### Number of Sentenced Prisoners by Province, 1994-1998

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastern Cape</td>
<td>133,812</td>
<td>149,419</td>
<td>170,481</td>
<td>196,189</td>
<td>201,634</td>
<td>51</td>
</tr>
<tr>
<td>Free State</td>
<td>137,671</td>
<td>134,042</td>
<td>138,341</td>
<td>151,212</td>
<td>150,398</td>
<td>9</td>
</tr>
<tr>
<td>Gauteng</td>
<td>349,490</td>
<td>340,715</td>
<td>375,694</td>
<td>430,739</td>
<td>469,194</td>
<td>34</td>
</tr>
<tr>
<td>KwaZulu-Natal</td>
<td>200,151</td>
<td>198,643</td>
<td>214,547</td>
<td>247,097</td>
<td>262,192</td>
<td>31</td>
</tr>
<tr>
<td>Mpumalanga</td>
<td>104,613</td>
<td>95,727</td>
<td>101,521</td>
<td>112,895</td>
<td>110,905</td>
<td>6</td>
</tr>
<tr>
<td>North West</td>
<td>74,143</td>
<td>90,488</td>
<td>103,103</td>
<td>118,819</td>
<td>124,768</td>
<td>68</td>
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<tr>
<td>Northern Cape</td>
<td>42,274</td>
<td>41,318</td>
<td>44,755</td>
<td>55,278</td>
<td>60,237</td>
<td>42</td>
</tr>
<tr>
<td>Northern Province</td>
<td>24,097</td>
<td>32,069</td>
<td>40,013</td>
<td>46,755</td>
<td>50,806</td>
<td>111</td>
</tr>
<tr>
<td>Western Cape</td>
<td>268,545</td>
<td>250,663</td>
<td>256,276</td>
<td>273,802</td>
<td>278,967</td>
<td>4</td>
</tr>
<tr>
<td>South Africa</td>
<td>1,334,796</td>
<td>1,333,084</td>
<td>1,444,731</td>
<td>1,632,786</td>
<td>1,709,101</td>
<td>28</td>
</tr>
</tbody>
</table>

### Breakdown of Prison Population as at 31 December 1999

<table>
<thead>
<tr>
<th>Race</th>
<th>Gender</th>
<th>Unsentenced</th>
<th>Sentenced</th>
<th>Total</th>
<th>Proportion of total</th>
</tr>
</thead>
<tbody>
<tr>
<td>African</td>
<td>Male</td>
<td>47,853</td>
<td>75,820</td>
<td>123,673</td>
<td>76.0%</td>
</tr>
<tr>
<td></td>
<td>Female</td>
<td>1,078</td>
<td>1,816</td>
<td>2,894</td>
<td>1.8%</td>
</tr>
<tr>
<td>Coloured</td>
<td>Male</td>
<td>8,066</td>
<td>22,779</td>
<td>30,845</td>
<td>18.9%</td>
</tr>
<tr>
<td></td>
<td>Female</td>
<td>191</td>
<td>544</td>
<td>735</td>
<td>0.5%</td>
</tr>
<tr>
<td>Indian/Asian</td>
<td>Male</td>
<td>137</td>
<td>476</td>
<td>613</td>
<td>0.4%</td>
</tr>
<tr>
<td></td>
<td>Female</td>
<td>8</td>
<td>21</td>
<td>29</td>
<td>0.0%</td>
</tr>
<tr>
<td>White</td>
<td>Male</td>
<td>847</td>
<td>2,739</td>
<td>3,586</td>
<td>2.2%</td>
</tr>
<tr>
<td></td>
<td>Female</td>
<td>51</td>
<td>212</td>
<td>263</td>
<td>0.2%</td>
</tr>
<tr>
<td>Total</td>
<td>Male</td>
<td>56,903</td>
<td>101,814</td>
<td>158,717</td>
<td>97.8%</td>
</tr>
<tr>
<td></td>
<td>Female</td>
<td>1,328</td>
<td>2,593</td>
<td>3,921</td>
<td>2.4%</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>58,231</td>
<td>104,407</td>
<td>162,638</td>
<td>100%</td>
</tr>
</tbody>
</table>

Source: South Africa Survey 2000/2001, South African Institute of Race Relations
WORKPLACE DISCRIMINATION

EARLY EXPERIENCES WITH THE EEA

The Employment Equity Act aims to promote equality in the workplace. LIESL ORR and TANYA GOLDMAN review progress thus far.

