Does Affirmative Action Empower Black South African Women?

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Abstract
This is a study of the South African Affirmative Action discourse. I am interested in the implications of race and gender based Affirmative Action for a society as South Africa in national reconciliation. The renewed racial classifications to eliminate the legacy of past racism seem to be contradicting the official state ideology of colour-blind non-racialism and non-sexism. The purpose of this essay is to study if and to what extent the South African Affirmative Action policy has had any impact on black South African women in the Public Service, in terms of empowerment and development. Whether or not the implementation of Affirmative Action has changed the conditions in the labour market enough to eradicate discrimination and empower black South African women in the long run.

I have made a literature study and the conclusion I have drawn from my findings is that the South African Affirmative Action discourse is very complicated and diverse and it is a difficult balancing. Based on South Africa’s history of Apartheid, which controlled and categorized people on the basis of race, creed, colour, sex, etc, -I see a complex structure of interrelated inherited power relations that the government is trying to force a change on. It is now ten years since the Affirmative Action policy was launched; South Africa has paved way for the progress of black women. The number of employed black women has increased and women have got a voice thanks to the policy. However, the numerical goals are only one small piece within the Affirmative Action discourse.

The legislation is still controversial in South Africa and debated daily. The constant debate indicates that people are engaged, and this is important in the spread of knowledge and awareness. South Africa might be one of the most complicated countries to implement such a policy, and I think that it is still too early to say whether or not it has empowered black South African women.
### Abbreviations

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<tr>
<td>AA</td>
<td>Affirmative Action</td>
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<tr>
<td>AISEC</td>
<td>Association Internationale des Etudiants en Science Economics et Commercials. An international student organisation with branches in 88 countries</td>
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<td>ANC</td>
<td>African National Congress, formed in 1912</td>
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<td>CCMA</td>
<td>Commission of Conciliation, Mediation and Arbitration, an institution of representatives from the business community and trade unions as well as the state, which aims to settle labour, related disputes before they reach labour court and become official.</td>
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<tr>
<td>CEE</td>
<td>Commission for Employment Equity</td>
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<td>CODESRIA</td>
<td>Council for the Development of Social Science Research In Africa</td>
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<td>COSATU</td>
<td>Congress of South African Trade Unions, the largest federation of unions in the country, founded in 1985</td>
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<td>DPSA</td>
<td>Department of Public Service and Administration</td>
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<td>EEA</td>
<td>Employment Equity Act</td>
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<td>GAD</td>
<td>Gender and Development</td>
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<td>GWS</td>
<td>Gender and Women Studies</td>
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<td>LFS</td>
<td>Labour Force Survey</td>
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<td>NEDLAC</td>
<td>National Economic and Development Council, an independent forum for negotiating promoting inclusive decision-making and consensus-seeking in the economic arena.</td>
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<td>RSA</td>
<td>Republic of South Africa</td>
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<td>WID</td>
<td>Women in Development</td>
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1. Introduction
1.1 Background
At majority rule in 1994, South Africa inherited a labour market environment based on an poor economic system with political instability, adversarial labour relations, cheap migrant labour and massive income and wealth inequalities\(^1\). South Africa was confronted with the dilemma that despite the fall of Apartheid and the new majority rule, the economic power was still concentrated to the white settler minority. The whites enjoyed immense advantages compared to other South Africans. Laws, separate institutions of government and unequal budgets established discrimination as the principle of public life. These inequalities in South Africa discriminated on the basis of race, creed, colour, national origin, class and gender, and created a situation of social exclusion, in which black women were among the most marginalized\(^2\).

During colonialism and Apartheid women’s traditional subordination was retained and strengthened as new forms of oppression were added. Women had a status inferior to that of men. The forced labour system had effects on women as it forced them to take over tasks traditionally done by men, raise their children virtually on their own and become dependant on the economic support from their husbands, which deepened and reinforced the patriarchal domination. Life in rural areas drove many women to urban areas to look for work, but most could only find employment as domestic workers receiving extremely low wages\(^3\). The gender bias in most spheres of employment and women’s subordinate ranking on the labour market resulted in that women earned considerably less money than men. Few jobs were open to women outside of domestic service and farm labour, which were the lowest paid jobs in the formal sector. Women were underrepresented in all positions of influence, in employment, in education and by law. The components of women’s oppression were not necessarily interlinked but could reinforce each other and definitely make women vulnerable\(^4\).

In 1996 South Africa adopted a new constitution and in the New Labour Act and Employment Equity Bill, Affirmative Action was introduced to achieve a greater level of equality in education and employment\(^5\). The Affirmative Action policy is a broad policy that aims at including many underrepresented and disadvantaged groups into the labour

\(^1\) Adam, 2000: 27
\(^2\) Andersson et al, 1998: 16
\(^3\) Adam, 2000: 20
\(^4\) Adam, 2000: 21
\(^5\) Andersson et al, 1998: 17
market, levelling the playing field through equal access to education and job opportunities. It is a highly controversial issue in South Africa and has emerged as one of the most debated and divisive issues in post-apartheid South Africa⁶. It is easy to find research, reports and articles on the topic. The inspiration to this essay is an article published in 2004, by Naidoo and Kongolo with the title; Has Affirmative Action Reached South African Women? This research is based strictly on statistics and measurable changes in employment patterns in South Africa. I think that there is more to it/or behind it than just the statistics and what can be measured in numbers.

1.2 Problem and Purpose
With the policy initiation and definition follows some problematic discussions concerning; power dynamics, representation, categorizing, homogenizing and defining “the others”, and the aim of equality. Generally one can ask how far the Affirmative Action policy reaches in the process of possible or actual socio/economic and political change and development, my interest lies more specifically on the South African labour market and the black South African women in the Public Service.

The purpose is to study if and to what extent the South African Affirmative Action policy has had any impact on black South African women in the Public Service, in terms of empowerment and development. My interest lies in the implications of social justice and power relations such as race and gender based Affirmative Action for a society in national reconciliation. Renewed racial classifications to eliminate the legacy of past racism seem to contradict the official state ideology of colour-blind non-racialism and non-sexism. I analyse if the implementation of the policy has changed the conditions in the labour market enough to eradicate discrimination and empower black South African women in the long run.

1.3 Questions and Limitations
The following questions have been formulated to answer my purpose.

1. What was the labour market situation like, in terms of participation, position and power, for black South African women, when the Affirmative Action policy was implemented?
2. How was the Affirmative Action policy initiated, defined and implemented?
3. What is the situation like today for black women in the South African Public Service, concerning participation, position and power?

⁶ Adam, 2000: 1
4. What part does the Affirmative Action policy play in a development context?

I have formulated these questions on the bases that I see the problem formulation in a pre and post independent South African context, where the Affirmative Action policy is a tool of transformation in the South African labour market. I have made some practical limitations such as the contemporary South African labour market; I have not looked at the educational sector. My target group is black South African women, I have not looked at the wider group of women, which includes white and Indian women, but instead I have chose to focus on the group that statistically has been the most marginalized in employment. I look at the labour market in general, but my focus lies at the Public Service, which was the first to be affected by the Affirmative Action policy, and therefore more likely to provide a usable amount of information.

1.4 Method and Material
With the kind of analysis that this essay treats follows a number of difficulties. A well-done analysis can lack relevance to social science as an object of study. An analysis of a political text is no guarantee that the study says anything interesting or is relevant in a wider political or societal perspective. I have asked myself the following questions among others: what kind of tools do I need in order to make my essay fill its purpose, how do I use them, did I choose the right tools? Is my method valid and reliable?

1.4.1 Method
The analytical framework of this essay is based on text and discourse analysis. To analyse something is in general to identify and examine its components. Text analysis is also about distinguishing and examining different parts of a text, different phenomena that relate to different aspects of the text. Interpretation is a part of all text analysis, and no matter how one chooses to analyse a text it has to be interpreted. In this specific situation, analysing the South African Affirmative Action policy and its consequences for black South African women, five important elements can be distinguished: the text, the social context in which the text is produced or consumed (including the discourses that it can be related to), the sender, the receiver and the interpreter. In this case I see these five elements as: the Employment Equity Act and Affirmative Action policy representing the text; the South African Public Service representing the social context; the Government is

7 Bergström & Boreus, 2005: 18
8 Bergström & Boreus, 2005: 24
the sender and the employers and employees the receivers. Based on these elements, there are four types of interpretation strategies that relates in different ways to each one of these elements. I will focus on what a text implies or means for its receiver or group of receivers. How do different groups in society – blacks, whites, men, women, low income, high income, workers and civil servants comprehend (interpret?) a certain policy? Stuart Hall points out the fact that different groups in a society interpret using different knowledge frames and values. But one does not necessarily have to relate the text to one of the actors: interpreter, sender or receiver.

Discourse analysis is primarily about the meaning of the text in a wider context where the actors are less important. The meaning of a text is understood primarily in relation to other surrounding texts, creating an order that the texts express, but also the other way around: the discourse as a whole understood from the individual texts. Discourse analysis is still quite a new concept in social science, and when a new concept is introduced and growing popular there is a high risk that it will be used in a vague and diverse way, and discourse analysis is not an exception. In general one can say that the discourse concept aims at some kind of social practice that is connected with the language practice in a certain context. Social practices are the ways in which integrated people do things, a question of patterns of action, habits and conventions that are more or less according to rule. A few examples of social practices in society are how people are socialising between different social groups in society, how the work privileges for different groups of employees look like. Discourse is more or less about language use as part of a social practice. There are those who define ‘discourse’ as a question strictly about language use, but I join the other direction that include more of the social practice than the things written and said. There are several text analytical directions, and they are partly overlapping each other. My focus lies on text and discourse analysis, within this lays argumentation analysis and idea and ideology analysis.

