

CHAIRPERSON'S ADDRESS: DISCRIMINATION PUBLIC HEARINGS

Chairperson and members of the Portfolio Committee;

Members of the media;

Ladies and gentlemen;

More than ten years into our democracy and unfair discrimination is still prevalent in workplaces. The only difference is that previously, it was entrenched in various pieces of legislation and policy, but now it has assumed sophisticated forms in day-to-day work practices. A resultant feature of this is the continued gross under-representation of the designated groups (i.e. black people, women and people with disabilities) in key areas of the labour market. Also, people still continue to be harassed and victimised on the grounds of race, gender, HIV status, disability and so forth.

Notwithstanding the fact that there are countless pieces of enabling legislation like the Employment Equity Act, Skills Development Act and various others, in practice, many employers find ways to circumvent the legislation in order to maintain the previous status quo.

For example, although the Employment Equity Act empowers the CCMA to deal with cases of unfair discrimination, their powers are limited to conciliating on matters relating to discrimination. Thereafter, the matter is referred to the Labour Court for adjudication and final judgment. These poses a number of challenges on the number of unfair discrimination cases that end up at the Labour Court because not everybody has the necessary resources to pursue their cases until this stage because of the legal costs embedded in the whole process. As a result, many employers continue with their unfair discriminatory practices with impunity.

The Commission is faced with a deluge of anonymous complaints about discrimination in the workplace from frustrated employees who are scared of victimization. A further frustration is the trauma associated with the requirements of the law that require employees to first exhaust internal dispute resolution procedures before referring the matter to the CCMA for conciliation and thereafter to the Labour Court for adjudication. This trauma actually in a number of instances refrains the victims from referring their cases to the matter to the CCMA -

let alone the Labour Court. What is also frightening is the rise in the number of constructive dismissals referred to the CCMA. On examination, a number of these dismissals are largely attributed to unfair discrimination in the workplace. The trauma caused to the direct victim also impacts and causes trauma to the indirect victims – the indirect victims being family members, etc of the actual victim.

It has also come to our attention that a number of people are excluded from the selection process due to psychometric testing that has a cultural bias in terms of being too eurocentric – this is despite the fact that the law requires psychological, medical and any other assessment/ testing to be fair, valid and reliable.

What is even more disturbing are the calls by some employees alleging the usage of BBBEE partners by companies as ambassadors to endorse the unfair discriminatory practices of their white counterparts. It is alleged that some of the BEE partners and some non executive directors have become “House Niggers” who are ever ready to defend the malpractices of their partners, all in the name of “Good business sense”.

Discriminationary practices with severe racial prejudice continue unabated in the corporate sector.

Honourable Chairperson may I remind the honourable members that in May this year the Commission stated that black people were underutilized and ignored in the corporate sector to fulfill the claim of skills shortage. The recent saga at Alexandra Forbes has provided a very good example of we meant. How does Alexander Forbes justify appointing an Executive Chairman who happens to be white to baby sit a seasoned CEO who happens to be black? Honourable members this CEO is a product of internationally acclaimed institutions such as Unisa, Wits and Harvard. Furthermore this Black CEO has always sought after industry experience gained from the largest blue chip company in the sector (Old Mutual) as Deputy MD. Even more irritating is that this Black CEO has also delivered the numbers and yet the so called confidence in him is illustrated by getting him a hands on Boss. For all in tense and purposes honourable members this CEO has just been strategically demoted. I thank you for indulging me to spend so much time on this matter as it is a tip of the iceberg in terms of the sophisticated manner that these malpractices now occur.

TOP MANAGEMENT – TOTAL % CHANGE FOR WOMEN FROM 2000 TO 2006

- Women increased by 9.2% (12.4% to 21.6%)
- Black women increased by 4.2% (2.4% to 6.6%)
- African women increased by 1.7% (1.2% to 2.9%)
- Coloured women increased by 1.3% (0.7% to 2%)
- Indian women increased by 1.2% (0.5% to 1.7%)
- White women increased by 4.5% (10.2% to 14.7%)

White women representation (14.7%) at this level is nearly 3 times their EAP of (5.6%). Whereas African women are only a mere (2.9%) whilst their EAP is a huge (34.3%) i.o.w more than 10 times under-represented. Coloured women at (1.3%) whereas their EAP is (4.7%) are also under-represented at least 3 times

