

**A Policy Analysis of the Implementation of Affirmative Action and
Employment Equity: A Case-Study of the University of KwaZulu-Natal
(2004-2008)**

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Development Studies, in the School of Sociology and Social Studies,
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ABSTRACT

This study examines public policy and policy implementation with specific reference to affirmative action and employment equity. It shows that the translation of affirmative action into public policy can be controversial, complex, and multifaceted. Public policy is examined in general to provide a better understanding of why and how policy such as affirmative action emerges, how it is drafted, the extent to which the policy is implemented and how and why it is needs to be monitored and evaluated. It examines the effect of the political system known as apartheid that was enforced in 1948 by the National Party that totally divided black and white South Africans. The apartheid policies and laws denied and restricted opportunities to Africans, Indians and Coloureds (commonly referred to as black people). Blatant racial discrimination resulted in widespread inequality within South Africa's population. In 1994, when the first democratically elected government came into power in South Africa, legislation was passed to repeal the apartheid laws. One of these laws was the Employment Equity Act (Act 55 of 1998). The study shows that South Africa's past discriminatory education policies continue to complicate the implementation of employment equity policy and that tertiary institutions are seriously affected by it.

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CONTENTS

	PAGE
Abstract	i
Acknowledgements	ii
Contents	iii
Tables and Figures	iv
Acronyms	v
Introduction	1
 CHAPTER 1 AFFIRMATIVE ACTION AND PUBLIC POLICY	
1.1 Background to Affirmative Action	4
1.2 Public Policy	7
1.3 The Policy Cycle	9
 CHAPTER 2 EMPLOYMENT EQUITY IN SOUTH AFRICA	
2.1 Introduction	23
2.2 Historical Background of Racial Disparity in South Africa	23
2.3 Legislative Framework for Affirmative Action in South Africa	25
2.4 The Employment Equity Act and Tertiary Education	26
2.5 Employment Equity and Apartheid Education	32
2.6 Achieving Employment Equity at Tertiary Institutions	36
2.7 Conclusion	43
 CHAPTER 3 EMPLOYMENT EQUITY AT THE UNIVERSITY OF KWAZULU-NATAL	
3.1 Introduction	44
3.2 Organisational Restructuring at the University of KwaZulu-Natal	46
3.3 The Employment Equity policy at the University of KwaZulu-Natal	50
3.4 Policy Implementation Issues	51
3.5 Staff Attitudes	60
3.6 Conclusion	61
 CHAPTER 4 FINDINGS AND ANALYSIS	
Conclusion	63
	65
 BIBLIOGRAPHY	68

LIST OF TABLES AND FIGURES		PAGE
Table 2.1	Staff Profile at Tertiary Institutions 1994-1999	41
Figure 3.1	UKZN Support Staff Profile for 2004	45
Figure 3.2	UKZN Support Staff Profile for 2008	45
Figure 3.3	UKZN Academic Staff Profile for 2004	45
Figure 3.4	UKZN Academic Staff Profile for 2008	45
Figure 3.5	Organogram of UKZN	47
Figure 3.6	Structures and Terms of Reference for the Implementation of Employment Equity at UKZN	48

ACRONYMS

CEE	Commission for Employment Equity
CHE	Commission for Higher Education
CHET	Council for Higher Education and Transformation
CIHE	Council for International Higher Education
HEMIS	Higher Education Management Information Systems
LEAP	Leadership and Equity Advancement Programme
NCHE	National Commission on Higher Education
NQF	National Qualifications Framework
PHE	Private Higher Education
SAQA	South African Qualifications Authority
UKZN	University of KwaZulu-Natal
WILL	Women in Research and Leadership Leverage
WOSA	Women in Science and Agriculture Programme

Introduction

This study will examine public policy and policy implementation with specific reference to affirmative action and employment equity. It will show that the translation of affirmative action into public policy can be controversial, complex, and multifaceted. It will examine aspects of public policy in general in order to provide a better understanding of why and how policy such as affirmative action emerges, how it is drafted and implemented and how, if at all, it is monitored and evaluated.

The political system known as apartheid that totally divided black and white South Africans was legally enforced in 1948 by the National Party. Apartheid policies and laws denied not only political rights, but also social and economic rights. This resulted in restricted opportunities for Africans, Indians and Coloureds (commonly referred to as black people). Such blatant racial discrimination resulted in widespread inequality within South Africa's population. In 1994 when the first democratically elected government came into power in South Africa, affirmative action legislation was passed to repeal apartheid laws and address the political, social and economic inequality among South Africans. One of these was the Employment Equity Act (Act 55 of 1998).

The rationale for the implementation of the Employment Equity Act was to achieve equitable demographic representation of the economically active population by redressing inequalities in employment in the labour market in South Africa. The objective of this study is to conceptualise the policy-making process and consider issues that affect the policy implementation process. This will be explored by focussing on affirmative action policy, more specifically employment equity and its inherent policy implementation challenges. The study will take a close look at the implementation of employment equity at the University of KwaZulu-Natal-(UKZN) between 2004 and 2008. In 2004 the University of Natal (a predominantly white institution) and the University of Durban-Westville (a predominantly black institution) merged and became known as UKZN. The UKZN is a relatively newly merged institution of two historically racially diverse institutions. It was therefore selected as a case study to identify implementation issues of

affirmative action and employment equity policies and to see if these were unique or common implementation problems faced by institutions.

The study will show that the implementation of affirmative action policy such as employment equity is inherently complex. It will show that the implementation of such policy at tertiary institutions is influenced by a number of aspects which are common to such policies.

This study consists of four chapters. The first chapter is a literature review and presents a general discussion on affirmative action and why its implementation as a public policy can be both complex and contentious. Chapter 1 is a literature review of some of the key text on policy implementation. The objective of this chapter is to conceptualise policy and identify general policy issues which impact on policy implementation.

The second chapter broadly outlines the background and identifies some of the current racial disparity in South Africa. It illustrates and reiterates the necessity for affirmative action policy if social equity is to be achieved in South Africa. It focuses more specifically on the need for policy on employment equity, not only in the general work environment but also in tertiary institutions. The implementation process of employment equity is explored through secondary data analysis. Secondary data is a valuable source of information that offers insight into a variety of issues and phenomena. Secondary data used in Chapter 2 consists of the Employment Equity Act 55 of 1998, as well as the 2007 and 2008 annual Commission for Employment Equity Reports from the Department of Labour and various institutional documents.

The third chapter is the case study and examines the employment equity policy at UKZN and its implementation at the institution. The chapter outlines the national affirmative action legislation with specific reference to the Employment Equity Act. It then examines employment equity at UKZN and how it has been implemented. This is done by analysing a series of institutional reports and documents. These are:

- The Employment Equity Policy (2007)

- The Employment Equity Reports (2004-2008)
- The Institutional Audit Portfolio (2008)
- The Institutional Climate Survey (2004)
- 8 Faculty Equity Reports (2006)
- 10 Divisional Equity Reports (Support Services) (2006).

Chapter 3 will present two organograms that I have created to illustrate the current institutional structures and systems for employment equity.

Chapter 4 concludes the study by describing the findings and analysis of the study. It presents a summary which reiterates the key theoretical arguments on policy implementation, as discussed in Chapter 1. This chapter identifies aspects of UKZN's Employment Equity Policy and its actual implementation as was discussed in Chapter 3. The purpose of Chapter 4 is to concisely extract key employment equity policy implementation concerns or considerations.

The case study is limited to secondary data analysis. In my initial conversations with staff-members at UKZN, it soon became apparent that the issue of affirmative action and employment equity continues to be controversial. Respondents were either very hesitant to discuss the matter or were not willing to go on record. The only qualitative study is the Institutional Climate Survey, which although useful, offers little analytical data. The author was therefore dependent on the data presented in reports on employment equity compiled by UKZN. This study will therefore argue that there is a real need to collect objective qualitative data on people's experiences with regard to affirmative action and employment equity at UKZN.

Chapter 1: AFFIRMATIVE ACTION AND PUBLIC POLICY

1.1 Background to Affirmative Action

According to Heroldt and Marx (1999: 7), the term affirmative action originated in the United States of America (USA) and was primarily associated with the advancement of African Americans, but later extended to liberate other minority groups as a legal way to enforce socio-economic equity. These authors contend that affirmative action is described as the need for minorities to be treated equally, making amends for past inequities and broadly means that everyone is to be treated equally, regardless of their race, gender or culture (Heroldt and Marx.1999: 10).

what is Affirmative Action

Heroldt and Marx (1999: 2) state that the first time South Africa was influenced by affirmative action developments taking place in the USA was in 1978, when the Sullivan Code of Conduct was imposed on American companies operating in South Africa. The principles of this code were formulated by the Rev. Leon Sullivan. At the time the Sullivan Code of Conduct aimed to influence American organisations operating in South Africa to reduce racial inequalities that were associated with apartheid, to eradicate race-based discrimination and to eliminate the inequality in political and socio-economic rights of apartheid. It had little influence on the ruling regime's philosophy of racial segregation, however.

In the USA, affirmative action is an instrument in which African Americans as a class "sought to secure citizenship rights and to erase the stamp of inferiority with which they were branded historically" (Robinson 2006: 11). In Britain it has been referred to as positive action or positive discrimination (Kennedy-Dubordieu 2006: 77). Either way, it is about addressing inequality. In Canada, Abella (cited by Sheppard 2006: 47) claims that the "economic advancement of women and minorities is not the granting of a privilege or advantage to them; it is the removal of a bias in favour of white males that has operated at the expense of other groups".

IMP Categories

Central to affirmative action is the concept equity. Equity, in general terms, is concerned with the impartial and fair distribution of benefits. Impartiality means that everyone qualifies for benefits on relevant grounds, in accordance with the established rules of distribution. Fairness means that the distribution rules should exclude unjust differentiation or discrimination, where some people are disqualified on irrelevant grounds such as race, colour or creed (National Commission on Higher Education 1996: 71). Discrimination refers to practices or attitudes that limit an individual's or group's right to opportunities. Impartiality and fairness in employment represents equal opportunity in recruitment and appointment processes and in tertiary education it means equal access to, and opportunities of, privilege and funding.

discrimination

Social equity refers to principles that apply to personal and social relationships with individuals and groups, specifically to rights and duties that apply to protected or disadvantaged groups in society. It includes respect and acceptance of, amongst others, behaviours, ideas, attitudes, values, beliefs, customary language, rituals, ceremonies and practices of different groups of people and their interpretation of the world around them. Social equity pertains to the fundamental rights that are enjoyed by all citizens in a free society (University of Pennsylvania 2008: 1).

How equality

Equality in opportunity is created by doing different things for different people. This means systematically eliminating barriers to opportunities according to the actual needs of different groups and not according to what their needs are perceived to be. It means giving individuals the opportunity to use their abilities in relation to their potential, not in line with what others perceive their potential to be, but because of actual rather than attributed characteristics. The application of the equity principle indicates that all these inequalities need first to be identified and that transformation programmes for redress are put in place. The objective is the abolition of all forms of unfair differentiation, and the introduction of measures to empower those individuals and groups to have equal opportunity for those who were previously disadvantaged by discriminatory practices (NCHE 1996: 71). This is at the heart of affirmative action.

objective

Thaver (2006: 153) regards the adoption of affirmative action as a long-term plan to address social, political and economic inequality. Kennedy-Dubordieu (2006: 4-5) stresses that affirmative action policy is based on the assumption that government "intervention is necessary to increase the participation of under-represented groups in certain key areas in society", often employment and education. Although this meant that those disadvantaged could now compete on an equal basis, poor education and a lack of experience resulted in few actually being qualified for the job and they were therefore not appointed (Heroldt and Marx 1999: 2-4).

affirmative
action
a
long term
plan

Affirmative action is "the rectification of past injustices, the construction of a more socially just future or the establishment and maintenance of cultural diversity" (Hinds and O'Kelly 2006: 105). Ackerman (1994: 241) feels that affirmative action is regarded "as a crude but convenient way of achieving retribution of goods...equality before the law". Sachs (cited in Kennedy-Dubordieu 2006: Foreword) refers to the paradox of affirmative action in that, in order to achieve equity and a non-racial society, racial categorisation is necessary. This is paradoxical, because it is in itself discriminatory. Similarly, Lindsay cited a number of authors, including Ramphela (1997: 528), who warn that "[c]ategorizing human beings using any measure in any societal context is a disturbing and uneasy process". Adams (1993: 1) states that the goal of affirmative action is to ameliorate existing conditions based on race and the redistribution of resources and opportunities. However defined, he regards it as a "practical and rational method to achieve restitution for years of denial, deprivation, devaluation and dispossession".

affirmative
action
of
past
injustices

Kennedy-Dubordieu (2006:4) describes affirmative action as "based on the premise that intervention is necessary to increase the participation of under-represented groups in certain key areas of society". Intervention through public policy is created by those in power to overcome a number of issues of inequality in society, usually pertaining to all or some of the following issues: language, culture, religion, gender, race and disability.

1.2 Public Policy

Public policy is described by Parsons (1995: 3) as "that dimension of human activity which is regarded as requiring governmental or social regulation or intervention, or at least common action". He added that policy does not necessarily follow a path of intended activity and can therefore result in unintended consequences (Parsons 1995: 13). In democratic systems of government, leaders should legitimate their proposals or actions by creating policies to solve problems in society (Parsons 1995: 17-20). Colebatch (2002: 49) cited Bridgman and Davis' definition of public policy as "a course of action by government designed to achieve certain results". Hill and Hupe (2002: 5) echo the above definitions and state that "[p]ublic policies are those policies developed by governmental bodies and officials".

