative action policies have been the primary weapon to combat racism and sexism in American society. Despite the Civil Rights Act of 1964 and the Voting Rights Act of 1965 – both of which advanced the Constitution's promise of equal opportunity- actual progress in the daily lives of people was slow and difficult. Thus, affirmative action was born and enacted. Highlights of its development include:

- ❖ In 1978 *Regents of the University of California vs. Bakke* decided that setting aside a specific number of places in the absence of proof of past discrimination was illegal, but it allowed racial preferences in admissions.
- ❖ In 1971, the Department of Labor under President Richard Nixon issued an order requiring all federal contractors to develop "an acceptable affirmative action program."⁶⁵

Current Status

With a tumultuous 45-year history, affirmative action continues to be a divisive issue in the United States. In 1996, California voters ended affirmative action policies within the state with the passage of Proposition 209. On the other hand, the Supreme Court in 2003 upheld affirmative action in the admission practices of the University of Michigan. Despite the controversy, affirmative action over time is correlated with increased levels of participation of minorities and women in employment, education, business and government contracts. Mostly through the use of numerical goals, timetables and even formulas, the goals of diversity are pursued. Quotas are generally not considered and regarded to be unconstitutional.

Positive Trends

Affirmative action is argued to be the essential bridge between changing the law to changing the culture.

- ❖ Between 1982 and 1995, the percentage of female managers and professionals in the U.S. rose from 40.5 to 48.0 percent; blacks from 5.5 to 7.5 percent, and Hispanics from 5.2 to 7.6 percent.⁶⁶
- ❖ The percentage of women joining the labour force has grown substantially, from 36 to 55 percent between 1964 and 1994.⁶⁷
- ❖ Under affirmative action policies enrolment of black college students rose from, 7.8 percent in 1970 to 11.3 percent in 1990.⁶⁸

Negative Trends

The downside of affirmative action is associated with its weak moral justification and the perception that its benefits are not worth its costs.

⁶⁵ U.S. Department of Labor, Revised Order No. 4, December, 1971. This Executive Order asked for "an analysis of areas within which the contractor is deficient in the utilization of minority groups and women, and further, goals and timetables to which the contractor's good faith efforts must be directed to correct the deficiencies."

⁶⁶ U.S. Bureau of Labor Statistics, Series ID: lfu112500000000, lfu112500000002, lfu112500000030, lfu112500000050, lfu112500000060, lfu112500000070, lfu112500000080.

⁶⁷ Poverty rate: U.S. Bureau of the Census, *Income and Poverty*, 1993. Unemployment rate: U.S. Bureau of Labor Statistics, Series ID: lfu21000002. Civilian employment/population ratio: U.S. Bureau of Labor Statistics, Series ID : lfu1600002. Income and income ratio: U.S. Bureau of the Census, Current Population Reports, Series P60.

⁶⁸ Affirmative Action: History and Rationale. <http://clinton2.nara.gov/>.

- ❖ The “angry white men” syndrome sufferers accuse the system of robbing them of promotions and other opportunities.
- ❖ At times extreme social stigma is placed on those whose success has been deemed to be unearned. While other affirmative action beneficiaries consider it insulting.
- ❖ As a by-product, divisions and animosity between different ethnic and gender groups are created.
- ❖ And even with affirmative action policies in place, its intentions are undermined by understaffing, underfunding and lacking enforcement authority.

Conclusion

Affirmative action policies came into existence when it became evident that anti-discrimination statutes were not enough to correct the entrenched culture of discrimination. Though progress has been made in its 45 year history, an accurate effect of affirmative action policies is difficult to determine given other factors including, changing social conditions, economic transformations, demographic shifts. In the United States, affirmative action continues to strive for equal opportunity for all.

6. OVERALL CONCLUSIONS

1. Black economic empowerment is one of the central priorities of the government and will substantially affect almost every aspect of South Africa's national economic, social and political development during the coming decade.
2. BEE is viewed by the ANC within the context of the struggle against apartheid and the completion of the National Democratic Revolution. As such, it is part of a class/race contest in which there must inevitably be winners and losers. This is justified by the view that whites have derived their wealth and dominance of the economy through illegitimate means and BEE is necessary to redress the situation.
3. There is a tension within the constitution between measures to promote equality on the one hand and measures to prohibit discrimination against ethnic, racial and cultural groups on the other. There is a need to define more clearly what the constitution envisages with regard to equality and what its definition of 'fair' discrimination includes.
4. Despite BEE and the Government's declared intentions inequality has increased since 1994. Inequality has increased significantly within the Black community. There is an urgent need to address the plight of the poorest 50% of the population who have derived few benefits from the new South Africa.
5. During the first ten years of the new democracy black and white shares of national income do not appear to have changed significantly. If anything, the gradual redistribution of income between blacks and whites, which has been taking place since 1970, appears to have slowed down between 1995 and 2000.
6. Black economic empowerment deals have thus far benefited primarily only a handful of individuals – and there is accordingly a need for a much more broad-based approach.
7. Black South Africans have made only modest progress in terms of employment equity.
8. Black South Africans have achieved substantial control over the economy.
9. Since 1994 a black middle class has emerged which has now become the largest component in the national middle class.
10. Black South Africans have made impressive gains in university and technicon attendance since 1994. At the same time the absolute numbers and percentages of whites at universities and technicons has declined substantially. In a growing economy there simply will not be enough people with the necessary skills to fill managerial, professional and technical posts in the economy.
11. The education system is not producing sufficient skilled professionals, technicians, operators and managers. The skills base is being further eroded by emigration – including the emigration of highly skilled blacks.
12. Black and white South Africans have substantially different views on, and understanding of, black economic empowerment. Unless these differences are addressed there is a serious possibility of growing inter-racial alienation.
13. Uncertainty about black economic empowerment and particularly its likely effect on property rights may be – or become – an obstacle to new domestic and foreign investment.
14. Affirmative action programmes in the United States and Malaysia have made an important contribution to the upliftment of the communities concerned – but have also had unintended negative consequences.
15. There is a pressing need for a national debate on black economic empowerment to remove uncertainties and to unite all South Africans behind clear and acceptable goals.