



Gender inequalities, discrimination, South Africa: moving forward or back?

Historical Background

In discussing discrimination of any form in South Africa, it is of importance to take it back to the era where discrimination was entrenched in the legal system, "the Apartheid era".

The existence of apartheid in South Africa from 1948 and the previous periods of colonialism left all South African women in a subordinated position. This position of subordination was determined in part by the racial status of women in South Africa's peculiar racial hierarchy."

Apartheid was the ideology supported by the National Party (NP) government and was introduced in South Africa in 1948. Apartheid called for the separate development of the different racial groups in South Africa and made laws forced the different racial groups to live separately and develop separately, and grossly unequally too. Numerous laws were passed in the creation of the apartheid state and all these laws were promoting and legalising discrimination

Abstract

Generally, South Africa is one of the countries with highest inequalities in the world. Gender inequality is still at its high as well. The paper will discuss the changes and development in the South African political landscape and also give background to some of the foundation laws that elevated gender inequality in the country, developed during the apartheid era. The paper also attempt to give a statistical comparison of developments in gender employment equity and gives an overview of current legislation protecting women rights in the workplace.

Introduction

African women, who occupied the lowest place in this hierarchy, were in the most disadvantaged position. Indian and Coloured women fared only slightly better, and white women, as members of the most favoured racial group in the apartheid racial hierarchy, were in a better advantageous position. This did not mean, however, that white women escaped the panoply of disadvantages and discrimination suffered by all women in a patriarchal society (Andrews; 2001).



Most literature speaks mostly about the discrimination of black women, possible because they were at the very bottom of the hierarchy during the apartheid era. White women also experienced some form of discrimination although this discrimination was less severe compared to that of women of other social classes. White women were excluded from most forms of formal employment, and although not through legislation, were prevented from entering employment through conservative ideas about women's place in society (Naidoo & Kongolo, 2004).

For African women apartheid also signified the entrenched denial of a host of rights, including one of the most fundamental of rights-the right to travel freely to seek gainful employment (Andrews; 2001). Black women suffer additional disabilities, both in law and in custom, as compared with black men. During the apartheid years, all women were considered second-class citizens.

Second class status, was mediated by the apartheid ideology that allowed status in the racial hierarchy to be compromised by the sexist underpinnings of the whole society.

Under customary law, women remain perpetual minors under the guardianship of their father before marriage, of their husband upon marriage, and of a male patrilineal relative on dissolution of the marriage or death of the husband. A woman could not even marry without the consent of her guardian and had no contractual capacity (Julia Segar & Caroline).

Customary law of marriage gave husband marital power over their wives, so that women had little power to do things like entering into a contract. This made women dependent upon her husband. Some of the acts passed by apartheid government that particularly oppressed women included:

The Black Administration Act No 38 of 1927, which stated that, all moveable property belonging to a Black and allotted by him or accruing under Black law or custom to any woman with whom he lived in a customary union, or to any house, shall upon his death devolve and be administered under Black law and custom.

The Women's Enfranchisement Act of 1930, which gave only European women the right to elect and to be elected to the Houses of Parliament.

Society and cultural influence on gender inequality

In African culture and African traditional life, gender is defined according to roles and functions in the society. It is what it means to be male or female in a certain society that



shapes the opportunities one is offered in life, the roles one may play, and the kinds of relationships one may have (Ngubane, 2010)

Gender is a particularly important aspect of culture, as one's cultural context shapes one's understanding of appropriate gender roles and responsibilities. Gender relations, the manner in which gender roles are formed and valued, and their relationship to each other, also play a central role in 'constituting the essence of cultures as ways of life to be passed from one generation to the next. Women tend to be powerful symbols of the collective unity, often in terms of strict cultural codes of what it means to be a proper woman. In most, if not all, cultures these roles are differently valued and accord unequal power and resources to women and men. The enforcement of traditional gender roles, defined largely by women's sexual and reproductive capacity, tends to maintain women in inferior power positions dependent upon men for status and resources. In this way, culture sustains male power and interests and maintains women in positions of inequality and subordination. Changes in the meaning and place of women can thus be particularly strongly contested, as they affect the distribution of political and economic power within a community, and more widely in society.