Sachs (cited in Kennedy-Dubordieu 2006: x) declares that affirmative action is a policy that "involves focussed and deliberate governmental intervention that takes account of the reality of race to deal with and overcome the problems associated with race". Kennedy-Dubordieu (2006: 2) pointed out that affirmative action policy appeared in the latter part of the twentieth century, but it has been argued by some that inexplicit practices that preferred white and middle class men have been around for some time. Affirmative action policy is used and developed by governments to eliminate entrenched barriers to employment and increase income and wealth in order to achieve equal participation in the workforce by all members of society, especially the disadvantaged, minority groups and women. The objective of affirmative action policy is to achieve equity. Policy is developed accordingly, to ensure that everyone has equal political and socio-economic rights and opportunities or benefits, regardless of race, colour, creed or disability.

Kennedy-Dubordieu (2006: 4) claims that most policies seem to have started by reacting to discrimination with anti-discrimination legislation in the hopes that everyone would be treated equally and that the policy would successfully regulate itself. This has resulted in some societies adopting affirmative action policies as a mechanism of trying to overcome entrenched discriminatory practices.

Lowi (cited by Parsons (1995: 132) classifies policy in the following groups: distributive, redistributive, regulatory and later added self-regulatory. Broadly defined, distributive policies seek to distribute resources for the general good of all. Redistributive policies, on the other hand, change the distribution of existing resources from one group to another. Regulatory policies are a set of legislative rules with compliance specifications to control activities (Cloete and Wissink 2000: 179). Self-regulatory policies are voluntary policies adopted by certain constituencies, such as professional associations, to regulate the activities of their members (1995: 132).

Affirmative action can be regarded as a redistributive policy, because it deliberately shifts resources from advantaged to disadvantaged groups. Affirmative action is a redistributive policy constructed to overcome and redress past injustices that affect specific groups in society. Redistributive policy means that resources are redirected from the “haves” to the “have-nots”. It is often controversial because it is regarded by those in possession of resources as redistribution at their expense to benefit those who do not have resources, resulting in winners and losers.

According to Kennedy-Dubourdieu (2006: 3), “affirmative action is not a consensual policy”, it is one that is imposed as an instrument to redress discrimination and is therefore redistributive (Kennedy-Dubordieu 2006: 4-6). Parsons (1995: 132) portrays redistributive policy as one that changes the distribution of existing resources. Cloete and Wissink (2000: 179) describe this policy type as an “attempt to change allocations of wealth or power of some groups at the expense of others”. This makes redistributive policy “electorally unpopular” (Sachs 2006: Foreword).

Tierney (cited by Lindsay 1997: 526) perceives the validity of an affirmative action policy to have three parts. Firstly, it is a compensatory procedure to deal with past injustices. Secondly, it is a corrective tool to tackle present discrimination and thirdly, it is a way to encourage a multicultural, diverse and equal society, thereby enabling social equity.

1.3 The Policy Cycle

According to Colebatch (2002: 50), public policy as a driver of change goes through phases and activities in search of a solution to a particular social problem. This is sometimes referred to as the policy cycle. The policy cycle starts with the identification of a social problem. Analysing affirmative action policy from the policy cycle perspective entails understanding and defining the problem of inequality; officially acknowledging it by giving it agenda status; considering policy proposals; undergoing decision-making processes; actual implementation and finally monitoring and evaluating the policy process and outcomes.

Theoretically, there are five stages in the policy cycle, but in practice they overlap. It is not easy to analyse policy in such a stagist approach. However, it does present a useful analytical tool to explore the development of a particular policy. Parsons (1995: 80) supports this model, because it can be “reduced to a more manageable form and because each stage is linked to the context in which policy is made. These stages are often represented in a circle, illustrating a “natural progression from one stage to the next” (Colebatch 2002: 49). Colebatch (2002: 49) describes the policy process as a sequence of stages, while Lindblom (cited by Parsons 1995: 22) portrays it “as a complexly interactive process without beginning or end” with many factors and stakeholders affecting the policy process. Parsons (1995: 77) identifies the key stages as:

- (i) Problem definition
- (ii) Agenda-setting
- (iii) Decision-making: policy proposals, alternatives
- (iv) Implementation
- (v) Monitoring and evaluation.

(i) Problem Definition

Parsons (1995: 88) states that the first step in the policy cycle is defining the problem. A problem has to be “defined, structured and located within certain boundaries” and the way in which this is done will set the application for a policy solution. Policy problems

are often complex, badly defined, not clearly demarcated and have a governmental context which greatly influences how a problem is structured (Parsons 1995: 89). Describing a social problem and the objectives of an intervention is a political process, in which there is not always a connection between "trends and patterns revealed by the data and what eventually surfaces as a subject of concern" (Rossi and Freeman 1989: 73). Essential to the problem definition is the "fit between what is popularly considered to be the problem and the implicit or explicit definitions in the legislative proposals" (Rossi and Freeman 1989: 75).

Affirmative action policy is a response to achieve equity by removing discriminatory practices in society. To define this problem one needs to understand how social inequality arose, what makes it different from other situations and to consider ways to change the situation. The characteristics of the target group need to be classified. Social problems and their politics are social constructions created by community members and parties involved with a particular issue that comes to the attention of policy-makers (Rossi and Freeman 1989: 73). A new or modified policy intervention usually occurs when some groups of stakeholders are not satisfied with "the effectiveness and efficiency of existing policies and programmes, or ... that a new social problem is about to emerge" (Rossi and Freeman 1989: 73).

Kingdon (1995: 113) mentions three factors that make policy-makers aware of problems: indicators, events and feedback. Indicators are measurements that weigh up the extent or change of a problem through data gathering or information in government reports, events which serve to raise awareness of a particular issue. A social indicator is "a continuous measure of the extent of a social phenomenon", which provides vital information on the trends of the social problem, whether they are improving, remaining static or deteriorating (Rossi and Freeman 1989: 79-80). Problems are not always obvious and sometimes a crisis, a disaster, or policy-makers' personal experiences make government and officials aware of the problem (Kingdon 1995: 94). A social problem, such as widespread discrimination towards specific groups, is a complex mix of many circumstances.

Policy
analysis
of
social
problems

It results in the groups that are being discriminated against being marginalised from political, social and economic participation, it inhibits their economic advancement and provides inferior health, housing and education facilities. In order to address such inequality, data about its complexity is needed (Rossi and Freeman 1989: 76).

According to Rossi and Freeman (1989: 97), the size of the social problem, geographical location, population and distribution need to be assessed. Such information may be found in government reports, statistics and published and unpublished studies. Sometimes such data can estimate the size and extent of the social problem and the impact of present programmes. However, often there are no social indicators for existing social problems. A crucial element of policy intervention is the size of the target population. This will affect the design, efficiency and effectiveness of policy and can have large cost implications. Such target populations are usually defined in terms of the "characteristics of the individuals that constitute them" (Rossi and Freeman 1989: 98). In short, Kingdon (1995: 114) claims that, in order "for a condition to be a problem people must be convinced that something should be done to change it". Once policy-makers acknowledge this need, the agenda-setting stage of the policy cycle commences.

(ii) Agenda-setting

Howlett and Ramesh (2003: 121-125) state that agenda-setting is about the "recognition of a problem on the part of the government" and maintain that it can be explained in political and socio-economic terms, where the "ideology of the government in power and the political threats it faces are also important factors in the extent to which the state meets the demand of social welfare". Kingdon (1995: 17-20) regards problem recognition as a socially constructed process that, once recognised by government in the agenda-setting process, is responded to by constructing a policy. "[s]olutions become joined to problems and both of them are joined to political forces". Governments can be strategic and choose to address certain problems around which they create policy, so that they can be re-elected at the next poll (Weiner and Vining 2005: 262).

[The consequences of discriminatory practices such as denying access to quality education, health and housing facilities are easily visible through increasing social and economic inequality] This results in socio-economic disparities, limited job opportunities and a lack of high-level skills which, in turn, affect society as a whole, including those who have benefited from discriminatory practices in the past. The local and competitive global market highlights these gaps and the need for redistributive policies, such as affirmative action, is recognised by those in power as a problem that affects broader issues, such as the national economy. An acknowledgement and understanding of such consequences can serve to bring some items onto the policy decision-makers' agenda (Kingdon 1995: 146-147).

(iii) Decision-making: Policy Proposals and Alternatives

Parsons (1995: 245) explains that decision-making occurs between policy formation and implementation. It is a process where "choices are made or a preferred option is selected" by the state (Parsons 1995: 245). Weiner and Vining (2005: 261) stress that policy decisions start as "proposals in political arenas and culminate in effects on people". Parsons is of the view that if decision-making is "when choices are made or a preferred option is selected" on different occasions, then decision-making goes on throughout the policy cycle because decisions are taken on defining the problem, information used, strategies, options, ends and means, as well as implementation and evaluation (1995: 245). Where and how policy decisions are taken can influence the path that policy will follow. Colebatch (2002: 51) states that it is assumed that government always makes policy decisions to "maximise the welfare of individuals" and that "the best action is that which makes someone better off and no one worse off". He cautions that many have tried to find ways of calculating the "best policy option" through a rational decision-making process. However, in reality it is usually dependent on "the relative advantage of the desired goal of each of the options". Part of the rational decision-making process is the ability to predict future conditions using present circumstances. Predictions such as these depend on expertise in demographic forecasts and econometricians (Rossi and Freeman 1989: 96).

Simon (cited in Parsons 1995: 272-278) states that the rational decision-making process is based on assessing each policy proposal and alternative and then selecting the most effective and efficient option that will achieve the required goals and interests. It assumes that decision-makers have access to full and accurate information and that they can accurately determine outcomes. In the incremental model of decision-making goals and outcomes are not predetermined. It is recognised that information is limited. It is often a trial-and-error approach, where change happens at a slow pace, building on the existing situation which can result in a more successful policy, but with a high social cost because of the involvement and negotiation with the many stakeholders (Parsons 1995: 286).

The formulation of an affirmative action policy involves taking action to address the shortfalls of the present system and to identify new goals and objectives. It includes identifying the target group, examining alternatives for redress and proposing mechanisms to accomplish them. The aim of affirmative action is to ameliorate the conditions of those groups that have been discriminated against by, for example, creating equal job opportunities in the workplace. It is difficult to quantify the extent and level of discrimination within the target groups of a society and, although the concept may be socially and politically credible, an effective and efficient affirmative action policy depends on the ability to measure the levels of discrimination.

Rossi and Freeman (1989: 99-102) state that there are "no human and social defects that can be estimated easily by merely counting individuals or other units with a particular problem or condition". The costs and benefits cannot always be calculated. Sensitivity and specificity of the target that is to be rightly included should be taken into account, to prevent further discrimination (1989: 107). Suitable target boundaries and provisions for those that are included and excluded need to be set. This will be difficult, because those receiving the service, the legislators, professionals and other participants will each have a different idea of the constraints for the target population.

In other words, incidence, "the number of new cases of a particular problem" and prevalence, "the number of existing cases in a particular geographic area at a specified time", need to be considered when deciding on a particular policy proposal (1989: 105). Such discussions can be useful in minimising differences before the policy is implemented (1989: 104).

Lasswell (cited in Parsons 1995: 246) claims that decision-making is concerned with allocations in the policy process, namely "who gets what, when [and] how". Hall (cited in Parsons 1995: 335) argues that in order to understand the workings of decisions taken, "decision-making must be placed within the context of the relationship of institutions and state-society relations", because a social group has the power to "affect the interpretation they put on their own interests, and thus the direction of their influence". This institutionalist method means that groups in society can "affect the degree of power that actors have over decision-making and its outcomes" and that institutional stakeholders can affect the definition of their own interests (Parsons 1995: 334).

[Affirmative action policy is often controversial because it is redistributive and requires a top-down, government-legislated policy to bring about significant change in behaviour and attitude and consequently may not be well supported. Decision-makers benefit from consensus activities such as actively seeking out the participation of stakeholders who are perceived to lose the most. It is about convincing all stakeholders that affirmative action is in their interest in the long term. Support for any policy cannot be assumed, but is often even more difficult because of the very redistributive nature of affirmative action. Brinkerhoff and Crosby (2002: 6) points out that in developing and transitioning countries "consensus-building, participation of key stakeholders, conflict resolution, compromise, contingency planning and adaption" are all necessary for the management of policy implementation. In addition, the effect benefits of any policy, including that of affirmative action, will only be realised after a long period of time (Brinkerhoff and Crosby 2002: 23). Frisch (cited in Brinkerhoff and Crosby 2002: 7) warns that it is important, then, to "coordinate the aggregation of the diverging interests and thus promote policy that can credibly be taken to represent the public interest".

Cloete and Wissink (2000: 181) stress that commitment from all stakeholders is crucial to effective implementation, from “the regime level, the state level, the street level and all levels in between”.

(iv) Implementation

Issues can disappear from the government agenda because they think that the problem has been solved through legislation (Kingdon 1995: 103). The stagist approach of the policy cycle emphasises that policy does not end with decision-making. Redistributive policies, such as affirmative action, are often defined by national legislation, by which goals are decided upon by the authorised leaders. They are state-driven, top-down systems implemented by government agencies. Colebatch (2002:23) declares that this top-down dimension of policy emphasises “instrumental action, rational choice and the force of legitimate authority”, where decisions and selected courses of action are sent downwards, to be implemented by officials in lower positions.

Policy implementation is “multidirectional, fragmented, frequently interrupted, unpredictable, and very long term” and “[a]uthority and responsibility are dispersed among the actors involved” (Brinkerhoff and Crosby 2002: 23). Implementation is a data-gathering process of information and events from those involved in putting a policy into action. Van Meter and Van Horn’s more exact definition of implementation, cited by Cloete and Wissink (2000: 166), state that “[p]olicy implementation encompasses those actions by public or private individuals (or groups) that are directed at the achievement of objectives set forth in prior policy decisions”, where evaluation seeks to find out why certain things happened. O’Toole (cited by Hill and Hupe 2002: 8) defines policy implementation as “the connection between the expression of governmental intentions and actual results”.

The different approaches to implementation namely top-down or bottom-up, can affect the implementation process. Rein and Rabinowitz, referred to in Cloete and Wissink (2000: 174) state that top-down and bottom-up forces are present in many implementation situations and that these approaches are useful for the implementation process "at different stages to the complex and dynamic implementation process".

