

‘Although women represent more than half of the world population, there is no country in which women represent half, or even close to half of the corporate managers.’ (F Mazibuko ‘Women in Academic Leadership in South Africa: Conventional Executive or Agents of Empowerment?’)

**IS AFFIRMATIVE ACTION AN ENABLER OF THE ADVANCEMENT OF THE
RIGHT TO GENDER EQUALITY IN THE SOUTH AFRICAN WORKPLACE
POST-1994?
A CASE STUDY: TAKING A GLANCE INTO SOUTH AFRICAN ACADEMIA**

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Masters in International Human Rights Exchange in the Faculty of Humanities at the
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Declaration

I, **Busisiwe Octavia Ntsele** student no: **768807** am a student registered for the Degree of **Masters in International Human Rights Exchange** in the academic years **2013/2014**.

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Abstract

South Africa is said to display one of the most progressive constitutions in the world.¹ The Right to Equality is the backbone of the fundamental law of the country and yet gender equality in the workplace is still contested to be a myth for the average South African woman. This is a qualitative desktop research study that takes an interdisciplinary approach in investigating if the various affirmative action measures and equity policies post-1994 have in reality enabled the advancement of women's equality in academia. It is now two decades into the new democracy post-1994. Therefore, South Africa should be in a position to look back and take stock of whether or not gender equality still remains a myth in academia.

Drawing from various salient research, even global literature stipulates that although much has been done to combat gender inequality so little progress has been made.² Regardless of how high one stands in the world and looks out into the workplace horizon, specifically in academia, women still have relatively little decision-making power in organisations.³ In the South African context, it is evident that the most progressive legal policies and affirmative action measures (transformation processes) exist in theory but not so much in practice.

Nonetheless, the gap lies in the implementation processes, which come at a high cost for universities.⁴ In that, for them to invest in the development of female academics they have to adopt the implementation of strategies that address the needs of female academics holistically.⁵ However, there are sociological ills, which cannot be divorced from gender stereotyping, cultural norms, attitudes and behaviours that perpetuate gender inequalities. More so because these facets are mostly interwoven in patriarchy and at times are practised subconsciously, as societal norms dictate that men are superior to women.⁶ As illustrated in the iceberg theory, this highlights that gender inequality is perpetuated mostly by the hidden cultures and practices within our society.⁷ Thus, more often than not affirmative action policies tend to take a back seat when it comes to addressing issues of gender inequality in the workplace.

Key terms: affirmative action, human rights, gender equality, academia, women, legal perspectives, sociological perspectives, transformation and interdisciplinary approach

⁸ Constitution of the Republic of South Africa, 1996

⁹ M McGregor 'Affirmative Action: A Right or Defense?' (2003) 1 SALJ 64, 66.

¹⁰ Ibid 290.

¹¹ R Smith 'Work - family Spill Over Revisited, is there hope for Marital Happiness in Dual-earner Families?' (2000) 66 (4) SA 603,620.

¹² E Hemingway 'The Iceberg Theory' <http://www.culture@work.com/kuber.html>

¹³ M Evans 'Gender in an Age of Austerity' (2013) 22(5) WHR 838, 840.

¹⁴ E Hemingway 'The Iceberg Theory' <http://www.culture@work.com/kuber.html>.

Dedication

A special tribute is dedicated to my late Aunt Esther Themba Nxumalo who will never see me graduate, but contributed profoundly towards my school of faith. She taught me that I can do all things through Christ who strengthens me and indeed God's grace has carried me throughout the most challenging parts of this journey and this milestone is a testimony that everything is possible with God by my side. I thank God every day for Ma-G.

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Structure of the Report

Chapter One is an introduction of the research and addresses the aims and objectives of the study, rationale and the background of affirmative action.

Chapter Two highlights the literature review and theory used in three different silos of the legal, political and social arena and also illustrates the need for an interdisciplinary approach. For the purposes of this research interdisciplinary means that gender should be tackled from all aspects of the legal, political and social spheres of life and in all disciplines.

Chapter Three explains the research design, methodology and analysis.

Chapter Four examines the limitations of the law and challenges facing women in academia and analyses all the hurdles that stand as barriers to gender equality in academia.

Chapter Five discusses the interpretation of results and draws conclusions and recommendations.

Chapter One

Overview

The aim of this chapter is to introduce the quintessence of the argument within this paper and the significance of the need to encourage policy-makers to understand the implications of gender inequality. This is important for them to then act accordingly to directly or indirectly influence policy. As well as to take into account that gender equality is a human right embodied within the fundamental law of the country.⁸ This right is therefore enshrined in the Bill of Rights, which is meant to be the cornerstone of attaining affirmative action measures in South Africa as it pronounces everyone to have rights, including female academics, in the workplace. Further the chapter highlights the need for all related practitioners to engage an interdisciplinary approach that recognises the multifaceted nature of human rights, one that, requires an integrated framework, which considers the interaction of the legal, sociological and political perspectives for better advancement of gender equality in the workplace.

1.1 Introduction

Although the term gender is generally used to refer to both men and women, this paper dwells mostly on challenges faced by women in the workplace post-1994 with specific focus on academia as an organisation. Gender in this paper is contextualised from the perspective of various scholars who have defined it as a ‘fluid social category’, one which is always being negotiated anew, thus making it more relational rather than essential and more structural rather than personal.⁹ Therefore, gender changes from society to society with regard to time and space. Hence it is a social construct that is being developed over time with relevance to that society.

At this point in South African history it has become questionable if gendering is still relevant or acts as a divide and further stands in the way of designated groups achieving equality.¹⁰ However, it is not a choice if one wants to be male or female, but the structures in society

¹⁴ Constitution of the Republic of South Africa, 1996

¹⁶ F Marx ‘The Gender Division of Labour in Two-earner Marriages: Dimensions of Variability and Change’ (1998) 12 *JOFI* 158, 180.

¹⁷ F Mazibuko ‘Women in Academic Leadership in South Africa: Conventional Executive or Agents of Empowerment?’ (2006) 13(1) *SACHED* 106, 123.

dictate what it is to be male and female by giving roles and cultural norms in a way that inevitably constructs a person's gender.¹¹

For instance, when a girl is born she is dressed in pink because society dictates that, but as time goes by society is beginning to accept that even boys wear pink.¹² As soon as girls mature they are being prepared to do house chores; however, things have changed because women are no longer just housewives. In our days, women have moved from the private realm to the public realm through seeking employment; hence it is becoming the norm also to teach boys housework, thus illustrating that gender is indeed a social construct.¹³

Post-1994, past policies and South African laws deliberately favoured males, both in the public and private spheres.¹⁴ This created inequality of power between men and women, which inevitably led to unequal sharing of powers and resources such as time, information, education and income.¹⁵ Hence present-day South Africa is trying hard to transform women's status quo as mandated by the Constitution to promote all rights of citizens irrespective of gender.¹⁶ This transformation yielded the adoption of new policies and strategies such as gender equity and affirmative action measures, which essentially were meant to be the vehicle that enables women to deconstruct gender whilst advancing in the workplace. Therefore, it has become structural to endorse principles of equality and affirmative action after the adoption of the South African Constitution.¹⁷ Thus gender equality is not a personal choice to be adopted by the workplace, but mandatory in practice and mandated by the supreme law of the state.¹⁸

This brought women's issues to the fore and the roles of women have evolved since pre-1994, which was a time when women suffered immense exclusion in the workplace.¹⁹ For instance, a gender policy framework was established to ensure that there were programmes targeting women's inclusion in decision-making processes. However, 20 years post-1994,

¹¹ M Evans 'Gender in an Age of Austerity' (2013) 22(5) *WHR* 838, 840.

¹² *Ibid* 290.

¹³ M McGregor 'Affirmative Action: A Right or Defense?' (2003) 1 *SALJ* 64, 66.

¹⁴ F Mazibuko 'Women in Academic Leadership in South Africa: Conventional Executive or Agents of Empowerment?' (2006) 13(1) *SACHED* 106, 123.

¹⁵ B Mathur-Helm 'Equal Opportunity and Affirmative Action for South African Women: A Benefit or Barrier?' (2005) 20 *Emerald* 506.

¹⁶ *Ibid* 290.

¹⁷ Constitution of the Republic of South Africa

¹⁸ Mathur-Helm (note 15 above) 290.

¹⁹ S Smith 'Affirmative Action under the new Constitution' (1995) 2 *SAJHR* 86.

women are said to constitute the largest numbers in the workplace within most sectors.²⁰ However, in the academic space these women stand highly unrepresented in leadership positions.²¹

Despite the social policies of universities such as Kwazulu-Natal and the Witwatersrand, which commit to adopt and effectively enhance gender and equity promotion programmes, universities still face challenges when it comes to visibility and leadership of women in academia.²² Statistics indicate that the average number of women in senior management are about 24% across all institutions of higher learning.²³ Hence deliberate political commitment expressed in these institution's policies is not enough without enforced implementation and follow-ups with penalties put in place for lack of observing these policies.

When dealing with human rights violations, the Constitution calls for affirmative action measures as a redress to all vulnerable groups.²⁴ Therefore, women should ideally be protected against discrimination. However, throughout the past 20 years of democracy South Africa has vastly concentrated on the progressive laws to deal with issues of gender equality whilst ignoring the fact that the effectiveness of legislation is mainly dependent on its execution and implementation.²⁵ This means much attention was given to ensuring that the laws are of an international standard whilst taking for granted how those laws are implemented as an opportunity to close the gap in achieving gender equality.

This factor has in turn been the greatest challenge after apartheid because the law in itself seldom addresses monitoring and evaluation of these laws and policies.²⁶ For instance, whether organisations are enforcing these laws is questionable but they still have them as organisational policy. However, little is said in literature with regard to underlying causes and effects of not implementing such laws.²⁷

²⁰ F Mazibuko 'Women in Academic Leadership in South Africa: Conventional Executive or Agents of Empowerment?' (2006) 13(1) *SACHED* 106, 123.

²¹ B Mathur-Helm 'Equal Opportunity and Affirmative Action for South African Women: A Benefit or Barrier?' (2005) 20 *Emerald* 506.

²² *Ibid* 290.

²³ Statistics South Africa Report, 2003.

²⁴ Constitution of the Republic of South Africa

²⁵ A Crump 'The Nature and Status of Women' (1986) 14 *SAFRI* 38.

²⁶ Mathur-Helm (note 21 above) 290.

²⁷ Crump (note 25 above) 290.

It is against this background that this research study highlights and engages with the limitations of the law and further acknowledges that culture, among other facets, plays a major role in influencing the attainment of gender equality. The objective is to emphasise the need for legal approaches to affirmative action to be thoroughly reviewed, particularly in relation to initiatives to address and effectively implement programmes that tackle the issue of gender inequality in the South African workplace; irrespective of the idea that culture is said to be the hardest variable to alter.²⁸

In lieu of this, the fight against gender inequality therefore requires an interdisciplinary approach both in research and practice because even though South Africa's new democracy promotes gender equality the reality on the ground is that it is taking too long for female academics to destroy the glass ceiling. Academia has embraced these constitutional agreements in theory, but implements at a very slow pace. Hence it appears that South Africa is said to be still struggling to balance the gender equation as reflected by the previously highlighted statistics of female academics holding high leadership positions.²⁹

Having engaged with various studies one could assume that having good gender equality laws and affirmative action policies do not translate to equality.³⁰ This is evident when looking at the case study of the South African academia.³¹ Substantial research points to greater evidence that the daily lives of women within this context has not been greatly transformed because the patriarchal status quo remains relatively unchanged.³² This means that cultural norms in academia still favour males despite affirmative action and gender equality measures that came into play post-1994. By broadly highlighting that gender rights still form part of human rights, it should always be taken into consideration that the workplace does not operate in a vacuum, but is greatly influenced by both sociological and political contexts. However this also requires contextualisation within South Africa's background of fighting against human rights violations pre-1994.

²⁸ F Mazibuko 'Women in Academic Leadership in South Africa: Conventional Executive or Agents of Empowerment?' (2006) 13(1) *SACHED* 106, 123.

²⁹ *Ibid* 290.

³⁰ B Mathur-Helm 'Equal Opportunity and Affirmative Action for South African Women: A Benefit or Barrier?' (2005) 20 *Emerald* 506.

³¹ *Ibid* 290.

³² Mazibuko (note 28 above) 290.

It is evident that even though women have won the war legally and in theory, 20 years post-1994 they are still fighting sociological and political battles. Until these contributing factors are considered in practice, gender equality will constantly remain a myth and an achievement in theory. Milestones have been met but greater challenges still lie ahead and gender must be given priority, as it affects not just compliance but sociological, political and economic spaces of the country.

1.2 Aims and Objectives

This paper will cast light on the protections put in place to advance the rights of women by looking specifically at gender equality in academia. By so doing, the study will try to ascertain what the gender barriers are that have stunted the advancement to gender equality. Further, the study will try to ascertain whether or not affirmative action and equality measures can be the advocacy vehicle to enable the advancement of female academics in the South African workplace post-1994.