SENIOR MANAGEMENT – TOTAL % CHANGE FOR RACE FROM 2000 TO 2006

- Blacks increased by 8.4% (18.5% to 26.9%)
- Africans increased by 4.7% (8.7% to 13.4%)
- Coloureds increased by 0.9% (4.9% to 5.8%)
- Indians increased by 2.8% (4.9% to 7%)
- Whites decreased by 10.7% (81.6% to 70.9%)

SENIOR MANAGEMENT – TOTAL % CHANGE FOR WOMEN FROM 2000 TO 2006

- Women increased by 6.4% (21% to 27.4%)
- Black women increased by 3.7% (4.3% to 8%)
- African women increased by 1.6% (2% to 3.6%)
- Coloured women increased by 0.7%(1.4% to 2.1%)
- Indian women increased by 1.4%(0.9% to 2.3%)
- White women increased by 2.3%(16.7% to 19%)

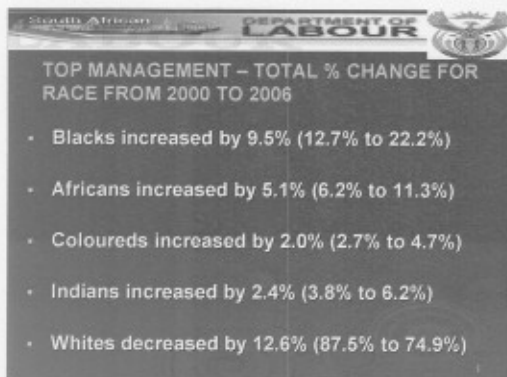
White representation (70.9%) at the Senior Management level is about six times their EAP, with White men standing at approximately four times and White women (19%) approximately four times their EAP. Blacks (26.9%) are three times below their EAP. While women representation (27.4%) is slightly more than half of their EAP, African women (3.6%) are about nine times below their EAP. At this level, Africans (13.4%) are about six times below their EAP. Foreign nationals take up 2% of the positions at this level.

The representation of people with disabilities continues to reflect ingrained stereotypes where in the top 100 JSE listed companies there is hardly any CEO with a disability.

False claim of discrimination against Whites

Honourable members the figures below speak for themselves, the message is loud and clear that black people are on the receiving end when it comes to strategic positions in the corporate sector.

There has been a lot of propaganda about how the Employment Equity Act has become reverse discrimination and yet the facts from more than 4380 companies say otherwise.



At the Top Management level, Black representation (22.2%) is approximately a quarter of their Economically Active Population (EAP) which stands at 88.2%. White representation (74.9%) at this level on the other hand is about seven-and-a-half times their EAP which is 12.8%. The representation of women (21.6%) is less than half of their EAP which is 45.8%.

Discrimination against Black Women in general and Africans in particular

Honourable Members the table below tells a very sad story, that in the name of women emancipation other women are preferred more than others. The serious under representation of black women especially Africans coupled with the overwhelming representation of white women is a matter that cannot be ignored. This matter in the view of the Commission provides anecdotal evidence of underlying racial discrimination. The Commission is once more unapologetically asking the question that we asked in May this year, "Should the white women continue to be included in the definition of the designated group?" In terms of section 32 (b) of the Employment Equity Act the Commission is empowered to hold public hearings on EE matters. The Commission will be holding such public hearings in November to look at barriers and best practices on Employment Equity. We would welcome inputs from all members of the society. It is after these inputs that the Commission will advise the Minister of Labour in terms of way forward

The representation of people with disabilities and Africans is the highest at the unskilled occupational level. African representation at this level is slightly more than their EAP, while White representation at this level is about one-eleventh of their EAP. This once more is further anecdotal evidence of the racial stereotypes that see black people operating only at lowest levels of the organizations.

In Conclusion

The Commission for Employment Equity applauds the effort of Parliament for highlighting the fact that the challenge of creating a non-discriminatory and equal society remains an ongoing battle in our country. Much yet needs to happen before all South Africans are placed on an equal plain to permit them to fulfil their full potential without facing artificial barriers which remain from an intolerable system which through gross human rights denigrated the vast majority of its citizens. This may even mean reviewing the Act to allow for the CCMA to arbitrate on matters of discrimination.

The Commission is also calling for ZERO tolerance on discrimination matters and stronger penalties for the offenders.

I thank you