



This open letter comprises the following 3 Annexures:

Annexure 1 – Why our persecuted South African minorities need Refugee status or SHP

Annexure 2 – BEE the myth and discrimination of Affirmative Action in Employment

Annexure 3 – The origins of South Africa's farm murder epidemic ARTICLE

Distribution list of the original letter which makes up part of this paper was compiled on the 4th of July and was sent to:

The Hon P. Dutton MP

The Hon D. Coleman MP

Members of the Senate

Members of the House of Representatives

Members of the Australasian / South African Community



Annexure 2

The Myth of Affirmative Action in Employment and its discrimination against the white minority in South Africa¹

When South Africa's new Constitution of 1996 entering into force, the ANC put forward an Employment Equity Bill that **focused on racial targets**, rather than on increasing skills to rectify the historic social injustices of the nation's racist past.

The Constitution also required the attainment, over time, of demographic representivity at all levels of the workplace and requires strict adherence to equality before the law but also authorises appropriate remedial measures to 'protect or advance those previously disadvantaged by the unfair discrimination of the Apartheid era'.

Affirmative Action (AA) legislation within the Constitution came into being and is designed to focus on 'inputs' (training and mentoring to improve the skills of the disadvantaged) **rather than** 'outputs' (racial targets or quotas).

However, the inputs-based approach to affirmative action under the Equality Clause (Section 9) of the 1996 South African has morphed politically to that of a strict outputs-based model as the Employment Equity (EE) Act of 1998 was passed into law.

EE has thus been in place for some 21 years and in law, bars unfair discrimination on racial and at least 15 other grounds. However, as outlined in this paper, unfair discrimination by the 'african elite and people' is being successfully achieved at the expense of social and workforce practises that is now actively discriminating against 'both genders of the white minority'.

To understand how this came about, one needs to understand the EE / AA model and practise.

So, to comply with AA practises, employers must ensure that 'black people', women, and the disabled are 'equitably represented' at all levels of the workforce and this is achieved by **classifying employees based upon their race** in accordance **with national population demographic quotas** outlined by the ruling African National Congress led government.

Once employees have been identified / classified by race, employers (state, parastatal and private companies) are required to use national and regional demographic quotas to assess the degree to which black people are 'under- represented' at any level in the workforce.

Note however that as of 2018 estimates, non European people and Asians currently constitute 92.2% of the economically active population at the national level, making this, the target set for black representation that employers are required by law to achieve.

Therefore; in essence, **the minority white South African is actively precluded from 92.2% of available jobs** across the national workforce pool which now favour the employment of the racial majority over the racial minority. This is sadly the reality when more than three decades after the Apartheid Government ended racial classification, the ANC government has breathed new life into a system that would otherwise long since have ended.

The Democratic Alliance (The official opposition) – described the Bill as 'a pernicious piece of social engineering', which **'reinstated racial classification'**. When the Institute of Race Relations (IRR), the Democratic Party, and a few other organisations dared publicly criticise the Bill, they were dismissed as racists by the government.

Though **the EE Act expressly 'excludes' the use of 'quotas'**, employers are expected to set 'numerical goals' and apply 'preferential treatment' to black people to correct the 1994 historic under-representation and ensure their equitable representation at every level, from the most junior up to senior management. Though only black people who are 'suitably qualified' are entitled to preferential treatment.

¹Primary source of information from **BEE: Helping or Hurting?** by Anthea Jeffery



Although 'suitably qualified' blacks enjoy preferential treatment, in a desperate attempt to meet the national black quota's the vast majority of appointees have been made not based on skill but on ANC political loyalty to the ruling party, or via nepotism or through corrupt practises². *Supporting evidence to this claim are outlined later in this paper.*

The IRR was one of the few organisations to challenge the validity of Act. It warned against the Bill's likely economic and other costs impacts criticising the reintroduction of racial classification. It also cautioned against the way in which it ignored the 'black skills deficit', saying this could jeopardise both private sector competitiveness and public sector efficiency.

The IRR when on to state; 'Though the Bill might benefit a relative elite within the black population, it would also limit direct investment, economic growth, and the generation of new jobs'. This prediction has sadly come true as South Africa now only scored 43 points out of 100 on the 2018 Corruption Perceptions Index verses Australia who scored a respectable 77 points out of 100³ and South Africa's unemployment rate increased to 27.6% in the first quarter of 2019 (a 15 year high)⁴.