1.3 Rationale

Women began entering the workplace in huge numbers post-1994. It became salient to look at the gains 20 years later after the introduction of affirmative action and equality provisions. Many studies on affirmative action have been conducted, but very seldom have they focused specifically on an interdisciplinary approach as to how the legal backing of affirmative action when applied in integration, as opposed to silos, will ensure the actual implementation of transformation initiatives to advance female academics in the workplace.

This research engages with the concept of affirmative action in relation to the advancement of gender equality specifically within academia as an organisation. Universities are generally fast growing in employing women even though they are still under represented in leadership positions, such as Heads of School and Faculty Deans. So far, traces point to having only two female vice-chancellors in the last two decades post-1994.³³ Although this may look like an insignificant change, considering that out of 12 vice-chancellors there are two women.³⁴ However, this is a significant change for South African academia looking at the history and

³³ D Ala 'The Story of Gender Equality in South Africa' (2012) 14 *GPMO* 9, 57.

³⁴ *Ibid* 290.

background of female academics in the labour force. Tracking shows that South Africa has moved from no female vice-chancellors to at least two in the past two decades. Hence pausing the question whether affirmative action can be said to be an enabler of the advancement of gender equality becomes salient.

This supports Topia Ala in his view that affirmative action can be broadly conceived as either an advocacy tool to fight discrimination as well as a tool to redistribute jobs and earnings so that female academics can catch up in time.³⁵ But a more vigorous effort is needed and proper strategies to fight patriarchy in light of the fact that women make up 52% of the workforce, but are still under-represented in management and leadership positions globally.³⁶

Accordingly, it can never be boldly highlighted enough to over emphasise that a complex issue such as gender inequality requires multiple approaches. Considering the fact that gender is not an issue to be understood in isolation, hence for transformation to occur and equality to be achieved, then it would be befitting to engage the concept of gender holistically. For instance, some serious questions need to be asked, such as how will the nation benefit from granting women equal opportunities in the workplace? Why has academia not fully embraced gender equality in the workplace?

1.4 Background

In order to effectively take stock of whether or not affirmative action measures have advanced women's rights post-1994 it is salient for one to look back at what was happening pre-1994 as opposed to what is meant by gender equality now. Pre-1994 means during the apartheid era and post-1994 means after apartheid ended and South Africa operated under the new democratic system.

1.4.1 Gender equality

For the purposes of this research, gender equality will be looked at in the context of equal opportunities and fair treatment in matters of employment in academia. Hence, a study of

³⁵ D Ala 'The Story of Gender Equality in South Africa' (2012) 14 *GPMO* 9, 57.

³⁶ A Crump 'The Nature and Status of Women' (1986) 14 *SAFRI* 38.

gender equality will look at issues such as the status of female academics in institutions of higher education, looking particularly into whether they have equal access and fair treatment in the workplace in comparison to their male counterparts and especially if affirmative action has indeed advanced the rights of women in the workplace post-1994?

In trying to answer this main research question, this chapter will look at the background of women in the workplace to try and ascertain whether female academics have equal opportunity to work and advance on the basis of merit, ability and potential? Bearing in mind that the idea of gender as a human right in this context is to try and to level the playing field for academics to compete for jobs for which they are qualified in the absence of discrimination based on whether one is classified under male or female. Hence, this study will dwell mostly on women as a designated group in the workplace, particularly looking at the institutions of higher learning as a case study.

1.4.2 Women in the workplace

Around the globe gender equality has made strides over the past decades since the introduction of the first wave of feminism.³⁷ In other vocations, the position of women has rapidly altered in accordance to technological advances and socio-cultural changes. Yet many of the old stereotyped conceptualisations of the nature of women still abound in academia.³⁸

For example, whilst a large number of women are joining academia, there are few opportunities for advancement into leadership positions because patriarchy is still engrossed in the not so gender sensitive culture in academia. For instance, you will find that women are often the secretaries while their male counterparts chair the meetings and head senate.³⁹ This indicates that whilst the first wave of feminism has liberated women and opened many opportunities for advancement there is still so much groundwork that needs to be done to break these old patriarchal conceptualisations that create artificial barriers in academia.⁴⁰

³⁷ D Ala 'The Story of Gender Equality in South Africa' (2012) 14 *GPMO* 9, 57.

³⁸ A Crump 'The Nature and Status of Women' (1986) 14 *SAFRI* 38.

³⁹ Mathur-Helm (note 31 same as above).

⁴⁰ J Orife & M Chaobey 'Models of Equal Opportunity: A Three Nation Comparison' (2001) 2 *JAB* 93, 113.

Past research papers have shown that South Africa has great gender equality laws but that does not translate to broader equality nor has it really transformed the daily lives of South African women, instead patriarchy remains even in institutions of the highest education.⁴¹

A case in point is that previously huge emphasis has been placed on biological factors to explain causes of sex discrimination. On the contrary recently there has been more attention focusing on socio-cultural and economic facets of gender.⁴² Hence a rejection of such views that emphasise gender as a biological construct is visible and rather the opinion that many tasks can be performed by both men and women is purported.⁴³

This goes to show that although the biological composition of the female has remained constant, the social status has changed over the years.⁴⁴ Consequently, this means academia can change to accommodate female academics to the best of its ability. Accordingly, one might pose a simple question in this case: to what extent does the biological being affect and influence the status of women in the workplace and should it really?

Literature highlights that the biological construction is just a partial factor of why women are still oppressed and treated unfairly and that there are many other reasons apart from sex, which lead to subordination of one group by another. Henceforth, biological factors cannot be sufficient to explain why affirmative action measures have not reached the ideal gender equality targets in the workplace. Enacting laws has done so much but more work still needs to be done in other aspects to advance women and achieve gender equality. Hence the need to re-emphasise the relevance for an interdisciplinary approach to engage all the issues and outweigh the challenges brought about by the complex nature of gender.

1.4.3 Affirmative action

Affirmative action is said to be one of the most controversial government interventions in the labour market since the abolishment of slavery.⁴⁵ The background of affirmative action is

⁴¹ D Ala 'The Story of Gender Equality in South Africa' (2012) 14 *GPMO* 9, 57.

⁴² A Crump 'The Nature and Status of Women' (1986) 14 *SAFRI* 38.

⁴³ *Ibid* 290.

⁴⁴ JS Leonard 'The Impact of Affirmative Action Regulation and Equal Employment Law on Black Employment' (1990) 2 *Journal of Economic Perspectives* 47–63.

⁴⁵ T Mokgomeane 'Affirmative Action and the Employment Equity of South Africa' (2001) *Department of Philosophy UJ* 27.

said to have its origins in the United States as a response to racial segregation, separate education and other areas of the life of previously disadvantaged groups.⁴⁶ For the same reason it was used in the United States it is used in South Africa to advance all designated groups that have suffered discrimination.

Even though this is the case, some scholars still argue that affirmative action's effectiveness is not guaranteed.⁴⁷ According to Jonathan Leonard, affirmative action does not work and we should dispose of it.⁴⁸ On the contrary, some scholars still believe in affirmative action as an enabler of the advancement of gender equality backed by the Constitution.⁴⁹

Consequently, by virtue of history tracking affirmative action back to the United States, it is said that the United States and Malaysia are the leading countries of the origination of the concept of affirmative action.⁵⁰ It is further argued that affirmative action, though not fair, is a necessary evil to redress previous discrimination because it is essential to economic and skills development.⁵¹

In South Africa, the term affirmative action relates to the redress of previously disadvantaged groups due to apartheid policies pre-1994.⁵² Affirmative action then has to be understood from a historical point of view.⁵³ When looking at both the American and South African contexts when engaging with the concept of affirmative action, it is clear that its adoption was applied for similar yet different purposes.

Affirmative action in the United States was meant to prohibit unfair discrimination against certain groups of people in terms of the Civil Rights Act of 1960, which was not all entirely job related.⁵⁴ Yet in South Africa, affirmative action is meant to increase the participation of previously disadvantaged groups in the workplace by eliminating unfair discrimination and

⁴⁶ C Harish et al 'Employment Equity and Affirmative Action: An International Comparison' (2003) 5 SA 229,230.

⁴⁷ JS Leonard 'The Impact of Affirmative Action Regulation and Equal Employment Law on Black Employment' (1990) *Journal of Economic Perspectives* 47–63.

⁴⁸ Orife & Chaobey (note 40 above) 290.

⁴⁹ T Mokgomane 'Affirmative Action and the Employment Equity of South Africa' (2001) *Department of Philosophy UJ* 27.

⁵⁰ Harish et al (note 46 above) 290.

⁵¹ T Mokgomane 'Affirmative Action and the Employment Equity of South Africa' (2001) *Department of Philosophy UJ* 27.

⁵² Constitution of the Republic of South Africa, 1996.

⁵³ J Orife & M Chaobey 'Models of Equal Opportunity: A Three Nation Comparison' (2001) 2 *JAB* 93, 113. .

⁵⁴ *Ibid* 290.

developing the skills of the people who did not have opportunities to do so or were excluded pre-1994, such as, female academics who fall within the ambit of designate groups.

Therefore this background becomes essential in emphasising why women as part of the previously discriminated groups should be protected by affirmative action measures to advance equality in the South African workplace post-1994. It is also crucial to note that affirmative action policies in our context were not meant to be proactive but reactive by addressing previous social ills.⁵⁵ It is for this reason, that there needs to be synergy between the legal, political and the sociological perspective in addressing transformation post-1994. This dictates therefore that people who impact any of the systems associated with affirmative action should comply with these affirmative action measures.

Nonetheless, they must fully understand what they are meant to accomplish and how their actions will benefit society as a whole, not only women, to avoid sugar coating such policies, but instead have effective outcomes of a non-gendered workforce.

⁵⁵ J Orife & M Chaobey 'Models of Equal Opportunity: A Three Nation Comparison' (2001) 2 *JAB* 93, 113.

Chapter Two Literature Review

2.1 Literature in Silos

The potential for equality in the workplace can be traced back to the characteristics of the larger society.⁵⁶ Therefore it is said that differential treatment between genders provides a fair chance for inequality to be translated into the workplace.⁵⁷ Hence the desire for this paper to remove artificial barriers involves looking at different literature from various perspectives which contribute to making academia what it is today. It is worth noting that even though South Africa has advanced gender sensitive laws, it is still the same South Africa with a gendered patriarchal society that is influenced by the political sphere.⁵⁸ Therefore, the literature will be divided into three silos, namely the legal, the social, and the political.

2.1.1 *Legal perspective*

As means to undo the legacy of the past discrimination, a legislative framework in the form of a Constitution and other equality policies including the Promotion of Equality and Prevention of Unfair Discrimination Act, the Employment Equity Act, the Basic Condition of Employment Act, and the Labour Relations Act amongst others were put in place. Notwithstanding the Gender Commission which reports on the state of gender equality with the aim of prohibiting discrimination.⁵⁹

This paper shall begin with exploring the Constitution of the Republic of South Africa due to the fact that the roots of the current domestic affirmative action legislation are deeply embedded in the provisions of the Constitution.⁶⁰ Chapter two of the Constitution of South Africa becomes a salient source in reviewing literature for this research because the Constitution is the fundamental and supreme law of the country that is supposed to be the major protection of all human rights inclusive of women's rights.⁶¹ Moreover, the Constitution embodies a progressive Bill of Rights yet women still continue to be subjected

⁵⁶ Orife & Chaobey (note 55 above) 290.

⁵⁷ V Maphai 'Affirmative Action in South Africa: A Genuine Option' (1989) 15 *JAS* 124.

⁵⁸ The Commission on Gender Equality (CGE), see <www.cge.org.za/>.

⁵⁹ *Ibid* 290.

⁶⁰ Constitution of the Republic of South Africa

⁶¹ Maphai (note 58 above) 290.

to discrimination even in light of this fact.⁶² This Bill of Rights is said to be the cornerstone of democracy in South Africa post-1994.⁶³ Gender is a human right hence the reason for a human rights approach.

Therefore the Constitution clearly states, that every South African has the right to choose any legal trade or occupation freely because equality in terms of the Bill of Rights means the full and equal enjoyment of all rights and freedoms.⁶⁴ This translates to the assumption that female academics must be allowed opportunities to choose careers they want and further be compensated for being previously disadvantaged. Thus to ensure that equality is achieved measurements such as affirmative action may be taken to promote the equality of disadvantaged persons such as female academics.⁶⁵

This implies that even the state may not discriminate indirectly or directly unfairly against anyone on the grounds of gender.⁶⁶ Therefore an omission, to put effect protective measures in place is indirect discrimination against women.⁶⁷ Thus the significance of reviewing the Bill of Rights is that it is one of the main bodies of literature that is meant to protect women in the workplace.⁶⁸ Due to the fact that it enshrines the rights of all people and affirms democratic values of human dignity, equity and freedom.⁶⁹ Moreover, section 9(2) forms the basis of the legislation that aims to ensure that the rights of previously disadvantaged groups or categories are restored. In view of that it is essential for discussing protections for women under affirmative action provisions.⁷⁰

Furthermore, the Labour Relations Act is fundamental as it illuminates the right to fair labour practices in the workplace.⁷¹ For example, it deals with women's rights such as maternity issues.