Gender, like race, is socially constructed, with rights, access to resources, power, participation in public life, and is interpreted through a cultural lens (International Bank for Reconstruction and Development/World Bank 2001). Consequently, expectations about how women and men should behave are structured by cultures and societies and influence the way in which sexual interactions are negotiate

Traditional cultural practices reflect the values and beliefs held by members of a community for periods often spanning generations. Every social grouping in the world has specific traditional cultural practices and beliefs, some of which are beneficial to all members, while others have become harmful to a specific group, such as women.

South Africa is a very traditional country with a rich history in cultural conformity and obligation. While men and women may face different challenges in the workplace, they are also biologically different with different abilities and needs. Many women, who are employed and have achieved Bachelor's degrees and other qualifications, opt to or may be forced to leave their employment to have a family. Culturally, women have a stronger obligation to be family-orientated and receive more pressure, either from their partners, their families or their places of employment, to leave their jobs and prioritise their families, while the male counterpart remains the breadwinner. This is obviously not applicable to all



women in the workplace; however, it does happen very frequently. If women decide to return to the workplace after raising their children for a few years, are the same opportunities still available to them?

Legislative framework

It was not until the introduction of the Constitution of South Africa in 1996 that all women in South Africa were formally recognized as equal citizens. The South African Constitution reflects a clear commitment to the principle of non-sexism and to the attainment of gender equality.

The Founding principle of the Constitution makes clear that South African is founded on several values, including human dignity, the achievement of equality and the advancement of human rights and freedoms, non-racialism, and non-sexism. The most important provisions relating to gender equality are found in the Bill of Rights, particularly Section 9, which outlines the preeminent principle of equality.

In relation to gender equality and discrimination, the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) has been guided by a range of international and human rights instruments, including Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) which lists the rights of all girls and women; and the Beijing Declaration and its Platform for Action which aims at accelerating the implementation of the Nairobi Forward-looking Strategies for the Advancement of Women and removing all the obstacles to women's active participation in all spheres of public and private life through a full and equal share in economic, social, cultural and political decision-making.

The gender equality is directed by the idea of human rights which includes recognition of equal and unchallengeable rights of all women and men. This ideal is a fundamental principle under the Bill of Rights of The Constitution of the Republic of South Africa, 1996 (Act 108 of 1996).

Chapter 2 of the Constitution of the Republic of South Africa is the Bill of Rights and it sets out the fundamental rights of all South Africans, including the right to dignity and the right to equality.

Commission on Gender Equality Act (1996) provide for the composition, powers, functions and functioning of the Commission on Gender Equality; and to provide for matters



connected therewith. The Commission for Gender Equality is an independent chapter nine institution. It draws its mandate from the South African Constitution by way of the Commission for Gender Equality Act of 1996. The mission of the Commission for Gender Equality (CGE) is to promote respect for gender equality and the protection, development and attainment of gender equality through undertaking research, public education, policy development, legislative initiatives, effective monitoring and litigation.

Promotion of Equality and Prevention of Unfair Discrimination Act (2000) is the national legislation mandated by section 9(4) of the Constitution, and thus enjoys special constitutional status. Significantly, the Act recognises the need to address systemic discrimination and specifically aims at the 'eradication of social and economic inequalities'.⁷ In terms of section 13 of PEPUDA, discrimination based on the prohibited ground of gender is considered unfair, unless it is established that the discrimination is fair. Section 8 of PEPUDA stipulates that no person may unfairly discriminate against any person on the ground of gender, and goes on to list various prohibited forms of gender-based discrimination.

Employment Equity Act is part of legislation designed to address entrenched racial and gender inequalities. The Act promotes equity in the workplace, by promoting equal opportunity and fair treatment in employment through elimination of unfair discrimination and implementing affirmative action measures to redress the disadvantages in employment experienced by designated groups, in order to ensure equitable representation in all occupational categories and levels in the workforce.

Through section 27 of the Act, firms are required to report on the representation and remuneration of their workers by gender and population group.

The employment equity include and affirmative action act, aimed to rectify labour market inequalities. The Act's primary aim is to ensure fair representation of race, gender and people with disabilities in all sectors, occupations, and levels of the workforce.