Colebatch (2002: 53) states that the top-down perspective of implementation assumes that "authorised decisions at the top coincide exactly with outcomes at the bottom...securing compliance". The bottom-up perspective is "an exercise in collective negotiation: the focus shifts from the desired outcome to the process and the people" who will achieve the objectives (Colebatch 2002: 53). Cloete and Wissink (2000: 169) portray the top-down approach as authoritarian, coming from top-level government. This approach focuses on how well objectives and procedures are being carried out and to what degree the policy objectives are being reached. It investigates factors affecting policy outputs and impacts and if a policy is adapting to the feedback received. Sabatier (1986: 44) states that policy-oriented learning, in the synthesised version of top-down and bottom-up implementation, happens with the internal feedback where more knowledge about the problem constraints is acquired and the factors affecting them.

Implementation is complex, because it operates at different levels, involves many different stakeholders, and relies on resources and capacity. Ripley and Franklin (cited in Hill and Hupe 2002: 61) maintain that "[i]mplementation processes involve many important actors holding diffuse and competing goals who work within a context of an increasingly large and complex mix of government programs that require participants from numerous layers and units of government who are affected by powerful factors beyond their control".

Van Meter and Van Horn (cited in Hill and Hupe 2002: 45-46) hypothesise that the implementation process starts at the policy decision-making stage, where consensus and compliance, together with participation, determine the success of a policy.

Brinkerhoff and Crosby (2002: 23) state that "[n]o single agency can manage the policy-implementation effort" without the combined efforts of agencies and groups, inside and outside government, civil society and the private sector. In order to achieve consensus, implementation involves getting approval or commitment to collaborate from the private sector.

Policy implementation is not a straightforward course. It needs multiple actors from inside and outside government (Brinkerhoff and Crosby 2002: 23-24). Colebatch (2002: 23) states that policy work that takes place inside and across organisational boundaries affects policy implementation as much as authorised decisions within any single organisation. Conflict can arise because of the different interpretations of the policy objectives that can be vague and ambiguous (Parsons 1995: 470-471). It calls for "consensus-building, participation of key stakeholders, conflict resolution, compromise, contingency planning and adaption" (Brinkerhoff and Crosby 2002: 6). Both the degree of change required and the level of consensus necessary need to be taken into account so that the policy's goals and objectives can successfully address the problem identified with the support of the community.

Berman (cited by Cloete and Wissink 2000: 173), opines that processes of macro-implementation and micro-implementation mean that policy outcomes are not judged against the original policy-makers but by outcomes of the "local deliverers who operate at the micro-implementation level". John (1998: 28) warns that some policy mechanisms can cause failure, because the more complex the layers of decision-makers there are in the implementation process, the more difficult the effective policy implementation becomes. When government policy has to wade through multifaceted levels of bureaucrats, national, regional, the private sector and local authority bodies, autonomous decisions taken by implementers can negatively impact on the delivery of the goals and objectives of the policy.

Cloete and Wissink (2000:180) state that the context in which a policy is constructed is recognised as a significant component of the implementation process and the social, economic, political and legal settings should be considered. Affirmative action policy needs to be shaped so that there is a widespread approval to achieve the goals for the benefit of all. For policy reform goals, such as those of affirmative action, to be achieved, government needs "strategic management approaches and process tools...to enhance democracy and democratic governance" (Brinkerhoff and Crosby 2002:10).

Cloete and Wissink (2000: 182) claim that effective implementation depends on capacity and how this capacity can be created and operationalised. Implementing a new policy not only requires human, technical and financial resources but other requirements "like leadership, motivation, commitment, willingness, courage, endurance and other intangible attributes needed to transform rhetoric into action" (Cloete and Wissink 2000: 182). The environmental context in which policy implementation is to take place, whether political, administrative, economic, technological, cultural and social, needs to be "sympathetic or conducive to successful implementation" (2000: 182). Implementing affirmative action policy requires change in "procedures, routines and organisational culture". As with all other policies, sensitivity needs to be shown to those who are adversely affected by a redistributive policy and organisations must demonstrate commitment and motivation to reach needs which are the goals of affirmative action.

Hill and Hupe (2002: 10) regard successful implementation as achieving the goals and objectives set out and comparing what was accomplished with what was anticipated. Policy implementation of affirmative action would mean clear goals of redress for the identified target groups, methods to bring about change, legal structures to ensure compliance, skilful personnel dedicated to this policy, backing from those in legal and executive positions and a secure position in the socio-economic situation that would not undermine the aims of the policy.

The implementation process often reveals unknowns or unintended consequences which change what was expected into something different once it is operationalised. Policy implementation can fail because of "a poor chain of command", difficulty with structure and roles of each actor, relationships, the environment or context, inadequate information, conflict and organisational culture (Hill and Hupe 2002:10). Determining this is part of the fifth and final stage, monitoring and evaluation.

(v) Monitoring and Evaluation

This is often regarded as the last section of the stagist approach of the policy cycle. Monitoring and evaluation take place during and after policy implementation. Monitoring is an on-going process throughout the policy cycle. It investigates how successfully a policy or programme is in reaching its target population, whether or not the delivery is consistent with the objectives and what resources are being used. It provides policy-makers and stakeholders with feedback to assess the performance and usefulness of a policy, as well as to make decisions regarding changes to improve delivery. Rossi and Freeman (1989: 170) state that monitoring also looks at policy compliance of legal and regulatory requirements, for example, whether or not affirmative action has redressed inequality.

Rossi and Freeman (1989: 205) identify four sources of data that can be used to examine the efficacy of a policy: (i) direct observation in the human resource area, (ii) service records kept about the implementation, (iii) statistical and/or (iv) narrative data from those providing the service and information from the target groups. Evaluation is normally done after the programme has been running for some time, to measure the changes that a policy has had on the target group and the factors affecting the outcomes. Rossi and Freeman (1989: 116) state that evaluation research must be an integral part of the planning and implementation of a programme. Evaluation concentrates on "policy impact on real world conditions" and should be regarded as a "judging process to compare explicit and implicit policy objectives with real or projected outcomes or results or impacts" (Cloete and Wissink 2000: 211).

The scope and focus of evaluation is to report on what the intervention has and has not achieved and why. It should be able to compare the results with the anticipated outcomes.

Indicators should be identified at the start of a policy programme and can be both qualitative and quantitative. An indicator is a measuring tool that gives indirect or approximate value to a notion that is not measurable. Policy indicators are instruments that are used to evaluate policy implementation. However, it is not always easy to measure outcomes, for example, the effect of affirmative action policy on the target group. An intangible and multidimensional concept such as the anguish endured because of racial discrimination is difficult to quantify. Cloete and Wissink (2000: 225) state that social impact indicators are those that aim to determine if the programme has improved or exacerbated a condition in the community that it set out to address. The changes that a programme brings about cannot be adequately calculated if there are insufficient criteria and indicators with which to measure. Unintended consequences sometimes complicate the evaluation because they confound the results. Politically sensitive results can show biased opinion or give rise to incomplete evaluations (Cloete and Wissink 2000: 230-231).

Those in authority often do not provide a detailed plan of what the programme is or how it is to be implemented. Rossi and Freeman (1989: 67) claim that "[t]o devise an ameliorative social program, and to assess whether a program is working, it is necessary to define the problem precisely, assess its extent, describe the elements of the intervention, and accurately define the target population to be served". Assessment or evaluation is necessary in deciding whether to continue, change or end a policy or project (Cloete and Wissink 2000: 210). Evaluation is a research method that measures the performance of a policy in order to improve its effect on the situation that it is supposed to change (Cloete and Wissink 2000: 211). It is important to establish adequate target specification, a time frame, the size of the target population and who is included and excluded from the intervention (Rossi & Freeman 1989: 102).

It is important that during the implementation phase there are on-going methods of regular monitoring of performance and process, the tracking of time frames and expenditure and the effect and extent of outcomes that have been reached (Cloete and Wissink 2000: 211). Sometimes the feedback to government officials from monitoring and evaluation reports on existing programmes or policies brings other issues to the fore, such as unanticipated consequences or negative results, failure to achieve objectives or the cost of the programme (Kingdon 1995:101, 102).

Evaluation of results is essential to the success of any policy. If the evaluation of affirmative action implementation proves it to be working, it should demonstrate that the policy is ending discriminatory practices and that equity is being achieved. It should identify where further change or adaption is needed and it should show the stakeholders that it is achieving political and socio-economic equity. The outputs of affirmative action need to be monitored at intervals, and over a specified period of time, to evaluate the effect of its implementation on the targeted beneficiaries. Without on-going policy monitoring, the effects of affirmative action cannot be adequately measured. Regular monitoring and evaluation illustrates the degree of compliance and the achievement of the affirmative action policy objectives to the government and organisations that implement affirmative action.

Evaluation can be carried out by internal implementation staff with the experience and skills needed, or external multidisciplinary evaluation teams. The danger is that internal or in-house evaluations can be superficial and unreliable. Evaluations done by internal staff will be cost-effective and less time-consuming, but they may have some policy bias because of their close association with the project. Independent evaluators may cost more but will be more objective. However, sometimes assessment is more valuable if it is done by those who have first-hand knowledge and experience of the policy programme.

The objective of a monitoring and evaluation process essentially is to determine if a policy is effective. It can be costly, time-consuming and complex but, in order to get the most out of a policy, a systematic accurate policy evaluation has to be performed (Cloete and Wissink 2000: 233). The problem with monitoring and evaluation of any policy is that, while impacts that can be observed can be measured and assessed quantitatively and qualitatively, those that are "[s]ymbolic or intangible impacts cannot be measured directly" (2000: 225). It remains difficult, if not impossible, to assess the intended, unintended, positive, negative, immediate and long-term effects of a project. Affirmative action is no exception.

The next chapter will look at employment equity as an affirmative action policy in South Africa. It will focus on employment equity in tertiary institutions in South Africa.

Chapter 2: EMPLOYMENT EQUITY IN SOUTH AFRICA

2.1 Introduction

"Having conquered and subjugated Africans, expropriated their land and exploited their labour, and corrupted their traditions through colonization and indirect rule, whites exerted a powerful levelling effect on Africans" (MacDonald 2007: 13).

This chapter presents a very brief and broad background on the origins of racial disparity in South Africa, thereby substantiating why affirmative action policy is necessary if social equity is to be achieved. It focuses more specifically on the need for policy on employment equity, not only in the general work environment, but also that of tertiary institutions. It will show that South Africa's past discriminatory education policies continue to complicate the implementation of employment equity policy and that tertiary institutions are seriously affected by it.

2.2 Historical background of racial disparity in South Africa

Apartheid policies and laws denied and restricted opportunities to certain population groups of the labour force, which resulted in unfair discrimination. In the first half of the twentieth century the English and Afrikaners fought over control of the political economy of South Africa. O'Meara (cited by Kennedy-Dubordieu 2006: 154) maintains that the white-minority rulers, the Afrikaner group, managed to establish an affirmative action programme in their favour in order to increase their share of the land to be greater than that of the mining industry, which was held by the English. This later became "consolidated preferential socio-economic and cultural policies" for Afrikaners when the National Party assumed power in 1948.

The political system known as apartheid that totally divided black and white South Africans was enforced in 1948 by the National Party. Apartheid was, in a sense, affirmative action in favour of white, Afrikaans-speaking men, perceived to protect and promote Afrikaans culture and wealth. Oppressive measures against non-white members of the population were gradually introduced and white supremacy was maintained by discriminatory legislation.

Racial segregation had existed since the beginning of colonialism in the middle of the 17th century and had been continued as a policy by the United Party from 1934. Racial discrimination became the official policy of the apartheid government in 1948.

South Africa's legacy of racial domination denied opportunities to the majority of South Africans through a "systematic and legalised system of white minority rule" (Friedman and Erasmus 2008: 40). For more than thirty years South Africans were "socially engineered along the racial axis of four population groups" namely black, coloured, Indian and white. This separation was supported by abundant legislation that kept whites in power and controlled the social inter-relations among all groups (Thaver 2006: 155). South Africa was governed by apartheid policies and laws that affected all population groups. Blacks, who made up 70% of the population, were relocated to 12% of the land. Cities and mining areas, where the labour force consisted almost entirely of low-paid blacks, were occupied and owned by whites. White dominance was ensconced in the political and economic arenas. This affected every aspect of South African society and resulted in gross inequality in the workplace. The apartheid regime held "blacks back" (Seepe 2007: 6) and granted benefits, privileges and rights to white South Africans only, whilst women and the disabled also suffered injustices, which resulted in "the systematic under-qualification of the majority black population" (Gibbon and Kabaki 2006: 123).

Adams states (1993: 7) that in 1952 Afrikaners held approximately 80% of employment positions in the South African Railways and Harbours and 68% in the Post Office. O'Meara (cited by Adams 1993: 7) claims that the history of Afrikaners illustrates the link "between the possession of political power and socio-economic upliftment". From 1948-1968 the number of Afrikaners in the public sector doubled and by 1978 they held about 90% of the 150 key employment positions (1993: 7). The National Commission on Higher Education (NCHE) revealed that in the 1970s and the 1980s 60% of the low income echelon earned 13.5% of the national income and 10% of the wealthiest households earned 50% of the national income (NCHE 1996: 51-52).

The mean income of the richest was 139 times higher than the lowest 10% of income earners and “racially determined segregationist policies shaped the patterns of ownership, wealth distribution, employment practices and educational arrangements” (NCHE 1996: 51). Just over 40% of those employed in South Africa were in the lowest skill level with less than seven years of schooling and nearly 12% were in the highest level, with tertiary qualifications (NCHE 1996: 52). The per capita income of whites in 1991 was 12.3 times more than that of blacks, and 5.4 times higher than Coloureds and 3 times higher than Indians (NCHE 1996: 52). The consequences of apartheid resulted in extreme racial inequality, not only politically but also socially and economically in favour of white South Africans.