⁶² E Ogliaiti et al *Promoting Gender Equality in the Workplace* (2002) 15 *LJ* 43-89.

⁶³ The Bill of Rights.

⁶⁴ Constitution of the Republic of South Africa

⁶⁵ *Ibid* 290.

⁶⁶ B Van Zyl & G Roodt 'Female Perceptions of Employment Equity: Is the Glass Ceiling Cracking?' (2003) 2 *SAJHRM* 13, 20.

⁶⁷ Mokgomane (note 62 above) 290.

⁶⁸ Bill of Rights (note 63 above) 290.

⁶⁹ M Marx 'Affirmative Action Success Measured by Job Satisfaction' (2000) 2 *JLR* 24, 55.

⁷⁰ Constitution (note 64 above) 290.

⁷¹ Labour Relations Act (1995).

Notwithstanding that it only legitimises that women have rights not to be discriminated because they are pregnant but it does not address what happens to a women's career because of such issues such as being away on maternity leave and nursing children whilst her male colleagues are writing articles, publishing, attending conferences and networking towards their advancement.

It is worth noting that history dictates that pre-1994, there were no laws in place to prevent the employer from violating the employee's rights; instead most laws made sure that the employee was discriminated at all cost.⁷² For instance, it is worth noting that really nothing prevented the employer from refusing to hire someone on the basis of gender or race discrimination. If a women was fired because she was pregnant, she would have no legal leg to stand on to fight for her job; hence this is a milestone to be celebrated legally even though there is still more that needs to be done to make sure that the laws are backed up by practical implementation.

For instance, even today women still battle to prove being fired on the grounds of discrimination because it is difficult to prove, the reason being that employers always have something to hide under hence the burden of proving becomes very difficult to the employee. In our days at least employees have recourse in theory which they can stand on, even if discrimination and gender inequality still persist but the vehicle for change is present, it just needs a driver to move it faster and eventually it will get to the desired destination even though the journey looks long and the road steep.

Due to the positive outcomes post-1994 that gave birth to law reform, the Labour Relations Act came into operation 1995. Moreover, this was to ensure that the legislative framework was in accordance with the Bill of Rights.⁷³ The promulgation of this Act brought about protections that were meant to prevent the employer from violating the employee's rights such as affording women gender equality and non-discrimination on the basis of their gender. Consequently, this Act is significant in this study because it allows the backing of affirmative action as the only fair discriminatory practice that is seen as a means to rectify imbalances in the workplace that resulted from past discrimination.

⁷² Constitution of the Republic of South Africa, 1996

⁷³ Labour Relations Act (1995)

Since 1997, the Basic Conditions of Employment Act becomes substantial because it lays the minimal grounds of employment relevant to ensuring that women are protected.⁷⁴ For example, as a way to restore equality women can be awarded flexibility in the workplace.⁷⁵ Such as, the Act states that if there is a collective agreement the employer can give flexible hours to working mothers through the idea of compressed work.⁷⁶

This simply means that it is possible that women can work 12 hours for fewer days in a week so that they can have long weekends as working mothers at the discretion of the employer. Therefore this example illustrates that it is possible to have a gender-sensitive environment for female academics to feel accommodated in their workplace like in other vocations where breastfeeding women are allowed to take long lunches to go and breastfeed. However, this could mean the academic loses on attending seminars, conferences or even meetings, which are usually held during lunch hence missing a crucial element of being an academic and making meaningful contributions. Therefore it is in instances like this that female academics choose their careers over everything else. Thus worth noting in demonstrating the Act as one of such affirmative action's measures that was meant to advance women's equality in the workplace but still does not have much teeth to bite the ongoing insensitivity we see in most academic institutions currently. The main question is, if protections are in place, why then are women not advancing as expected? Looking at job advertisements one thing that captures attention is that it is expressly and boldly stated that previously disadvantaged groups will be given first preference.⁷⁷ Does this mean practically these protections are listed on paper and little has been done to make sure there is concrete and effective implementation and accountability in the workplace? Or are there are issues that cannot be addressed solely by legal enforcement only?

Another major body to be explored that was meant to ensure that legacies of apartheid in the South African workplace are redressed through the implementation of affirmative action measures is the Employment Equity Act 55 of 1998 of the Republic of South Africa.⁷⁸ This

⁷⁴ Basic Conditions of Employment Act (1997)

⁷⁵ Ibid 290.

⁷⁶ Constitution of the Republic of South Africa, 1996

⁷⁷ 'University of Western Cape Applications for 31 January 2014' *Mail & Guardian* (10 January 2014).

⁷⁸ Employment Equity Act 55 (1998)

Act is significant in this research because it is one of the major protections afforded to women with an objective to achieve gender equality in the workplace.⁷⁹

The Act further states that employment equity will be achieved over time by promoting equal opportunities and fair treatment through the implementation of affirmative action.⁸⁰ It is fair enough to say two decades is enough to take time to count these strides but not much literature is clear in counting whether one can safely say affirmative action has done its job when it comes to advancing women in the workplace. On the contrary, it would have been proper if every woman that was allowed into the workplace was being mentored in preparation of a succession plan that promotes female academics when ready to advance leadership positions in academia.⁸¹ This would have resulted in a strong pool of female academics who were ready to advance the disadvantaged to claim their liberation through making affirmative action measures an enabler towards the advancement of gender equality rights. The case of *The President of the Republic of South Africa v Hugo* further reiterates that the Constitution gives authority to the Employment Equity Act.⁸²

Therefore this Act endeavours to ensure equitable representation of people from all designated groups in all occupational categories and levels in the workplace. This is a strong advocacy point that just needs to be pushed by women themselves and their strength are in their unity. If women were to unite and fight for their rights by empowering one another, men would eventually be outnumbered and out powered. Better still, to force employers to effectively adopt affirmative action measures will make sure employment equity is achieved. Consequently, the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (PEPUDA) is endorsed in chapter 9 and 10 of the Constitution.⁸³

The above-mentioned Act is critical for women in the workplace because it seeks to afford equal enjoyment of all rights and freedoms to every person. Moreover, it validates the values of non-sexism and the prohibition of hatred based on gender. Hence PEPUDA is intended to be a key legislative tool to respect, promote and fulfil the right to equality. Henceforth

⁷⁹ Employment Equity Act (1998)

⁸⁰ Basic Conditions of Employment Act (1997)

⁸¹ Ibid 290.

⁸² *The President of the Republic of South Africa v Hugo* 1996(4) SA 1012 (D).

⁸³ Promotion of Equality and Prevention of Unfair Discrimination Act (2000)

PEPUDA can be used as an affirmative action measure to advance women's equality in the workplace because it further provides measures to educate the public and raise awareness on the importance of promoting equality and overcoming unfair discrimination.⁸⁴

This consequently benefits women to know their protections in the workplace and demand their rights to affirmative action measures. Another one of the measures worth noting is the Skills Development Act due to the fact that it aims to improve employment prospects of persons previously disadvantaged by unfair discrimination.⁸⁵ This Act purports to make amends through training and educating the previously discriminated designated groups. It is delivered by providing an institutional framework that implements national training strategies.⁸⁶ The Skills Development Act states conditions that recommended categories such as women are to be capacitated to find employment, start projects or enter education and training projects and even participate in special training programmes.⁸⁷ Subsequently, it is of essence to explore if this route which has assisted to advance women's equality in the workplace as part of the on-going affirmative active initiatives. Hence this research study will touch on loopholes of this Act such as mentorship when dealing with challenges or rather barriers to achieving gender equality.

The Convention on the Elimination of all forms of Discrimination against Women is also very critical because it suggests international norms of protection.⁸⁸ The specific goal of this Convention was to achieve equality for women based on recognition of full global development. Therefore women should be treated the same as men and states should make sure that any form of discrimination against women is abolished in the workplace or their private lives.⁸⁹ The Convention is meant to be one of the major weapons that female academics put on as full armour to fight the battle of gender inequality but most unfortunately its application is not well known. Female academics must be knowledgeable on such instruments that can make their lives in the workplace easy.

⁸⁴ Promotion of Equality and Prevention of Unfair Discrimination Act (2000)

⁸⁵ Skills Development Act 97 of 1998 (SDA).

⁸⁶ Ibid 290.

⁸⁷ *The President of the Republic of South Africa v Hugo* 1996(4) SA 1012 (D).

⁸⁸ The Convention on the Elimination of all forms of Discrimination against Women (1980).

⁸⁹ PEPUDA (note 84 above) 290.

It seems as though South Africa has made countless efforts to display its political will to achieve gender equality in the workplace. For instance, the adoption of the Millennium Development Goals (MDGs) and the signing the Millennium Declaration in 2000 was a demonstration of willingness to hasten gender equality.⁹⁰ South Africa was one of the 189 countries globally that procured a commitment to the global development agenda. The MDGs set minimum standards to work towards the developmental needs of the people.⁹¹ However, this paper shall only focus mainly on goal three as it relates to promoting gender equality and promoting women as part of the designated groups protected by affirmative action measures. Because it becomes helpful in answering the main research question to know whether as a country South Africa will meet the standards set by the third MDG since this study is focusing on female academics in institutions of higher education.

South Africa's MDG three takes into consideration that women need to be empowered to have more access to employment now than ever before due to the fact that they still earn one third less than men. Hence the goal is to promote gender equality and empower women in all spheres by targeting their education.⁹² Against this backdrop it is of the essence that women prepare for the workplace early. It is in this regard that MDG three starts by redressing the situation through dealing with girl's education at a tender age as crucial measures which were taken to redress this situation in the South African context post-1994.

Another salient body of knowledge is by Veli Maphai because he provides a good definition of affirmative action in the South African context.⁹³ He defines affirmative action as a means to an end due to the fact that it is a way to an inequality gap between designated groups in South Africa such as blacks, whites, males and females. He further states that affirmative action refers to compensatory discrimination in favour of disadvantaged groups. Moreover, he also argues that affirmative action does not constitute unfair discrimination against whites or males nor does it equate reverse apartheid as it has been hugely criticised.⁹⁴

⁹⁰ Millennium Development Goals (MDGs), see <www.un.org/millenniumgoals/>.

⁹¹ Ibid 290.

⁹² MDG three (note 90 above) 290.

⁹³ V Maphai 'Affirmative Action in South Africa: A Genuine Option' (1989) 15 *JAS* 124.

⁹⁴ The Convention on the Elimination of all forms of Discrimination against Women (1980).

Even though opponents of affirmative action have argued that it is reverse discrimination but this myth is clearly corrected with reference to the various constitutional provisions.⁹⁵ This definition is affirmed by adding that affirmative action as a concept became topical in the attempt to increase the participation of previously disadvantaged groups in South Africa.⁹⁶

In comparison with the United States, where it originated to prohibit unfair discrimination against certain groups of people because of non-job related characteristics in terms of the Civil Rights Act of 1960. Moreover, stating that in South Africa affirmative action was crucial in the workplace for economic advancement and skills development of disadvantaged groups such as women, black people and the disabled.

The work of prominent scholars like Tladi Tseke Mokgomane become more useful in this research because it compares South African affirmative action programmes to other countries such as India, Malaysia, Canada and the United States where South Africa can draw best practices from international norms. Mariah Marx's criticism of affirmative action is also crucial because it demonstrates why the majority of the South African population expect affirmative action to fail.⁹⁷

Marx states, that analysis suggests that affirmative action has failed to change the work environment.⁹⁸ Times have changed but women still function in a fundamentally unchanged work environment that still favours males and perpetuates patriarchal stereotypes according to Marx.⁹⁹ Therefore, unless patriarchy in the workplace is dealt with it is going to be very complex for women to achieve equality at work.

To display the significance of the Employment Equity Act, this research draws positives from Harish et al's analysis of the Employment Equity Act of 1998 because they provide the fundamentals of how affirmative action was meant to advance women's equality in South Africa post-1994.¹⁰⁰ Therefore Harish et al state that the South African government attempted

⁹⁵ Constitution of the Republic of South Africa, 1996

⁹⁶ T Mokgomane 'Affirmative Action and the Employment Equity of South Africa' (2001) *Department of Philosophy UJ* 27.

⁹⁷ M Marx 'Affirmative Action Success Measured by Job Satisfaction' (2000) *JLR* 24, 55.

⁹⁸ Ibid 290.

⁹⁹ Mokgomane (note 96 above) 290.