Argumentation Analysis and Rhetoric
An important part of communication, in this case, a political move to influence the labour market in a certain direction, has as a central object to convince people to act in a certain direction and adopt certain values or reality descriptions. Argumentation is therefore

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9 Bergström & Boreus, 2005: 24
10 Bergström & Boreus, 2005: 25
11 Bergström & Boreus, 2005: 28
12 Bergström & Boreus, 2005: 17
something that needs to be dealt with in text analysis. This type of analysis has at least three purposes: (I) a descriptive purpose where one tries to reconstruct the argumentation, (II) a prescriptive purpose or in other words judging to what extent arguments live up to certain norms, (III) to decide whether or not the stated argument really strengthens or undermines a certain point of view. Argumentation is a feature in texts that does not only consist of reasons pro et contra settled conceptions. Argumentation in a text has to be found\textsuperscript{13}. My argumentation analysis aims at finding whether or not the argumentation in the policy strengthen or undermines its purpose. The first task when structuring the analysis is to find the thesis, the thing that the sender of the text is for or against. A thesis can be of (I) a normative nature, a claim of a value, (II) prescriptive, expressed as a request of action but can be re-described as normative, and (III) factual, non-valuing\textsuperscript{14}.

*Idea and Ideology Analysis*

The ideas that are expressed are another important aspect of meaning in a text. An idea can be seen as a thought of construction that, apart from the more casual impressions and attitudes, is characterized by certain continuity. This thought of construction can be used as both a view of reality and as a valuation of phenomena or a valuation of how one should act\textsuperscript{15}. In my analysis I look at how the thought of construction used as a valuation of how one should act.

The word ‘ideology’ has different meanings depending on the situation. There are at least two main tracks of definition: (I) ideology as some kind of idea system, a more neutral concept, and (II) ideology in which the function of ideology is built in the concept. In many ideology definitions, ideas are seen as included components in ideologies, and ideologies today are often seen as gathered ideas on society and politics. According to Herbert Tingsten\textsuperscript{16}, ideologies contain three elements: (I) value premises, for example a certain view of justice or human nature; (II) reality judgement, statements on different phenomena and circumstances in society; (III) concrete recommendations, for example government of a land. These three elements create a joint system of ‘public view’\textsuperscript{17}. In this study I define ideology as a kind of idea system that contains value premises, reality judgements and concrete recommendations.

\textsuperscript{13} Bergström & Boreus, 2005: 91
\textsuperscript{14} Bergström & Boreus, 2005: 96
\textsuperscript{15} Bergström & Boreus, 2005:149
\textsuperscript{16} Professor in political science that has played an important part in ideology research and how ideology is viewed today.
\textsuperscript{17} Bergström & Boreus, 2005:151
1.4.2 Material
My material is a combination of selected policy documents, articles and literature on Affirmative Action, gender and power relations and statistical figures of the labour market in South Africa. The policies I use are the Employment Equity Act of 1998 and the White Paper on Affirmative Action in the Public Service of 1998. As preparation for this study I have looked at previous research on Affirmative Action and selected sources from the public debate on the issue. The key words I have used are: affirmative action, women, employment, labour, and South Africa. It was hard to find research on similar subjects as mine. The research I found deals more with the economical issues, the private sector and statistical data. Instead it was easier to find debate articles on my subject. Articles I have used are contemporary critical voices on Affirmative Action policies. I use both South African and international sources and since there is so many articles to choose from I have picked those that I find best-founded articles. I also read an interview with Dr Dirk Hermann, deputy general secretary of the Solidarity labour union in South Africa, who finished his book *The Emperor Has No Clothes- Perspectives on Affirmative Action in South Africa* in March this year, as well as his PhD *Affirmative Action and Alienation Guidelines for Employers*, on the same topic. I will also refer to my interview in April 2004 with Herbert Jauch, who has written the book *Affirmative Action in Namibia – redressing the imbalances of the past*. Supporting my analysis I have national level data and statistics from two major sources: the October Household Survey (OHS) and the Labour Force Survey (LFS). These two large surveys are often used in the contemporary South African Affirmative Action debate and research. The time period is limited to the years 1995 to 2001, which unfortunately leaves a gap of five years as a question mark.

1.5 Disposition and Outline of the Study
The structure of this essay is based on a systematic examination of the outcomes of the South African Affirmative Action policy and the Employment Equity Act, focusing on how far this policy reaches to empower Black South African women in the labour market, Public Service. The essay is divided into five major chapters: (I) *Introduction* - where I present the purpose, questions, method material; (II) *Theoretical framework* - this section is meant to give the reader the theoretical framework for how this subject is approached. It describes the overriding context of social justice and power and the variables gender and ethnicity variables. To what extent they control our perception and the outcome of policies; (III) *Affirmative Action and Employment Equity in South Africa* – is the collected material for this essay starting with a historical background necessary to the understanding of the South African Affirmative Action discourse, followed by an
outlining of the South African Affirmative Action policy and the Employment Equity Act and the prevalent South African labour market, the initiation, implementation and outcomes; (IV) The Analysis – this section aims at identifying the relation between social justice and power relations, gender and ethnicity in the Affirmative Action discourse and the impact the policy might have on Black South African women’s power position and participation in the labour market; (V) Conclusion – were I summarize what I have done and what I have found.

2. Theoretical Framework
My theoretical framework is divided in to two chapters, this relates to the purpose, to what extent the South African Affirmative Action policy has had any impact on black South African women in the Public Sector, in terms of empowerment and development. I see social justice and power relations as the overriding issue, and I study the black women situation, which gives the two variables gender and ethnicity.

2.1 Social Justice and Power Relations
The question whether or not and how public institutions should recognise historical gender subordination and identities of ethno-cultural groups or promote disadvantaged groups is an inescapable debate in most liberal democracies today. When addressing social justice one may talk about two opposing views within the liberal tradition that argue for different strategies for similar premises. Adam points out the economic liberalism versus the social-democratic liberalism, the previous insists on recognising only individual rights while the later embraces group rights in addition.18 So what does it entail for people with various identities on ethnicity, race, gender etc. to be respected and recognised as equals? One side of contemporary liberalism argues that public institutions should emphasise neutrality in protecting the universal needs of freedom and equality for all citizens, gender and ethnicity should be irrelevant in treating people as free and equal citizens. The critics in addition argue that liberal democratic states have a duty to help disadvantaged groups preserve their culture in the face of majority cultures.19 In the perfect world universal needs of freedom and equality for all citizens could be achieved, but the reality is that there is no perfect world and social justice and equality will not be obtained by itself. The state should take actions as South Africa is doing but there is a fine balancing on how to do it.

18 Adam, 2000: 9
19 Adam, 2000: 10
Power is something visible and invisible, present and hidden everywhere, and the question of power is still a great riddle. Who is using it? In what sphere is it exercised? Foucault argues that power is a ‘relation’ between people, a power-relation between one person and another or one group and another. Since the power-relations are so diverse and can be applied to all kinds of situations, there is a need for defining in what aspect a power-relation is a power relation. ‘Power-relations’ are no unambiguous relations but define countless confrontation points and trouble spots in which conflicts, struggles and occasional changes in the power relations occur. A given power-relation is not only involved in a certain struggle for positions within that power-relation, but it counts for every power-relation that it exists in, and is thereby surrounded by and mixed up in and influenced by other power-relations and struggles. In spite of the fact that power is unstable and disputed, power-relations can be institutionalised, stored and concentrated.20

By studying how institutionalised power practise is intertwined in normative patterns of behaviour and thoughts, this helps us understand how power is created and recreated, but also how we can change this process and resist. One of the levels of power is the creation and sustaining of hegemonic order. Gramsci explains the hegemonic concept as dominance based consensus creation and social sanctioned agreements about what is right, normal and real. Hegemony stands for a form power practise that works by creating moral and intellectual order at the same time as it is offering a political leadership. Due to this fact hegemony can never be fixated in a certain form. It is always recreated in constant processes of domination and resistance.21

Talking about power in terms of the ability to make choices, to be disempowered, therefore, implies to be denied choice. Empowerment on the other hand, entails a process of change, and refers to the expansion in people’s ability to make strategic life choices in a context where this ability was previously denied them.22 Social gender relations deny women ownership or control over resources, and the proceeds of their labour. Empowerment is therefore a strategy with a goal of reduced gender inequality and disparity between men and women, subsequently attaining increased women’s development and social transformation. In principle, it is a move that addresses the

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20 Hörmquist, 1996: 47  
21 De los Reyes et al, 2003: 23  
22 Sisask, 2004: 19
basic obstacles to women’s equality in a patriarchal system. Different gender advocates have defined women’s empowerment as: The broadening of choices, women’s empowerment is seen as the expansion of options and alternatives available to women in determining the course of events which will shape their own lives and determine their own destinies; and Right to make decisions, women should be making decisions about resource allocation and shaping the agenda based on social services, on human capacity building etc. They should also control the process of decision making as well as having a say in how decisions are made.23