After the final Constitution was adopted in May 1996, **the ruling ANC party** began strengthening its grip on the machinery of state. In doing so, it relied heavily on a constitutional provision saying that the public service needed to be 'broadly representative of the South African people'. However, it **disregarded the remaining terms of the clause**, which made it clear that the goal of increased representivity had to be balanced against other values and principles listed in the Constitution **which included 'ability' and 'fairness'**.

By 1998, the effects of the Act saw many knowledgeable white public servants deemed surplus to requirements found their careers blocked and less experienced 'black quota individuals or political cadres' appointed over their heads⁵. This practise in itself was discriminatory as it violated the principles of the nations no racial Constitution.

In many cases these cadres were appointed to their jobs for their commitment to the ruling party, rather than their skills, so helping to cripple effective governance.

An example of such practises was 'alive and well' by 1996 and included the appointment of the a new Chief of the South African Army and many General Staff (cadre) officers who were unskilled, illiterate and woefully unskilled to fulfil their duties as white personnel were phased out of key leadership roles so as to meet the new quota based policies of the ANC government. This resulted in white members of the workforce being racially discriminated against⁶.

Franks, a journalist for *The Economist* wrote; Affirmative action and cadre deployment have thus contributed to a 'perfect storm ... of poor management, deficient and partial decision-making ... excessive staff turnover ... and high levels of financial and administrative corruption'.

Black representation in management

The initial goal of racial transformation, (as reflected in a white paper of 1995), set targets for black senior managers in the public service to be 50% by 1999. In 2003 this target was increased to 75% and by 2005, 50% of senior managers were also to be black women.

By 2013, among 'all government' employers in this period, Africans held 69% of top management jobs, 63% of senior management posts, 67% of jobs at middle management, and 79% of skilled jobs.

By 2014, black South Africans held 84% of top management posts. They also constituted 78% of senior management, 82% of at middle management, and 90% of skilled personnel.

² tradingeconomics.com

³ tradingeconomics.com

⁴ www.fin24.com - Just-in-unemployment-rate-rises-to 27%in-first-quarter-of-2019

⁵ Evidence from Captain Tully & Ms Venter both serving at SA Army HQ in 1996

⁶ Evidence from Captain Tully & Ms Venter both serving at SA Army HQ in 1996— personal experiences



The ramification of this rapid social re-engineering has resulted in whites being precluded from applying for posts and excluded from the majority of the national workplace because of their racial orientation. In other words, **state sanctioned law and policy has systematically institutionalised discrimination against an ethnic minority since 1996.**

Figures provided by the Commission for Employment Equity point to an astonishingly fast pace of Affirmative Action in the public sector. This seems to have been achieved in three ways:

first, by implementing rigid racial quotas rather than the more flexible ‘numerical goals’ mandated by the Employment Equity Act;
secondly, by appointing black people without the necessary skills and experience; and, thirdly, by **leaving posts vacant where no suitable black candidates can be found.**

The use of racial quotas

The rigid use of racial quotas by the South African Police Service (SAPS), rather than ‘numerical goals’, came to the fore in 2012.

A case was brought against the SAPS by Jennila, a woman with 24 years’ experience in the police, whom the SAPS had refused to appoint to the post of cluster commander in Krugersdorp (Gauteng). Instead, this ‘level 14’ post had gone to an African male with an assessment score below that of Jennila.

The SAPS argued that its employment equity plan was based on the 2001 national census (precluding this Officer on the basis of her race), from obtaining the appointment.

The Labour Court disagreed, handing down its ruling that the equity plans racial quota system created ‘new de facto barriers to employment’ and resulted in **discrimination on the grounds of both race and gender.** The Court further stated that this (racial quota) undermined the constitutional objective of non-racialism and non- sexism as **it constitutes an absolute barrier** that is based on a prohibited ground.

However, so entrenched is the use of rigid racial quotas in the police – and elsewhere in the public service – **that this judgment has NOT put an end to this practice in the public or private sector.**

Franks writes; There is a ‘provision in the Employment Equity Act allowing the appointment of black people with no proven capacity but rather the potential to acquire the ability to do the job’. This soon became the favoured loophole behind which kin, friends, and comrades were favoured over more competent white applicants.

A corrupted system of incompetence and racial prejudice

Former President FW de Klerk commented; ‘there had been wide consultation and agreement on the need for affirmative action during the negotiating process from 1993 to 1996, but ‘there had **never been any talk about imposing demographic representivity**’. Nor had it been intended that ‘people (blacks) without the appropriate qualifications would be appointed to posts **merely on racial grounds**⁷’.