¹⁰⁰ C Harish et al 'Employment Equity and Affirmative Action: An International Comparison' (2003) 5 *SA* 229,230.

to follow the global suit and redress historical workplace discrimination through the introduction of the Employment Equity Act largely modelled on Canadian legislation. According to Harish et al, South African employers employing 50 or more than 50 employees are required to comply with the provisions of the employment equity legislation so that initiatives in the workplace are applied in a holistic manner according to the Act.¹⁰¹

Many authors such as Mestry and Schmidt remain critical of this study because their contribution to the knowledge indicates that stereotypes who label women inadequate as leaders still persist.¹⁰² They further act to distort perceptions of equality between males and females in performance and as potential leaders in the workplace.¹⁰³ Therefore Mestry and Schmidt's paper reflects that equality is still a thorny issue in the workplace despite the existence of policy initiatives such as affirmative action.¹⁰⁴

On a broader international level the principles of affirmative action seems to be the same when it comes to using these protections to advance women's equality in the workplace. Therefore Ogliaiti's study is salient in highlighting the international norms even though this study has shown that women are slowly progressing into returning to the labour market, these protections still do not respond effectively to the needs and requirements of women in the workplace.¹⁰⁵ This study conducted in the United Kingdom states that, for women to reach their full potential and acquire the same opportunities as men there is a great need for policy to respond effectively to their daily needs. For instance, the masculine culture still poses problems in the workplace because an environment with a masculine culture is discriminatory to women despite any progressive affirmative action policy.¹⁰⁶

On the same note Helm and others accentuate this point by stating that when sexist behaviour is deeply entrenched it makes it difficult for women to advance equality in the workplace. Herman further concludes that these discriminatory behavioural patterns may not be seen to be prevalent as they used to be decades ago before affirmative action legislation into place

¹⁰¹ C Harish et al 'Employment Equity and Affirmative Action: An International Comparison' (2003) 5 SA 229,230.

¹⁰² R Mestry & M Schmidt 'A Feminist Postcolonial Examination of Female Principles: Experiences in South African Secondary Schools' (2012) 5 *Gender and Education* 24.

¹⁰³ Ibid 290.

¹⁰⁴ Employment Equity Act(1998).

¹⁰⁵ E Ogliaiti et al *Promoting Gender Equality in the Workplace* (2002).

¹⁰⁶ Mestry & Schmidt (note 102 above) 290.

but they still resurface in one way or the other in the workplace grossly rooted in work culture and traditional patriarchal norms. For that reason he concludes that sexism is less visible, more intimate because it embeds itself in more culture than Law. Applying affirmative action promotes the full enjoyment of human rights. Due to this Helm suggests that the objective of affirmative action initiatives must be to ensure basic fairness so that the obstacles of gender imbalance can be dealt with in a practical manner on a daily basis. It must be noted that Helm's view is widely criticised by opponents of affirmative action.¹⁰⁷

For instance this opposition was raised in the case of *Sibiya v Arivia, Kom (Pty) Ltd*. This case raises an important point that currently affirmative action fails to solve the real problems of disempowered people.¹⁰⁸

This view is echoed in Mathur Helm's paper which reveals that although women are entering the workplace in numbers they still continue to fall behind in career advancement and in levels of compensation and achieved status.¹⁰⁹ This is attributed to women's failure to achieve social capital.¹¹⁰ She also states that reaching top-level positions is still uncommon for women and this is a reflection that the corporate environment is not ready as yet to accept women as professional equals. She further recommends the workplace to be more women friendly and more sensitive to empower women effectively.¹¹¹

It must be noted that since gender is a social construct the one-size-fits-all approach is not ideal hence this case study of the workplace will focus on women in academia because it is an ideal example of women entering into the workplace in great number and breaking some stereotypes but still battling with most of the challenges that globally affect women in any workplace that is male dominated.

According to the World Health Report gender is defined as the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for both men

¹⁰⁷ Mathur-Helm (Equal Opportunity Affirmative Action for South African Women ,A Benefit or Barrier?(2005) *Emerald* 20

¹⁰⁸ *Sibiya v Arivia, Kom (PTY) LTD* 2008 29 LLJ 1556 (CC).

¹⁰⁹ *Ibid* 290.

¹¹⁰ Mathur-Helm (Equal Opportunity Affirmative Action for South African Women ,A Benefit or Barrier?(2005) *Emerald* 20

¹¹¹ Mathur-Helm (note 110 as above) 290.

and women.¹¹² In the case of this paper a gender example would be that women earn significantly less money than men for similar work.¹¹³ This is considered to be the norm in society; but norms change from time to time in different societies therefore it becomes inevitable for this paper to challenge gender norms to change and effectively advance women's equality in the workplace. Evidently culture and gender norms have perpetuated the violation of human rights since time immemorial hence the impact of gender in the workplace has been to divide due to the special preferential treatment that the other sex has received more than the other based on gender roles.¹¹⁴ This point further highlights the integration of the social and the legal in a political space that has been widely dominated by the other gender hence perpetrating social ills that strongly highlight the relevance of this paper in taking an interdisciplinary approach.

Consequently, it is argued that, patriarchy brought about systematic discrimination and most of the inequalities in the workplace.¹¹⁵ As a result of a human rights intervention measures such as, the Convention on the Elimination of Discrimination against Women are meant to protect women from such violations of human rights and require the maximum participation of women on equal terms with men in all fields.¹¹⁶

For instance, women in academia are over represented in lower paying jobs with limited opportunities of climbing the ladder and lowly represented in management jobs with huge salaries and high prospects of climbing the ladder.¹¹⁷ Due to this over representation of women in low-paying jobs with poor working conditions, it underscores a lack of equal opportunities. The Business Census Report, further states that strides have been made to try and eradicate women's equality in the workplace but little progress has been made.¹¹⁸ This raises questions as to why the advancement of women's equality in the workplace is so minimal even in institutions of higher education which are meant to be towing the line when it comes to advocating for gender rights? Are women's rights not human rights?

¹¹² *World Health Report* (2012).

¹¹³ *Ibid* 290.

¹¹⁴ F Mazibuko 'Women in Academic Leadership in South Africa: Conventional Executive or Agents of Empowerment?' (2006) 13(1) *SACHED* 106, 123.

¹¹⁵ Business Census 2004.

¹¹⁶ Convention on the Elimination of all forms of Discrimination Against Women (1979).

¹¹⁷ *Ibid* 290.

¹¹⁸ Mazibuko (note 114 as above) 290.

To answer these questions, it is critical to review the Universal Declaration of Human Rights of 1948 which takes us to the point that this paper has been trying to make since the introduction that giving women their rights is not a favour or reward for hard work but according to the Universal Declaration of Human Rights, all human beings are born free and equal in dignity and in rights.¹¹⁹ Thus it is relevant that the right to equality must be respected in the workplace. If this is the case why are women expected to work twice as much to get the same recognition those men possess in academia?

The position of the law has been clear in application that there is no compromise when it comes to human rights. This is evident in court cases that set precedents and the following ruling the courts emphasised the importance of upholding equality. In *City Council of Pretoria v Walker* 1998(3) BCLR 257 (CC), it was decided that affirmative action provides for constitutionally acceptable corrective action as a requirement for real equality and not an exception to it.¹²⁰ This principle was further tested and endorsed in *Harksen v Lane* amongst other court decisions. In this case it was upheld that differences in society is seldom merely about mere distinctions but inequality in power.¹²¹

Hence this paper can argue that inequality in the workplace is perpetuated by power vested in patriarchy that tends to discriminate women based on gender. For these protections to effectively serve to advance women's equality in the workplace gender stereotypes and attitudes also need to be addressed because times have changed and power needs to be balanced hence the need for an interdisciplinary approach in our implementation and strategic planning to eradicate gender inequalities. The sociological perspective takes into consideration that the law has to talk to social ills in the country's political space, looking at why there has been little progress in over 20 years of jubilation but still women have been crying foul and going as far as labelling gender equality a myth.

2.1.2 Sociological perspective

Women's entrance into the workforce contributed to a new understanding of gender as a fundamental aspect of a social process and structure going far beyond the early ideas of

¹¹⁹ Universal Declaration of Human Rights (1948).

¹²⁰ *City Council of Pretoria v Walker* 1998 (3) BCLR 257 (CC).

¹²¹ *Harksen v Linde* 1997 (6) BCLR 769 (CC).

gender as a social role or individual attribute.¹²² The understanding of gender was fundamental to the argument that organisations are a gendered social construction and ideological formulation that gave away gender as a new era of sociology.¹²³ Sociological research influences policy and in turn modifies the community and its beliefs. Hence this is the time to have a modified approach to the way gender inequality is being tackled in academia by way of dealing with one challenge at a time.

Hence it is important to include an industrial sociological component into this research with the aim of communication which could either be through sensitisation or raising crucial debates amongst readers of this paper or to persuade certain strategic people in their role in advocacy, being human rights defenders and influencing policy. For example, the constructionist principle highlights that changing how people think will impact on what they do as a result causing transformation.¹²⁴ The one thing that affirmative action policies have managed to do and to date still does effectively is to raise necessary debates regarding the role of females in the workplace.

After the second wave of feminism, scholars began to study gender to better understand the continued equality between males and females in the workplace and the economy.¹²⁵ For instance, managerial positions in the near top are filled by men and career mobility for women is limited to the glass ceiling or sticky floor.¹²⁶ Marx Weber wrote that there is no occupation with management of social affairs which belong either to men or women. However, natural gifts are to be found in both males and female creatures alike. Hence every occupation is open to both as far as nature is concerned.

Neil O'Conner states that men will not be the driving force in fading gender disparities and attitudes since they will not fight a battle which resides with in the favour of the female counterparts.¹²⁷ For instance, giving equality to women disadvantages men because it means females are given powerful positions that ensure full participation of all women, access to

¹²² B Van Zyl & G Roodt 'Female Perceptions of Employment Equity: Is the Glass Ceiling Cracking?' (2003) 2 *SAJHRM* 13, 20.

¹²³ Ibid 290.

¹²⁴ 'South Africa has not Arrived' <<https://ujdigisspace.uj.ac.za>>.

¹²⁵ Ibid 290.

¹²⁶ Van Zyl & Roodt (note 122 same as above).

¹²⁷ 'Women still not fully on board' *The Citizen* (17 July 2012).

resources as well as equal pay.¹²⁸ However, these topical social issues can be operated from a premise of a sociological, legal and political sphere in an interdisciplinary approach as highlighted below. It must be noted that social barriers will be further demonstrated in depth when dealing with challenges faced by female academics in the workplace.

Where South Africa locates its norms and values as a nation greatly impacts on the political development and hence politics has to speak to the legal revolution and the social dimension. Therefore it is without doubt that gender touches on the political arena because that is where gender is constructed, reconstructed and most importantly can be deconstructed. Hence for long as gender is not looked at in isolation effective legal, societal and political transformation is possible.

2.1.3 Political arena

One cannot divorce gender equality from the political arena because gender discrimination takes South Africa back to 1956 where women not only imagined they would have a platform to be free but they acted towards claiming their rights hence the celebration of Women's Day annually in South Africa to highlight a significant milestone in South Africa's political history. What makes this day stand out in the context of human rights is that women stood up against all odds and in their numbers despite the political space they were in and knew what were the exact consequences of defying the apartheid regime but they were not deterred. What is holding "born frees" captive pre-1994?

Being free to South African women not only means the right to vote or travelling without a "dom-pass" but it means not being discriminated against on the basis of their gender. In 1956 women from all over South Africa marched to the union buildings to present a petition to the Prime Minister, JG Strijdom, protesting the extension of pass laws to South African women.¹²⁹ Pass laws no longer exist in the South African post-1994 democratic order but the women's vision was broader than just the abolition of past laws because it was a vision of

¹²⁸ 'Women still not fully on board' *The Citizen* (17 July 2012).

¹²⁹ B Van Zyl & G Roodt 'Female Perceptions of Employment Equity: Is the Glass Ceiling Cracking?' (2003) 2 *SAJHRM* 13, 20.

non-exclusion and anti-gender inequality.¹³⁰ ‘We shall not rest,’ they told Strijdom ‘until our children have fundamental rights of freedom, justice, security and equality.’

Has this vision been fulfilled by affirmative action measures and equality policies? A total eradication of gender inequalities links access to opportunities, not just as an endorsement of gender quotas. Therefore this paper shall closely look at how women can take advantage of political pressure to advocate for practical gender equality in the workplace and not just in theory.

For instance universities are playing the numbers game instead of realising that affirmative action is a process of creating equal opportunities and to employment; hence it requires fundamental changes in attitudes and workplace norms not just compliance figures.¹³¹ The regimes of social exclusion extend well beyond issues of numbers and access but opportunities are questionable in academia.¹³² Therefore some proactive action in terms of sensitisation, educational sessions, debates and advocacy campaigns are crucial instead of only crying foul about window dressing and not doing anything constructive to address the problem. The same spirit that was used to fight apartheid is needed to fight gender inequalities in the workplace; but strangely women these days seem content with the pace things are moving at.

What happened to the calibre of the 1956 women? Women in our days are more educated hence the expectation is that academia should produce more human rights defenders but if the women in academia cannot even defend themselves and advocate for change what breed of students are they reproducing? When the women sang the song in 1956 *Wathinta Abafazi Wathinta Imbhokodo Uzakufa*, meaning you have tampered with a women, you have tampered with a grinding stone so all hell shall break lose, that was a political statement that needs a holistic approach. It simply translates that women understood that gender equality was their human right.

However, following the transition into post-1994, government speedily set up a policy framework that would appease the international community. This means that according to

¹³⁰ Van Zyl & Roodt (note 128 above) 290.