2.3 Legislative framework for affirmative action in South Africa

In order to redress the various kinds of exclusions and discriminations of the past, the first new democratically elected government formulated the Constitution of South Africa (Act 108 of 1996) to restore justice and human rights to all citizens of South Africa and to build “a single national cosmopolitan identity” (Bentley and Habib 2008: 337). The democratically elected government was faced with the challenge of building a unified nation in the context of historical inequality. A number of Acts were designed to address past apartheid discrimination. Affirmative action policies were drafted and adopted with the aim of improving the quality of life of those who were affected by the discriminatory laws and social practices of the past.

With regard to employment equity, five key policy documents were enacted:

1. The Labour Relations Act (Act 66 of 1995) was the first affirmative action policy to be passed by the democratically elected government. This Act provides the legislative framework for institutions to settle disputes and ensure fairness in the workplace in order “to advance economic development, social justice, labour peace and democratisation of the workplace” (Section 1). One of its main objectives is to end unfair labour practices and the discriminating treatment of labour.

2. The Bill of Rights that is included in the Constitution (Act 108 of 1996) states that all South African citizens must have “full and equal enjoyment of all rights and freedoms”. It enshrines the rights of all South Africans and supports the democratic values of human dignity, equality and freedom, in general (Section 7). Everyone is legally entitled to fair labour practices and a work environment that does not deny the basic human rights enshrined in the Bill of Rights.
3. The Skills Development Act (Act 97 1998) tasks organisations and institutions to improve the skills and efficiency of the South African workforce. This is done by encouraging skills development training programmes so that a suitably skilled black labour force can be generated.
4. The Broad-Based Black Empowerment Act (Act 53 of 2004) aims to redress the imbalance in the ownership of economic assets in South Africa. It calls for a transfer of economic wealth through deliberate black economic empowerment initiatives, in order to increase the participation of black people in the economy.
5. The Employment Equity Act (Act 55 of 1998) builds on the Constitution that emanates from the Labour Relations Act, refining redress and equality and declares that all designated groups, black people (referring to Africans, Indians and Coloureds), women and the disabled, who were previously disadvantaged, must now be given preference for employment opportunities.

2.4 The Employment Equity Act and Tertiary Education

The rationale for the implementation of the Employment Equity Act (Act 55 of 1998) was to redress inequalities in employment in the labour market and ensure equitable demographic representation of the economically active population in South Africa. The main focus of the Employment Equity Act is to regulate the implementation of affirmative action measures in the workplace, so that it demographically reflects the diverse groups in South Africa.

“The purpose of this Act is to achieve equity in the workplace by

- a) promoting equal opportunity and fair treatment in employment through the elimination of unfair discrimination; and
- b) implementing affirmative action measures to redress the disadvantages in employment experienced by designated groups, in order to ensure their equitable representation in all occupational categories and levels in the workforce” (Section 2).

The Employment Equity Act was passed to end and redress discriminatory laws and practices and attain equitable representation in all occupational categories and levels in the workplace. The Act distinguishes between black and white people, where ‘black people’ is used as a generic term to refer to Africans, Indians and Coloureds. It further defines ‘designated groups’ as comprising black people and women and people with disabilities. The Employment Equity Act regulates labour practices of organisations and defines designated employers as those who employ more than 50 employees and whose annual turnover equals or exceeds amounts according to their industrial classification (Schedule 4). It is of interest that the Act does not apply to the National Defence Force, the National Intelligence Agency and the South African Secret Service. The rationale is that all these organisations require specialised qualifications and a high level of skill (Section 4). It is not clear how the Act defines a high-level of skill. If the extent of employment equity means that it is to be determined by the type of skill that a particular employment position requires, then it could be argued that rigorously enforcing employment equity at tertiary institutions warrants some reconsideration or re-examination. This will be explored later on. The Employment Equity Act changed the working environment for all academic staff in South Africa. Their terms and conditions of employment are now regulated in accordance with national labour relations legislation, just like all other employees.

The Act prohibits unfair discrimination and declares that employers must promote equality and eliminate unfair, direct and indirect, discrimination in the workplace. Employers may not deny employment based on "race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language and birth" (Section 6). Disputes concerning unfair discrimination can be reported to the Commission for Conciliation Mediation and Arbitration (CCMA). In such cases the onus is on the employer to prove that the discrimination is fair and in accordance with the Act (Section 11).

The Employment Equity Act is rather broad and has been criticised in a number of areas. For example, Portnoi (2003: 79) criticises the Employment Equity Act for being vague and without clear guidelines on how to implement it. She points out that the Act names the designated target groups, namely blacks, women and disabled, but fails to explain which group to "target first, leaving margin for interpretation in particular employment contexts"(2003: 79). There are no specific criteria in the Act that differentiate between African, Indian or Coloured. All are regarded as black.

It is illegal to "distinguish, exclude or prefer any person on the basis of an inherent requirement of a job" (Section 6: 2b). This phrase is confusing, because it implies that if someone does not meet a specific requirement for a job they cannot be disqualified on this basis. Medical testing is prohibited, unless legislation permits or requires it and is permissible according to medical facts and the conditions of employment (Section 7) Psychometric testing is prohibited unless it is scientifically valid and reliable, fair and not biased.

The national government Department of Labour is the official watchdog of the Employment Equity Act. In May 1999 it set up the Commission for Employment Equity representing Organized Labour, Organized Business, the State and community and development organisations.

This Commission is responsible for advising the Minister of Labour on codes of good practice, regulations, policy, awards to employers furthering the Employment Equity Act, research, reporting and submission of Employment Equity Annual Reports (Section 28-29). The Employment Equity Act stipulates the monitoring, enforcement and legal proceedings against contraventions of the Act. Labour inspectors set up by the Department of Labour must audit organisations and determine compliance with the Act.

All employers with more than 50 employees are legally required to put in place affirmative action measures that will achieve employment equity by:

- consulting with employees;
- presenting a work profile analysis;
- preparing Employment Equity Plans;
- submitting an annual Employment Equity Report to the Director-General of the Department of Labour; and
- assigning managers to monitor and implement employment equity (Section 13).

The Employment Equity Act details a long list of legislative reporting requirements. The employer is responsible for collecting and analysing data on employment policies, practices, procedures and the working environment and must identify employment barriers which negatively affect designated groups. The data must provide a break-down of designated groups, highlighting the areas of under-representation (Section 19). An Employment Equity Plan must be drafted that spells out how they aim to achieve equity in the workforce. It must contain annual objectives, affirmative action methods of implementation, strategies to overcome areas where under-representation in designated groups exists and a time-frame of one to five years within which goals have to be achieved. It must show procedures used and staff responsible for monitoring and evaluating the plan and progress made to this end (Section 20).

Employers with more than 150 employees must submit an Employment Equity Report annually to the national Department of Labour. The Employment Equity Report is a public document, with predominantly number-based data. The Act states that organisational Employment Equity Plans and Annual Reports must be disclosed and consultation must be transparent. All relevant information must be made available to employees (Section 18). A summary of the Report must be included in the employer's Financial Annual Report and the Report must be tabled in Parliament by the Minister of Labour (Section 22). It must show income differentials, remuneration and benefits for all staff differentiated by designated group in their Employment Equity Report.

Of specific relevance to this study is the Act's reference to "suitably qualified", a clause that makes employment equity difficult to implement at tertiary institutions. The employer must regard a 'suitably qualified' person as someone who has one, or a combination, of the four requirements below:

- recognized qualifications
- former learning
- appropriate experience
- the ability to acquire the necessary skills within a 'reasonable time'.

The first and most obvious implication of the above for tertiary institutions is that qualifications can no longer be regarded as a minimum requirement in the selection process of academic teaching staff. The Act does not mention how a selection committee balances qualifications, prior learning, experience and the ability or capacity to acquire skills in a reasonable time, all of which can be subjective and may relate to individual needs, rather than to inherent requirements. A job applicant cannot be rejected or disqualified simply because of a lack of appropriate experience (Section 20). Portnoi (2003: 81-82) cautions that it ignores how employment objectives can be aligned with employment criteria that rely on highly specialised skills, academic, technical or administrative, which are currently not available.

The implication is that a selection committee can make an appointment based on their perception that the applicant has the potential to do the job and acquire the ability in a 'reasonable time'. There is no explanation of what constitutes a "reasonable time" or what "suitably qualified" is. The Act demands that selection committees are composed of individuals representing labour and not only employers. At tertiary institutions this means that non-academics have a say in the appointment of staff into academic teaching positions, something that the non-academics may not be qualified for.

As designated employers, tertiary institutions are required to take affirmative action measures to ensure that 'suitably qualified' persons from designated groups are granted equal employment opportunities and are represented equally in all positions of the workforce (Section 15). In other words, employers must find ways of enabling designated groups to qualify for the specific job description through training or in-house learning. The aim of these measures is to identify and remove obstacles that lead to unfair discrimination and which negatively impact on designated groups in the employment process. Institutions must take steps to increase diversity in the work environment, retain persons from the designated groups and provide these groups with the necessary training for skills development (Section 15). What constitutes 'necessary training' cannot be determined by employers alone. Decisions in this regard must be done in consultation, at all levels with employees, both designated and non-designated, with trade unions or their nominated representatives (Section 16).

Cloete, Pillay, Badat and Moja (2004: 21) state that it is difficult to deal with redress, equity and quality at the same time in tertiary education, because "it establishes difficult political and social dilemmas and choices and decisions, and raises the question of trade-offs between principles, goals and strategies".

2.5 Employment Equity and Apartheid Education

Implementing affirmative action policy, such as the Employment Equity Act, at tertiary institutions is proving to be difficult, not only because of the vagueness of the Act but also because of the socio-economic context they find themselves in, mainly because of previous discriminatory education policies. Institutions are now faced with the apartheid legacy of racially divided education that supported the dominance of white males and excluded blacks from sound academic education and technical training. This resulted in a skills deficit, particularly in the fields of science and technology (NCHE 1996: 34). The consequence is serious racial disparity in tertiary education in South Africa.

The National Commission on Higher Education (NCHE) was set up by the national Department of Education in 1996 to consider policy proposals to restructure the tertiary education sector in South Africa. Consequently, it came as no surprise when the NCHE (1996:69) reported that tertiary education in South Africa was in urgent need of reform and was seriously deficient in the distribution of learning opportunities that had disadvantaged black people and women in general, while it had protected and promoted white male dominance. Badat (2004: 2) stated that the tertiary education system prior to 1994 had been created to maintain “white and male privilege and black and female subordination in all spheres of society”. This affected tertiary institutions to varying degrees. The result was a tertiary education system “flawed by inequities, imbalances and distortions deriving from its history...”, with many strengths that need to be retained and weaknesses that must be corrected (NCHE 1996: 1).

Centuries of colonialism and oppressive policies hallmarked tertiary education in South Africa. When the white minority-led National Party took over the government in 1948, rigid and discriminatory apartheid policies provided the framework for the structure of the education system. The Bantu Education Act of 1953 excluded blacks from quality education and reinforced white hegemony. It meant that all education in South Africa was divided along racial and ethnic lines.

In the province of KwaZulu-Natal alone, three universities existed: the University College of Zululand for Zulu-speaking Africans, the University of Durban-Westville for Indians and the University of Natal for whites. In the Northern Province, the University College of the North provided for Sotho, Venda and Tsonga-speaking African people, whilst the University of Fort Hare in the Eastern Cape, already renowned for its prominent role in educating black people, was then restricted to Xhosa-speaking Africans. Before the Extension of the University Act of 1959, existing universities catered mostly for whites, but there was no legislation that prevented black people from studying at any university. Blacks could study at white universities if ministerial permission had been given and the course they wanted to study was not offered at their respective university or college. In 1978 the technikon was developed as the third component of tertiary education institutions, which left South Africa with 21 universities, 15 technikons and approximately 140 single-discipline vocational colleges in education, nursing and agriculture (NCHE 1996: 28-29).

The functional differences in universities, technikons and colleges were spelt out by the Van Wyk de Vries Commission in 1974 and the Goode Commission in 1978. Universities were to educate students for high-level professional training and carry out scientific research. Technikons were to train students in the application of knowledge for high-level career training and engage in developmental scientific research, while colleges would provide specific vocational training such as nursing, teaching and policing, and were not to do any research (NCHE 1996: 30).

[Gibbon and Kabaki (2006: 124) believe that the South African tertiary education system under apartheid did not adequately provide for the moral, social and economic needs of the nation.] There was inequitable access and opportunity for students and staff with regard to race, gender, class and geographical location. Gross discrepancies existed in attendance and participation rates of students from the different population groups and a gross imbalance of black and female staff in relation to white and male staff. The system was discriminatory and placed "a ceiling on black academic aspirations and achievements" (Gibbon and Kabaki 2006: 124).

Disparities were evident between the historically white and black tertiary institutions in terms of facilities, teaching capacity and research (NCHE 1996: 1). Morrow (2006: 263) described the historically black tertiary institutions as “under-privileged, under-resourced, inadequately staffed, limping academically and located in remote areas, far from centres of intellectual interchange, wealth, power and influence”. Disparities between the historically black and historically white tertiary institutions resulted in a “chronic mismatch between tertiary education’s output and the needs of a modernizing economy” (NCHE 1996: 2).

The consequence hereof is that previously disadvantaged tertiary institutions and/or recently merged institutions are supposed to implement employment equity policies and promote staff development in institutions in which the physical infrastructure is inadequate. Knowledge produced and distributed was “insufficiently responsive to the problems and needs of the African continent, the southern African region, or the vast numbers of poor and rural people in our society” (NCHE 1996: 2). Another consequence is that tertiary institutions were left to their own devices, without quality control and accountability. There was a lack of professional ethics and sound financial management skills. Tertiary education under apartheid was organisationally and administratively fragmented, with little or no accountability, and provided duplicated fields of study. Each institution reproduced the ethnic, racial and gender divisions that existed in the broader society. Consequently, tertiary education failed to build a “critical civil society with a culture of tolerance, public debate and accommodation of differences and competing interests”. It did not create a democratic ethos or sense of nationhood and belonging, with an endeavour to work toward the good of all South Africans (NCHE 1996: 2).