The positive changes by women’s empowerment can be seen at three different levels: access to and control over resources (land, money, assets); individual empowerment, learning to say no (engage in struggle) and learning to say yes (developing abilities); and change in social relationships (family, work and society). In other words, women’s empowerment means: gaining greater control over own lives; having a voice and being listened to; being able to influence the social choices that affect the whole society, not only the areas recognised as women’s places, and having equal responsibilities and opportunities as men.24

2.2 Gender and Ethnicity
Feminist debates and theorization since the 1980s have shown that speaking about ‘women’ and ‘men’ in universal, totalising terms, is problematic and no longer tenable. Gender as a category intersects with, and is shot through by other categories of social identity such as sexuality, ethnicity, social position and geography. Gender ideology and power relations are assuming more complex and subtle forms in present times, although in different degrees and ways in different communities.25

In a variety of institutional contexts such as educational settings, workplaces, governments, news and advertising media, ‘taken-for-granted’ social assumptions and hegemonic power relations are discursively produced, perpetuated, negotiated and challenged. This has actual material and phenomenological consequences for groups of women and men in specific societies.26

23 Chachage and Mbilinyi, 2003: 17
24 Chachage and Mbilinyi, 2003: 17
25 Lazar, 2005: 1
26 Lazar, 2005: 2
For a long time within the feminist perspective, the prevailing perception of gender was understood as an ideological structure that divides people into two classes, men and women, in a hierarchal relation of domination and subordination. The present feminist, the so-called “Third wave” feminist and post structuralist theories have given a more nuanced and complex understanding to power relations and gender. While there is a diversity of forms that gender and sexism assume in different cultures and across time, the structure of gender, and of the power asymmetry it entails, has been remarkably persistent over time and place.

There are both overt forms of gender oppression and the subtler and seemingly innocuous form of power. This form of power is embedded and dispersed throughout networks of relations it is self-regulating and produces subjects in both senses of the word, according to Foucault. The critical analytic perspective, argues that it is useful to complement the concept of modern power with the view of power relations as dominance, particularly in Gramsci’s term of hegemony. The consequence of modern power and hegemony is that it is mostly cognitive. Based on internationalisation of gender norms and acted out routinely in text and talks, which makes it invisible and recognized as quite legitimate and natural. Relations of power and dominance however can be discursively resisted and counter-resisted in a dynamic struggle for securing and challenging the interests at stake.

The differences in entitlement, perceived capabilities, and social expectations of men and women, reflecting the norms, laws, and social values of society, have profound implications on how they participate in market or non-market work and in community as a whole. These differences embody social power relations that constitute the setting for the implementation of development programs, and these differences therefore influence program outcomes.

The mechanisms of asymmetrical power and gender discourses are also produced for and experienced by different groups of women, in complexly different ways. A major advancement in current feminist discourse is the acknowledgement that the category ‘women’, standing universally for all women, does not encompass for all. The overlap of the gender structure with other relations of power means that gender oppression is neither materially experienced nor discursively enacted in the same way for all women.

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27 Lazar, 2005: 9
28 Lazar, 2005: 10
29 Parpart et al, 2000: VI
everywhere. Bailey et al. presents a list of problems associated with the traditional approach to theorizing on women, within this is the creation of stereotypes and the homogenisation of women as a group. They bring up factors such as race, class, ethnicity, social status and age, as important perspectives that shapes the perception and experience point to the social character of gender and gender relations.

In the 1970-80s, insights from women’s movements were applied into the thinking and practice of development aid; resulting first in the WID (Women-In-Development) programmes and later in the transformation to GAD (Gender-And Development) approaches. This had a very successful effect, creating a confident progress regarding women’s issues, widely shared. Affirmative Action policies were introduced; changes in awareness, expertise, policies, laws and women’s voice were brought about by the efforts of many different actors. This progress was followed by a number of conferences, which has played a major role in the creation of a unified language on women’s issues on a global scale. However this language is the language of development agencies and not of political struggle. A major problem in this unified language is that it obscures the inequalities of power between governments and development agencies on the one hand and women’s movement on the other, but also the critique of dominating gender policies.

The use of the word, ‘development’ has changed a lot over time and the dominant way of thinking today is that the state has a leading, but facilitating role in the economy. The renewed influence of liberal economic thinking (neoliberal economics), which has affected international economic policy and development thinking, see development as the responsibility of private companies and, increasingly, private nongovernmental organizations (NGOs), and the market as the main arbiter of decision-making. In many parts of the world, women’s organisations and NGOs are involved in developing sustainable and economically feasible alternatives to these neoliberal policies’ structural adjustment. To use the term development when referring to human societies is problematic. Societies do not follow linear paths of progress, contrary to the assumptions of both modernization and modernization and

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30 Lazar, 2005: 10
31 Parpart et al, 2000: 7
32 Sisask, 2004: 73
33 Sisask, 2004: 74
Marxist theorists. Post modern approaches to development studies focus on unpacking the power relations and hidden agendas implicit in language and discourse\textsuperscript{34}.

The term ethnicity is used as a way of defining the relation between groups that see themselves and are seen by others as culturally individual. Concerning terms such as ethnicity, ethnic and ethnic groups, they have grown to be used more and more since the later half of 1960s\textsuperscript{35}. There are two reasons for this according to Hylland Eriksen: firstly the changes in society and secondly the changes in the dominating way of thinking within social anthropology. ‘Ethnic group’ as a concept has come to be understood as ‘one people’. But what is ‘one people’, and where does one draw the line between one and another? The difficulty here is the demarcations. There are numerous criteria such as, for example, language, political organisation or territorial demarcation used to narrow down a certain cultural group, but since the different criteria do not correlate with one another the problem remains. For ‘ethnicity’ to appear the groups have got to have a minimum of contact with each other, and they need to have some idea about the other group being culturally different from themselves. If this is not fulfilled there is no ethnicity, since ethnicity is an outcome of a relation and not a quality of a group. In other words ethnicity can be defined as a social identity (based upon contrast with others), characterized by a metaphoric or fictitious relationship. When cultural differences regularly influence the interaction between group members, the social relation has got an ethnic aspect. Ethnicity includes both aspects of gain and loss in the interaction and aspects of meaning in the creation of an identity. This way ethnicity has a political or organisational side as well as a symbolic\textsuperscript{36}.

Essential in the use of ethnicity is the systematic distinctions between them and us. Without this distinction there is no ethnicity. Ethnicity is constituted through social contact. Even if individual actors do not only create ethnicity, it can provide actors with meaning and with organisational canals to satisfy culturally defined interests\textsuperscript{37}.

\textsuperscript{34} Parpart et al, 2000: 31
\textsuperscript{35} Hylland Eriksen, 1993: 15
\textsuperscript{36} Hylland Eriksen, 1993: 28
\textsuperscript{37} Hylland Eriksen, 1993: 21
3. Affirmative Action and Employment Equity in South Africa

3.1 Historical Background on Affirmative Action

Affirmative Action as a concept (not the practice) can be traced back to the USA and the year 1961 when President John F Kennedy issued an executive order, which imposed a duty on private contractors to treat job applicants equally without regard to race, creed, colour or national origin\textsuperscript{38}. The policy was the subject of an extensive legal and moral debate, with following amendments and regulations that provided for additional Affirmative Action measures. These went beyond promoting non-discrimination; they actively ensured that minorities were properly represented among the workforce by establishing goals and timetables to correct the under representation of minorities\textsuperscript{39}.

Three years later in 1964, Affirmative Action appeared in the Civil Rights Act, stating that employers had to apply Affirmative Action to compensate for discriminatory practise in the past. Jauch refers to a statement made in 1965, by President Lyndon Johnson, justifying the policy:

Imagine a 100-yard dash in which one of the two runners has his legs shackled together. He has progressed 10 yards, while the unshackled runner has gone 50 yards. How do they rectify the situation? Do they merely remove the shackles and allow the race to proceed? Then they could say that ‘equal opportunities’ now prevailed. But one of the runners would still be 40 yards ahead of the other. Would it not be the better part of justice to allow the previously shackled runner to make up the 40 yards gap; or to start the race all over again? That would be affirmative action towards equality\textsuperscript{40}.

Johnson’s executive order\textsuperscript{41} prescribed Affirmative Action in employment and promotion for all federal contractors, while the Equal Opportunity Employment Commission established quotas for certain minority groups. Employers had to ensure that the workforce was representative for the population. For example: if ten per cent of the population is black, ten per cent of the workforce had to be black\textsuperscript{42}.

The Affirmative Action concept was designed to integrate minority groups, and later women, into the mainstream of American life\textsuperscript{43}. It was designed to help members of minority groups who met minimal job qualifications, but instead the policy benefited

\textsuperscript{38} Days, 1993
\textsuperscript{39} Jauch, 1998: 28
\textsuperscript{40} Jauch, 1998:1.
\textsuperscript{41} Lyndon Johnson Executive Order No.11246 of 1965
\textsuperscript{42} Holzer and Neumark, 2004: 1
\textsuperscript{43} Holzer and Neumark, 2004: 1
mainly the black middle class, the policy did not reach the poorest of black Americans. Jauch describes the policy as instrumental in the way it narrowed the gap between groups in the American society, but that it also contributed to an increasing gap within groups. Equality was only achieved in the sense that various racial groups were represented in the privileged groups. In other words, the policy shifted the emphasis from racial inequality to class inequalities. In the work of making institutions more representable in their ethnic composition one forgot to challenge institutional cultures. There are, however, many countries that have implemented Affirmative Action by different causes and with different effects. In South Africa and the countries of southern Africa that inherited an economically powerful settler elite at independence Affirmative Action gained thrust.