¹³¹ F Mazibuko ‘Women in Academic Leadership in South Africa: Conventional Executive or Agents of Empowerment?’ (2006) 13(1) *SACHED* 106, 123.

¹³² R Rosa ‘*Women in the Academic World*’ (2000) 6 *SA* 117.123.

international standards South Africa is one of the best countries when it comes to supporting the rights of women because it is said to have strong gender equality legislation. However, this is mostly applicable in theory contrary to practice and everyday application. It is for this reason that the case study presents that female academics still encounter discrimination in academia that impact negatively on their professional growth. This is clearly evident when looking at who occupies the top university positions in South Africa. By virtue of the answer being that universities are still highly patriarchal with most leadership positions still occupied by males, questions arise around the applicability of affirmative action measures as enablers of advancement to gender equality in the South African workplace, academia specifically.

2.2 Theoretical Framework

Since the research takes the form of an interdisciplinary approach various legal principles, sociological theories and political theories are engaged as a lens from which to present the argument of whether affirmative action is an enabler of the advancement of gender equality in the workplace, with particular focus on academia post-1994. Higher education holds the promise of contributing to the social, justice and development of democratic citizens, this promised has to be realised by academics.¹³³ Contrary, universities are frequently being quoted as powerful mechanisms of social exclusion and injustice through their own internal thinking, structures, cultures and practices that are conditioning.¹³⁴ The hope is in that by engaging with these theoretical frameworks, reasons for the stagnation when it comes to gender equality will be clearer.

Pre-1994 racism and patriarchy were the key features of apartheid that shaped all areas of social life including academia.¹³⁵ In the economy men held better jobs, better wages and the best opportunities. In politics men held and monopolised the important positions. In education, the present enshrines the past. Hence the consequence was gendering which bequeathed academia with a predominantly male workforce. Due to this fact there is still a dire need to redress social equity for women in academia. Therefore, this research hopes to

¹³³ R Rosa 'Women in the Academic World' (2000) 6 SA 117,123.

¹³⁴ S de Beauvoir *The Second Sex: Women as the Other* (1949) 341.

¹³⁵ F Mazibuko 'Women in Academic Leadership in South Africa: Conventional Executive or Agents of Empowerment?' (2006) 13(1) *SACHED* 106, 123.

use a theoretical understanding to explain the failure to advance gender equality at a desired pace post-1994.

This paper partially attributes the failure to achieve gender equality to the implementation, enforcement and monitoring mechanisms which continue to be one sided. The current approach places too much emphasis on legal enforcement which is not sufficient to combat gender inequality in academia therefore a theoretical framework will be used to demonstrate such an argument. These theories will support the need for a multifaceted approach that will acknowledge that laws need to speak to the social ills rather than affirmative action and gender equality measures that operate in silos and are not even easily monitored nor generally hundred percent enforceable. The theoretical framework will highlight the fact that academia is said to have the best policies that are aimed to advance gender equality. However, based on the fact that South African universities are dominated by males in leadership positions, they are struggling to adopt a culture that is sensitive to the needs of female leaders.¹³⁶ For instance, men's sovereignty has never been disputed hence the two sexes have never shared a world in total equality.¹³⁷ But with time changing, men will have to adapt to sharing space in academia.

Just by merely looking at certain university policies you would be convinced that in practice all is well, yet this research has proven that most of these policies are more theoretical than what is happening on the ground. This is illustrated by the fact that these beautiful policies do not speak to the evidence of female academics currently in leadership positions. Hence, the belief is that this is not just a legal issue but one of an interdisciplinary kind is needed to deal with the complexity of the gendered elements of society that transcend into the work space. These challenges are reiterated by looking at certain theories which support what is happening on the ground in academia.

2.2.1 *Malcolm X theory*

Freedom can never be achieved unless women have been emancipated from all forms of oppression.¹³⁸ South Africans post-1994 can stand as free from the politics of apartheid but

¹³⁶ R Rosa 'Women in the Academic World' (2000) 6 SA 117.123.

¹³⁷ S de Beauvoir *The Second Sex: Women as the Other* (1949) 341.

¹³⁸ N Mandela *The Authorised Book of Quotations* (2011) 203.

unless they have advanced gender equality to a more desirable level they cannot be said to be free. The reason is that the greatest oppression is one of the mind because the liberation was not just about liberating blacks from bondage but liberating South Africans from fear.¹³⁹ So if academics are still stuck in post-1994 patriarchal behaviours of oppression everyone is seen to be standing still. Female academics must not be seen to be in fear of advancing and male academics must be fearful of giving women a chance to make their way to the top because we are free. Malcolm X's theory places emphasis on education which is one of the hurdles that stops female academics from shooting up because academia's tenure composes of the very things that make educated women feel unsupported.

One must highlight that the struggle for equality is not just about women and everyone should be involved because it is a struggle for the country. The burden of sharing should rest on the shoulders of all genders for the nation to prosper. Especially because human rights are given prominence in the South African Constitution it cannot be over emphasised that gender rights are human rights.¹⁴⁰ In light of this discussion it is of the essence to look at the concept of the Malcolm X theory and what impact it would have in this space. Being supported by sentiments of South Africa's former president and one of the greatest African leaders the world has ever seen in his statement that laws alone were insufficient to entrench democratic practices hence human rights should be at the core of relations.¹⁴¹

Gender equality has slowly progressed over the years. The South African woman of 1956 defied the legal order which propels me to briefly engage with the Malcolm X theory of social change. A huge emphasises should be placed on advocacy as the breakfast of champions when it comes to human rights issues. What happened in 1956 clearly illustrates that unless women do something about the state of gender rights in academia, no drastic change must be expected hence all gender policies and affirmative action initiatives will continue being implemented at a snail's pace which suits academia because it is largely a space still dominated by males. Malcolm X explained that 'my mother defied them all alone with my father gone and all she had been just her three small children'. It took strong fearful women to change the attitude of Malcolm X and his idea of what it is to be women. Hence female academics can make a difference in academia by standing up for themselves and

¹³⁹ S Biko *I write what I Like* (2002) 216.

¹⁴⁰ Constitution of the Republic of South Africa, 1996

¹⁴¹ N Mandela *The Authorised Book of Quotations* (2011) 203.

making sure that the affirmative action policies that each university has, and is meant to subscribe to, are not just theory but are applied and practised.

Although Malcolm X lived a difficult life, he rose and became one of the most famous black activists because of that incident when he saw his mother take action. Well known during the time of social reformations, were black folks who fought for their rights no matter what. This means that unless women take a stand they will continue being vulnerable and will forever see gender equality as a myth. The can of worms to this discussion is in the question: Why are human rights always fought for? In answering this question one can only point out that there is massive need for human rights sensitisation as well as specific training for previously disadvantaged groups. Due to the fact that merely removing the present obstacles to equality does not then ensure equality since some effects of the past discrimination still have to be actively redressed. Therefore it must be acknowledged that in an equal opportunities system not all persons have the same chance of achieving the desired goal but all people are provided with equal means to achieve it. Hence female academics cannot be said to have been afforded those opportunities without proper training.

Malcolm X first called for bloodshed and militant change but later reinvented himself and called for peace through the use of education and social change as paths to equality. He was greatly criticised for being self-serving and reckless but his re-invention proved to his critics that he had a sincere motive to rid the world of inequalities. Therefore Malcolm X's constant invention is an indication that we need to constantly change our advocacy strategies to be in tune with the time and political space. Hence there is no need for violence but a greater need for educating the masses of human rights and why gender rights will benefit the nation at large. The gains that society will receive from the liberation of women outgain any economic benefit for academia.

Even though in South Africa there is currently no need for physical militancy there is greater need for a paradigm shift. Malcolm X's theory comes in handy when looking at the vast need to use education as a vehicle for social change.¹⁴² This comes at a point in time where even the most highly educated are still not conscious of the advantages of advancing gender equality for all. For instance, the current case study of universities clearly articulates this

¹⁴² S Miller et al *Malcolm X 1925–1965* (1990) 506

point and it can never be emphasised enough that South Africa still needs to be educated on gender because it is only when the society is on the same page that implementation will be effective since a greater understanding of the need to discriminate human beings according to their gender will foster changes at all levels of society and this will hopefully benefit the workplace.

Empowerment is crucial especially for the male counterparts to accept women as colleagues who are in academia to make relevant contributions just like them. Gender is one of the inequalities that are critical and fundamental to social change that must be confronted by women as a force if women are to be major players in higher education.¹⁴³ Feminists believe that the only people who have the power to change academia are the ones inside because for a long time the value system in academia has been defined by a man's world.¹⁴⁴ Hence female academics have to act like the Trojan horse and advocate for the long hours, stressful patriarchal environments and low pay.

2.2.2 Iceberg theory in doing gender in academia

'The true enemy of women is not men but our socialisation which allows men to enjoy real material benefits as a result of the oppression of women.'¹⁴⁵ The popular iceberg metaphor illustrates a hidden culture, the world of habits and assumptions that may not be consciously articulated or taught.¹⁴⁶ Like an iceberg, nine-tenths of culture is below the surface and the rest makes up the unspoken and unconscious rules.¹⁴⁷ Scholars have argued that gender is fully a culture without being hence solving the problem of gender equality requires digging into culture and rethinking fundamentals.¹⁴⁸ It is for this reason that gender inequality will not disappear from the agendas of philosophers, sociologists, historians, feminists, lawyers and human rights advocates until gender inequality is totally eradicated in the workplace.¹⁴⁹

¹⁴³ 'Why academia is still haemorrhaging women in this day and age' *The Star* (9 February 2013).

¹⁴⁴ Constitution of the Republic of South Africa, 1996

¹⁴⁵ E Hemmingway 'The Iceberg Theory' <http://www.culture@work.com/kuber.html>

¹⁴⁶ *Ibid* 290.

¹⁴⁷ Hemmingway (note 144 above) 290.

¹⁴⁸ S Harding *Against Epistemological Chasms: The Science Question in Feminism Revisited* (2001) 511–25.

¹⁴⁹ *The Star* (note 142 above) 290.

It is time that academia becomes an example of a workplace that speaks to those fundamentals and digs to the bottom of what makes gender equality difficult to attain in academia. Gender theorists have attested that human behaviour is derived from a process of a socially-created world, hence the workplace still remains highly gendered.¹⁵⁰ This is demonstrated by the missing segment of women in high positions in academia. When you look at the number of female academics in leadership positions it reflects an under representation. It is not because women are not pursuing the required education but it points back to what this paper is trying to achieve with regard to the fact that much has been done but little has been achieved in terms of eradication of gender inequality. This is so even after the introduction of affirmative action measures and equality policies post-1994.

Looking at women in academia will draw a mind map of how gender is constructed in the work environment. Thus exploring gender calls for the unique exploration of understanding of how gender is co-created through individual interactions and enactment.¹⁵¹ Using the analogy of how the Titanic hit the iceberg it is clear that it was not because the captain of the ship was not prepared for the worst, but it was merely because he overlooked the iceberg. Hence academics cannot take the impact of gender in academia for granted for transformation to occur. On the same note if we continue to take for granted how gender is constructed in institutions of higher learning we shall hit an iceberg. The iceberg theory indicates that there are hidden matters of which the captain of the ship takes for granted until those hidden matters are dealt with challenges are inevitable in the journey.¹⁵²

Therefore not discriminating according to a particular sex will help clarify how power is constructed in the context of discrimination and how this power can be deconstructed to achieve a state of equality in the workplace as mandated by the Bill of Rights. The construct of gender when explored in academia allows for the unique exploration and understanding of how gender is co-created through individual interactions and enactments.¹⁵³ Judith Butler further argues that gender is a performance that can be constructed, deconstructed and reconstructed.

¹⁵⁰ S de Beauvoir *The Second Sex: Women as the Other* (1949) 341.

¹⁵¹ Ibid 290.

¹⁵² E Hemingway 'The Iceberg Theory' <http://www.culture@work.com/kuber.html>

¹⁵³ Ibid 290.

2.2.3 *Feminism*

Feminism is an ideology characterised by two basic beliefs, the first being women and men are treated differently because of their sex, and second being that unequal treatment can and should be overturned accordingly.¹⁵⁴ Simon de Beauvoir continues to argue that gender is not natural but is a social foundation of a deep divide into an unequal social world.¹⁵⁵ It has been argued that the central task of feminist theory is to understand the world from the perspective of the socially subjugated. Hence, challenging the gendered dichotomy between the public and private worlds and reshaping the doctrines based on it.¹⁵⁶ For example, women's rights have been explicitly promotional and inspirational in character. Therefore academia is urged to accommodate the inclusion of these rights more readily for the purposes of making fundamental norms universal.

For the purposes of this study feminism is adopted to do away with differences because differential treatment between genders provides for unequal opportunities in academia hence the introduction of affirmative action to try and remove differential barriers by compensating female academics through placing them in positions they would be at if they were not discriminated against in the past.