It must be stressed that, even at primary and secondary school level, the apartheid schooling system restricted entry to black students, often owing to a lack of proficiency in English, poor numeracy and conceptual skills, particularly in the field of science. For every 60 white learners who acquired a matriculation exemption with a Higher Grade pass in physical science and mathematics there was only one African learner who did the same.

This resulted in a low enrolment of black students in the areas of science, engineering and agriculture. By international standards, according to the NCHE (1996: 34), South Africa's rate of producing graduates in science, engineering and technology was low and 80% of these graduates were white.

✕ Discriminatory practices resulted in a limited access of black and women students to science, engineering, technology and commerce. This negatively affected economic and social development in South Africa (NCHE 1996: 2). By the 1980s gross inequalities existed regarding access and success for black students. For example, in 1986 enrolment for African students at technikons was 7% and for white students, 83%. Enrolments at universities were 23% African and 64% white. From the late 1980s, without policy or legislation, the most dramatic change in the tertiary education system occurred, "the dropping of racial barriers to access in all institutions" (Gibbon and Kabaki 2006: 125). Even though the enrolment figures of black students increased annually by 14% between 1986 and 1993, the student profile at tertiary institutions continued to reflect the legacy of apartheid, namely gross under-representation demographically (NCHE 1996: 32). The growth in black student numbers continued to be at historically black universities and distance learning institutions that lacked the capacity and resources to manage the needs of students who had not been adequately prepared to enter tertiary education (NCHE 1996: 33). There was also a glut of students in the humanities and social sciences (Gibbon and Kabaki 2006: 124).

The throughput rate at both technikons and universities in South Africa was lower than the normative throughput rate, which meant that South Africa was unable to produce the human resource requirements due to an unequal and ineffective education system. Gender imbalances were not as severe in the health and life sciences, but were extremely high in the fields of physical science, engineering and technology (NCHE 1996: 36).

Denying access of quality education to the majority of South Africans has led to the current problems of finding suitably qualified academic experts in the fields of engineering, sciences and technical training.

By 1994 two major problems in tertiary education faced policy-makers. Firstly, racial and gender inequities and, secondly the tertiary education system did not contribute to “the national, social and economic reconstruction in a post-apartheid South Africa” (Bunting 2006: 96). The task at hand was not only for access, equity and redress, but to find a way to make the tertiary education system produce skilled graduates for a growing economy and to provide programmes that reflect the changing needs of society (Gibbon and Kabaki 2006: 126).

2.6 Achieving Employment Equity at Tertiary Institutions

As a result of unequal apartheid tertiary education, implementing employment equity policy continues to be faced with problems such as:

- a lack of black academics, especially in the science, engineering and technical fields
- the brain drain to the public and private sectors for higher salaries
- the new managerialism that has forced institutions to be run like a businesses
- an increase in the number and diversity of students
- globalisation and international competition
- the changing nature of qualifications
- the type of graduate needed.

The general issues of social equity are entwined with employment equity at tertiary level. Portnoi (2003: 84) states that universities have two main roles which make them different from a business employer. The first is to train graduates for all types of employment, not just for the university environment. This, says Portnoi (2003: 84), makes it difficult to ‘grow your own timber’ for academia, because suitably qualified staff are needed for the private sector. The small pool of black graduates is adversely affected by the exodus to the public and private sectors for higher salaries. Portnoi (2003: 84) adds that the second role of a university is to effect social change. Since 1994, South African universities have shifted from an anti-apartheid struggle to one more aligned with democracy.

The focus of tertiary institutions' focus is now on cultivating a society in which individuals have equal rights and can compete individually and nationally in the global environment.

Hugo (1998: 17-18) warns that to acquire black academics "will be difficult because of the gross distortion under apartheid of the natural development of the small percentage of blacks who finished post-graduate studies" and although a degreed person can be trained to fill an administrative position, this does not apply to an "academic specialist". Coupled with this is the academic brain drain from tertiary institutions to the private sector for better remuneration. In other words, academic expertise is often lost when such individuals opt to take up employment in the private sector, rather than pursuing an academic career.

The 8th Commission for Equity Employment Report (2007-2008: 48) stated that the pace of change remains considerably slow. Black representation in professionally qualified positions decreased from 50% in 2003 to 41.3% in 2007 and African representation within the black group decreased by 14.9% (CEE 2007-2008: 45). Illustrating that there is also a lack of suitably qualified and highly skilled candidates for specialised areas in the business sector. In 2003 the number of reports from employers that were received and included in the CEE analysis was 3252. In 2007, 2858 were received and only 53% of the reports could be used (2007-2008: 41). Concern was raised regarding the number of Employment Equity Reports that did not comply with the Act's requirements, submitted without proper consultation or analysis. It also stated that "creating a non-discriminatory and equal society remains an on-going battle and the CEE called for "ZERO tolerance on discrimination matters and stronger penalties for the offenders" (2007-2008: iv).

Despite more black and women students, employment equity has still not been reached in academic appointments. Black and female staff are not found in all disciplines and remain under-represented in the engineering and hard science fields. Senior academic positions are still mostly dominated by white males, as is the research landscape, resulting in racially skewed scientific knowledge production (Jansen *et al.*, 2007: 160).

The tertiary education landscape throughout South Africa has been restructured, mergers took place and teacher training colleges closed down. The end result was a reduction from 306 institutions to 72, excluding nursing and agricultural colleges (Jansen *et al.*, 2007: 162). In addition, from 1988 to 1993 the growth in staff numbers in most universities and technikons did not keep pace with the increase in student numbers (NCHE 1996: 38). The change in the diverse student population, culturally, linguistically and educationally challenged the “assumptions and attitudes of academic staff” (Gibbon and Kabaki 2006: 126).

The increase in student numbers has resulted in the Department of Education insisting that tertiary institutions become financially viable. Management has been replaced by the ‘new managerialism’, with the introduction of business principles such as performance measurement are being highlighted, and increased competition among institutions for enrolment. Students are clients and Departments are cost centres. Gibbon and Kabaki (2006: 129-130) argue that institutions were financially influenced by the “uneven implementation of state policy”, where state subsidies were still linked to student enrolment, which was declining. Consequently, tertiary institutions were forced to compete for students. Tertiary institutions had to rationalise academic offerings and engage in aggressive marketing strategies. The result of such rationalisation is that contact and distance education has become blurred. It has resulted in a decline in the numbers of students in the Humanities, where modules in foreign languages, music, art and drama have been terminated because of lack of enrolment.

While the student profile had changed radically, the staff composition was faced with “resistance to change, severe shortages of blacks and women with appropriate qualifications and affirmative action competition for highly skilled blacks from government departments and business” (Gibbon and Kabaki 2006: 130-131). In some instances, academic and administrative jobs are outsourced as the quest for efficiency dominates the working environment (Jansen *et al.*, 2007: 163).

Young (CHET 2005: 25) declares that “the growing gap between policy/management intentions and academic realities has to be handled with care...this may mean reconsidering the efficacy of ‘new managerialism’ ”. Tertiary institutions are now business enterprises, changing from elitist to open access.

Globally, tertiary education has changed in the past 10 years and the effect has been felt in South Africa, where “local happenings are shaped by events occurring many miles away and *vice versa*” (Jansen *et al.*, 2007: 179). Jansen *et al.* state that as universities become less elitist, there is “greater utility, diversity and flexibility with respect to university knowledge”. Jansen *et al.* argues that all institutions respond differently to change in the external environment and that “institutional change is not a simple reflex to official policy intentions, but a complex response to both internal (institutional) and external (environmental) stimuli” (2007: 179-182).

Political change in South Africa, from white minority to black majority rule has resulted in rapid shifts in the socio-economic environment and one of the key policy issues on the first democratically elected government’s agenda was affirmative action policy. It recognised the need to “transform the new tertiary education system to serve a new social order, to meet pressing national needs and to respond to new realities and opportunities”. In addition to the internal pressure for equity in tertiary education, external pressures of globalisation, market competition, commodification of tertiary education products, public accountability and the state demand for efficiency and effectiveness simultaneously came to the fore (Cloete, Maasen, Fehnel, Moja, Gibbon and Perold 2006: 119). Gibbon and Kabaki (2006: 127) added that institutional governance structures underwent change where council and senate increased stakeholder involvement, which undermined “traditional academic authority”. This meant that academics spent a great deal of time restructuring academic programmes, in line with the National Qualifications Framework (NQF), the implementation of which is to be supervised by the South African Qualifications Authority (SAQA).

The Council for Higher Education and Transformation reported that (2005: 6) tertiary education was seen by the general public and ministries in “largely negative terms as wasteful, inefficient and incapable of meeting public needs” and that the skills shortage and high graduate unemployment rate meant that the system is not producing sufficient high level skills “in terms of type and quality” for a newly competitive global environment (CHET 2005: 1). Although institutional autonomy was confirmed in policy, it drew attention to the public accountability of the spending of national resources and the government’s assessment of such.

Private Higher Education (PHE) grew rapidly in the early post-apartheid period, regarded by some as the natural route of globalisation. At first, the White Paper on Higher Education (1997) welcomed PHE into the tertiary education situation, in the spirit of “access, democracy and reconciliation” (Jansen *et al.*, 2007: 175). Jansen *et al.* (2007: 163) contend that the emergence of private institutions created “political, policy, and legal dilemmas” and that new policy allows PHE to offer degrees and diplomas for the first time. However, while public tertiary education was floundering, PHE was flourishing. This resulted in a moratorium on private tertiary institutions and an increase of control and regulation of PHE by the state (2007: 178).

Inequitable staff profiles continue to plague tertiary institutions. In 1990, 92% of executive and administrative management staff were white and in 1992, across all universities in South Africa, women occupied 26% of senior lecturer posts, 15% were associate professors and 6% were professors (NCHE 1996: 38-39).)

Table 2.1 compares the proportion of professional and non-professional permanent staff at tertiary institutions in post-apartheid South Africa, from 1994-1999 (Subotsky, cited by Gibbon and Kabaki 2006: 132). It shows that employment equity had only marginally improved. For example, African staff members increased only by 6% over a five year period.

Table 2.1: Staff Profile at Tertiary Institutions 1994-1999.

		African	Indian	Coloured	White	Women
Professional	1994	12%	4%	4%	80%	34%
	1999	18%	6%	4%	72%	38%
Non-professional	1994	52%	6%	14%	30%	47%
	1999	52%	6%	13%	29%	51%

By 2007, seven issues continue to affect transformation in tertiary education:

- uneven growth in student enrolment
- more women than men enrolling
- more black students (and fewer white students)
- more women in university appointments
- women remain underrepresented in engineering and the hard sciences
- senior academic positions in universities are still largely white and male
- white men dominate research (Jansen, Herman, Matantjie, Morake, Pillay, Schoole and Weber 2007: 160).

The most recent tertiary institutional statistics for Higher Education Management Information Systems (HEMIS) are for 2006. They reveal that 61% of executive and administrative staff are white and 44% are female (HEMIS 2006). Cloete, Pillay, Badat and Moja declare that, although institutional leadership has progressed in transformation, in the academic and administrative staff arena “senior levels, especially at the historically white institutions, continue to be overwhelmingly white and male” (2004: 32).

Portnoi (2003: 82) indicates that the small pool of black and women continues to impede employment equity, because the apartheid education system has left these groups lacking in formal qualifications and skills in the technical and science fields. This, she argues, has resulted in the public and private sectors 'poaching' qualified blacks with salaries that cannot be met by tertiary institutions and 'to pay what it takes' to lure the best black graduates (2003: 83). Competition among these sectors is a serious concern, because most positions in tertiary institutions require qualifications that are higher than in most fields and experience is not equated with qualifications. Portnoi (2003: 83) states that the recognition of formal qualifications required at tertiary level is based on international standards. She argues that tertiary education institutions are unable to offer competitive salaries and white institutions that "generally offer higher salaries and higher stature due to their privileged position under apartheid" (2003: 83) are attracting staff from historically black institutions.

Another factor that is affecting the institutional profile is the employment of a number of foreign African lecturers, who "out-distance local black scholars in appointments and promotions", which results in resentment from local African scholars (Hugo 1998: 20-21). Institutional culture is another barrier, described by Higgins (2007: 97) as the overwhelming 'whiteness' in academia in South Africa. Hugo (1998: 22) comments that the inability to retain black academics is due to the "revolving door experience" of black academics, where the environment and culture at historically white institutions is so hostile that it drives them away. Rampele (2008: The Times online: 31 August) states that "institutional culture needs to be audited to ensure that it does not have any biases that make it difficult for non-traditional employees to perform at their best". Higgins (2007: 97) declares that it "may well be the key to the successful transformation of tertiary education in South Africa".

2.7 Conclusion

Portnoi (2003: 79) recognises that universities face “a unique set of constraints and challenges” with regard to employment equity. This includes focused legislation, policies, the academic ‘pool’ issue for recruitment, finance, rationalisation and the legacies of the different institutions in South Africa. She states that the Employment Equity Act was designed for a company or factory employer and that universities differ considerably from business organisations. Tertiary institutions have “many organizational elements such as the function, management style and product” and require high levels of specialised skills and qualifications for a majority of positions” in academic, technical and administrative areas (2003: 81). She emphasises that tertiary institutions are grappling with restructuring, legislative and policy initiatives in a rapidly changing global context, whilst many universities are financially constrained and coping with identity and/or leadership crises. They are finding it difficult to simultaneously enforce employment equity (Portnoi 2003: 82).

The NCHE (1996: 69-70) stated that there was a lack of strategic planning to achieve employment equity in tertiary education with regard to the provision of highly skilled personnel and that the potential of the human resources of blacks and women had been grossly neglected. This is rather a sweeping statement and deserves closer scrutiny. It reflects a lack of understanding of why certain policies are difficult to implement. It makes the common assumption that once legislation is passed, strategic action alone will result in successful implementation.