EQUALITY AND NON-SEXISM ARE CENTRAL values in South Africa's new constitution.

The Constitution embodies the notion of substantive rather than formal equality. It recognises the need for equality of outcome, rather than simply equality of opportunity or treatment.

The equality clause in the Bill of Rights allows for affirmative action: “To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.” It also prohibits discrimination on a number of grounds, including gender, pregnancy and marital status.

INEQUALITY

The Employment Equity Act (EEA) of 1998 aims to give substance to these constitutional rights.

The Act was introduced in the context of extreme social and economic inequality. South Africa is an upper-middle-income country. Yet more than three million households, or more than 18 million citizens, live in poverty (Naidoo, 2000). Apartheid denied black people access to capital and facilitated the development of white capital on the back of a cheap, ‘unskilled’ black labour force. Black women suffered the greatest economic disadvantage. Even today, white men and women are far more likely than other groups to find jobs in the formal economy.

The restructuring of the South African economy has led to a decrease in demand for ‘unskilled’ employees and increased demand for highly skilled individuals. Between 1994 and 1997, management, professional and technical workers increased from 19% to 25% of all the formally employed. There was a decrease in the share of elementary (‘unskilled’) occupations from 36.4% to 28.3%. There is a strong overlap between skills levels and race. Forty nine percent of employed African women and 24% of employed African men are in elementary occupations (Naidoo, 2000).

In addition to occupational segmentation, there is a significant wage gap between the lowest paid workers and executive management. This is referred to as the “apartheid wage gap”, because it closely mirrors racial hierarchies. There is also a gender dimension to income differentials, which means that black, particularly African women are in the most disadvantaged position of all.

To date, employment equity processes appear to have had very little effect on the lives of the most disadvantaged workers. They seem to have benefited a small number of black people (probably black men) and women (probably white).

The Breakwater Monitor has surveyed changes in staff profiles in 161 companies employing a total of 560 000 employees since 1998. By the year 2000, African representation

<table>
<thead>
<tr>
<th>Category</th>
<th>Absorption rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>African women</td>
<td>22%</td>
</tr>
<tr>
<td>African men</td>
<td>35%</td>
</tr>
<tr>
<td>White women</td>
<td>44%</td>
</tr>
<tr>
<td>White men</td>
<td>68%</td>
</tr>
</tbody>
</table>

"Designated employers" are those who employ 50 or more workers, or have a total annual turnover equal to or more than that of a small business as defined in a schedule to the Act. A designated employer who employs 150 or more workers must report to the Director General annually. Those who employ fewer than 150 are required to report every two years. The limited application of the Act is problematic as international evidence suggests that women are more likely to work in smaller companies.

The EEA is one of a range of measures needed to address inequality, particularly gender inequality, in the labour market. Other laws which complement its provisions include:

- The Basic Conditions of Employment Act (BCEA) of 1997, which promotes wider employment equity by creating a minimum set of employment standards for particularly vulnerable workers.
- The Skills Development Act (SDA) of 1998, which is designed to address the low level of skills in the workforce through a variety of measures.

in management had increased by 4 percentage points, while in skilled levels there has been an increase by 6 percentage points since 1998. White representation and the number of men in management had shown a corresponding decrease. The representation of women in management increased by 5 percentage points and in skilled levels by 8 percentage points during the same period. Unfortunately, the data has not been disaggregated by race and gender. It is likely that the majority of women in management are white.

**THE EEA**

The EEA aims to achieve workplace equity by eliminating unfair discrimination and facilitating the implementation of affirmative action in respect of race, gender and disability.

The Act requires employers to eliminate both direct and indirect discrimination. However, indirect discrimination is not defined and no positive steps are laid down to eliminate it.

"Designated employers" (see box) must implement affirmative action measures by consulting with employees, conducting an analysis of the workforce profile and employment practices, preparing an employment equity plan and reporting to the Director-General of the Department of Labour on implementation. The range of practices companies are required to report on - although not in great detail - include recruitment, selection, promotion, grading, evaluation systems, income differentials, training and disciplinary measures. The Act recognises the need for "designated groups" - black people, women and the disabled - to be equitably represented in all occupational categories and levels.