2.2.4 *Patriarchy*

In South Africa racism and patriarchy were the key features of colonialism and apartheid that shaped all areas of social life including higher education pre-1994.¹⁵⁷ In the specific domain of the academic workforce the consequence was gendering which banqueted South Africa with a predominantly male workforce.¹⁵⁸ However things changed post-1994 to be in accordance with the new constitutional and social imperatives such as affirmative action measures. South African universities had to advance redress and social equity for women.¹⁵⁹ Whilst simultaneously producing and retraining a new generation of academics to concurrently transform the historical social composition of the academic workforce.

¹⁵⁴ A Heywood *Key Concepts in Politics* (2000) 58.

¹⁵⁵ S de Beauvoir *The Second Sex: Women as the Other* (1949) 341.

¹⁵⁶ Heywood (note 153 above) 290.

¹⁵⁷ T Reid *African Women in the Academia* (1990) 43.

¹⁵⁸ Ibid 290.

¹⁵⁹ V Sawpol *The Position of Black Women in South Africa: A Feminist Perspective* (2007).

Most scholars have stated that higher education holds the promise of contributing to the social justice, development and democratic citizenship.¹⁶⁰ Yet this promise so often remains unrealised, instead it is argued that universities frequently continue to be a powerful mechanism of social exclusion and injustice through their own internal structures that promote patriarchy.¹⁶¹ It is further argued that South African university cultures are conditioning the regimes of social exclusion, well beyond issues of access but by providing questionable opportunities.¹⁶²

Perhaps that is why the underlying cause of gender imbalance and domination still remains poorly explained and less understood since it is inter-twined in everyday life and has become the norm. South African universities are still far from being egalitarian.¹⁶³ By the mere fact that South African universities still have so few women in leading high-level positions 20 years from independence. This does not reflect equality as universities are still producing the 'the girl choices'.¹⁶⁴

Even though there is a growing presence of female academics they are still not free to compete with their male counterparts despite legislated and legally accepted opportunities for gender equality in South Africa.¹⁶⁵ How does one explain that there are a few women who still choose hard sciences than men? It has been argued that the academic culture has still not lost its traditional roots where men play the decisive role.¹⁶⁶ Due to the fact that universities expect full commitment from their personnel an expectation that most women cannot meet due to having to combine work and family commitments.

In other vocations women have eight-to-five jobs and taking extra work home becomes a choice; but in academia the demands and pressures of academia are not just eight-to-five jobs. Things like supervising students, marking, attending conferences and seminars, writing articles and social networking are constant pressures that demand full attention if one is to improve one's tenure in academia.

¹⁶⁰ R Rosa 'Women in the Academic World' (2000) 6 SA 117.123.

¹⁶¹ T Clarke et al *The Characteristics of Organisational Cultures that Keep Women in Academic Leadership Roles* 2 ed (2000) 279-300.

¹⁶² Ibid 290.

¹⁶³ R Rosa 'Women in the Academic World' (2000) 6 SA 117.123.

¹⁶⁴ Ibid 290.

¹⁶⁵ Rosa (note 162 above) 290.

¹⁶⁶ T Clarke et al *The Characteristics of Organisational Cultures that Keep Women in Academic Leadership Roles* 2 ed (2000) 279-300.

In other vocations one does not have to constantly publish to remain relevant. In addition, it is argued that the academic world is a closed one with its own culture and lots of unwritten rules.¹⁶⁷ Therefore academic culture makes it difficult to come up with a strong explanation of why gender inequality still persists post-1994. However, it is clear that sufficient effort has not been made in terms of following up on policies and ensuring that these policies are implemented for gender equality to prevail in the workplace.¹⁶⁸ Academia is never called to account to take full responsibility of their policies.

For example, the absence of women professors perpetrates patriarchy and this is problematic because this category has a large influence on recruitment and promotions. However, universities are never called to task and they always report to be constantly working on their gender quotas and filling the missing links. But how long do they need to work on the issue of gender equality? One may conclude that there is a lot that still needs to be done in the workplace for women to be free and overcome patriarchy. The few female professors at university level reflect that there is insufficient support and without sufficient support for female academics gender inequality will triumph. Women are still well represented among assisting personnel and mostly underrepresented in scientific personnel. This further emphasises that the problem of typical ‘girl choices’ still exist post-1994.

2.3 Synergy in Literature

The previous section discussed referring to silos as the very reason why there is a vast need for a process shift to achieve gender equality in the workplace. A more relevant and practical application of all the above-mentioned facets, which takes into account an interdisciplinary approach, is highly recommended. Further this approach must take cognisance that equality is the cornerstone of the Republic’s supreme and most fundamental law which, when applied, has to speak to the social ills in the political arena.

In the light of this research being interdisciplinary, merging the legal with industrial sociology will ensure a greater understanding of the political space that will advance the chances for greater legal compliance to be reached. For instance, it is unacceptable that spaces such as universities are still struggling with gender inequality in the workplace 20

¹⁶⁷ Ibid 290.

¹⁶⁸ AM Konrad *Gender Identity and The Culture of Organizations* (1990) 58

years after apartheid. The way ordinary activities are carried out results in gender divisions, gender hierarchy, segregation and wage gaps.¹⁶⁹ This is attributed to organisational cultural norms because these activities are not correlated but often involve routine daily decisions made by people in power who may not even be completely aware that they are creating gender divisions because culture is interwoven into daily norms.¹⁷⁰

A case in point from the university case study is that policies that look into hiring, performance evaluation, allocation of work, setting of salaries and wages, time off do exist but they are not gender sensitive in practice and because the law works in silos it becomes difficult to deconstruct societal norms using compliance legislation.¹⁷¹ Due to the fact that most of the norms that perpetuate male dominance are constructed in interactions and images construed over time not legally.¹⁷² Hence, according to the iceberg theory it is these hidden icebergs that sink the ship.¹⁷³ For example, masculinity is defined as a socially generated concept of what it means to be a man, it is not found in any university policies hence the university cannot be held accountable for noncompliance. Yet women still remain excluded and patriarchy dominant to merit the subordination of women in ways that it has become normally acceptable. For this reason it becomes a struggle to make giant steps with gender equality policy compliance because the power of the law is an ineffective implementation. So if masculinity is a norm how is it legally enforceable?

¹⁶⁹ Ibid 290.

¹⁷⁰ J Acker *Hierarchies, Jobs, Bodies: A Theory of Gendered Organisations* 4 ed (1992) 139.

¹⁷¹ Ibid 290.

¹⁷² E Hemingway 'The Iceberg Theory' <http://www.culture@work.com/kuber.html>

¹⁷³ Acker (note 169 above) 290.

Chapter Three

Research Design, Methodology and Analysis

3.1 Research Design

This research is set to find out whether affirmative action has enabled female academics to achieve gender equality in the South African workplace post-1994. The strategy was to extensively engage literature to come up with a case study of academia to get an answer to this question. Information was drawn from salient cases, newspaper articles, electronic media, prominent websites on gender equality and government reports and strategic plans as well as university policy both local and national. These sources contributed in building a case study on what is currently happening in academia pertaining to gender issues. Recurring themes were used to observe, analyse and come up with explanations of how female academics are doing in the workplace as well as the hurdles they face on a daily basis. Which then gave an explanation of why still 20 years after apartheid there are still not enough female academics shooting up to leadership positions even though they are seen to be entering academia in numbers?

3.2 Research Methodology

Social research is concerned with exploring, describing and explaining social phenomenon involving human behaviour. This is a case study of the South African academia set on the premises of a qualitative research paradigm because the research studies human behaviour. Hence the research is empirical in nature therefore deals with human problems. The case study seemed to be ideal in providing the kind of evidence required to address this problem. Due to the fact that it attempts to study human action from describing gender inequality and affirmative action measures through understanding the action of academics in the workplace using an interdisciplinary approach. A qualitative paradigm was chosen because the case study attempts to study human action from an insider's perspective and answers certain questions to build human knowledge of the gender situation on the ground.¹⁷⁴

Data collected ranged from print to electronic secondary data to ensure that sources used demonstrated whether affirmative action has enabled gender equality to advance since pre-

¹⁷⁴ E Babbie & J Mouton *The Practice of Social Research* 10 ed (2010) 54.

1994. However at the same time it was crucial that research resources were easily accessible hence taking advantage of long hours of continuous desktop and library research seemed beneficial because resources that were used were readily accessible. These came from academic sites, journal search engines, library printed books and current university policy and national legislation.

3.3 Data Analysis

Certain themes were drawn from recurring and cross-cutting issues that emanated from a case study of various top South African universities. The themes that stood out and had strong arguments repeated by various authoritative scholars who specialise in the subject then made up the case study of academia. They lead to further discussion of the issue and were used to interpret the data gathered from the critical analysis of authoritarians and scholars in the field. For example, the thematic approach was very useful in analysing and describing the popular iceberg metaphor that illustrates hidden culture and like an iceberg nine tenths of the culture is below the surface, hence making dealing with gender very difficult because only 10% of the real gender issues are seen on the surface and the rest of the 90% is unspoken and unconscious rules.¹⁷⁵

¹⁷⁵ E Hemingway 'The Iceberg Theory' <http://www.culture@work.com/kuber.html>

Chapter Four

Themes of Analysis

The research paper sets out to answer one main research question: Is affirmative action an enabler of the advancement of the right to gender equality in the South African workplace post-1994? This paper has attempted to answer this question by looking at a case study of South African universities. Hence the on-going debate by Sharma is that addressing gender inequality centres on the many hurdles faced by women in the workplace. It is further argued that any claims and efforts to reduce poverty can achieve drastic results only if they address the issue of gender inequality. If this is the case why has the South African workplace not hastened their steps in doing so?¹⁷⁶

Looking at the various themes that will be discussed at length, the interpretation of the findings will assist in explaining why it is that giant strides have been made but not much has been achieved in the last 20 years since South Africa moved passed apartheid. In light of the developed national laws to protect previously disadvantaged designated groups. Women fall under that scope hence gender equality has been debated since then with many measures and laws put in place and the expectation is that ideally the workplace scenario is free from discrimination and everyone is equal as stated by the fundamental law of the country.

However, despite South Africa having one of the best constitutions, policies, affirmative action measures and the most progressive Bill of Rights, there are still vast problems with the implementation and monitoring; hence gender equality in the workplace is still questionable.

The following thematic challenges have been highlighted as the major drawback of academia in trying to advance women's rights to equality. Taking into consideration that women are already playing catch-up hence their development will require vast resources to capacitate them to the level where their male counterparts are at now. Further, women's responsibilities outside the workplace put them at a position that disadvantages them. Especially with respect to the way academia operates since it is a very demanding career and procreation disadvantages women in terms of efficiency and you find that they cannot publish frequently

¹⁷⁶ AM Konrad *Gender Identity and The Culture of Organizations* (1990) 58

or network regularly.¹⁷⁷ Hence this paper has noted that even though a lot has changed the workplace is still patriarchal and not women friendly. Thus it does not accommodate the needs of female academics which perpetuate gender inequality even 20 years later since South Africa obtained democracy. This study picked up that most of these problems have nothing to do with the law per se but it is a combination of social ills and the context of South Africa political history.

For instance, a gender gap was opened pre-1994 and South African women are still operating on a skewed scale tilted to favour males by systems that were never dismantled in 1994 but new laws were built on a foundation that was already constructed to favour the male species as the better other and the owners of public space. Therefore despite having all the relevant legal back-up women are still struggling in the workplace due to other factors which emerged throughout the research. The following themes kept reoccurring and thus stood out in the study of academia: socialisation, organisational workplace culture, patriarchy and gender stereotyping, family responsibilities, work and family spill over, role overload, glass ceiling, mentorship, political will, gender quotas and leaking pipeline syndrome. These themes will be discussed in detail in the following chapter.

¹⁷⁷ O Sharma *Gender Inequality In Education and in Employment* (2008) 167.

Chapter Five

Research Results Discussion

5.1 Introduction

South Africa has taken great strides forward in protecting the rights of women legally in the workplace for the past 20 years, yet more needs to be done to protect female academics from discrimination at work.¹⁷⁸ Reports state that many women are not aware of their rights and still endure a range of gender-based challenges in academia.¹⁷⁹ Affirmative action protections and equality measures were meant to advance gender equality post-1994; however the following hurdles render affirmative action useless in enabling female academics advancement to gender equality in academia.

5.2 Themes of Analysis

5.2.1 Political will

Judging from the various supportive literature one can say that in South Africa there is political will to advance the rights of women in the workplace. Fikile Mazibuko, in support of this statement clearly states that there is conscious and deliberate political commitment to address women's issues both in the workplace and other political or social institutions.¹⁸⁰

This commitment is expressed in both government and university policies. For instance, most universities such as University of Kwazulu-Natal, University of the Witwatersrand, University of Johannesburg, University of Pretoria and University of Cape Town to name a few have adopted policies to effect and enhance their gender equity programmes.¹⁸¹ Despite these great initiatives statistics still indicate otherwise when it comes to numbers of women in

¹⁷⁸ 'Women's rights in the workplace: SA has come a long way in 20 years' *Legal and Tax News* (12 January 2013).

¹⁷⁹ Ibid 290.