The system had failed to create “a national ethos of intercultural tolerance” for the common good. Despite international academic achievements, the problems of the broader southern African context were not being addressed (NCHE 1996: 69-70).

The next chapter takes a closer look at how the recently merged institution of the UKZN has addressed affirmative action and what some of their policy implementation issues are.

Chapter 3: EMPLOYMENT EQUITY AT THE UNIVERSITY OF KWAZULU-NATAL

3.1 Introduction

This chapter examines employment equity policy and its implementation at the recently merged institution of the UKZN. The University of Natal and the University of Durban-Westville historically served the white and Indian communities, respectively. The objective of this chapter is to outline how the national Employment Equity Act has been translated into UKZN's Employment Equity Policy. It describes the nature of the Employment Equity Policy, the various structures and systems that have been put in place aimed at achieving with employment equity. The chapter identifies and analyses some of the key policy implementation issues that have emerged and what some of the consequences are.

On 1 January 2004 the University of Natal and the University of Durban-Westville merged to become the University of KwaZulu-Natal. The first step regarding equity was to combine and revise the two existing employment equity policies for the new institution (UKZN 2004: 1). A consultative body was created, which consisted of the equity committees of both institutions and representation of all workers' unions. Task teams were appointed to examine draft employment equity policies and propose changes. The first UKZN Employment Policy was approved on 2 September 2004. Policies for the Prevention of Unfair Discrimination and Harassment, and Staff and Students with Disabilities were also approved in 2004.

Prior to the merger in 2004, the staff profiles at both institutions reflected the communities that they served. The University of Natal was predominantly white and the University of Durban-Westville mostly Indian. Figure 3.1 and Figure 3.2 present the support staff profile for 2004 and 2008 at the newly merged institution. It shows that, in 2004, 75% of the support staff were black and 25% white. In 2008 87% are black and 17% white.

Figure 3.1: Support Staff 2004

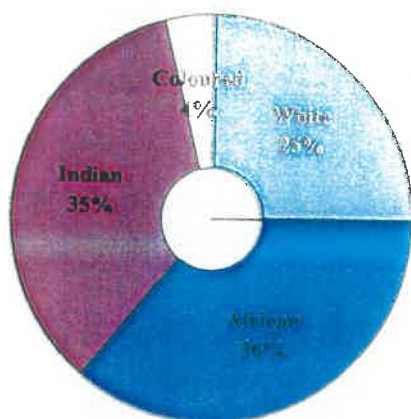


Figure 3.2: Support Staff 2008

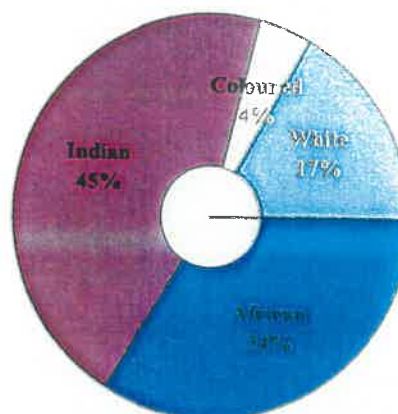


Figure 3.3 and Figure 3.4 present the academic staff for the same years. It shows that 43% of academic staff in 2004 were black and 57% white and in 2008 49% are black and 51 % white.

Figure 3.3: Academic Staff 2004



Figure 3.4: Academic Staff 2008



UKZN's Employment Equity Policy was approved by the Executive Council on 2 September 2004. It states that UKZN is committed "to becoming demographically representative in terms of race, gender, disability and redressing the inequities and imbalances of the past, in keeping with the process of transformation in South Africa".

It adds that the University “locates employment equity as an essential component within the larger commitment to transformation goals of excellence articulated in the Mission and Vision of the University” (UKZN 2007: 2). It states that it is committed to creating an enabling work and study environment for the well-being of staff and students and that it is “committed to the elimination of any form of direct or indirect unfair discrimination or harassment in any policy or practice (UKZN 2007: 4).

The Employment Equity Policy does not regard affirmative action as an isolated goal, but as a “platform from which employment equity can be practised” and which should not produce new kinds of inequity, but change to deal with transformation in the University (UKZN 2007: 5). It is a “dynamic tool” that will develop according to the changing needs of the University environment (2007: 5).

3.2 Organisational Restructuring at the University of KwaZulu-Natal

UKZN has undertaken a series of organisational restructuring processes. Figure 3.5 presents an organogram of UKZN and highlights the inclusion of newly constituted employment equity portfolios. These are further elaborated on in Figure 3.6¹. Responsibilities in the implementation structure at UKZN are clear, operate at a variety of levels and, at times, overlap.

The Vice-Chancellor is ultimately accountable for the policy’s implementation. The UKZN Executive Management are responsible for achieving employment equity in their portfolios. Senior managers, Deans and Heads of Support Divisions are responsible for developing, implementing and monitoring their respective employment equity plans, which include compliance with the goals and objectives set down in the policy. UKZN’s Employment Equity Policy states that consultative committees be established at Faculty and Divisional levels and the Staffing Committee is to have employment equity as one of its responsibilities. The Deans and Division Heads are to report annually on the progress on achieving employment equity to the respective above-mentioned committees.

¹ These organograms are presented to graphically illustrate the organisational structure of UKZN. Figure 3.6 is a graphical illustration by the author that offers more detail on the actual structures responsible for the employment equity implementation at UKZN.

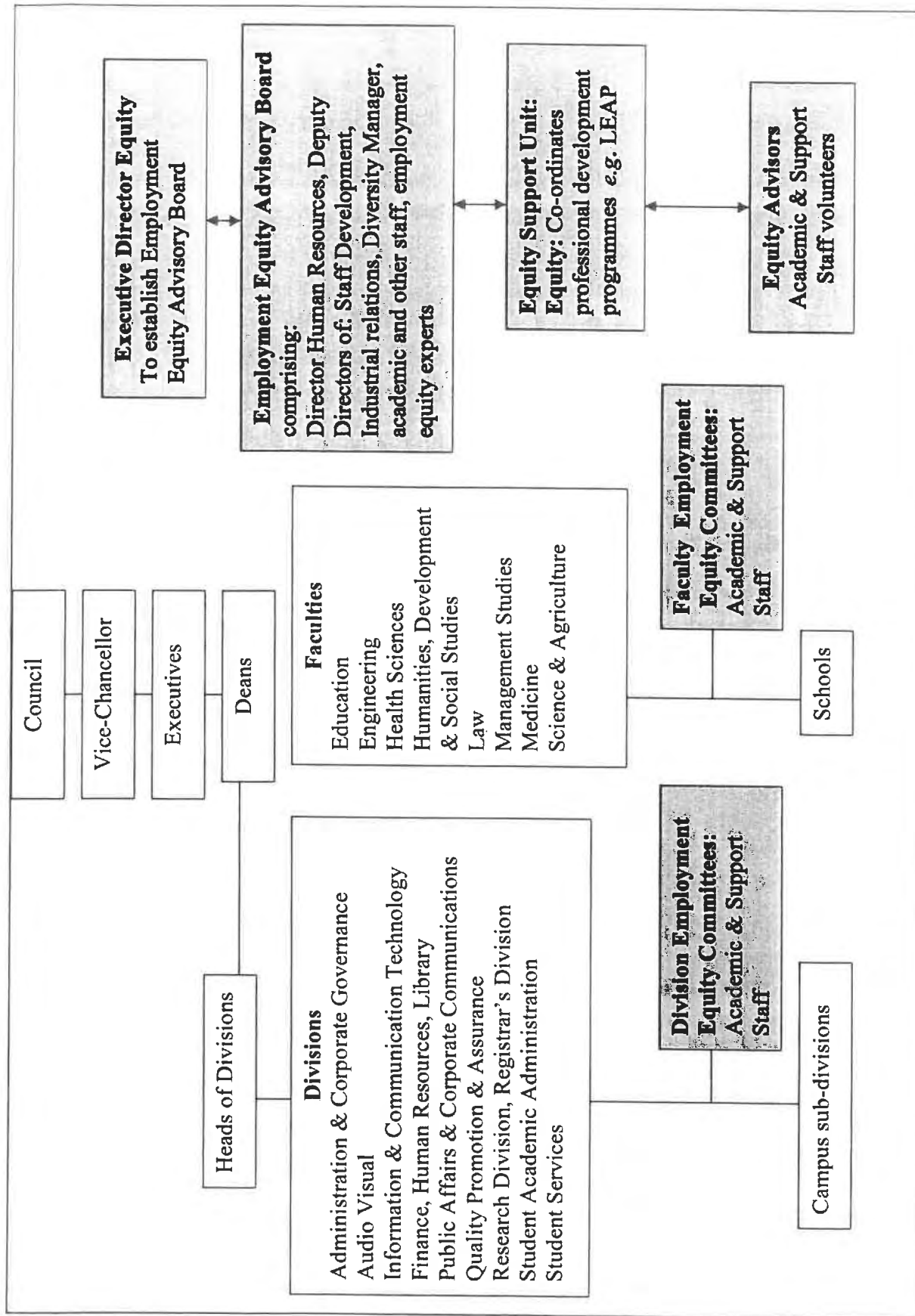


Figure 3.5: Organogram of UKZN

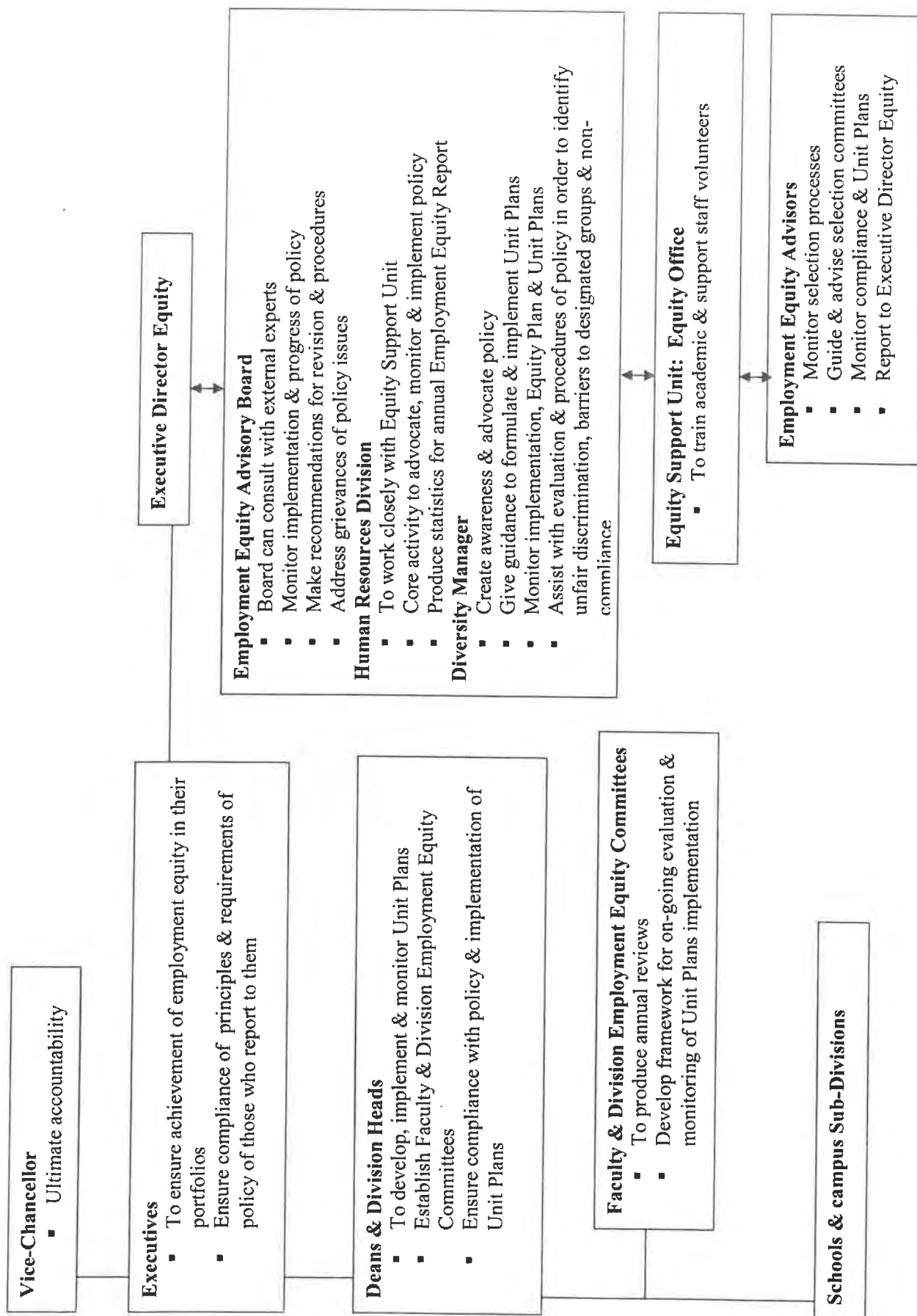


Figure 3.6: Structures and Terms of Reference for the Implementation of the Employment Equity Act at UKZN

The Executive Director of Equity's task is to establish an Employment Equity Advisory Board that is permitted to consult with external experts. It comprises the Director of Human Resources Administration, the Deputy Director, Staff Development, or equivalent, the Deputy Director, Industrial Relations, the Diversity Manager, "experts from the academic sector involved in research and teaching in the field of employment equity and other members of staff with relevant expertise" (UKZN 2007: 7). These experts are to be nominated by the University Staffing Committee. It is the Advisory Board's duty to monitor the implementation and report on progress, monitor recommendations for revision on processes and deal with grievances. All this information is to be submitted to the Staffing Committee and other relevant University committees. The Executive Director of Equity is to be a member of the Staffing Committee. Employment Equity Advisors are volunteers from academic and support staff who are to be trained by the Equity Support Unit "to monitor selection processes...to guide and advise selection committees, monitor compliance with this policy and the Unit Plans and report to the Executive Director Equity" (2007: 7). The Equity Support Unit is to maintain a list of trained Equity Advisors (UKZN 2007: 9).