Mamphela Ramphela, a former vice-chancellor of the University of Cape Town and founder of AgangSA, added that the real purpose of affirmative action was ‘regstellende aksie’ (Afrikaans for remedial action). ‘It is intended to give a leg up to those with the potential to succeed who have been hobbled by apartheid. It does **not mean putting an unskilled or inexperienced person in a position in which performance is impossible.** Such actions that are driven by **political-patronage objectives** undermine our society’s ability to recruit and retain the best people in both the public and private sectors.’

The statement reinforces the assertion that the spirit of reconstructive ‘remedial action through affirmative action has been corrupted and subverted to further a politically motivated racist agenda and now serves as a discriminatory practise that’s is institutionalised within the fabric of society and promoted by a **ruling elite’s culture of the majority persecuting the minority.**

Frustration towards this practise was articulated by the economist and chief executive officer of Pan-African Capital Holdings, Iraj Abedian. His harsh words for the lack of skills at senior levels in both government departments and

⁷ Business Report – 16 July 2000



parastatals were: **‘At least 95% of our black executives cannot run the show** and the one place where this is concentrated is in our parastatals and among our DGs [directors-general]. They have the title and it seems that employment equity has been achieved, but they don’t know how to do the job’⁸

In 2014 a skills audit of the South African Broadcasting Corporation (SABC) showed that **60% of senior managers did not meet ‘minimum requirements’** for strategic thinking at an executive level; that **56% lacked ‘adequate competency’** in solving problems and making decisions; and that 35% showed a ‘disregard for financial information’. The skills audit added that, of the 842 job titles sampled, the **qualifications** of 577 employees **were ‘incomplete’ or ‘not authentic’**, or had been awarded by fly-by-night tertiary institutions. The audit also found that some 2 360 permanent employees, including 785 senior managers, had no tertiary training. It further questioned whether some 2 250 staff members had even a matric (Grade 12)⁹.

Racial discrimination against white promotion

In 2010 trade union Solidarity brought a series of court cases highlighting the negative effects of the state’s refusal to appoint qualified minorities to vacant posts. Its first case involved a police captain with 24 years’ experience, Renate, who had twice been refused promotion to a more senior post despite having been identified each time as the most suitable candidate. When this happened a third time, the post was withdrawn as being ‘not critical’ to the performance of the police, but this seemed simply an expedient way to explain a third refusal to appoint her¹⁰.

The Labour Court ruled in Renate’s favour. It instructed the SAPS to appoint her to the post, saying its **earlier refusal to promote her amounted to racial discrimination** that the police had been unable to justify.

However, the SAPS appealed against this ruling to the Labour Appeal Court, which overturned it some 10 months later.

Barnard appealed to the Supreme Court of Appeal (SCA), which overturned Judge Mlambo’s findings a year later. Handing down the SCA’s ruling, Judge Mohamed Navsa, acting deputy president of the court, said Renate had been **discriminated against because ‘she was a white female’**¹¹,

Added Navsa: ‘Dealing with race classifications, as is necessary under the Employment Equity Act, feels almost like a throwback to the grand apartheid design ... [Given the country’s history], it will take a continuous and earnest commitment to forging a future that is colour blind ... For now, ironically, **in order to redress past imbalances with affirmative action measures, race has** (been) **taken into account.**

Unfortunately, the SCA judgment did not help put an end to the state’s **common practice of allowing key posts in the public service to remain vacant rather than filling them with qualified whites.** In addition, **the practice of blocking the appointment or promotion of white candidates is so pervasive in a host of public service departments.**¹²

Employment equity and cadre deployment

A report by the Human Sciences Research Council (HRSC), a state-funded research agency, warned that ‘the ANC’s deployment strategy systematically places loyalty ahead of merit and even of competence and is therefore a serious obstacle to an efficient public service’. The report added that ‘politically connected incompetent people are often deployed to public positions, leading to a demoralised public service’.

This culture of cadre deployment has also resulted in discriminatory practises in local government and even the private sector. A Financial Mail article asserted that, ‘Transformation policies and ‘the push ... to provide jobs for the politically connected’ had forced out hundreds of (minority) SA professionals with engineering and financial expertise.