3.2 The Segregated Labour Market of South Africa - A Historical Overview
The new democratic South Africa inherited a deeply divided society. Inequalities in the distribution of wealth and unequal access to land, education and health characterized South Africa. The Apartheid system affected both the ‘private’ and the ‘public’ life of women as a group. The system was characterised by violence, conservatism and rigidity and limited the lives of women. Women as a group, both black and white, were excluded from most types of formal employment except secretarial and clerical work. This oppression goes far back. Through colonial legal interventions and the development of what became known as ‘customary law and practice’, black and white men worked together in keeping black women in the rural areas under the surveillance and control of older patriarchal males, as most black men were forced to sell their labour power as migrant workers in the urban and mining areas. Few were those women who came to the urban areas and more often than not they were denied access to employment by conservative ideas within Afrikaner and English communities on women’s place in society. Although black women left the rural areas, often recruited by black men who agreed to “make them decent” by claiming that they were wives, instead they became their domestic servants. However, most women disappeared into an expanding informal economy, doing different kind of services in the homes and industries of urban areas.

South Africa underwent tremendous changes in the end of the 20th century. If we start at the beginning of the century in 1902, at the end of the Anglo-Boer War, the British...
colonists defeated the white Afrikaner population. The Afrikaners fought the war to gain a hold of the British dominated economy, however the two later agreed on the Constitution of the Union of South Africa. The politically conscious among Africans, coloureds and Indians reacted strongly against the fact that this Constitution did not grant them any civil or political rights. This later lead to the foundation of the organisation, that later became the African National Congress, the ANC, in 1912\(^49\).

Many Africans tried to repurchase land earlier dispossessed during the colonial occupation. To stop this development the Native Land Act was passed in 1913, this gave whites the rights to 87% of the land, leaving 13% for so called native reserves of black farmers. When the white agriculture was rationalised, many poor white farmers were driven to urban areas and the British owned mines and a substantial working class of Afrikaners evolved\(^50\). In the 1920s, during the economic boom, South African corporations needed more skilled labour, but the problem was that the white population was not many enough for this need in the industry. When the industry then wanted to recruit blacks for more qualified positions, white workers demanded a more powerful race relation policy. A mining strike in 1922 became the trigger for the formation of the so-called Civilised Labour Policy and this policy initiated the legislation of racial segregation and racial job reservation in South Africa\(^51\). The first law of job reservation was the Apprenticeship Act of 1922 that gave the white unions’ control of the trade. The Industrial Conciliation Act of 1924, which only included whites, Indians and coloured and excluded Africans, followed this. Next in line was the Wage Act of 1925, the purpose of this law was to put white miner’s salaries on top\(^52\).

In 1948 the Afrikaners’ National Party came into power and their most important issue was the development of an Apartheid system. This was the outcome of the oppressive practices that had emerged over a long time. All African was now forced the Group Areas Act of 1950 to settle in so called homelands, the former native reserves. In the name of the law authorities could now move coloureds and Indian communities and businesses out of central city areas, to make room for white enterprises\(^53\). During the years 1950-78, more than 100 000 Africans were arrested each year in pass controls that controlled the

\(^{49}\) Andersson et al, 1998: 16  
\(^{50}\) Andersson et al, 1998: 16  
\(^{51}\) Andersson et al, 1998: 16  
\(^{52}\) Andersson et al, 1998: 17  
\(^{53}\) Andersson et al, 1998: 17
movement of black workers into white areas. All these actions had immense impact on black enterprise and its chances in the South African economy.

By time the awareness of the Apartheid system’s injustices steadily increased around the world. Within South Africa demonstrations and massive riots were crushed by military and police force. The uprising in South Africa affected foreign investors and international pressure forced multinational companies that were established in South Africa to make a choice: either to move their business out of the country or to improve the working and employment conditions for the black employees. The Sullivan Code of Employment Practice that was launched by a director of General Motors to serve as a code of conduct for American companies that decided to stay became a manifestation of improvements of employment conditions. This code requested commitment to equal and fair employment practices, equal pay for comparable work, training and promotion of black employees and non-segregation in cafeterias, washrooms and workplace. Some meant that these code programmes, did not really result in better workplaces for blacks, since they were adopted to meet international demands and not to improve the working environment. But it did put the issue of shared social responsibility and black employment conditions on the agenda and in the end of the 1970s, non-racial unions were legalised. This in term contributed to strengthening the black employers to the advancement of disadvantaged groups in the private sector organisations.

In 1986 strikes and uprisings intensified in South African townships and lead to a crucial point. Also the international pressure on the government intensified; USA and Western Europe tightened the economic sanctions against South Africa. In 1990, President F.W de Klerk announced that the political prisoner Nelson Mandela was to be released and legitimised ANC. Negotiations between the government and the ANC lead to a temporary constitution and democratic elections, which realised the transition to a new South Africa.

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54 Andersson et al, 1998: 18
55 Andersson et al, 1998: 19
56 Andersson et al, 1998: 19
3.3 The Legislative Context of Affirmative Action
Since South Africa got its new Constitution in 1996, several laws have been passed in order to improve the working environment in general and to create employment equity in particular\textsuperscript{57}. The legislation was adopted through a agreement and various institutions were formed to facilitate the process and dialogues between the trade unions, the chambers of business, government representatives and the civil society\textsuperscript{58}. South African gender activists together with the Gender and Women’s Studies (GWS) played an important role in putting gender on the agenda during the transition to democracy in South Africa. The activists mobilized thousands of women, and the academics articulated the terms in which gender had to be taken up in the Governments’ policy documents, legislation and demand the inclusion of women in parliament\textsuperscript{59}. In 1994 National Economic Development and Labour Council (NEDLAC) was established as a platform for dialogue on labour related issues\textsuperscript{60}.

In the new Constitution, “a commitment to an ideology of non-racist, non-sexist and democratic society” replaced Apartheid. The Public Service was identified as one of the main foundations for achieving this and the Constitution declared that “redressing the imbalances in the case of employment means achieving broad representation of the country’s demographic groups”\textsuperscript{61}.

In April 1998 the Department of Public Service and Administration (DPSA) published the White Paper on Affirmative Action in the Public Service. The policy is formulated out of the framework and requirements of the Employment Equity Bill and must be understood within this framework, which later became an Act in October 1998, and the White Paper on Human Resource Management in the Public Service\textsuperscript{62}.

3.4 The Employment Equity Act
The purpose of the Employment Equity Act (EEA) is to “achieve equality in the workplace by promoting equal opportunity and fair treatment in employment through the elimination of unfair discrimination”. Affirmative Action measures were implemented to

\textsuperscript{58} Andersson et al, 1998: 23
\textsuperscript{59} Arnfred et al, 2005: 41
\textsuperscript{60} NEDLAC, National Economic, Development and Labour Council were established through the NEDLAC Act of 1994.
\textsuperscript{61} The constitution of RSA, section 9
\textsuperscript{62} The White Paper on Affirmative Action, Notice 564 of 1998
redress the disadvantages in employment experienced by designated groups in order to ensure that they become equally represented in all occupational categories and levels in the workforce. The Act is divided into six chapters that deals with regulations on: (I) introduction; (II) the prohibition of unfair discrimination; (III) affirmative action; (IV) the establishment of a Commission of Employment Equity; (V) monitoring proceedings; (VI) general provisions.

In the Employment Equity Act designated groups are defined. The definition, designated groups refers to black people, women and people with disabilities. The term ‘Black people’ refers to African, Coloured and Indian people. The EEA requires Affirmative Action measures to apply to all employers, workers and job applicants, with the exception of members of the National Defence Force, the National Intelligence Agency, and the South African Secret Service. The requirements for Affirmative Action apply to every employer with 50 or more workers, or whose annual income is more than the amount specified in the Act; “municipalities; organs of state; employers ordered to comply by bargaining council agreement; any employers who volunteer to comply”. These employers must employ a worker from a designated group if she or he has suitable qualifications for the work, even if a competing worker from a non-designated group has better qualifications. This way the designated employers are forced to ensure “the equitable representation on all levels and in all occupational categories of the designated group”. The Act has formulated a plan of process that the employers should work by:

1. Consultation with unions and employees
2. Preparation of demographic profile of its workforce
3. Preparation and implementation of employment equity plan
4. Reporting to the Director-General at the Department of Labour.

The third point regards the preparing and implementing of an Employment Equity Plan. This plan should contain annual objectives to achieve equal representation in the work

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63 EEA, 1998: 5
64 EEA, 1998: 5-6
65 EEA, 1998
66 EEA, 1998, section 15
67 For more information see chapter IV in the EEA
68 Suitable or qualified is a person that has got: formal qualifications, prior learning, relevant experience or/and capacity to acquire, within a reasonable time, the ability to do the job (EEA 1998: section 20(3).
69 EEA, 1998, section 15
70 EEA, 1998, section 15
place; this should be formulated on the basis of an analysis of the present situation. The Act has no fixed quotas; instead numerical goals can be set according to a timetable. The reports must be handed over to the Director-General every other year for employers with 50 or more employees and every year for employers with 150 or more employees. The Commission for Employment Equity (CEE) publishes an annual review of these reports as comparison and analysis of the effectiveness of the Act.