¹⁸⁰ F Mazibuko 'Women in Academic Leadership in South Africa: Conventional Executive or Agents of Empowerment?' (2006) 13(1) *SACHED* 106, 123.

¹⁸¹ O Sharma *Gender Inequality In Education and in Employment* (2008) 167.

leadership positions both in corporations and academia. The statistics indicate that we are still facing major challenges when it comes to gender equality in the workplace.¹⁸²

Women's participation and visibility still lags despite the gender quota system put in place post-1994 to ensure women representation and participation in all spheres including the workplace. Notwithstanding that universities are going through a process of transformation strides have been made by passing laws and policies but they are only a drop in the ocean. Redress ideally should be a priority as stated by most universities' mission statements and should be a guide towards a vision that embraces gender equality. Clearly, however, these mission statements tend to be an appreciation of the law rather than application of the law.¹⁸³

One might argue that the drafting and displaying of such mission statements shows political will, but is that enough? An increase of female academics is noted and some are climbing the ladder but at a very slow pace and, in my opinion, this is not enough. Surely after 20 years South African universities can do better than just showcasing political will. Implementation is at the cornerstone of obtaining gender equality in the workplace. The distribution of academic staff is still mediocre, even though there are a few female academics currently in high positions more can and must be done. Human resources development for higher education systems is important so why would universities not want to develop female academics? It is not satisfactory that the composition of staff still does not reflect demographic realities 20 years after apartheid. Women are severely underrepresented especially in senior academic and management levels.¹⁸⁴

The Ministry of Education, through policy frameworks and research, advocates that women in academia engage in merger transformation and change agenda. So what is stopping universities from implementing this because clearly there is some degree of political will? Challenges for women in academia are vast and cannot be single handily corrected by law and political will. These policy frameworks and transformation agenda pose challenges because they do not take initiatives to define the specific agenda – be it retention, promotion, research, access to post-graduate programmes and learning and teaching resources.¹⁸⁵

¹⁸² F Mazibuko 'Women in Academic Leadership in South Africa: Conventional Executive or Agents of Empowerment?' (2006) 13(1) *SACHED* 106, 123.

¹⁸³ S de Beauvoir *The Second Sex: Women as the Other* (1949) 341.

¹⁸⁴ de Beauvoir (note 182 above) 290.

¹⁸⁵ Mazibuko (note 181above) 290.

Therefore for political will to transform into action institutions of higher learning should take time out to dissect and define capacity-building activities and work plans or programmes that are meant to address gender inequality.¹⁸⁶ For instance, the current policy frameworks and national plans for higher education possesses enabling measures and initiatives that provide opportunities for redress experienced by female academics, but implementation and initiation of programmes is entirely left to each institution of higher learning to carry out without even proper monitoring and evaluation or some sort of follow-up to ensure that this really does take off or it is just endorsed on paper.¹⁸⁷ A typical example is that most universities state in their mission statements that they clearly support affirmative action measures that prioritise access of designated groups, including women students, but do women really get prioritised into post-doctoral programmes?

5.2.2 The iron lady

Academia is not for the faint hearted and this challenges not only your mind set, culture and beliefs but also requires you as the individual to adopt best practices. This means many females then tend to imitate men by putting career first at all times. Bearing in mind that most women are mentored by men, I still think women should not be mentored to become men or rather iron ladies because women have their special qualities and assets that they can bring to the table such as their caring nature and ability to multitask. Women in academia have a substantive role to play in the change process, management and decision-making in institutions of higher learning without being put under pressure to act like men because they are in power.¹⁸⁸

Women have potential and ability which can be translated to effective leadership, but the tendency is to promote men based on potential and promote women based on achievements.¹⁸⁹ Hence the scales are already tilted towards male dominance. Developing and enhancing women in leadership roles in institutions of higher learning requires a

¹⁸⁶ Education White Paper (1997).

¹⁸⁷ Ibid 290.

¹⁸⁸ F Mazibuko 'Women in Academic Leadership in South Africa: Conventional Executive or Agents of Empowerment?' (2006) 13(1) *SACHED* 106, 123.

¹⁸⁹ Ibid 290.

systematic plan, a strategy and a process that is driven by women in academia.¹⁹⁰ But half the time it is not the case because as in all systems, change processes can result in organised resistance attempting to fiercely guard practices of the past.¹⁹¹ Academia can be rough and all means of exclusion can end up isolating promising females in the form of subtle and passive mentoring. As a result, there is hardly any transference of skills and competences.¹⁹² This then makes females look incompetent. Yet it is critical for women to do research, teach and contribute to knowledge development because women who excel in human endeavour and moving forward boundaries of knowledge serve as powerful role models as they contribute to the gender quake.¹⁹³

Women in high academic levels become iron ladies because they are challenged by certain hostilities that require them to fight back to prove that they can do it.¹⁹⁴ It seems as if it gets worse when they do not have mentorship as well as peer support because they have to figure things out and are constantly watching their backs and taking on all kinds of criticisms from all genders. The reality is that the pull-her-down syndrome also exists among females hence the difficulties in ending gender in equalities.¹⁹⁵ Being an iron lady calls for female academics to be alive to the harsh realities of male-dominated sub-systems and doing whatever possible to contradict the negative expectations and stereotypes about women.¹⁹⁶ In more than one instance a woman's success is credited to her being masculine and one of a kind and this shifts away from her capabilities and abilities and credits her manliness.¹⁹⁷

5.2.3 Breaking the old-boy's network

Women in academia tend to make positive contributions in teaching, administration and student support, all of which are important functions.¹⁹⁸ However, men tend to find time to network and create contacts and this is really important in academia especially in peer review

¹⁹⁰ R Smith 'Work-family Spill Over Revisited, is there Hope for Marital Happiness in Dual-earner Families?' (2000) 66 *Koers* 603,620.

¹⁹⁰ Ibid 290.

¹⁹¹ C Boughey 'From Equity to Efficiency' (2012) 12 *SAJHR* 33, 43.

¹⁹² Ibid 290.

¹⁹³ Smith (note 189 above) 290.

¹⁹⁴ F Mazibuko 'Women in Academic Leadership in South Africa: Conventional Executive or Agents of Empowerment?' (2006) 13(1) *SACHED* 106, 123.

¹⁹⁵ Ibid 290.

¹⁹⁶ Mazibuko (note 193 as above) 290.

¹⁹⁷ A Bezuidenhout & F Cillier 'Age Burnout, Work Engagement and Sense of Coherence in Female Academics at Two South African Universities' (2008) 12 746,842.

¹⁹⁸ Ibid 290.

and career advancement. It is without doubt that considerations for tenure, promotion and leadership positions require networking, research productivity and assertiveness to assume leadership that is empowering and transformative.¹⁹⁹ It is a proven fact that those in academia will vouch for someone they know and have networked with in the academic circles and this is an opportunity to which women are usually not privileged.²⁰⁰

Authors have argued that the modern university is a pluralistic institution in the sense that the tendency in South African universities is to diversify power by having male-to-male influential groupings and this pockets resistance amongst academics.²⁰¹ These groupings take the form of an old-boys club. Centres of power include schools within the institution, faculties, colleges, executive management, senates and councils.²⁰² Women in leadership have to challenge established patriarchal and hierarchical styles of leadership and redefine power relations, as women are agents of transformation.²⁰³ Therefore a human rights approach is of the essence to empower all gender and turn away from the 'victim syndrome'. One important initiative is the realisation of the third MDG because it calls for the empowerment of the girl child at a very tender age and by so doing build up a future generation of empowered women leaders.

Breaking the all-boys network requires initiating communication and dialogues with male colleagues. Gendered rituals should be broken down. For instance, who says female academics cannot play golf with their colleagues? Where does gender mainstreaming begin and end? This is where colleagues tend to network and share best practices while females remain in the private spaces watching television and missing out on opportunities and equal access to vital information. As peers and equal partners, institutional transformation programmes have to start with the daily norms and tendencies. Women are aware of the benefits of networking within the institution and outside but time constraints are not on their side, hence very little effort is invested in networking. For instance, you can watch television whilst cooking, bonding with your children or doing other household chores. However, having drinks with your colleagues after work requires you to sacrifice your family

¹⁹⁹ A Bezuidenhout & F Cillier 'Age Burnout, Work Engagement and Sense of Coherence in Female Academics at Two South African Universities' (2008) 12 J 746,842.

²⁰⁰ Ibid 290.

²⁰¹ F Mazibuko 'Women in Academic Leadership in South Africa: Conventional Executive or Agents of Empowerment?' (2006) 13(1) *SACHED* 106, 123.

²⁰² Ibid 290.

²⁰³ Mazibuko (note 200 above) 290.

responsibility time and most women feel guilty about doing that because already they invest so much time being caught up in the day-to-day office administration and spend hours working late, yet for males it is the norm for the father to work late, as culturally the father is a bread winner who does not necessarily have to cook on a daily basis. Hence you find that female academics have less integration into research and professional networks which are very important activities for mobility and recognition into institutions of higher learning.²⁰⁴

The lack of female academics' participation in meaningful social networks is a hurdle given the fact that this has the tendency to exclude females from the executive circle. Female academics should have a way to deal with this limitation by generating their own brands that will stand out.²⁰⁵ Further, female academics can challenge the all-boys clubs in the name of gender mainstreaming by creating their own networks and sometimes inviting these members of boys clubs so to avoid alienation as well as to draw from some of their strengths.

Policies and legislation guidelines are in place in institutions of higher learning that support the development of equity and transformation programmes. Hence academics should use various instruments such as the Employment Equity Act, the Education Act, the Constitution, and affirmative action measures to lobby for gender equality to their most favourable advantage to advocate for these universities to account towards the development of employment equity measures and reaching target goals. South African women have always challenged oppressive gender relations throughout the history of apartheid, therefore advocating for women's rights in the workplace is the best way to fast track their advancement to achieving the equality status.²⁰⁶

Time has lapsed for female academics to become token leaders, but things have changed and women are now viewed as equal active partners who contribute positively to institutions of higher education.²⁰⁷ As illustrated in *Mazibuko v City of Johannesburg*, South Africa is still a patriarchal society but discrimination on the basis of sex is unconstitutional.²⁰⁸ Thus the state must go beyond the prohibition against unfair discrimination to the realm of advancing

²⁰⁴ R Smith 'Work-family Spill Over Revisited, is there Hope for Marital Happiness in Dual-earner Families?' (2000) 66 *Koers* 603,620.

²⁰⁵ *Ibid* 290.

²⁰⁶ AM Konrad *Gender Identity and The Culture of Organizations* (1990) 58

²⁰⁷ *Mazibuko v City of Johannesburg* ZACC 28 2010 (3) BCLR (CC).

²⁰⁸ *Ibid* 290.

substantive equality.²⁰⁹ Therefore female academics must use affirmative action measures to advance gender equality in academia. As demonstrated in the case of *Pretoria City Council v Walker*, where the Constitutional Court clarified that positive discrimination policies aimed at correcting past inequalities do not amount to unfair discrimination.²¹⁰

The major problem with policies is the tendency to assume that once policies are in place people will develop implementation plans as well as follow what is in those plans, yet on the contrary most universities have policies and plans that are gathering dust while on the ground nothing much is being changed. It must be noted that literature states that success has been recorded when such policies are used properly.²¹¹ For instance, affirmative action should not only just be based on gender but take into full consideration qualification and merit but this is left to the full discretion of the institution to implement and most times without monitoring and evaluation or some kind of accountability.

This goes to show that not many efforts are being made in practice to ensure that gender equality is not just a myth but is achievable as a constitutional requirement and a human right for all. This requires collaboration and collective strategies hence the need for an interdisciplinary approach which will be the vehicle for fast and effective change to take place in providing interventions that will transform the workplace in a unified way that touches all the important spheres such as the legal, political, sociological and the human rights aspect of doing away with gender inequality in the workplace.

5.2.4 Mentorship opportunities

There is limited mentorship for female academics if any at all. It has been argued that the loss of mentors at universities should rather be taken as an opportunity rather than adversity.²¹² Due to the fact that women should use this gap as a platform to engage and network with strategic people both male and female who have been there.²¹³ Male colleagues with great experience should not be alienated but used as mentors because there have been a few women who have held the leadership positions such as deans, registrars, vice-chancellor etc. This is a sad reality which affirmative action and equity measures hope to redress but anticipatory

²⁰⁹ C Boughey 'From Equity to Efficiency' (2012) 12 *SAJHR* 33, 43.

²¹⁰ Ibid 290.

²¹¹ Boughey (note 208 above) 290.

²¹² *City Council of Pretoria v Walker* 1998 (3) BCLR 257 (CC).

²¹³ Ibid 290.

compliance requires employers to make costly investments during the initiation phases such as on-the-job training to give women a chance.²¹⁴

Mentorship creates a space for conversations, socialising women into the politics and culture of universities as well as the norms, values and history of the organisation. It is therefore critical not to alienate male mentors who influence the decision-making process of higher institutions because some universities set out to head-hunt females for senior positions to fulfil the requirements of affirmative action measures.²¹⁵

Mentors contribute significantly to academic career success and satisfaction, yet most women find themselves having male mentors because academia is still male-dominated.²¹⁶ As long as academia is dominated by male mentors, it is a clear indication that gender equality in the workplace has not been achieved 20 years post-1994. Hence the need to hasten and prioritise initiatives that are going to speed the advancement of women to tilt the skewed scales and balance gender equality in institutions of higher learning.