The Employment Equity Act of 1998 has facilitated equity in access to formal employment for women. However access to training programs and gender inequality in the workplace remains a challenge. In addition, poor access to, and the availability of childcare services for women, particularly single mothers, prevents them from advancing in the workplace. The successful implementation of the Community Work Programme (CWP) is specifically demonstrated through increased participation by women, the youth and people with



disabilities. The CWP has been well targeted to achieve its objectives of income generation, skills development and work opportunities for these vulnerable groups.

The National Gender Machinery which is a comprehensive institutional structure, was established following the guidance of the Gender Policy Framework guiding the roles and functions of various structures and agencies involved in achieving gender equality. This institutional framework gave direction to the development of a gendered programme of action to collectively influence policy and practice at all levels of the state and society

Women participation in economy

Following the downfall of Apartheid, the 1994 newly elected majority led government of National Unity inherited a country with deep gender disparities, where women particularly in the black population faced many disadvantages and discriminations through apartheid. The new government introduced the Employment Equity Act in order to address racial and gender inequalities that were caused by the apartheid system. Section 27 of the Employment Equity Act 55 of 1998 stipulates that every employer, when reporting, is required to report on the representation and remuneration of their workers by gender and by population group. The Employment Equity Act of 1998 has facilitated equity in access to formal employment for women. However access to training programs and gender inequality in the workplace remains a challenge.

Between 2004 and 2009, women employed in the public sector as senior management accounted for 34% and women in the executive position in the private sector were 14.7% (Kgomotso Mathe)

Less than 2 percent of Parliament members were women before 1994. Since then, there has been a steady increase in women's representation in decision-making over the years. After 2019 national elections the representation of women in Parliament has increased significantly from 2.7% before 1994 to 42.7% in 2019.

Women constituted only about 36 percent of the labour force in the formal economy in the mid-1990s, according to official estimates. Women of all races generally held lower-paid jobs than men, and they were paid less in comparable jobs. During the apartheid era, white women most often worked in service industries and clerical positions. A few white women held supervisory jobs or government offices. Black women dominated the large domestic work force; some worked in clerical positions or in temporary jobs (StatsSA report).

By 1993, a year before the end of apartheid, women in low-paying jobs such as domestic work or unskilled farm labour were paid 21% less than men in equivalent positions, the wage gap narrowed to 7% in 2014 (Sguazzin 2019). Across the workforce, the proportion of women with tertiary education doubled to 20% in 2015 from 10% in 1993, compared with a more modest rise to 15% from 11% for men (West 2019).

The post-apartheid government has been successful in improving the human-capital characteristics of women and this has led to an increasing number of women in high-skilled occupations.

The following graph show breakdown of South African rate by gender in professional work with annual comparison from the last quarter of 2008 to the first quarter of 2020. As depicted in the graph, employment of women in professional employment has had a steady increase over the years and by the last quarter of 2015, there were more women than men in professional employment and the number has been improving to date. According to StatsSA Data, the first quarter recorded a higher number of women employed in professional services compared to men.



According to the Quarterly Labour Force Survey released by Statistics South Africa, women accounted for 43.7% of total employment in the first quarter of 2020 and only 31.3% of managers in South Africa were women.