The EEA reflects the 'carrot' rather than 'stick' approach that the Department of Labour is taking to equity. It encourages companies to reflect the racial and gender composition of the potential workforce at their location by willingly setting numeric targets, without imposing quotas and timeframes. The Department is relying on workers and employers to work together to implement affirmative action programmes. It is unlikely that its inspectorate has the capacity to enforce the measures contained in the Act.

The EEA also establishes a Commission on Employment Equity (CEE) to advise the Minister of Labour on codes of good practice, regulations and policies needed to implement the act.

**THE EEA IN ACTION**

At the end of last year, the National Labour, Economic and Development Institute (Naledi) undertook research to develop a better understanding of discrimination experienced by workers, particularly black women workers and the role the EEA can play in improving the position of these women and workers more broadly.

Six companies in Gauteng and the Western Cape were selected as case studies. They operate in the following sectors:

- Auto Manufacturing;
- Transport (port parastatal);
- Retail (clothing retail company);
- Tissue and Paper Manufacturing;
- Food (fishing);
- Cleaning (contract cleaning company).

Focus groups with workers and shop stewards and in-depth interviews with union organisers, negotiators or educators, and managers were conducted at each workplace. Company docu-
ments relating to employment equity were also reviewed.

The conciliatory tone of the EEA has already been noted. It does not contain prescriptive measures, but rather encourages firms to develop targets appropriate to their conditions.

Where there is significant willingness and commitment to achieve affirmative action and a balanced union-employer relationship, such an approach could work well. However, in a situation where there is overt and covert resistance to equity and the elimination of unfair discrimination from management and low levels of meaningful participation from workers, the outcomes are not likely to be progressive.

The approach adopted in the EEA requires very strong interventions from employees and trade unions. To a large extent unions have not grasped the strategic initiative, largely because they have been overwhelmed by the onslaught of retrenchments and casualisation and are under pressure to defend workers in the face of restructuring processes that threaten jobs.

**Levels of understanding**

In most of the companies, workers did not have a high level of awareness of the issues relating to employment equity. Most defined it broadly as “giving opportunities to people who were disadvantaged”, but there was a sense of alienation from the process. There were also those who stated that they do not understand what it is all about. This was sometimes the result of companies not communicating the contents of the Act to staff (as they are required to do).

Based on past experiences of discrimination and a lack of trust in management, many workers were not optimistic about the prospects for employment equity. A common sentiment amongst workers was that very little has changed. Shop stewards pointed to the different understanding between themselves and management about employment equity. At the port parastatal, shop stewards felt that management was more concerned with getting the ratios right than with real empowerment. In most of the companies, workers and shop stewards voiced concerns that employment equity was not linked to skills development and training for existing workers.

Almost without exception, management expressed the view that employment equity is “nothing new”. They claimed to have had affirmative action policies in place for some time. Typically, management tends to see employment equity in narrow terms, focusing on attracting black (often male) professionals at the upper levels.

The only case study where there was some history of affirmative action prior to 1998 was the port parastatal. In the other companies, there are some equal opportunity policies on paper and some training programmes in place, but, on the whole, the staff profiles are starkly reflective of the apartheid era.

Two of the companies made reference to a link between business objectives and employment equity. They feel that drawing on the full potential of all employees might make the company more competitive. However, for the most part, this link was not put into practice (for example, through skills development and conscious career development programmes).

In the fishing company, black economic empowerment and outsourcing are seen as part of the employment equity programme. The shop stewards maintain that, far from the most disadvantaged workers gaining from outsourcing, their working conditions may get worse. As one shop steward stated: “The company is outsourcing all the services to people who are already rich. Workers must also have the opportunity to be empowered.”

**Racism, sexism and victimisation**

Workers reported that white line managers often vent their anger at the broad process of transformation on black workers:

*In 1994, after the elections, he came into my office and he pointed to his arms and he said ‘Look at me. My skin hasn’t changed because of the election, I am still white’.***

Workers also reported widespread victimisation of black employees. Most of the cases involved
black women in semi-skilled and skilled positions being targeted by white middle managers. A female employee in the auto company was told by her manager that: “As long as I am here you will never get a promotion in this company”. Another worker in the same company was consistently denied promotion on the basis that he is 'arrogant'. In many of these cases, union shop stewards have not been as supportive in taking up the issues as would have been expected.

**Resistance**

In all of the case-studies, there were examples of resistance to employment equity processes, particularly by white middle managers. Black women encounter both racial and gender discrimination. At the auto company, a manager said that:

> With middle management there is still resistance. They don’t understand and they will do anything to frustrate the process. They cover that up with the argument that they simply want the best person for the job.