⁸ City Press - April 2013

⁹ The Times – 5 February and The Sunday Independent 9 February 2014

¹⁰ Business Day – 5 May 2011

¹¹ South African Police Service v Solidarity on behalf of Mrs R M Barnard, Constitutional Court of South Africa, CCT01/2014, 13 March 2014,

¹² Business Day 29 November 2013, Eyewitness News 14 January 2014.



The discriminatory practises within Affirmative Actions and their impact on combating crime

When the ANC came to power, one of its key goals was to make the police more racially representative, especially at senior levels where whites predominated. Experienced white policemen were thus encouraged to resign, while black policemen, some of whom had little practical expertise, were leapfrogged up the command chain.

An example is the repetitive appointment of Police Commissioner(s) by the ANC government who have been parachuted into the SAPS without policing expertise or operational know-how. These **individuals seem to have been appointed for their political loyalties rather than their competence in fighting crime**, which has undermined efficiency and morale still more¹³.

A previous Minister of Police, Charles Nqakula, was forced to acknowledge that 'many policemen were not up to the job' and that police management at station level was particularly inadequate.

Johan Burger, senior crime analyst at the Institute of Security Studies, warned that the problem was in fact far worse, saying: **'Most of the country's police stations are headed by inexperienced and inadequately trained police officers, most of whom have been employed simply to reach national equity targets.'**¹⁴

This habitual behavior of preferencing 'black appointments' over competent white professionals contributes directly to the **SAPS inability to effectively provide adequate** levels of policing services to guarantee **the safety and security** of its minority **white population in both rural and urban areas**, let alone safety for the nation as a whole.

Burger also cautions that murder (and other) crime rates (will continue to) rise unless police efficiency improves. 'Criminals have a poor perception of the police,' he says. 'They see the police as inept (unable to shoot straight) and corrupt (willing to make dockets "disappear"), and know they lack experienced investigators and a strong, independent, national operational commander.' In addition, skills shortages at forensic laboratories have grown worse, delaying the completion of DNA and toxicology tests for up to five years in many instances.

Gareth Newham of the Institute of Security Studies commented that political interference in the SAPS has stymied its ability to achieve; 'The damage that disgraced former national commissioners Jackie Selebi [convicted of corruption] and Bheki Cele [dismissed for corruption] and crime intelligence head Richard Mdluli [facing charges of fraud and other crimes] caused during their tenures cannot be underestimated. This not only undermined the ability of the SAPS to promote a professional policing ethos, but substantially weakened systems for internal accountability.'¹⁵

Government denials and vested interests

A senior ANC provincial office-bearer in the Western Cape, Marius Fransman, broke ranks by warning that the skills shortage was undermining administration. He **proposed a three-year moratorium on affirmative action** as this would make it possible to **'appoint white scarce skills'**. This was quickly rejected by Manuel, the then finance minister and influential ANC party official.

However, little can be achieved for as long as the ANC remains committed to cadre deployment and **racial quotas** unrelated to the skills and age profile of black South Africans. Strong vested interests have also grown up around the existing rules, making it difficult to bring about change. As Gordhan (Minister of Finance 2013) said in his budget speech; **'Too many people have a stake in keeping the system the way that it is.'**

Implementation in the private sector

When the private sector rejected the racial quota system, the government believed that the key problem to be addressed was a racist refusal by the sector to appoint black people at senior levels, when the real difficulty was the

¹³ Interview with General Johan van der Merwe, former national commissioner of the South African Police, Pretoria, 3 July 2008; Jeffery, *The Rainbow Index* 2011-2012, p. 23.

¹⁴ Southern Africa Report 20 March 2008; *Mail & Guardian* 21 January 2007; Antony Altbeker, *A Country at War with Itself*, Jonathan Ball Publishers, Cape Town and Johannesburg, 2009, p. 27; Jeffery, *Chasing the Rainbow*, p. 208; *The Sunday Independent* 18 February, 6 May 2007, *The Citizen* 11 February 2009.

¹⁵ *Financial Mail* 2 May 2014.



huge skills deficit within the country. Thus (*the ANC Party leadership*) there was a need for legislation to force whites to hire blacks.

Though firms had made 'reasonable' progress towards the state's goal of demographic representivity, they initially has some discretion in setting their own racial targets along the way.

So, the government's determination to intensify affirmative action is now reflected in recent amendments to the Employment Equity Act.