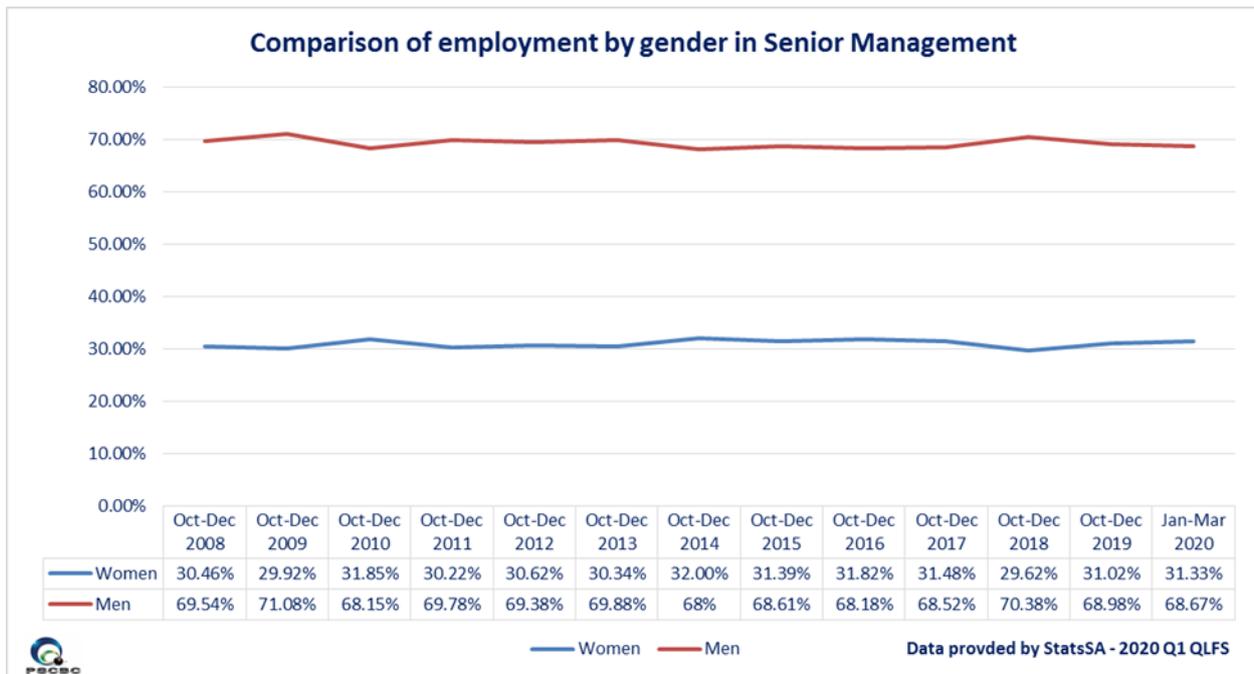


Gender equality still remains a major issue in the corporate world. In reality, there is little change when it comes to having women in leadership positions.

The following graph compares figures of women managers in South Africa from the last quarter of 2008 to the first quarter of 2020.

South Africa’s mid-year population is estimated to have increased to 59, 62 million in 2020, according to the report released by Statistics South Africa. The report indicates that approximately 51, 1% (approximately 30, 5 million) of the population is female.

Given the breakdown on gender statistics in South Africa, the above information of women participation in labour shows that, women are underrepresented in the labour force.