At an executive level, Deans were appointed to the eight new Faculties². Two Deans were African, three Indian and three white. Three were female. The 2004 abbreviated Equity Report, written by the Executive Director of Equity, stated that "the University is ...committed to ensuring that more women and blacks will be in a position to compete for leadership positions in the future and to this end will be conducting a leadership capacity building programme in 2006" (UKZN 2004: 2). As part of their core activities, all staff in the Human Resources Division are to work with the Equity Support Unit to advocate, monitor and implement the policy. This division is also responsible for producing the statistics for the Annual Employment Equity Reports for the Department of Labour.

² Eight new faculties were created at UKZN in 2004: A Faculty of Education; Engineering; Health Sciences; Humanities, Development and Social Studies; Law; Management Studies; Medicine; and Science and Agriculture.

The Diversity Manager is to report to the Executive Director of Equity. She or he is to be granted the necessary resources, infrastructure and support to create awareness of the policy, to give guidance on the formulation and implementation of Unit Plans, to monitor the implementation, to assist with the evaluation of this policy and all other equity-related policies. The policy is to be reviewed every three years by the Executive Director of Equity and the Diversity Manager. The Human Resources Division and the Diversity Manager are to compile an annual report for the University Staffing Committee.

3.3 The Employment Equity Policy at the University of KwaZulu-Natal

According to the Employment Equity Act, all designated employers, including tertiary institutions, must generate and implement an Employment Equity Plan that spells out how they aim to achieve equity in the workforce.³ It must contain annual objectives, affirmative action methods of implementation, strategies to overcome areas in which under-representation in designated groups exists and a time frame of one to five years, within which goals should be achieved. It must show procedures used and staff responsible for monitoring and evaluating the plan and progress made to this end. The Employment Equity Plan must reflect the internal processes used to settle any dispute about interpreting or implementing the Act⁴.

All UKZN Divisional and Faculty Equity Plans (hereafter referred to as Unit Plans) were produced and approved by the Staffing Committee in July 2006 (UKZN 2006a: 55). Each Unit Plan must present a staff profile analysis. The Unit Plans include the staff profile of all levels and categories and identify where there is under-representation of the designated groups. These Unit Plans include proposals for affirmative action implementation measures, in accordance with the UKZN Employment Equity Policy, non-numerical and numeric goals and objectives within a time frame, as well as monitoring and evaluation procedures. The non-numerical goals provide measures to eliminate barriers to employment equity.

³ Employment Equity Act 55 of 1998: Section 20

⁴ Employment Equity Act 55 of 1998: Section 20

For example, career pathing will mean that a support staff position on a Grade 9, will be advertised as a Grade 11-9 (Grade 9 being the higher), to facilitate entry to those with potential and limited experience. More information regarding the type and availability of learnerships available to the University through the Sector Education and Training Authorities ⁵ (SETA) is to be sought.

The employer is responsible for collecting and analysing data on employment policies, practices, procedures and the working environment and must identify employment barriers which negatively affect designated groups⁶. This constitutes the Employment Equity Report, which is then submitted to the national Department of Labour. The Employment Equity Report is an annual report that presents a summary and analysis of the Unit Plans of the various faculties and divisions. At UKZN, the 2006 Employment Equity Report stated that the consultation process was very thorough and reflected the University community's views. However, according to some of the Unit Plans, information regarding the Employment Equity Policy did not reach all staff.

3.4 Policy Implementation Issues

A number of issues/problems have emerged in the implementation of the UKZN Employment Equity Policy:

- (i) Who is the 'designated group'?
- (ii) Recruitment and appointment procedures.
- (iii) Shortage of suitably qualified staff.
- (iv) Staff development initiatives.
- (v) Monitoring and evaluation procedures.

⁵ A skills training initiative with a financial incentive for employer learnership opportunities established by the Department of Labour.

⁶ Employment Equity Act 55 of 1998: Section 19

Definitions are broad, contradictory and often unclear, making interpretation and therefore implementation difficult. For example, the following are some of the terms that are vague, confusing or not clear:

- African
- black people
- designated group
- appointable
- equality and equal opportunity.

(i) Who is the 'designated group'?

The Employment Equity Policy specifically states that "the ethnic use of the term 'Africans' does not imply the exclusion of other South Africans in the political sense of citizenship. The use of racial terms in this document is not intended to uncritically reiterate legal classifications ascribed under apartheid, but is made necessary by the historical legacy of inequality among the racial groups mentioned below" (UKZN 2007: 2). The groups in the Employment Equity Policy are Africans, Coloureds and Indians and are generically referred to as 'black people'. 'Designated groups' "means Black people (*i.e.* Africans, Coloureds and Indians) women and people with disabilities who are natural persons and are citizens of the Republic of South Africa by birth or descent". African generally refers to someone from Africa who is black. African in the UKZN policy excludes Africans born in other parts of Africa (foreign nationals), as well as Indians, Coloureds and whites who were born in South Africa. This then contradicts the policy's initial reference to African as being racially inclusive. In other words, a common understanding of the word African is unclear. The order of the groups implies a racial ranking perhaps of those who were perceived to be previously the most disadvantaged, with women and the disabled tagged on at the end. This could mean that selection for employment should be done hierarchically. Definitions are presented without proper justification and adequate explanation.

It is also unclear whether the non-target group refers to the non-designated group, white males, or to the groups in the Unit Plan that are either adequately or over-represented and therefore not a target group. Definitions become subjective interpretations which can differ each time they are applied by selection committees, resulting in inconsistent implementation. According to an article in the Equity Dialogue, written by the Executive Director of Equity, the University does not actively solicit applications from foreign black academics, but advertisements are placed in appropriate international media, particularly for scarce skill positions.

The Employment Equity Policy states that the University is committed to the value of equality in a democratic society, where equal opportunity “requires that all individuals should be treated fairly, equally and with dignity in the workplace, in recruitment processes, in training, promotion and advancement, regardless of race, gender, or disability status.” Although some Unit Plans state that promotion is racially based and that merit is not considered, the Employment Equity Policy states that all members of staff who meet the criteria are entitled to promotion. It is not clear exactly how this fair and equal treatment can be implemented, because the terminology is vague and confusing.

(ii) Recruitment and Appointment Procedures

The Employment Equity Policy’s description of recruitment and appointment procedures have proven to be contentious, because of narrowly defined guidelines. The Health Sciences and Management Studies Faculties state in their Unit Plans that procedures of recruitment, selection and appointment are themselves barriers to implementation. For example, job applicants must be ‘appointable’. This is described as a ‘suitably qualified’ individual who meets the minimum requirements and is “likely to be successful in the post” (UKZN 2007: 2). Appointments are to be made on “individual merit”, after a “fair and transparent process” for someone who meets “the inherent requirements of the job” (2007: 10).

‘Suitably qualified’ is based on a combination of the following minimum requirements:

- formal qualifications
- prior learning
- relevant experience

This implies that, although a candidate from the designated group may not have the necessary academic qualification, they may not be excluded if she or he has the potential “to acquire, within a reasonable period of time, the ability to do the job” (2007: 12). A ‘reasonable period of time’ is not defined. It is not clear what a reasonable period of time is or what happens if the appointed individual does not acquire the ability over this period. Such criteria demand individual interpretation and may lead to inconsistent and unaccountable appointment procedures that are not linked to specific employment equity outcomes.

Appointments are based on two levels of competence: threshold competence and optimal competence. Threshold competence refers to candidates who meet the minimum requirements for the post. Optimal competence refers to a candidate who, on assessment, displays the potential to be successful. Selection indicators used to assess optimal competence are interviews, skills tests, aptitude tests and fair and valid personality tests. The Employment Equity Policy does not recommend tests that do not demonstrate fairness with “due regard to the diversity of the South African population”. In other words only personality or aptitude tests that are valid and fair can be used. It does not state who decides or how the validity or fairness of such tests is decided (UKZN 2007: 11-12).

The Employment Equity Policy states that the minimum requirements are required to be “objectively determined, objectively measurable, clear and unambiguous, fairly and consistently applied, normatively and culturally neutral” (UKZN 2007: 10). It does not provide processes for selection committees to make consistently objective decisions that ensure equality and equal opportunity.

If appointments are to be based on individual merit rather than on “competencies related to negative stereotypical perspectives”(UKZN 2007: 10), there are no steps given to assess the extent to which such bias may or may not have affected the selection panel, or how this factor can be overcome. Similarly, minimum requirements that are “normatively and culturally neutral” are not explained and are open to individual cultural interpretation (UKZN 2007: 11). In reality, it is difficult to measure all the above subtle interpretations equally when appointing candidates.

The Employment Equity Policy states that the selection committee must, ‘wherever possible’, take into account the demographics and representivity of each unit. Half of the committee must be from the designated group, reflect race and gender balance and not be dominated by one race. The Recruitment and Selection Policy and Selection Procedures (UKZN 2005: 23) state that the Chair of the panel must ensure that all members of the selection committee must be familiar with the Recruitment and Selection Procedures, the Employment Equity Act, the UKZN Employment Equity Policy and the minimum requirements of the job. An Equity Advisor and member of the Human Resources Administration are to form part of each panel. As previously stated, the Employment Equity Act and the Employment Equity Policy definitions lack clarity and require substantial scrutiny, to be understood and implemented.

Equity Advisors are voluntary staff, not experienced in Human Resource matters, and trained by the Equity Support Unit (ESU). They are tasked with monitoring selection processes, guiding and advising selection committees, monitoring policy compliance and Unit Plans and reporting to the Executive Director of Equity. The Employment Equity Policy does not lay down guidelines for the processes to be followed for the Equity Advisors to perform these duties, that are crucial to the monitoring and evaluating of effective implementation at UKZN. There is no indication of the level and time period of the training that these voluntary Equity Advisors undergo. It is not clear if the training provides the necessary expertise to undertake the critical aspects of effective and efficient monitoring of selection processes and compliance with the Employment Equity Policy.

The critical and time-consuming task of giving professional advice regarding the monitoring and guidance of selection processes, as well as compliance with the Employment Equity Policy, is given to the Equity Advisors who are voluntary staff members with unspecified training. This is a daunting undertaking for a voluntary position and the implementation of the Employment Equity Policy relies heavily on them.

(iii) Shortage of suitably qualified staff

One of the factors that make appointments controversial and problematic is that there is a real shortage of academically qualified applicants. This presents a serious obstacle to recruitment and retention of staff. There is a small pool of candidates with scarce skills qualifications and other specialised fields. Several Unit Plans mention the following as barriers to implementing the Employment Equity Policy:

- scarcity of candidates from designated groups in the areas of science, law, engineering and humanities. Technicians are also in short supply.
- a lack of post graduate qualifications
- mandatory Masters degrees for lecturer positions and mandatory doctorates for senior lecturers and higher posts
- retirement at 60 years of age.

If all applicants from the designated groups had the necessary academic qualifications, appointments for employment equity would be straight-forward. However, it has been acknowledged that these skills are limited. The result is that compromises need to be reached. As an indication of the small pool of highly qualified staff, the UKZN Institutional Audit Portfolio (2008) states that only 42% of academic staff have doctorates. Of the remainder, only 16% are registered for doctoral degrees. In addition to the lack of a suitably qualified pool of expertise is that those who are qualified opt to take up employment in the public and private sectors. Several Unit Plans identify inadequate remuneration when compared to other tertiary institutions. The result is that the university has not been able to retain suitably qualified staff.

Many staff are attracted to the public and private sectors, where salaries are much higher. This makes the retention of qualified staff difficult. General trends in the labour market of skills shortage, and competition from the government and private sector for those who are highly skilled, are affecting endeavours to reach better demographic representation (UKZN 2006: 1). The report adds that a clash of internal policy and employment equity exists where existing support staff are given consideration and preference over outside candidates because there is no promotion policy for them. The low number of black applicants and qualified Africans in specific areas, such as law, education, science and agriculture has resulted in the appointment of non-targeted groups (Indian and white). This shortage results in emphasis on the Employment Equity Policy's definition of what constitutes 'suitably qualified'.

Retirement at 60 and the rigorous superannuation system has resulted in highly skilled senior academics leaving and moving to other tertiary institutions, where the retirement age is 65. The doctoral requirement for all senior lecturers is contentious, because it has resulted in the exclusion of potentially good candidates for academic and headship positions. African academic staff at lecturer and senior lecturer level and staff at very senior support levels are also leaving for higher position at other institutions. The 2008 UKZN Audit Portfolio (2008: 250) regards this loss of senior staff as an area for concern.

(iv) Staff Development Initiatives

UKZN has established a number of programmes:

- Leadership and Equity Advancement Programme (LEAP) is aimed at academic development and mentoring for new academics in the designated groups.
- Support Staff Internship Programme is to provide opportunities for experiential learning in specific administration areas such as Finance and Public Relations.
- Lecturing Relief Programme provides academics with staff replacement to continue lecturing whilst they pursue research projects or go on sabbatical leave.

- Postgraduate Scholarship Programme for aspiring academics aims to nurture and mentor promising young academics to steer them into postgraduate studies.
- Women in Research and Leadership Leverage (WILL) offers skills-development and hands-on research to enhance leadership capacity in academia.
- Women in Science and Agriculture Programme (WOSA) offers scholarships for academic achievement to promote and encourage further study.
- Equity and diversity workshops are to be run by Staff Development and Training, to provide opportunities for debate and a better understanding of the cultural diversity at UKZN.

These programmes are a response to the shortage of suitably qualified candidates. However, the UKZN Audit Portfolio (2008: 245) indicates that only LEAP, WILL and WOSA are currently functional. A few Unit Plans have had success with affirmative action mechanisms, where four African females, six African males, (one with a disability) and one Indian male with a disability have completed their Learnership Programme and are now employed in the division in which they completed their training.