Enter the government's Black Economic Empowerment (BEE) legislation that forced quota codes. This greatly reduced the flexibility afforded to the private sector. Instead of allowing businesses to choose their own racial targets, the 'BEE generic codes put pressure on firms to increase black representation to 60% at senior management level, 75% at middle management level, and 80% among junior managers¹⁶".

This legislation again negatively prejudiced whites in the private sector and excluded their future appointments based on 'colour quotas' thereby eliminating access for the minority populous by between 60% and 80% of South Africa's commercially available employment marketplace.

Penalties for non-compliance with the Act were strong enough, imposing a fine of up to 10% of annual turnover to counter 'white racism'.¹⁷

Regional or national demographics

The injustices of the quota system further impacts minorities at the Regional / Provincial level as racial quotas are defined into location specific volumes, set at the national level.

The 1998 EE Act says that compliance with racial targets should be 'the demographic profile of the national and regional economically active population'. This has particular salience for a specific racial minority who make up a **proportionally larger** economically **active population is a specific region than that of national averages**. Therefore, an **additional racially discriminatory effect** is felt which prejudiced minorities cannot gain employment or are precluded from promotion if they constitute a regionally higher percentage than that of the national demographic.

Thus, in this instance, white people do battle to find jobs or win promotions when their white quota in the province which is set at the national level of only 8% when they could constitute as much as 15% to 20% of that provincial populous.

This amendment evoked sharp criticism from many people, – accusing ANC policy as '**racism of the worst order**'.

Another example of such discrimination based on race occurred a few years ago when Solidarity and the FW de Klerk Foundation challenged The Department of Correctional Services of the validity of the department's refusal to promote nine employees asserting the employer's actions contradicted both the Constitution and the EE Act. The employees were classified on race and barred from promotion for that reason. Solidarity emphasized that the department's policy unjustly discriminated against a group, based on race

The Labour Court ruled in favour of the employees, finding that **all of them had suffered unfair discrimination**. To date, this ruling has not been sufficient to persuade the department (and many other employers) to stop 'managing down' their minority employees by refusing to appoint or promote them to senior posts.

Employment Equity Amendment Act of 2013

In January 2014, Zuma signed into effect a new draconian law, The Employment Equity Amendment Act of 2013 (the Amendment Act).

¹⁶ Commission for Employment Equity, Annual Report, Pretoria, April 2014

¹⁷ Jeffery, Chasing the Rainbow



Under the Amendment Act, the department may issue **a compliance order without any prior consultation** with a firm and without any need to prove that the business has failed to act reasonably. Moreover, **the employer can no longer object against a compliance order, or thereafter appeal against it to the Labour Court**¹⁸.

It goes on to empower the department to go straight to the Labour Court to ask it to impose maximum fines starting at R1.5 million or 2% of annual turnover for a first such 'offence' where employers do not meet the racial quota targets set within the Act.

The Act has been reinforced with stronger Amendments ensuring that business are now without appeal, are taken to court more quickly and more regularly, and are being punished by punitive fines for non-compliance.

Conclusion

Therefore, in closing; this paper summarises the principles of a racially discriminatory EE / AA model and practise that is pervasive in South Africa today and persecutes whites, based on race.

It has outlined an active and **legislative practice of employment based on racial "quotas"** and provided insight into the policy of promotion in the workforce based again on racial 'quotas'. We have also noted the law and practise of issuing penalties without the right of legal appeal for non-compliance in the private sector, which is alarming.

The reality is that this systemic practice that was initially conceived to assist with the redevelopment of the previously disadvantaged majority has been cunningly crafted to preference the majority black (workforce) and discriminates against the minority white (workforce) based solely on one's race and gender.

Ironically, writes RW Johnson, a journalist and former don at Oxford University, the EE amendments are 'aimed pretty much exclusively at providing this already privileged group (the black majority) with more ... employment opportunities'.

This AA / EE law in South Africa which is practiced nationwide persecutes (minorities and in particular) white males and females based exclusively on their gender and 'race'¹⁹.

Should any SA minority return to their homeland, they will continue to be discriminated / persecuted against in 'all areas of their country'¹⁹ where this harmful practice perpetuates both 'systematic and discriminatory conduct'¹⁹.

Examples of Online advertised employment opportunities specified as "EE or AA position" which advise minorities 'none need apply' as the role is exclusively available to black candidates only

Social Media comment by an African gentleman who remembers Apartheids' discrimination

¹⁸ Sections 14, 15, EE Amendment Act.

¹⁹ Australia Protection Obligations