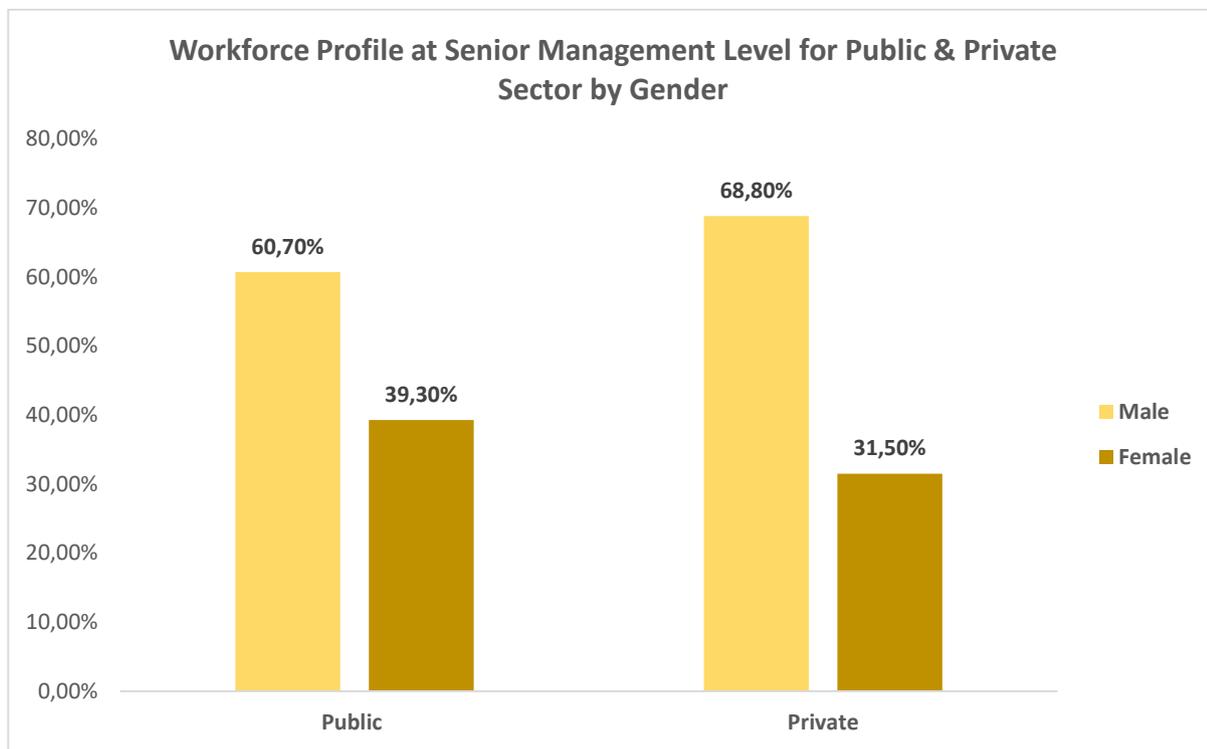


The graph focus primarily on the managerial level.

In 2019 PwC, one of the largest auditing firms in South Africa, reported that there was not a single female CEO in the top 40 companies that are listed on the Johannesburg Stock Exchange (JSE) and outside of the top 40, only 3.31% of all companies on the JSE have female CEOs.

The PwC report also stated that, the pay disparities between men and women chief executives were problematic citing that, the largest pay gaps were in the healthcare sector, (28.1percent), followed by consumer discretionary (25.1percent), technology (22.9percent) and financials (21.8percent)

The following graph gives an overview of how women fair in Senior Management level in both the public and private sector. Evidently in the graph, there is a high on centration of males at the Senior Management level with 68.5% in the Private Sector and 60.7% in the Public Sector respectively.



In another report released by Statistics South Africa in 2019 called Inequality Trends South Africa stated that, women represent approximately 51.2% of the population in South Africa but the females' share of household income and expenditure are significantly lower than that of their male counterparts. The report find that, individuals living in female-headed households only had a 26,0% share of total household expenditure and a 24,6% share of the total household income in 2015. Despite the significant progress that has been made in reducing gender gaps in education in South Africa, there remains significant gender gaps in labour market outcomes. Women are less likely to participate in the labour market as compared to men (53.6% for women and 66.1% for men in 2017)

The study found that women with no education earned 54% of income earned by men while those with a high-school education earned 68% of the male equivalents and those with tertiary education got 63% of what similarly qualified males earned.

According to this study, there are clear indication that there are still huge disparities in the labour market between males and females, especially in terms of earnings for comparable levels of educational attainment.



After the 2019 national elections, women gained 23 more seats in the national assembly compared to previously across all parties. Based on the current composition of the National Assembly, the proportion of women is 46%. This is a significant increase of 11% from the previous parliament. The increase of women in the national assembly to 46% is a remarkable figure given that, prior to 1994 only 2.7% of parliament consisted of women while in 1994, it stood at 27%.

The South African government had until 1994 consistently neglected women's rights and had done little to empower women economically and politically. The ANC had since 1994 adopted a 30% quota for women in national and provincial parliaments.

South Africa's success in bringing about gender equality has perhaps been most visible in the area of politics and decision making, particularly in national parliament where in 2009 43% of MPs and 41% of cabinet ministers were women, and 5 of the 9 provincial premiers were women.

Additionally, after the same 2019 National elections, South Africa experienced for the first time in history, a 50/50 cabinet gender split. Half the new ministers are women, making South Africa one of the world's few gender balanced governments

Gender wage gap

South Africa is ranked 19 in the 2020 Global Gender Gap Index on gender inequality released by the World Economic Forum (WEF). The findings of the report suggest that, South Africa has made progress on the Political Empowerment sub index, but there is a slight decline in wage equality. This means that, although gender equality and women's empowerment is a prime focus in the South African labour force, the gender pay gap is still huge.

The South African Constitution embodies the right to equality, equal protection and benefit before the law, and to non-discrimination. Despite this, women have not advanced as rapidly in terms of empowerment and gender equity. Women's unemployment rate was 32.4% in the first quarter of 2020 compared to the 28.3% among men. Although South Africa has made great strides, gender representative is still below the 50% mark for positions that come with ideal influence.