Various interventions for training and upliftment programmes have been introduced. According to the UKZN Audit Portfolio (2008: 255), staff development at UKZN is not sufficiently prioritised, is under-resourced and does not cater for all the needs of the academic and support staff.

(v) Monitoring and Evaluation Procedures

Unit Plans are instructed to avoid introducing quotas, tokenism and the employment of under-qualified persons based on race, gender or disability (UKZN 2007: 10). However, UKZN, and tertiary institutions in general, depend on regional and national statistics to determine their staff profile of under-representation. The Unit Plans are statistical reports that establish numerical goals with a hierarchy of preference to correct the under-representation of staff in the designated groups.

If under-representation in staff profiles of Unit Plans is based on statistics from the Census 2001, or the Labour Force Survey of 2003, then numerical goals are in fact quotas. Unit Plans follow a hierarchy of preference in promotion of the designated groups, in accordance with their numerical goals.

The result again, is that the numerical data used translates into quotas for all categories and levels of employment for the under-representation of the designated groups. In other words, tertiary institutions are assessed on their implementation of employment equity based on the number of positions that have been filled by designated groups.

The monitoring and implementation section of the Employment Equity Policy states that “compliance will be monitored at multiple levels”⁷. Achieving equity objectives is part of key performance areas for the Executive, Deans, Divisional Heads, Heads of Schools and other senior managers. Figure 3.6 illustrates the structures that are responsible for the monitoring and evaluating of, and for ensuring compliance with, of the Employment Equity Policy. Responsibilities in the implementation structure operate at a variety of levels, and at times overlap. The Employment Equity Policy at UKZN is a top-down operation, in which the University Executive sends decisions and courses of action to officials in lower positions to implement. It relies heavily on Equity Advisors, who are voluntary staff, not experienced in Human Resource matters, and trained by the ESU. Equity Advisors are tasked with monitoring selection processes, guiding and advising selection committees, monitoring policy compliance and Unit Plans and reporting to the Executive Director of Equity. It does not lay down guidelines for the processes to be followed for the Equity Advisors to perform these duties that are crucial to the monitoring and evaluating of effective implementation at UKZN.

⁷ UKZN Employment Equity Policy 2007: 9

3.5 Staff Attitudes

The UKZN Institutional Climate Survey (2004a: 5) was administered to guide strategy and planning and investigate the work environment. It focused on the following issues: fairness, rewards and recognition, collegiality, participation, communication, organisational climate, workforce diversity and inclusion, staff development and training and merger-related problems. Only 797 staff members responded from a population of 5579. Although the sample was small, the responses were similar and raised a number of concerns.

Some of the significant factors are discussed below. Only 22% of respondents felt that “open and regular communication exists”, 50% agreed that important decisions filter down to staff members and 45% indicated that there was open sharing of important information that affected staff (2004a: 25-26). In other words, the Institutional Climate Survey illustrates that communication was largely inadequate.

The Institutional Climate Survey (2004a: 5-7) found that 72 % of the staff felt that they were not treated fairly on the basis of what they do, but on who they were and who they knew. More than 70% felt they were not adequately remunerated and both academic and support staff felt that those who deserved promotion did not usually get it. Although there seems to be a generally collegial atmosphere, there is a perceived lack of co-operation amongst the five campuses. The workforce diversity and inclusivity reflected that treatment was not fair and that it depended on which institution a person came from before the merger.

More than 40% experienced discrimination in the area of age, race and social class, 67% sexual harassment, 66% sexual orientation and 41% gender discrimination. Issues that were problematic prior to the merger remain so at the University of Durban-Westville (UDW). Alcohol abuse, discrimination against foreigners, marginalisation of black and white staff, reverse discrimination against whites, bullying, over-politicised climate and a “glass ceiling” for women (2004a: 6).

The overall organisational climate appears positive, with 70% hopeful about the future. When disaggregated by race, black respondents still experience racism, neglect of other languages and marginalisation (2004a: 7). Staff development and training appeared to be an area that was neglected and 44% lacked assistance from line managers. Staff induction was inadequate and job appraisal was irregular. The UKZN Audit Portfolio concurs with these findings adding that the provision of staff development is inadequate and under-resourced (2008: 255).

3.6 Conclusion

The Employment Equity Plans stipulate how equity is to be achieved in the workforce. They contain annual objectives, affirmative action methods of implementation, strategies to overcome areas where under-representation in designated groups exists and a time frame within which goals can be achieved. They indicate procedures, staff responsible for monitoring and evaluating the Unit Plans and progress made. They reflect the internal processes used to settle any dispute about interpreting or implementing the Act. The data on employment policies, practices, procedures and the working environment have been collected and analysed. Employment barriers which negatively affect designated groups continue to be identified. Despite the lack of guidelines on these processes, the University has produced the numerical data and the analysis of the staff profile that reflects under-representation. Once again, the emphasis is on number-based data. In general, the annual Employment Equity Reports tend to provide numbers because it is easier to report this way. Monitoring and evaluation of implementation should show evidence of the development initiatives and how they contribute to achieving the objectives laid down in the UKZN Employment Equity Policy. Few Unit Plans have done this.

The Human Resources Division is responsible for monitoring and evaluating the policy. The Employment Equity Policy at UKZN is a top-down operation, in which the University Executive sends decisions and courses of action to officials in lower positions to implement. Parsons' and Sabatier's implementation theory, for example, argues that the more layers there are in the implementation process the more difficult it is for effective implementation.

Equity Advisors who are trained volunteers are at the bottom of the implementation structures, but they have the tasks that are crucial to the monitoring and evaluation of effective implementation. There are challenges with previous norms of professional requirements and previous experience, where previous experience is an obstacle to designated groups (UKZN 2006: 2). In 2006 some changes in specific areas were reported: a 3% increase in African Associate Professors, a 5% increase in African academics and an increase of 8% in Human Resources.

There was no change in staff profile of the University as a whole (2006: 54). On 8 August 2008 the Vice-Chancellor of UKZN, Professor M.W. Makgoba, announced that "for the first time, the majority of academics (50.3%) at UKZN are Black". Twenty percent African, 28.3% Indian and 2.4% Coloured). "Of the academic staff, 43% are female and 57% male...truly remarkable for a University in today's transforming South Africa" (Makgoba 2008).

Statistics alone are limited and qualitative data is needed to look into the quality, sustainability and expertise generated, to get a better understanding of the consequences of the implementation of the Employment Equity Policy. The UKZN Audit Portfolio (2008: 247) states that vacant posts at School level are difficult to fill, partly due to budget austerities, but also because of a national shortage of skills in particular disciplines. The situation is more serious at senior levels.

The more important focus of employment equity policy implementation should be on what tertiary institutions are doing to create suitably qualified staff. Better or higher numbers do not mean that employment equity has been achieved. Tertiary institutions can be powerful agents for achieving equity, in general. An environment must be created in which equality and equal opportunity are put into practice to overcome the disadvantages of black South Africans, who were previously denied, and had restricted, opportunities (UKZN 2007: 4).

CHAPTER 4: FINDINGS AND ANALYSIS

Chapter 1 raised some general factors of public policy that influence policy implementation. This study concludes by focusing on four factors that have proven to be significant in analysing some of the issues associated with the implementation of the Employment Equity Policy at UKZN.

- The importance of having a clear policy document in place.
- The need to support policy with relevant structures and systems for implementation.
- The significance of creating an enabling environment.
- The need for monitoring and evaluation.

Firstly, the case study has shown that organisations must have a clear policy document in place. Chapter 1 emphasised that policies should have specific goals and objectives. Definitions and the delineation of functions and responsibilities should be clear. Affirmative action policies, such as employment equity, should have clearly defined target groups. Policies should also be elaborated upon with guidelines and procedures for implementation.

UKZN drafted and adopted a comprehensive affirmative action policy for the work environment at the university, namely the Employment Equity Policy in 2004. Extensive consultation and communication was carried out in the drafting of the policy. However, the criticism is that, despite its revision in May 2007, there remains some confusion on the terms of reference and definitions used in the UKZN Employment Equity Policy document. Faculties and Support Service Divisions are finding it difficult to determine who constitutes the 'target group', and whether the selection process must rank applicants according to race, nationality and/or gender. In other words, does a white female take precedence over an Indian male applicant? Confusion also remains on what exactly constitutes a 'suitably qualified' and 'appointable' candidate.

Internal Equity Reports illustrate that this is proving to be difficult especially when it comes to the recruitment and appointment of academic staff. Prior to the employment equity policy, 'appointable' referred to someone who had the necessary academic qualifications.

Secondly, Chapter 1 argued that the necessary organisational structures and systems must be put in place for policy to be implemented. Such structures and systems should be strategically positioned and with power and autonomy. There should be clear lines of authority and specific divisions of roles and responsibilities.

Immediately after the merger, UKZN underwent a widespread organisational restructuring process. In addition, comprehensive new organisational structures and systems were put in place for implementing its Employment Equity policy. On paper, the structures for employment equity at UKZN are clear and in place, situated high up on the institutional organogram. An Executive Directorship was established tasked with Employment Equity. Implementation responsibilities operate at different levels, across the Executive and other managerial positions. The structures operate across all five campuses, which include the academic sectors, Faculties and Schools, as well as the Support Divisions. It could be argued that the vast number of structures and systems in place add numerous layers to the operational system, thereby complicating the implementation process. Despite the structures for employment equity being situated high up on the institutional organogram, its implementation by selection committees relies mostly on the advice of the Equity Advisors who are only trained staff volunteers.

Thirdly, Chapter 1 argued that successful policy implementation depends on the creation of an enabling environment. In this respect policy decisions should be accompanied by human resources, financial resources, capacity, institutional and/or organisational support so that it can be physically implemented. A lack of 'suitably qualified' or 'appointable staff' staff was identified as a key hindrance to employment equity at UKZN. In response, a series of staff development programmes have been put in place.

The Unit Plans indicate that a number of staff development programmes have been initiated and there has been some achievement in transformation through Learnership programmes. However, only three are fully functional. According to the Unit Plans, staff development programmes lack financial resources to sustain programmes. If the key hindrance to employment equity at UKZN is the lack of suitably qualified staff, then staff development programmes should be institutionally better supported with adequate resources and capacity.

Fourthly, Chapter 1 emphasised the need for monitoring and evaluation. It has to be regular, consistent, all-inclusive, across the board, independent and objective. The objective of regular monitoring and evaluation is to be informed about the implementation process and if progress is being made. At UKZN, Academic and Support Divisions submit campus-wide Unit Plans annually. The Academic and Support Divisions' Unit Plans document the different monitoring and evaluation systems in place. UKZN submits Employment Equity Reports annually to the national Department of Labour. In this regard, the submission of reports is regular, consistent and all-inclusive. However, most of the reports are produced in-house and are therefore not necessarily independent or objective. The reports offer quantitative data, in the form of numerical goals and quotas. This is not accompanied by qualitative analysis. Qualitative data would offer more insight on whether, for example, the target group considers the policy successful. Qualitative data is conducive to ascertain whether or not the policy is reaching its objectives and whether or not resources are being used appropriately. A qualitative survey of the various staff development programmes, for example, would contribute to assessing such programmes. Reporting should not be limited to numerical data, but must be supported by qualitative data.

Conclusion

For the most part, UKZN has demonstrated the political will and commitment to achieve employment equity. However, the case-study has found genuine limitations in the implementation process, some of which were consequences that were unintended or not anticipated, for example, the lack or the loss of qualified staff to the private sector.

Page 66
Confidential

A shortage of candidates with suitable qualifications for the skilled and specialised fields continues to impede the employment equity process in tertiary institutions. This reiterates the need for staff development. High salaries in the public and private sector lure those with suitable academic qualifications. The case study has shown that achieving employment equity at tertiary institutions in South Africa faces unique constraints and implementation challenges, which are different from the private business sector. Implementing employment equity policy, teaching or training black graduates that will be suitably qualified for the private sector, depends on being able to employ suitably qualified black academics. Such occurrences re-enforce the argument that the national Employment Equity Act is ignorant of the problems tertiary institutions face in implementing affirmative action policies of this kind.

Despite the UKZN Employment Equity Policy operationalising all requirements of the Act, the task is proving to be difficult and has resulted in unintended consequences that need to be dealt with. The UKZN Employment Equity Policy complies with the Employment Equity Act's requirements, but challenges have emerged regarding the context of implementation and organisational culture, which may be having more impact on implementation than expected. Kezar, Glenn, Lester and Nakamoto (2008: 154) caution that we do not yet clearly comprehend "organisational and institutional barriers that prevent implementation of these novel and important ideas to help create greater racial equity". Each institution is unique and existing contextual conditions may need to be expanded upon, with qualitative data methods, in order to identify the strengths and weaknesses of mechanisms that enable and inhibit implementation. If a better understanding of contextual factors in the environment is developed, it could help in successfully implementing an intervention.

Implementing affirmative action policies, such as employment equity, not only requires human, technical and financial resources but other requirements such as leadership, motivation, commitment and other intangible attributes. These attributes can only be determined if monitoring and evaluation systems allow for such reflection.

Parsons (1995: 548) stresses that quantification has its limits in the monitoring and evaluation process. Although quantitative data can satisfy those who have requested it, it is unsatisfactory for those who deliver and work with the monitoring and evaluation of a programme.

Portnoi (2007: 79) states that the Employment Equity Act “is one of the most significant and contested pieces of legislation passed in the newly democratic South Africa”. Opinions on, and the understanding of, affirmative action are varied and emotional. Ackerman, in Kaplan (1994: 241-242), declares that “the concept of affirmative action is Utopian and will involve large-scale social engineering, with all the attendant dangers of unpredictability and lack of control”. Implementing employment equity at UKZN has proven to be highly complex and, in some areas remains contested. The implementation process of any policy is difficult. Policies on affirmative action, such as the Employment Equity Policy of UKZN, have proved to be no exception..

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