3.5 The White Paper on Affirmative Action in the Public Service
The Department of Public Service and Administration published the White Paper on Affirmative Action in the Public Service in 23 of April 1998. The White Paper is divided into four chapters, with the following headlines: (I) an introduction that outlines the purpose and background of the White Paper, the Nature of disadvantaged, the development of a more diverse management culture, scope and structure of the White Paper; (II) this chapter sets out the goal and objectives of the Affirmative Action policy, AA, and the principles which will govern their implementation; (III) this chapter describes how Affirmative Action programmes should be developed and implemented, and the mandatory requirements which must be included in such programmes; (IV) this chapter explains the steps which will be taken, following the publication of this White Paper, to assist national departments and provincial administrations with implementation and sketches the accountability mechanism that will guide implementation.

The purpose of the White paper is “to provide a policy framework that sets out the mandatory requirements and steps that national departments and provincial administrations should take to develop and implement their Affirmative Action programmes.” This is how the policy is presented in the General Notice Government Gazette Vol. 394, 23 of April 1998 –No. 18800. In the White Paper on Affirmative Action in the Public Service you can read that one of the most important tasks of the Government has been to “transform the Public Service into an efficient and effective instrument capable of delivering equitable services to all citizens and of driving the country’s economic and social development.” The Public Service has lacked legitimacy and reliability, as a result of the inheritance of ineffectiveness and unfair discrimination and division on the basis of race and gender. Restoring this by developing a broad

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71 EEA, 1998, section 15
72 The White paper on Affirmative Action, Notice 564 of 1998
73 The White Paper on Affirmative Action, Notice 564 of 1998: chapter 1
representation in Public Service was seen as the key to obtaining these tasks\textsuperscript{75}. In the light of South Africa’s history, the Government’s broader employment equity strategy and the vision of Affirmative Action will take time to obtain. Affirmative Action is therefore defined in the policy “as additional corrective steps which must be taken in order that those who have been historically disadvantaged by unfair discrimination are able to derive full benefit from an equitable employment environment\textsuperscript{76}.

Within the discussion of the purpose of the White Paper and the achievement of broad representation, the Constitution requires that “the composition of the Public Service has to be broadly representative of South African society as a whole, and that the White Paper on the Transformation of the Public Service sets out a number of specific targets to achieve this”. In 1995, the population in South Africa according to the White Paper was 75% African, 13% White, 9% Coloured and 3% Indian people. Women represented just over half (51%) of the entire population and within this group 76% were African women, 12% White women, 9% Coloured women and 3% Indian women\textsuperscript{77}.

Table 1. The White paper on the Transformation of the Public Service:

<table>
<thead>
<tr>
<th>Percentage of black People at management level*</th>
<th>White Paper on the Transformation of the Public Service</th>
<th>Position in Dec 1997</th>
<th>Gap to be filled</th>
</tr>
</thead>
<tbody>
<tr>
<td>50% by 1999</td>
<td>33%</td>
<td>17%</td>
<td></td>
</tr>
<tr>
<td>Percentage of women new recruits to the management level</td>
<td>30% by 1999</td>
<td>13%</td>
<td>17%</td>
</tr>
<tr>
<td>Percentage of people with disabilities**</td>
<td>2% by 2005</td>
<td>0,02%</td>
<td>1,98%</td>
</tr>
</tbody>
</table>

* The term management level refers to the ranks of Director and equivalent positions as well as higherranking positions.

** Approximate figures. It is features of the dispensation on disability that reliable information on people with disabilities has not been systematically collected.


The Table 1 above describes the prevailing position, the goals and the gap to be filled in a timescale. The targets presented are minimum national targets but they do not represent the ultimate goal, which is that all groups and levels within the Public Service should be representative of the whole society. This is only a “baseline” for departments and

\textsuperscript{75} The White Paper on Affirmative Action, Notice 564 of 1998: chapter 1

\textsuperscript{76} The White Paper on Affirmative Action, Notice 564 of 1998: 10

\textsuperscript{77} The White Paper on Affirmative Action, Notice 564 of 1998: 10
provincial administrations; it is up to them to work on developing more specific targets to deal with inequalities within particular occupation groups and levels.\textsuperscript{78}

Despite the changed conditions by improved legislation, there are still “groups of people whose ability to thrive continues to be hampered by the legacy of past discrimination” as the policy describes it. Therefore “additional steps that correct their disadvantaged status are required” in the policy. In the policy three groups of people are defined: black people, women, and persons with disabilities.\textsuperscript{79}

Black people are described as being put through “systematic educational discrimination in the past” and they have been “blocked from opportunities of economic advancement which has denied many the formal educational qualifications and necessary experience for entry into and advancement within certain types of occupations, especially technical and managerial level posts”. This is described with consequences as “significant gaps in wages between different race groups and the creation of an under-representative body at the strategic decision making levels within the Public Service”.\textsuperscript{80}

Women’s situation has a similar description, that “gender stereotyping has resulted in the majority of women being employed in areas such as education and health in which they perform relatively lower level work, with very few in decision-making positions”. Consequently the occupational structure has become distorted and created a significant gap in wages between men and women. The White Paper bring up the problem with male dominance in management level resulting in a patriarchal culture, in which women have difficulties being accepted and treated as equals by their male colleagues. The problem is identified as built in the working environment that makes few concessions to matters like maternity leave and child-rearing. The challenge for Affirmative Action as the White Paper express it is therefore to create the conditions for women to:\textsuperscript{81}

1. Overcome the barriers that block access to the wide spectrum of occupations within the Public Service;
2. Overcome the barriers that block progression up the employment hierarchy for all women irrespective of rank;
3. And to create an environment that affirms them.

\textsuperscript{78} The White paper on Affirmative Action, Notice 564 of 1998: 11
\textsuperscript{79} The White paper on Affirmative Action, Notice 564 of 1998: 11
\textsuperscript{80} The White paper on Affirmative Action, Notice 564 of 1998: 11
\textsuperscript{81} The White Paper on Affirmative Action, Notice 564 of 1998: 12
The White Paper expresses an awareness of diversity within these groups and that there are some individuals and subgroups, such as people with disabilities and black women in rural areas, who have suffered proportionately more than others. It is pointed out “Affirmative Action programmes must take into account the specific needs reflected in these differences and not rely on blanket solutions”\textsuperscript{82}. Although the underlying principles of Affirmative Action can be applied to individuals and other groups who have suffered from unfair discrimination and disadvantage, at this point the determining factor and criteria is the \textit{historically disadvantaged}\textsuperscript{83}.

The goal of Affirmative Action in the Public Service is expressed as “set to speed up the creation of representative and equitable Public Service and to build an environment that supports and enables those who have been historically disadvantaged by unfair discrimination to fulfil their maximum potential, within it so that the Public Service may derive the maximum benefit of their diverse skills and talents to improve service delivery”\textsuperscript{84}. The following objectives are formulated in the White Paper on Affirmative action in the Public Service\textsuperscript{85} as:

1. To enhance the capacities of historically disadvantaged through the development and introduction of practical measures that support their advancement within the Public Service,
2. To inculcate in the Public Service culture which values diversity and support the affirmation of those who have historically been unfairly disadvantaged, and
3. To speed up the achievements and progressive improvements of the numeric targets set out in the White Paper on the Transformation of the Public Service.

To achieve these objectives certain key principles have been formulated to align them with other transformation goals. These principles are: “integration with human resource management and development practices; a more productive service delivery oriented Public Service; cost effectiveness; communication, participation, transparency and

\textsuperscript{82} The White paper on Affirmative Action, Notice 564 of 1998: 14
\textsuperscript{83} The White paper on Affirmative Action, Notice 564 of 1998: 14
\textsuperscript{84} The White paper on Affirmative Action, Notice 564 of 1998: 15
accountability; providing reasonable accommodation, and the last principle relative disadvantage of groups within the target group and the needs of an organisation"86.

The White Paper addresses the importance that Affirmative Action becomes an “essential tool” and “integrated element” in the organisation. There are also some requirements that the Public Service Affirmative Action programmes must contain: numeric targets, employee profile, affirmative action survey, management practise review, performance management, affirmative action plan, responsibilities and policy statement87. The responsibility for implementation and turning the policy into practice rests on national departments and provincial administrations, and DPSA, which will play a facilitative role. In the policy eight steps are set out to ensure a comprehensive implementation strategy88.

3.6 Results of Affirmative Action in Employment of Women
Statistical data on the labour market in general and tendencies towards the fulfilment of gender equality objectives can be found in the October House Hold Survey.

Table 2. Employed women and men aged 15 years and above in each population group in the year 1995: (percent)

<table>
<thead>
<tr>
<th></th>
<th>female</th>
<th>male</th>
</tr>
</thead>
<tbody>
<tr>
<td>African</td>
<td>23</td>
<td>43</td>
</tr>
<tr>
<td>Coloured</td>
<td>40</td>
<td>59</td>
</tr>
<tr>
<td>Indian</td>
<td>32</td>
<td>68</td>
</tr>
<tr>
<td>White</td>
<td>43</td>
<td>68</td>
</tr>
</tbody>
</table>


Table 2 shows that the weakest group in the labour market in South Africa in 1995 is African women, with only 23% employed. Indian women 32% and Coloured women 40% follow them. The strongest group among the group of women is the White women. What the table also tells us is that men have a much higher employment rate in all groups, which can be explained in the patriarchal society structure of South Africa.

Table 3 reveals that, within each population group, a smaller proportion of women than men in the age group 15 to 65 years are employed and a larger proportion of African and Indian women are not economically active. Among women, the proportion of employed is highest among White women, at 54%, and lowest among African women, at 36%. The rate for coloured women, at 45%, is higher than that for Indian, at 39%. 50% of all Indian women between 15 and 65 are not economically active in the formal market, and almost half (47%) of all African women too.