The struggle for an equal employment rate still continues for women, but one thing that cannot be denied is the progresses made and the victories won along the way.



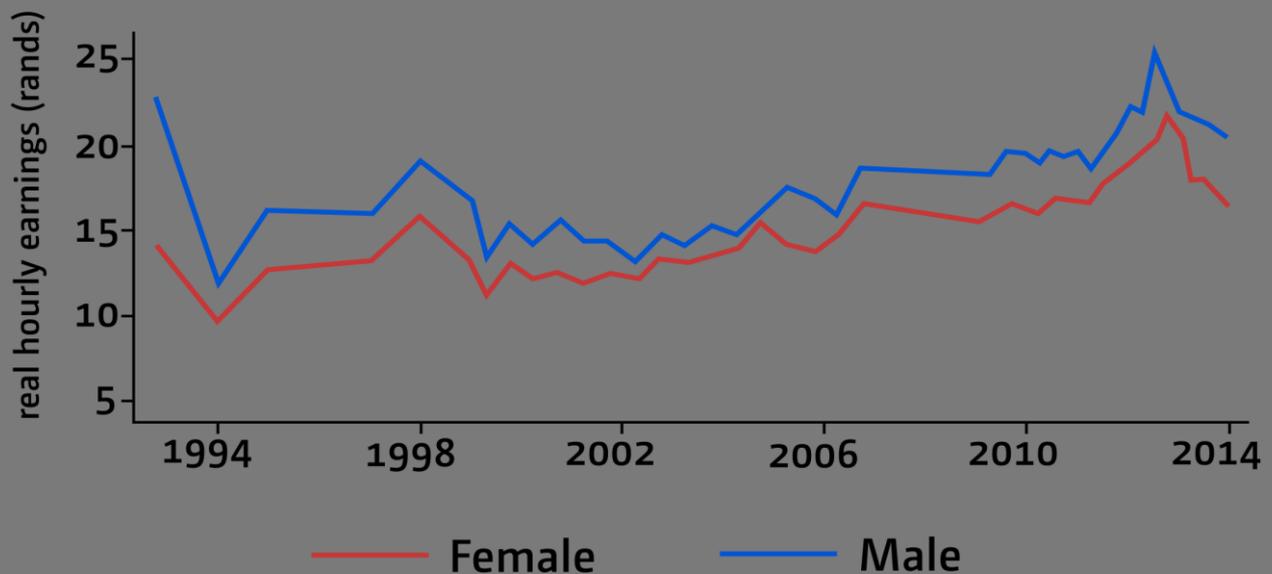
South Africa has experienced a decline of the gender wage gap at an average from about 40% in 1993 to about 16% in 2014. Despite the presence of constitutional rights and enabling legislation to prevent workplace gender discrimination, South Africa continues to see a stagnant average gender pay gap of between 23% and 35% (Bosch & Borit 2020).

In 2019, the minister of labour and employment noted that, there has been little transformation in the top management of private sector since the passing of the Employment Equity Act. The minister added that, there was a need to increase the risk for non-compliance so that organisations know there are consequences for not meeting the requirements of the act. The lack of commitment to transformation by private sector resulted to the amendments of the Employment Equity Act (EEA). The amendment bill aims to regulate the setting of sector-specific employment targets and to address the representation of blacks, women and persons with disabilities. The Bill is said to promote equal opportunity and fair treatment in employment through the elimination of unfair discrimination". The passing of the bill will mean immediate compliance and a clear EE strategy for organisations to meet the new EE targets year on year. The bill was approved in 2019 to be tabled in parliament and is intended to accelerate transformation in corporate South Africa, particularly within the private sector, where historically the rate of transformation has been slow.

In addition, the Commission for Gender Equality (CGE) as a Chapter 9 Institution, has a Constitutional mandate to promote the protection, development, and attainment of gender equality. This constitutional obligation mandates the CGE to monitor and hold any entity within the public or private sector accountable to their Constitutional obligations. In this regard, the CGE has undertaken to monitor the impact of affirmative action on employment levels concerning historically disadvantaged groups such as women and disabled people and, to some extent, designated racial categories.

The following graph depicts South African gender wage gap from 1994 to 2014.