One worker observed that:

> The problem (lies with) middle management. The top management does want things to be implemented...It’s a threat to those with no qualifications. There are glossy pictures outside...that’s what is known to top management, but to middle management it’s a pure threat.

Resistance also comes from white workers and, in some cases, the white-dominated unions. At the port parastatal, people working on the tugboats, who are mainly members of the white union, tried to use their important role in the harbour to protect their jobs and promotion prospects.

**Education and qualifications**

Section 20 (3) of the EEA states that a person may be “suitably qualified” for a job as a result of any one of, or a combination of:

- formal qualifications;
- prior learning;
- relevant experience; and
- the capacity to acquire, within a reasonable time, the ability to do the job.

Management, however, tends to focus on qualifications and experience. This clearly disadvantages black workers and black women workers. In the auto sector, the bargaining council agreement stipulates that workers at level four cannot move to level five without artisan qualifications.

**Nepotism**

At the tissue and paper and the fishing companies, shop stewards and workers provided examples where family members of white senior managers had been promoted to senior positions over the heads of more competent black candidates. In some cases, posts had been created for these individuals.

**Gender discrimination**

A manager at the auto company described the battle involved in employing a woman as an artisan. Supervisors found it difficult to believe that a woman could do the job, even though she had all the required qualifications. Another woman was not given a supervisory position because it was believed she would not be able to control men:

> There was one woman in my section and she applied for a promotion. She was told that as a woman she would not be suitable for leading volatile men. Obviously they assumed that their own method of ‘skop, skiet and donner’ is the only means of supervising workers.

At the fishing company, the union won a battle to ensure that women’s wages did not decrease when they returned from maternity leave. Prior to the agreement, women, who had been employed as a line mentor or supervisor were demoted to the position of production worker when they came back to work.

**External recruitment**

In all the interviews, workers expressed dissatisfaction at their companies' lack of commitment to training internal candidates for promo-
tion as opposed to employing people from ‘outside’. While most companies have some form of skills training in place, it is not systematically applied. Moreover, the linkages between employment equity, skills development and career-pathing have not been developed. Although two of the companies have systems of evaluation and career-path development for employees, these are not effective. One worker described the process as “just another piece of paper that gets filled in and means nothing”.

**DECISION-MAKING**

At the fishing company, shop stewards observed that the white directors had more power than the black director: “The one who is black must consult the Managing Director before making final decisions”. They say that this situation extends to all levels of the organisation. When a white department head sends through proposals for salary amendments for subordinates, they are approved. When a black manager proposes wage increases, these are not approved.

**WAGES**

The most pressing issue for ordinary workers is their pay. In particular sectors, like contract cleaning, retail, ports and fishing, the irregularity and uncertainty of contract, seasonal and casual work were the most pressing concerns. In the fishing company, there is no work when there is no fish. Management makes the decision as to when this is the case. In one company, workers went without pay because of a technical problem that could not be resolved while a manager was on leave. Given the racial and gender profile of the firm, this is arguably a form of indirect discrimination.

**DISCIPLINE**

In all the companies, there are far more cases of disciplinary action against black than white employees. In three of the case studies, shop stewards spoke about corruption allegations against management which were not pursued, while workers were harshly disciplined for minor offences.

At the fishing company, coloured women make up 45% of the workforce. Yet 65% (96 out of 147) of the disciplinary actions against employees in the year to April 2000 were against coloured women.

The Human Resources Director at this company says that coloured women are disciplined for minor offences like talking on the production line, toilet breaks and late coming. He did not appear aware that, in some instances, this discipline could be discriminatory. For example, women are usually late because they are taking care of their children, their partner, or other family members. Women need to use the toilet more because of menstruation or pregnancy. An interviewee noted that offences committed by men are usually more serious: “For men it is (being) drunk at work. Most...disciplinary hearings are related to substance abuse”.

A story told by an African woman worker indicates that discipline may also be a racial issue:

> If the line supervisor is a coloured woman and I'm a black person, everything that is wrong is my fault. Even if it's because I don't understand Afrikaans. Not all of them. But most of them are like that.

At the port parastatal, the union has demanded an inquiry into racial discrimination and discipline. Employees allege that a member of the predominantly white union was treated leniently for defrauding the company of hundreds of thousands of Rands, whereas members of the predominantly black union are dismissed for stealing a part. Workers also cited cases where employees are treated differently for offences like drunkenness and where white employees were not disciplined for racial attacks.