In 2001 the population of working age (15-65 years old) constituted 61% of the population, 35% of the population was younger than 15 years. Africans constituted 78% of the population, Coloureds 9%, Indians 3% and Whites 10%. Data shows that, among women, the percentage employed in 2001 was higher than the percentage employed in 1995 across all population groups. The increase between the two years 1995 and 2001 was most obvious for African women and for women with no formal educational qualifications. Previous research from the years 2001-2002, shows that the South African labour market is gender and ethnically segregated, designated groups, in particular women and Africans, are over represented in the informal sector, out of reach for affirmative action policies. According to Hughes and Zetterqvist there is no apparent trend of changes in the workforce that implies that this situation is improving.

South Africa has one of the highest unemployment rates in the world; the prevalence of unemployment may have effects on the outcome of the implementation of the Employment Equity Act. The rate of change of the concentration and segregation is restricted by the time it takes for new workers to be trained and hired. Unfortunately there are no published statistics on employment in the Public Service as a whole, but

<table>
<thead>
<tr>
<th>Population Group</th>
<th>African</th>
<th>Coloured</th>
<th>Indian</th>
<th>White</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>female</td>
<td>male</td>
<td>female</td>
<td>male</td>
</tr>
<tr>
<td><strong>Employed</strong></td>
<td>36</td>
<td>43</td>
<td>45</td>
<td>58</td>
</tr>
<tr>
<td><strong>Unemployed</strong></td>
<td>17</td>
<td>18</td>
<td>13</td>
<td>15</td>
</tr>
<tr>
<td><strong>NEA</strong></td>
<td>47</td>
<td>38</td>
<td>41</td>
<td>27</td>
</tr>
</tbody>
</table>

NEA= not economically active
Source: LFS, Feb 2001

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90 Labour force Survey, LFS, 2001
91 Budlender, 2002: 5
92 Hughes and Zetterqvist, 2002: 43
according to the Kornegay, the proportion of women in senior management position (director and above) has improved significantly since 1994. However, the Public Service still fall short of the targets of 30% of new women recruits. A number of departments and provinces have made considerable progress in gender representation; others have made little or no progress\textsuperscript{93}.

In the White paper some problematic results by the implementation of Affirmative Action is revealed. This is expressed as “distorted ways of applying affirmative action.... for instance that within some National Departments and Provincial Administration there is a tendency to recruit one group of women at the expense of others”. This is explained by the requirement to affirm women, and employers use it to affirm white women and ignoring the others (African, coloured and Indian women) within this group. It has also occurred that one group has been affirmed before the broader group. For example ‘black people’ have been promoted while the others has been ignored. The interpretation of what a category includes has shown to be problematic. Another result of the legislative requirements is that individuals are facing hostility on the job. The White Paper expresses that those members of target groups are “stigmatised as token appointees and seen to be unworthy of their jobs”. This has resulted in that people do not want to be associated with Affirmative Action\textsuperscript{94}.

3.7 Critical Voices on Affirmative Action in South Africa
The Affirmative Action issue is politically sensitive and the debate around it persists even after the Employment Equity Act was implemented in 1998. The interpretation of Affirmative Action is different across countries. Unlike most other countries, in which minorities are targeted, in South Africa a majority of the population is meant to gain from the legislation. Most parties in the post-apartheid South Africa labour market view Affirmative Action as a necessary tool to create employment equity\textsuperscript{95}. Criticism against the use of the policy has been raised on different grounds. One is that because of the fact that South Africa has a heritage of institutional statutory discrimination, Affirmative Action or “positive discrimination” stands accused of being apartheid in reverse, as the ideology of non-racialism said to be incompatible with preferential treatment\textsuperscript{96}. Another closely related view is that it is worsening

\textsuperscript{93} Kornegay, 2001
\textsuperscript{94} The White Paper on Affirmative Action, Notice 564 of 1998: 13
\textsuperscript{95} Hughes and Zetterqvist, 2002: 25
\textsuperscript{96} Adam, 1997: 233
racism by giving preferential treatment to racial groups and not to individuals that have been specifically discriminated against, and that this in effect implies reversed discrimination against the non-privileged groups. A strong critic here is Dirk Hermann, currently the Deputy General of the Solidarity labour union in South Africa. He argues, “The programme is doomed to failure because it will leave the majority with unfulfilled expectations and alienate the minority”. He sees the biggest problem associated with Affirmative Action in its final objective, i.e. racial representation. The problem according to him is that racial representation and equality is used as synonyms, and since 90% of the population has to be corrected, and this has to be borne by only 10%, it means that only a small group can benefit from affirmative action. As a result the majority has expectations that cannot be fulfilled and the minority becomes alienated, which is a growing ground for social conflict. Instead he thinks that South Africa should focus on growth, and the best instrument for growth is training and development and that one should look abroad on how the US has managed affirmative action\textsuperscript{97}. The counter argument is that this is not discrimination in reverse, but a method of providing compensation to benefit members of groups disadvantaged by unfair discrimination\textsuperscript{98}.

A result of this debate is that many individuals from target groups are afraid to be associated with Affirmative Action. Because of this fact the White Paper emphasizes that this policy “is a corrective measure by the Government to bring about equality for the target group that has suffered innumerable historical injustices”\textsuperscript{99}. It is also pointed out that the employees are protected by the Code of Conduct, grievance procedure, the Labour Relation Act, the Human Rights Commission and Commission for Gender Equality\textsuperscript{100}.

Another criticism voiced is that the policy entails increasing costs and inefficiency. If it’s no longer “the best suited for a job” to be appointed, but instead the member of a privileged group that “is able to do the job”, some say this will stigmatise workers from privileged groups, if the perception is that they are appointed on account of

\textsuperscript{97} Glazov, 2006
\textsuperscript{98} Hughes and Zetterqvist, 2002: 25
\textsuperscript{100} The White Paper on Affirmative Action, Notice 564 of1998, chapter 1: 25
membership in a privileged group and not on merit\textsuperscript{101}. Others fear that Affirmative Action could prove counterproductive if it leads on to “window-dressing and tokenism”\textsuperscript{102}, and consequently reinforce prejudices of racial and gender inferiority and undermine the self-esteem of those targeted\textsuperscript{103}. Stephen Coate et al, stress the issue that “if Affirmative Action serves to break down negative stereotypes, a temporary programme of Affirmative Action should lead to permanent gains for minorities, but if negative views are not eroded or, (but) worsened by Affirmative Action, then it must be maintained permanently for that group to be protected”. According to Coate et al. “job preferences may induce employers to patronize the favoured workers, which in turn may undercut their incentives to acquire necessary skills”\textsuperscript{104}. Their suggestion is if the objective is to break down the stereotypes, then it will be better to encourage disadvantaged workers to supply greater effort, than to force employers to promote these workers\textsuperscript{105}.

4. Analysis

4.1 Affirmative Action in the South African Context

When studying the White Paper on Affirmative Action in the Public Service, the overriding theme in the discourse, as I see it, is the issue of social justice and power. The expressions ‘equity’, ‘equitable’ and ‘representative employment environment’ is commonly used as well as arguments like ‘redressing past imbalances’, ‘corrective steps’, ‘unfair discrimination’ and ‘closing gaps’ justifying the use of Affirmative Action as a means to achieve employment equity in the workplace. I see the idea behind this as an expressed valuation of how one should act that contains concrete recommendations. The Government forces a value system of non-racist, non-sexist democratic society on the employers in the Public Service. The ideology they promote is a social democratic liberalism that embraces group’s rights\textsuperscript{106} and gives gender and ethnicity preferential treatment on the basis of historic disadvantage. However, a discriminatory system in the labour market will not, in my opinion, simply disappear through the legislation of equal opportunities or the repeal of discriminatory laws.

\textsuperscript{101} Hughes and Zetterqvist, 2002: 26
\textsuperscript{102} Tokenism is a phenomenon defined as something that occurs when a company puts blacks into very visible positions without ensuring that they have acquired the skills they need to take responsible decisions in their positions, also used when a person is given a title of a high position but no authority to act.
\textsuperscript{103} Interview Herbert Jauch, May 2004
\textsuperscript{104} Holzer and Neumark, 2004: 76
\textsuperscript{105} Holzer and Neumark, 2004: 76
\textsuperscript{106} Adam, 2002: 9
There is an impending risk that the legacies of statutory and social discrimination continue to pervade the labour market. As Andersson et al points at: South Africa have a long history of discriminatory laws that categorised people on the basis of race, creed colour, national origin, class and gender.107

On the other hand, Affirmative Action is regarded as a complementary mechanism to achieve employment equity and it is not the only tool in this transformation and therefore it can't be expected to have that much of an impact. The legislation and measures is argued to “promote the achievement of equality, designed to protect or advance persons or categories of persons, disadvantaged by unfair discrimination”108. Social justice arguments is found in the second phrase on Affirmative Action as “the laws, programmes and activities designed to redress past imbalances and to ameliorate the conditions of individuals and groups who have been disadvantaged on the grounds of race, gender and disability”109. The Constitution identifies “representativeness of the Public Service as one of the main foundations of a non-racist, non-sexist and democratic society that integrates people with disabilities”, and Affirmative Action is seen as ”necessary to speed up the processes of achieving broad representation and equity by providing practical ways of redressing the disadvantaged status of those who have suffered from past discrimination”110. These are all arguments and expressions of social justice and equity.