Average earnings by gender (South Africa, 1994-2014)



The above graph was originally published on United Nations report titled “Distributional changes in gender wage gap in post-apartheid South Africa labour market. As evident in the graph, there are very small changes in the South African earnings by gender for the 20 year period post-apartheid.

Mechanisms in Place to curb the Gender Wage Gap

Section 6(4) of the Employment Equity Act. Including both public and private organisations in mandatory reporting helps to identify patterns in gender wage gaps, and can be used to formulate policies aimed at closing the gap. However

King IV Report on Good Governance, which requires a company’s board to approve reports on and the implementation of its remuneration policy, which should reflect that ‘the organisation remunerates fairly, responsibly and transparently’.

The Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA) – promoting ‘equal pay for equal work’, saying the state has a duty to intervene in the case of unfair practices



Gender inequality as exposed by covid-19

The Coronavirus (COVID-19) pandemic has had devastating health and economic effects globally. Similar to other countries, South Africa has taken measures that posed stringent restrictions on most economic activities.

The pandemic revealed deep inequalities and gaps in societies around the world. One of these gaps has been the disproportionate impact of the pandemic on women. In South Africa, women have suffered severe economic and social impacts from the lockdown that was imposed to curb the spread of the virus.

According to the National Income Dynamics Study - Coronavirus Rapid Mobile Survey that investigates the socioeconomic impacts of the COVID-19 pandemic and lockdown conditions, job losses were higher for women than for men. Women accounted for two-thirds of the total job losses and women were more likely than men to live in households that reported running out of money for food.

The effects of the virus have affected women more, with them having lost the most income and jobs, especially in the informal sector, where they are in the majority. Black women in rural areas and townships have been the hardest hit by the economic effects of the Covid-19 coronavirus pandemic and the lockdown according to a socioeconomic impact assessment released by the South African office of the UN Development Programme (UNDP) during Women's Month.

Covid-19 testing data for South Africa show that more women (53%) are being tested for COVID-19 and a slightly higher proportion of women are testing positive. This means that, women are more vulnerable to contracting the disease.

According to data released by the National Institute for Communicable Diseases, the reason could be that more women work in exposed occupations such as health and education.

Another area that has been exposed by Covid-19 are female headed house-holds.

Globally, woman-headed households have become a cause for concern, and are perceived as a category which is vulnerable.

Female-headed households are more likely to be poor compared with individuals living in male-headed households (Gelb 2003; Posel 2014; Posel and Rogan 2000).



South Africa has very high unemployment and poverty, these are particularly higher for women than for men. Women's unemployment rate reached 31.3% against 27.2% for men in Quarter 4 of 2019 (Statistics South Africa, 2019), just before the pandemic (Chitiga, Henseler, Mabugu, Maisonnave, 2020).

Because women tend to be more concentrated in employment in sectors that are hurt the most by COVID-19 response measures as well as that they predominate in unskilled categories, the simulation results show that women suffer disproportionately more from higher unemployment than their male counterparts though the differences are not as pronounced. The poverty outcomes show worsened vulnerability for female-headed households given that, even prior to the pandemic, poverty was already higher amongst women (Chitiga, Henseler, Mabugu, Maisonnave, 2020)

Conclusion

It is clear that, the gender issue in South Africa has not yet reach the desirable goals but there is a lot of positive developments over the years. The 50/50 balanced current cabinet is a historical milestone in the South African political landscape. Another positive aspects in the political landscape is an increase of women representation in the parliament from 40% in 2014 to 46% in 2019. Although the political landscape seems to be adopting the gender equity agenda and putting it in practice, there seems to be stagnant developments in the corporate world and wage inequality. There is a lack of women in leadership positions, particularly in the private sector. The sector failed dismally when it comes in developing women as CEO's as a result, there is not a single female CEO in top companies in the Johannesburg Stock Exchange. However, there has been an improvement in gender equality in leadership position in the public sector, and in general employment although there are still differences.

The gap in wage inequality is another issue that needs attention. South Africa still records a gender wage inequality of more than 10% and this undermines everything that has been done to improve gender discrimination in the workplace.

It is clear that South African government, with all these policy initiatives has not been successful in its aim to redress the disadvantages in employment experienced by designated groups to ensure their equitable representation in all occupational categories and levels in the workforce.

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