**EMPLOYMENT EQUITY COMMITTEES**

All of the companies have established Employment Equity Committees at a national level with union representation. In some cases, plant level committees have also been set up. Union and worker participation is extremely uneven. At the cleaning company, management feels that one of the union representatives does
not understand what employment equity is about. The other union representatives hardly attend meetings. The union acknowledges that there are problems with its capacity to empower shop stewards to participate effectively. Union officials are overstretched.

The tissue and paper, retail and auto companies have relatively strong and active committees where issues are firmly contested with active participation by the unions. Nevertheless, it appears that the committees are still grappling with their role, responsibilities and priorities. Some shops stewards identified a problem in the fact that the committees operate on the basis of consensus, which is very difficult to achieve when so many different interest groups are represented. Specific deadlock-breaking mechanisms still need to be developed.

**Communication and Training**

The retail and the tissue and paper companies have specific programmes in place, including diversity training and communication through newsletters, videos and workplace meetings. Other companies are not as proactive. At the auto company, there was an ongoing controversy about holding a meeting of all employees to inform them about employment equity. Management refused to shut down the plant for one hour and held a communication meeting for salaried staff only. An hourly paid staff member (a black woman) working in administration was prevented from attending this meeting by her line manager, even though all her colleagues, (white, salaried staff) attended. The committee eventually reached an agreement to hold a meeting on the last day of work in December before shutdown, although shop stewards were unhappy about this because there are historically high rates of absenteeism on this day.

**Consultation**

The interpretation and definition of consultation has caused difficulty in some cases. According to shop stewards at the auto company:

When they started consulting, they came with prescriptions about who would form the committee. They told us how many representatives the union would have and they said a certain woman would represent the disabled (she is not disabled).

Employers tend to link processes to costs:

For management, it is all about saving money...time for consultation is also a resource that cannot be spared.

When this company's employment equity report to the Department of Labour was submitted, the union disagreed with its content, particularly the workplace profile. The Department did not visit the factory and only communicated with management.

At the fishing company, the union also had problems with the process and report and had notified the company of their concerns.

**Conducting the Analysis**

The EEA requires the following to be done in the analysis:

- Review of employment policies, practices, procedures and the working environment.
- Workforce profile.

In most of the companies, this part of the process was largely omitted. In only one company were there plans to conduct research on the cultural barriers in the workplace.

In most companies, there was a view that, while the policies are not discriminatory, implementation is a problem. This overlooks (and thus perpetuates) the subtle and invisible ways in which discrimination is reproduced. Policies may appear fair, but may also have hidden discriminatory effects because of the gender and racial inequality that exists. The workforce profiles are also potentially controversial. For example, in the auto company, the Employment Equity Committee was bogged down in significant disagreements about whether the profile submitted to the Department of Labour is reflective of the workforce. The union raised its objections with the Department and did not receive a response.
TARGETS
Companies themselves acknowledge that the targets set in most of the employment equity reports are very conservative. The companies have relied on natural attrition (through retirement and resignation) to create space for more members of designated groups to be employed. Targets are thus tied to staff turnover. This leads to significant differences in terms of what is possible. In the tissue and paper company, for example, staff turnover is only 1%. This implies a very slow rate of change. In the retail sector, the rate of staff turnover is 20%. Retail companies will be able to change their staff composition much more quickly.

The companies would argue that this is realistic, but often it means that they are not doing anything beyond what they would have done anyway. In anticipation of affirmative action, most companies had already recognised the need to recruit black employees.

The companies in the case study have tended to use short time frames. While the legislation provides for plans of anything between one and five years, shop stewards have pushed for swifter action. At the port parastatal, there was a noticeable speeding up of progress when the company introduced one-year targets.

One of the key limitations of the EEA is that it does not give companies recourse to mechanisms for creating vacancies, such as offering packages. The Act explicitly states that companies are not required to create positions. The fears of white employees result in a reluctance to use mechanisms other than turnover. In male-dominated companies, there are few women to promote. The policy of giving preference to internal candidates for promotion – which is generally supported by trade unions – can have a negative impact on women in male-dominated companies.

These types of problems are reflected in the very low levels of general advancement. A baseline survey conducted by the Department revealed that, in 2000, there were 24% women in managerial positions, of whom only 7.8% were black. In 1998, the figure was also 24%. In 2000, 28% of senior management was black, compared to 27.8% in 1998. The 2000 figure for the private sector alone is even lower, at 24% (Mdladlana, 2000:8).