Affirmative Action in its ‘ideal form’ embodies the political principles of restructuring and redistributing, social justice and equity. The question is whether one can achieve this, the legislative way and how to handle the question of individual and/or group rights? There is a struggle between two different beliefs, the first insists on recognising only individual rights while the later embraces group rights in addition.

In South Africa, the controversy focuses on whether or not and how preferential treatment should be allocated to a historically disadvantaged black majority. The South African society is by heritage divided in different ethnic groups, and there is a

107 Andersson, 1998: 16
constant struggle between their different interests. The policy aims at protecting and affirming those who has been previously disadvantaged. Looking at the debate on the this issue it shows that group struggles is a problem in South Africa and might increase with the policy. There are those who suggest a change in the policy towards a correction of the previously economically disadvantaged individuals, instead of the historically disadvantaged. I believe that this might be more helpful for those who really are in need and also reduce the inherited tensions between groups, since results show that some groups are affirmed ahead of others as is mentioned in the White Paper. The justification of the Affirmative Action policy is based on an understanding of the historical background and people’s grievances and conditions. The policy is geared towards empowerment, to “bridge the previous unfair discrimination and to compensate the disadvantaged situation of certain groups such as blacks, women and people with disabilities”. This led me to the other dimension of power relations in the discourse, the variables of gender and ethnicity.

4.2 Power Relations and Defining the ‘Disadvantaged’
The Employment Equity Act and the Affirmative Action policy address changed power relation in South Africa. Prior to 1994, power relations in South Africa were both racial and sexist. The apartheid system controlled and oppressed those who were not white and gave preferential treatment to those who were white. The apartheid system was also of a strong patriarchal nature. The South African post-apartheid society is surrounded by and mixed up in and influenced by a number of power-relations and struggles, the addressed power changes in South Africa are not only about race, but also about gender.

When the Employment Equity Act was initiated and the Affirmative Action policy was passed in the new constitution, feminists and gender activist had a say in the process. They argued for women’s rights and the strengthening of position of women in South Africa, but also the identifying of women as a target group. From this aspect the policies has had effects on power relations and highlighting of women’s participation and rights in South Africa. The affirming politics has opened doors and highlighted the labour market conditions of women. The Government and ANC

111 Holzer and Neumark, 2004: 76
112 Adam, 2002: 56
113 Arnfred et al, 2005: 41
addressed the ethnicity issue by pointing at the inequalities and discriminatory laws that African, coloureds and Indian people were subordinated during Apartheid\textsuperscript{114}. This way the policies were formulated from an ethnic perspective and highlighted these groups’ participation and rights in South Africa’s labour market. In this sense these groups were given a voice and doors were opened for these groups as I see it.

When studying the White Paper, the policy’s formulation and definitions I think that it show ‘taken-for granted’ social assumptions and hegemonic power relations, in the way that gender oppression and other subtle forms of power is a non-issue. The policy does not give any recommendations on how to deal with power structures in organisations, the norms and values that has grown for years. The consequences of not discussing gender structures and ethnical contrasts and instead express this as a non-problematic issue routinely in texts and talks, makes power structures remain invisible, recognised as quite legitimate and natural. This is the hegemonic order that Gramsci talks about: how power is created and recreated when the normative patterns are not resisted and questioned\textsuperscript{115}. In this sense I think that the policies will have a small or no effect on the deeper normative patterns of behaviour and though in the organisations and the labour market as a whole. Another problematic side of the changed power relations forced on by law, as I see it, is the fact that since power-relations are surrounded by and mixed up in other power relations and struggles\textsuperscript{116}, it risks being institutionalised and concentrated. Based on the history of South Africa with institutionalised racism and sexism, this is also one of the strongest critiques against the Affirmative Action policy in South Africa. Affirmative Action must not be permanent, because a law without a time limit has a high risk of being institutionalised\textsuperscript{117}.

There is a chapter in the Affirmative Action policy that defines the ‘disadvantaged’ in the Public Service. This is in my opinion a risky and difficult task because the term ‘disadvantaged’ itself is relative and can be subjective. In the policy the disadvantaged are defined as “groups of people whose ability to thrive continues to be hampered by the legacy of past discrimination” and “those groups identified as having

\textsuperscript{114} Andersson, 1998: 19
\textsuperscript{115} De los Reyes et al, 2003: 23
\textsuperscript{116} Hörnquist, 1996: 47
\textsuperscript{117} Glazov, 2006: 2
been unfairly discriminated against on the basis of past legislation, policies prejudice and stereotypes”\textsuperscript{118}. Creating these designated categories: blacks, women and people with disabilities, involves formalizing a designated group as policy “targets”, which is a controversial process. There is always a risk of people claiming to be part of a group when in fact they are not. This refers to the identifying of different “layers” of needs within the designated category, which can be a complex undertaking because it involves separating different subgroups within a group\textsuperscript{119}. For example the case of ‘women’ as a general social category, my point is that it is important to find out who the needy ones are and who are the ones that do not need Affirmative Action by virtue of their socio-economic background. Mismang point at this problem in South Africa, were critics claim that the policy does not target the “right” groups and that the main beneficiaries are black men who have become the new middle class, but also white women\textsuperscript{120}.

4.2.1 Black People and Women
One of the groups targeted is ‘Black People’; as mentioned before, the term refers to Africans, Coloureds and Indian people. Ethnic based Affirmative Action is usually problematic because it often leads to further ethnic tensions because of grievance by those groups that are not targeted\textsuperscript{121}. This is also my analysis of what is the case in South Africa, where some people see the policy as reverse discrimination.

“Ethnicity is an outcome of a relation and not a quality of a group, in other words a social identity,” Hylland Eriksen argues\textsuperscript{122}. Identifying ‘black people’ as is done in the policy; those targeted are defined in contrast with others. Hylland Eriksen continues; creating distinctions between ‘them’ and ‘us’ can provide actors with meaning and with organisational canals to satisfy culturally defined interests\textsuperscript{123}. The categorization of different ethnical groups in the policy by giving preferential treatment as example in this case African women satisfies this certain group’s interests in the South African labour market. I see it as a fine and difficult balance, between the positive and the destructive outcomes of such categorising and depending

\textsuperscript{118} The White Paper on Affirmative Action, Notice 564 of 1998: 11
\textsuperscript{119} Hyllan Eriksen, 1993: 28
\textsuperscript{120} Mismang, 2000: 1
\textsuperscript{121} Adam, 2002: 56
\textsuperscript{122} Hylland Eriksen, 1993: 21
\textsuperscript{123} Hylland Eriksen, 1993: 21
on how the policy is interpreted and understood. It may have different consequences for the designated group.

While it may be important to recognise categories such as black and white in order to address past imbalances, it is difficult to say that blacks must be hired, without risking the assumption that ‘blackness’ has an inherent meaning. Will blacks lead differently and change the culture, is that why it is important to hire them? This is an assumption that I think Affirmative Action programmes risk making. This is also a point that Msimang makes; that Affirmative Action in theory, risks homogenising the perception of blackness and woman. Perhaps it is simply good to hire women and blacks because they would not have a fair chance otherwise, but the policy might give other signals.

The implementation of the new labour laws that encourage Affirmative Action on the basis of gender raises lead me to the issue of identity and the question is whether it leads to an essential categorisation of women, blacks, disabled etc? GAD feminists have argued that women are different from each other, and that it is impossible to assume anything homogeneous about women. Rich women, poor women, black women, disabled women, lesbians or straight women will respond to situations differently and have different basis of power in society. The White Paper does not, from my point of view, take this into consideration. Lazar points at the fact that asymmetrical power and gender discourses are produced and experienced in very different ways for and by different groups of women. The gender structure in relation to other power relations based on race/ethnicity, social class, age and culture means that gender oppression is neither materially experienced nor discursively enacted in the same way for all women everywhere. In the Affirmative Action policy of Public Service, women as a target group are not defined more specifically than ‘women’. This leaves a gap to be filled and interpreted by the employers. Who should be affirmed and who should not? - Which is no matter of course.

Gender discrimination appears to arise from processes partially different from ethnical discrimination. Debbie Budlender makes the observation that “race might well disappear to a large extent but gender discrimination is unlikely to disappear. There

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124 Msimang, 2000: 2
125 Parpart et al., 2000: 7
126 Lazar, 2005: 10
are too many other social processes propping it up. These processes start on the supply side of the market and are not influenced to the same degree by the practise of Affirmative Action. It is not only a question of removing past inequalities and disparities\textsuperscript{127}. She argues that these inequalities will continue unless more fundamental personal, social, political questions are addressed.

I have found that the reality is that employment patterns are raced and gendered and white men constitute the great majority in decision-making positions in the Public Service. The Employment Equity Act has forced on transformations issues as equity plans, but there has not been enough emphasis on transforming organisations in ways that recognise work/family life splits. Msimang points at that all companies are required to give maternity leave of at least four months and all are required to have policies dealing with sexual harassment. But she also argues that little has been said regarding transportation issues and flexitime hours\textsuperscript{128}. This shows that the policy leaves for the employers to take actions in different areas were the labour environments and organisational structure and conditions are not equal for men and women. The policy does not either force employers to examine macho environments and change these; instead the organisations themselves have to be committed to change for any change to happen.

The Employment Equity Act and the Affirmative Action policies have increased the number of women in the Public Service. Still the EEA and AA cannot be implemented in isolation. Adult education remains a huge problem if the policies operate without support from education policies that increase access to education and employment. There is a risk that the policy only empowers an elite group of blacks and women and increases the growing class inequalities in South Africa.