THE WAGE GAP
Naledi’s research estimates that, on average, a manager’s salary is 15 to 20 times more than that of a worker in South Africa. When top executive pay is separated from management more broadly, the differences in pay are more extreme. For every R100 a Managing Director earns, it is estimated that the lowest paid worker earns only R1. In Japan the ratio of top executive pay to that of the lowest paid is 7:1 (Cosatu, 1998).

The extreme wage gap is accompanied by a very hierarchical and bloated management structure. Management, administrative and supervisory layers absorb a large proportion of companies’ resources. A study by the National Productivity Institute (NPI) shows that around 60% of the national wage bill goes to salaried or white collar staff (Cosatu, 1998).

The EEA requires designated employers to submit a report on income differentials in each occupational category and level of the workforce to the Employment Conditions Commission (ECC). If the statement reveals disproportionate income differentials, the employer must take measures to progressively reduce differentials in terms of regulations issued by the Minister of Labour. Measures to close the wage gap include collective bargaining, sectoral determinations and norms and benchmarks set by the ECC.

At the auto company, the human resources manager stated that they had submitted the income differentials form to the Department, but they had not shown it to the union because the shop stewards had not asked for it.

The fishing company did not submit a statement on income differentials. The Human Resources Director said that it was not acceptable for a company to have to disclose the salaries of key people:

There is only one person in top management...
and two or three in senior management. You have to put the salary of the Managing Director to determine the differential. No company will do that.

In fact, the problem is that actual salaries at the top are not disclosed. Companies must average the salaries of the top five managers. The directors’ salaries remain hidden.

**Eliminating Barriers**

On paper, the requirement to eliminate barriers to the employment of designated groups holds great promise for women in particular. There are a range of provisions that could be argued for, including:

- facilities for women in the workplace;
- childcare facilities;
- training for women to enter non-traditional occupations; and
- challenging and eliminating the gender division of labour.

The elimination of barriers is obviously also crucial to the recruitment of disabled employees. Facilities and buildings need to be accessible.

Barriers are not always obvious — for example, they might relate to the ‘culture’ of the organisation. Identifying barriers is a very significant part of the audit process. However, it appears that many companies have not engaged in a thorough process of identifying and analysing barriers.

Only one company out of the six case studies was planning to engage an independent study on barriers (with a particular focus on culture). The process of identifying barriers is often contested. One shop steward complained that:

*We even have to negotiate what is a barrier. When we raise our views about what we see as barriers they say ‘no we don’t think so’ and leave it there.*

The union at this company eventually concluded that management themselves were a barrier! According to the Code of Good Practice on the preparation, implementation and monitoring of Employment Equity plans: “All parties should, in all good faith, keep an open mind throughout the process and seriously consider proposals put forward.”

**Gender Division of Labour**

The gender division of labour acts as a barrier in the workplace and in society. The fact that women are not encouraged to work in male-dominated environments, that they are steered towards particular fields of study and choices of employment and that their position in the workplace often acts to limit their movement in particular directions, all act to perpetuate the gender division of labour.

Ingenious arguments are sometimes used to justify the channelling of women and men into different lines of work. In the contract cleaning company one shop steward argued that men clean windows because “it’s dangerous to climb a ladder, and women cannot climb up a ladder because you can see up their skirts”.

At one of the plants of the pulp and paper company, the majority of women are packers, while the men tend to be machine operators and line setters. Women sit in one position all the time so that they can catch and package the items that come out of the machine. This prohibits them from learning how to operate the machine on the job. On the other hand, the men are line setters. They can get up and assist the machine operator and take over when the machine operator is off. They are being groomed for promotion, while the women remain stuck in dead-end jobs.

Without conscious efforts to target women for training men will continue to have better opportunities.

**Facilities**

Many male-dominated companies do not have separate toilet or shower facilities for women. Most companies do not have accessible facilities for disabled employees. While they are required to make these changes in terms of the Act, the speed at which this happens is being dictated by available funds.

At one company, a fight broke out between a woman and a man in the change room:

*There was a woman that became an artisan and they threw her in with the men in the*
same mess room which is used for changing in. An argument broke out when a white man came in and found her changing. He hit her and she hit him back and they were given written warnings. But if they had had separate facilities that situation could have been avoided. How can they expect her to undress in the same place?