Another question important in this discussion is whether or not the increased presence of marginalized people in the work place and decision-making institutions makes a difference to how these organisations function? In the case of the South African

\textsuperscript{127} Budlender 2002: 1
\textsuperscript{128} Msimang, 2000: 2
parliament and the ANC’s quota system, the presence of a significant number of
women had an impact on the laws that has been passed in the country.\textsuperscript{129}

Foucault argues that power is embedded and dispersed throughout networks of
relations, that it is self-regulating and produces subjects in both senses of the word.\textsuperscript{130}
The question is if women as a group will ever be justified and treated equally if the
gender relations remain invisible, legitimate and natural? The same question regards
ethnicity. As long as people are defined categorized on the bases of race and this
remains legitimate and natural, all groups will remain in a hierarchal system where
they are defined in relation to other groups. There are other surrounding elements in
the power relation network that stand against it.

4.2.2 Stigmatisation and Negative Stereotypes
The White Paper expresses an awareness of problems associated with Affirmative
Action. In the policy you can read, “Members of affirmed groups are facing hostility
in the workplace as a result of the legacy of racial discrimination, gender and
disability stereotyping.”\textsuperscript{131} This is described as that people of these groups are
stigmatised as token appointees and that they are seen to be unworthy of their jobs. It
is expressed as a problem and that it has cast a shadow on many people of these
groups. But there are no concrete recommendations to be found on how to approach
this problem, only that “…the policy will not apologies and nor should any individual
from these groups…” The White Paper refers to ethical standards and that the
employees are protected by the Code of Conduct, the Labour Relations Act, and that
they have access to the Public Protector and the Human Rights Commission and
Commission for Gender Equality.\textsuperscript{132}

When defining disadvantaged people and target groups, an important question would
seem to be the impact of stereotypes, created by the policy. How will stereotypes
affect the capabilities of those defined and targeted by the policy? Can Affirmative
Action policies eliminate employers’ negative stereotypes about the capabilities of
minority workers, using the idea of self-confirming discriminatory beliefs? Holzer

\textsuperscript{129} Mismang, 2000: 2
\textsuperscript{130} Hörnquist, 1996: 47
and Neumark points at the two sides: on the one hand, those who advocate and say "preferential policies break down negative views about minority workers by allowing them to demonstrate their capabilities". On the other hand those who criticise and say that “Affirmative Action lower standard; with the consequence that subsequent poor performance by preferred workers would only reinforce negative prejudices”\textsuperscript{133}. There are circumstances, according to Holzer and Neumark, under which Affirmative Action will eliminate negative stereotypes. However, there are equally plausible circumstances under which it will not fail to eliminate but worsen stereotypes\textsuperscript{134}. In my opinion there is an overhanging risk that stereotype perceptions of black women will be created and reproduced in the Public Service, as long as the policy does not discuss the diversity within the designated.

4.3 Empowerment and Development
Empowerment is a process of change and peoples ability to make choices and increase their power and position. I have found that the Affirmative Action policy has improved the conditions for black women in terms of employment, in terms of affirming women in the employment process. The policy has created better possibilities for black women, the number of employed black women has increased, and from this point of view, women have been empowered. However the number of women employed does not tell if it is really because of the policy or if there are other reasons behind the increase. Other crucial obstacles are education as I mentioned before, as long as they do not have the right qualifications they can’t be employed. Then there is the development and changes of power structures and normative patterns within the organisations and the labour market as a whole that is much harder to change and to measure and might be the biggest barrier.

Empowerment and development are not easily measured. Indicators of empowerment can only indicate the direction of change rather than provide an accurate measurement of it\textsuperscript{135}. The single measures, such as status, participation, position taken from its context, can have a variety of different meanings. Looking at black women’s status, participation and position in the public Service, it is hard to find any good and reliable measures on that. There is a common assumption underlying many measurements, Sisask argue, that we can predict the process of change involved in empowerment and

\textsuperscript{133} Holzer and Neumark, 2004: 58
\textsuperscript{134} Holzer and Neumark, 2004: 58
\textsuperscript{135} Sisask, 2004: 52
development. Instead changes in the opportunities in which individuals make choices can have very different responses, which in turn can have quite different impacts and meanings in different contexts. My point is that there are no single linear models of change by which a cause can be identified for women’s disempowerment and altered to create the desired effect. To try to predict the outcome of an attempt such as the politics of Affirmative Action, and how it will change women’s lives, risks prescribing processes of empowerment and violating its essence, which is to empower women’s capacity for self-determination.

The creation of equality and access to the areas that previously excluded black women and other groups is a vital and legitimate area of public policy interventions as Affirmative Action. However, gender equity requires that poorer women and other excluded groups are not only able to gain access, but also to be respected and define their own priorities and make them their own choices. These kinds of changes and achievements are harder to quantify since they deal more directly with the renegotiation of power relations. Perhaps ten years of democracy is too short a period for assessment of radical social changes in South Africa. However, the majority rule and later the re-election of an ANC government in 1999 and the ongoing political transformation have invited to reflection upon the potential impact of democratic transformation and Affirmative Action policies on the lives of the marginalized black women in South Africa. As long as the debate continues the progress will progress. It is just to wait and see what happens.

5. Conclusion
The purpose of this study was to examine to what extent the South African Affirmative Action policy has had any impact on black South African women in the Public Sector, in terms of empowerment and development. I have analysed if the implementation of the policy has changed the conditions in the labour market enough to eradicate discrimination and empower black South African women in the long run. To help me along the way four questions were raised.

The first one: What was the labour market situation like, in terms of participation, power and position, for black South African women when the Affirmative Action

136 Sisask, 2004: 52
policy was implemented? In my research I found that South Africa inherited a socially, economically and politically deprived, unstable and unequal society. Despite the fall of apartheid and a new majority rule, South Africa was facing immense injustices. This created a situation of great social exclusion in which black women were among the most marginalized. Women in general were denied access to employment by conservative ideas within the colonial community and black people were controlled and oppressed by the Apartheid laws. Black women came under the double oppression as being both black and women, and they are among the most vulnerable in all levels of South African society.

The second question was: How was the Affirmative Action policy initiated, defined and implemented? I found the policy was formulated out of the framework of the EEA which purpose was to “achieve equality in the workplace by promoting equal opportunity and fair treatment in employment through the elimination of unfair discrimination”137. The policy was defined as “...designed to redress past imbalances and to ameliorate the conditions of individuals and groups who have been disadvantaged on the grounds of race, gender and disability”138. The disadvantaged and underrepresented groups were identified and targeted as Blacks, women and people with disabilities. The task of preparing and implementing the policy lies on employers with 50 or more workers. The Department of Public Service and Administration published the White Paper on Affirmative Action in the Public Service in 23 of April 1998.

The third question: What is the situation like for black women’s participation, position and power in the South African Public Sector today? The amount of employed black women in the Public Service has increased since the implementation of the policy. The participation measured in employment statistics show that it has increased among all groups but was the highest for black women with 13 per cent units and white women with 11 per cent units. Apart from the statistical measures of black women’s participation and position in South African Public Sector today, I have looked at the surrounding discourse of intertwined power relations that creates normative patterns of behaviour and thoughts on women/men and black/white,

137 EEA, 1998: 5
stereotypes, conflicts and struggles. These elements are much more subtle and complex and hard to measure. Women have been acknowledged as a group by law, which is a big step forward, making women more visible in the debate. Gender activism and feminists in South Africa has had a say in the formulation and implementation of the Affirmative Action policy. They have positioned themselves and made changes. On the other hand, South Africa has a history of racism and sexism in its society, where people has been systematically categorised on the bases of race, sex, religion, sexual orientation etc. There is an impending risk in trying to achieve equality in the workplace and eliminate unfair discrimination, by affirming certain people on the basis of their group belonging.

The fourth question: What part does Affirmative Action politics play in a development context? In my study I have found that South Africa has become democratic, held majority rule and adopted a new constitution. In the new constitution’s Labour Act and Employment Equity Bill, claims were made on redressing the imbalances prevailing in society and create a greater level of equality in employment. An ideology of a non-racist, non-sexist and democratic society was applied. South Africa has put race and gender on top of the agenda by forcing employers to take action against unfair discrimination. As I see it South Africa has adopted an ideology of a more radical form, with empowerment as its central objective. The legislation aims at overcoming race and gender barriers to participate in defining the goals and agendas of development processes that meet people’s needs for a secure and decent livelihood. In the present day South Africa and during the next couple of years, there will not be any radical changes on the labour market and Public Service. It is still in a process of adapting to the new legislation. The long-term perspective is even more uncertain. If one is to believe the critiques, Affirmative Action in South Africa is not the solution. On the other hand awareness of inequalities is stressed and action is taken and it might be a step in the right direction. The only thing that is certain is that Affirmative Action in South Africa is very complex and a difficult object for the country. Research targeting black women’s, participation, position and power in employment in the labour market and Public Service in South Africa is not very easy to find. The fact that there are not very much written on the subject makes it hard to draw any strong conclusions. It is also an indicator on the fact
that it is non-issue in South Africa, that despite the policy initiation ten years ago, only a small amount of new research has been published.
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**Interview:**
Jauch Herbert, Director at Labour Research and Resource Institute (LaRRI) Windhoek Namibia, 23 of April 2004 at LaRRI’s office