In only one company was a there disabled representative on the employment equity committee. Most of the companies had very few disabled employees. The term is used broadly enough to encompass a wide range of disabilities, which may lead to an inflation of the extent of employment of people with more serious disabilities.

**Childcare facilities**

Childcare facilities are an important strategy to eliminate barriers to women's employment. However, very few companies have provided such facilities and there is very little real pressure from unions to do so. Where proposals have been put forward, they have been rejected because of the costs involved.

**Affirmative action**

Once the barriers have been identified, they should be eliminated in accordance with Section 15 (2) (a) of the EEA. This is not a quick and easy process. Many of the barriers are deeply imbedded in the policies, practices and organisation of the workplace.

The Code of Good Practice (1999) states that affirmative action measures should be developed to address the barriers identified. Such measures could include:

- Appointment of members from designated groups through transparent recruitment strategies and targeted advertising.
- Increasing the pool of available candidates through community investment and bridging programmes.
- Training and developing people from designated groups.
- Promoting people from designated groups through a structured succession and experience system, including appropriate and accelerated training.
- Retention of people from designated groups, including such strategies as the promotion of a more diverse organisational culture, an interactive communication and feedback strategy and ongoing analysis of labour turnover.
- Reasonable accommodation of people from designated groups, for example creating an enabling environment for people with disabilities and workers with family responsibilities.
- Steps to ensure that members of designated groups are appointed in positions enabling them to participate meaningfully in corporate decision-making processes.
- Steps to ensure that the corporate culture of the apartheid era is transformed to ensure diversity in the workplace and to harness the potential of all employees.

The most commonly implemented measure is the appointment of people from designated groups. Other measures require systematic implementation and resources. While retention of people from designated groups was raised in some of the Employment Equity Committees, none of the companies had taken concrete steps in this regard. The only efforts that had been made were more general educational programmes for diversity in the workplace.

**Union strategies**

The employment equity legislation and processes raise a number of challenges for trade unions. On the whole, employment equity has not been prioritised by unions. Co-ordination of employment equity processes has been weak. Unions officials report that, in some companies, shop stewards are negotiating employment equity plans without the unions' knowledge or involvement.

In one company, the union used employment equity as a way of avoiding retrenchments. However, it appears that most unions are not linking employment equity to collective bargaining and to negotiations around retrenchments and restructuring.

While there are some good agreements, the
real test will be whether the unions are able to come up with effective mechanisms, programmes and strategies to address the limitations of management’s approach to employment equity.

A central strategy that would make employment equity more beneficial to union members is the linkage between skills development and affirmative action. Another important area of engagement is the composition and role of the Employment Equity Committees. Unions need to create space for negotiation, rather than simply witnessing processes. The unions also need to be far more proactive on gender issues.

The EEA creates space for the review of company policies and practices that prevent black people, women and the disabled from reaching their full potential in the workplace. It also allows for the introduction of new policies and practices that promote the advancement of designated groups.

It is a relatively new piece of legislation, and it will take time for its full impact to be felt. Initial evidence points to a lack of real commitment by management to the process.

A key challenge for labour will be to link employment equity to workplace restructuring so that it improves the skills, working conditions and participation in decision-making of ordinary workers. Gender activists in the labour movement will need to participate in this process to ensure that black women, in particular, benefit.

Finally, given the signs that change will be slow and laboured, government will need to assess whether its approach of encouragement, rather than compulsion, is effective.

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Useful Internet Links

- E-mail Liesl Orr at liesl@naledi.org
- At Cosatu’s www.cosatu.org.za/docs/1999/bceaasumm.htm you can read ‘Understanding the Basic Conditions of Employment Act’ while the SA Department of Labour’s www.sn.apc.org/sangonet/labour/bcea also links you to the Act and provides other useful links
- Read papers presented at the ‘Equality – Theory and Practice in SA and Elsewhere’ conference at UCT in January this year at www.uct.ac.za/depts/lgru/equality.htm
- Visit the Naledi site at www.naledi.org.za/ for a comprehensive look at labour and economic research carried out by this organisation.
REFERENCES

Andrew Levy & Associates (2000) “Future Developments” In Employment Equity Digest 8(1)
O’Sullivan (1999) Submission on the Employment Equity Bill to the Portfolio Committee on Labour. Women and Human Rights Project, Community Law Centre, University of the Western Cape.