It is every woman's right to choose a mentor whether male or female not to end up forced to have a male mentor because of a shortage of adequate female mentors. Women must choose male mentors out of choice and not because they are left with no option but to have a mentor in academia because a mentor influences your life and career path greatly. It is the duty of the university to develop, groom and retain female academics that are going to take up challenging mentorship positions for generations to come since they subscribe to gender equality measures.

It must be noted that transformation may not come solely from the male counterparts because they enjoy their position of being in power but women leaders must make them see the benefits of transferring skills and sharing power. Female academics must be prepared to be the major drivers of this transformation to gender equality due to the fact that their male counterparts are still reaping the rewards of being the primary beneficiaries who may even try to frustrate the transformation process in practice whilst supporting it in theory.²¹⁷

²¹⁴ *Mazibuko v City of Johannesburg* ZACC 28 2010 (3) BCLR (CC).

²¹⁵ *Ibid* 290.

²¹⁶ *City Council of Pretoria v Walker* 1998 (3) BCLR 257 (CC).

²¹⁷ *Mazibuko* (note 213 above) 290.

5.2.5 *Leaking pipeline syndrome*

Although studies have shown that women in academia have made some form of progress in breaking through the glass ceiling, there are still organisational, political and social obstacles that prevent many female academics from reaching their full potential.²¹⁸ One other obstacle is the age factor, which then leads to the ‘leaking pipeline syndrome’. The ‘leaking pipeline syndrome’ refers to the loss of female academics before they attain one of the higher positions such as senior lecturer, associate professor or professor.²¹⁹ The problem that South Africa faces is that highly skilled academics are aging with the gap of competent academics increasing, which is a scary trend as South African universities are striving to achieve employment equity.²²⁰ It is therefore argued that South African female academics face a double jeopardy in that they are discriminated against on grounds of both age and gender.²²¹ But there is no doubt that female academics are facing challenges because the boundaries between professional, organisational and personal life are blurred; making it particularly difficult for a person with a care-giving responsibility outside work to compete on an equal basis with one who does not have such responsibilities.²²²

A typical career path for females follows a slightly different pattern from that of most males, as career stages for females are encountered at a late stage in life. Females in middle career stages remain underutilised and are neglected in research theory and practice hence making up the underutilised talent pool.²²³ Hereafter they are unable to take up the place of a retiring academic because underutilisation means lack of experience. No wonder we are missing female academics in higher levels of university institutions, because by the time they are experienced enough to lead it’s almost retirement age for them.²²⁴

The trend of female academics not being retained in academia has dire consequences because this translates into a loss of institutional knowledge.²²⁵ More alarming is that it has been

²¹⁸ A Bezuidenhout & F Cillier ‘Age Burnout, Work Engagement and Sense of Coherence in Female Academics at Two South African Universities (2008) J 746,842.

²¹⁹ Ibid 290.

²²⁰ *City Council of Pretoria v Walker* 1998 (3) BCLR 257 (CC).

²²¹ Bezuidenhout & Cillier (note 217 above) 290.

²²² C Boughy ‘From Equity to Efficiency’ (2012) 12 *SAJHR* 33, 43.

²²³ F Mazibuko ‘Women in Academic Leadership in South Africa: Conventional Executive or Agents of Empowerment?’ (2006) 13(1) *SACHED* 106, 123.

²²⁴ Ibid 290.

²²⁵ Bezuidenhout & Cillier (note 217 above) 290.

argued that universities seem to be more concerned with the ‘total number’ of women in employment, while ignoring the fact that many talented female academics are lost through the ‘leaking pipeline’ before they even reach the position of senior professor.²²⁶ In reality, it takes time to complete a doctoral degree, publish a number of accredited journal articles necessary to reach the professional level.²²⁷ By the time female academics comply with publication requirements for professorial appointment, they are already a target of age discrimination and often close to the mandatory retirement age.

Since South Africa is still a developing country, many women will follow a slower path of academic development. This is mostly facilitated by studying part-time, while having a full-time job and rearing children and fulfilling traditional female roles such as being primarily responsible for the household. Hence the general population of female academics will therefore reach professorship level in their 50s or even later. The over achievers become women professors by the age of 48.²²⁸

If the leaking pipeline problem persists South African universities must expect a staffing crisis in the near future as experienced female academics near the mandatory age of retirement.²²⁹ Thus the bone of contention is, should affirmative action and gender equality policies not be addressing the leaking pipeline syndrome to advance women’s equality in the workplace? For instance the underutilisation of female academics at an early age or the age of retirement for female academics should have long been looked at, in more detail in the 20 years post-independence to advance women’s rights in the workplace. This is a clear indication that gender equality in the workplace has not been ideally achieved at a desirable rate considering the fact that South Africa has one of the best constitutions in the world that explicitly advocates for gender equality.

5.2.6 *Late starters, late achievers*

The Employment Equity Act has a two-fold function, which is to promote equal opportunity and fair treatment in employment through the elimination of unfair discrimination and the

²²⁶ R Rosa *Governance for a Sustainable World* (2003) 279,300.

²²⁷ Ibid 290.

²²⁸ Rosa (note 225 above) 290.

²²⁹ KO’Conner ‘Is Senior Management in Irish Universities Male Dominated? What are the Implications?’ (2010) 1 *IJS* 1, 21.

implementation of affirmative action measures to redress the disadvantages in employment experienced by designated groups such as women. But will women ever catch up? Women in academia are already starting on a skewed scale because they are beginning on a late footing hence their achievements will always fall far behind male academics.

Worse is, males have the advantage of concentrating fully on their careers whilst female academics are challenged with a family, children and household responsibilities which are difficult to delegate without feeling guilty. Female academics may feel guilty that their children will know their nanny's or extended family more because of the long office hours she spends at work making sure other people's children have a bright future.

Various authors have argued that the position of academics in South African universities mimics a global picture.²³⁰ But the other issue worth exploring is that why shouldn't women take full responsibility of their sexual reproductive systems? Women should not be pressured either by society or the workplace on when to reproduce. Instead support structures should be put in place to allow them to decide if they want to start with having children or with their careers. Instead of having to choose they should be able to have it all and further excel in both spheres, but this can only be achievable with the right support and gender-sensitive programming in the workplace.

Culturally, due to women's child bearing and other domestic responsibilities most women are unlikely to follow the anticipated pattern of uninterrupted service in academia that usually contributes to promotions.²³¹ Women professors have different career trajectories compared to males as a result of late beginnings and interruptions to career development. Therefore typical women's stories are tied to stories of others such as children, husbands or family.²³² In addition, many married women reported fragmented educational and career patterns as a result of their husband's career movements.²³³

It must be noted that academia is a front loaded profession, requiring large investments of time and energy during the early stages. This means, more often than not the pressure to

²³⁰ A Bezuidenhout & F Cillier 'Age Burnout, Work Engagement and Sense of Coherence in Female Academics at Two South African Universities (2008) J 746,842.

²³¹ Ibid 290.

²³² Bezuidenhout & Cillier (note 229 same above) 290.

²³³ R Rosa *Governance for a Sustainable World* (2003) 279,300.

increase research outputs often coincides with the timing of choices such as whether to have children or not. This leads to two main patterns of sequencing of family then career or career then family.²³⁴ Where is the equity in this scenario since it is evident that men tend to have uninterrupted linear career paths and a sense of achievement, while women are either feeling guilty for pausing on child bearing or playing catch up because they were interrupted by taking time out to have children in life.

5.2.7 *The number's game*

The assignment of men and women into different worlds has had a long-standing history but males have always remained the citizens until the second wave feminism contested the idea of women being the other.²³⁵ With this wave, women kept creeping in slowly into masculine spheres of the workplace such as academia, hence the need for a cultural shifts argues Mary Evans with regard to representation of women in the workplace.²³⁶ She further asserts that the issue of men and women having specialised activity is seriously under deconstruction.

The Education White Paper outlines equity as one of the principles that governs transformation at university level. As a result, the University of Cape Town, University of the Witwatersrand, University of Pretoria and University of KwaZulu-Natal are amongst the list of top universities in the world. However, research has noted that even the most progressive spaces such as universities display themselves as being gender neutral yet in practice they are male dominated with male bias and inherent cultures that ensure that the global balance of power remains under a male patriarchal system according to O'Conner.²³⁷ O'Conner argues that men will not be the driving force in tackling gender disparities and attitudes. For, they will not fight a battle, which resides with their female counterparts in their favour. Universities are seen to be complying with affirmative action and gender equality policies in theory but in practice on the ground women are still used as figures for window dressing.

²³⁴ KO'Conner 'Is Senior Management in Irish Universities Male Dominated? What are the Implications?' (2010) 1 *IJS* 1, 21.

²³⁵ M Evans 'Gender in an Age of Austerity' (2013) 22(5) *WHR* 838, 840.

²³⁶ *Ibid* 290.

²³⁷ Conner (note 234 above) 290.

Many women stand over-represented in non decision-making positions and hugely underrepresented in management positions where highly respective university decisions are made just to satisfy gender quotas.²³⁸ Hence universities are playing the numbers game instead of realising that affirmative action is a process of creating equal employment opportunities that require fundamental changes in culture, not just in figures.²³⁹

Gender transformation in South Africa today seems to be more about the numbers game to achieve 50/50 representation, which is the popular reference to gender equality targets.²⁴⁰ There is a need for institutions to be held accountable hence the need for transparency to ensure social justice. The criticism of affirmative action policies has been that affirmative action policies are worth less than the paper they are written on because they have never been enforced stringently enough and in good faith to produce significant results. Instead they generally concentrate on increasing targets for the global world to see.²⁴¹

Mdladlana further contends that in most instances institutions are not sanctioned even if they hugely rebel from not adhering to quotas since the monitoring mechanisms are very weak if in existence at all.²⁴² For this reason, it is argued that unless women actively advocate for their rights they will forever remain marginalised by institutionalised cultural workplace norms and culture. Therefore they need to collectively challenge cultural subordination and stigma that prevents them from gaining equal opportunities.²⁴³

The shift from disparity to equality will trace a number of changes in the understanding of the category of 'women' that will lead South African universities. But for a speedy transformation a deconstruction is needed because new interactions and new value orientations are needed in line with development to eliminate all gender barriers and opening the route to economic success.²⁴⁴ Having females in powerful positions ensures there is greater participation as well as giving them resources in order to ensure equality for all.²⁴⁵ It should be noted that institutions of higher education should be the buffers for creating social

²³⁸ KO'Conner 'Is Senior Management in Irish Universities Male Dominated? What are the Implications?' (2010) 1 *IJS* 1, 21.

²³⁹ M Mdladlana *Affirmative Action and Reverse Discrimination* 2 ed (2003) 123, 99.

²⁴⁰ *Ibid* 290.

²⁴¹ R Rosa *Governance for a Sustainable World* (2003) 279,300.

²⁴² Mdladlana (note 238 above) 290.

²⁴³ *Ibid* 290.

²⁴⁴ O'Conner (note 237 above) 290.

²⁴⁵ Rosa (note 241 above) 290.

change and gender parity in Africa. However, it is of great concern if such institutions are not leading by example. How will the gender agenda be pushed as a priority if even the highly prestigious institutions are still male dominated? How can male figures take decisions that will favour women's equality in their absence?

It is noted that even though the numbers reflect some presence of women their minimal number silences their vote so how can you call the numbers game equality? Gathering from the most critical views in this research there is a vast need for a conscious shift in the thinking of gender because gender is reinforced subconsciously since cultural norms tend to habitually take precedent over university policies.²⁴⁶ Therefore certain organisational cultures and institutional structures will pose various threats to the advancement of women.²⁴⁷ Consequently, affirmative action has been criticised as follows 'affirmative action has a way of persisting even when the body of law is six foot under'.²⁴⁸ The Commission of Gender Equality conducted research to provide a picture on compliance.²⁴⁹ This report shows that despite the existence of various relevant laws to promote gender equality in the workplace progress continues to be unsatisfactory.²⁵⁰

The research portrays a scenario where generally numbers are put up to claim compliance and a facade of relevant policies and programmes being in place whilst progress is stalled, as practical outcomes reveal a reality of continued neglect of gender equality as a human right and a constitutional obligation. Further, the report calls for a greater more visible leadership from the gender commission of gender equality as well as the strengthening and support from gender machinery including the Department of Labour and Employment Equity Commission for Gender Equality.²⁵¹ Notwithstanding the importance of sanctions and compliance for purposes of this paper no singular approach to the eradication of gender inequality seems to be working. Therefore there is need to call for a greater understanding of culture and the use of an interdisciplinary approach to fight gender inequalities from different multi-dimensional angles. Highlighting that unless people's attitudes and cultural norms on gender change, transformation will still be minimal.

²⁴⁶ R Rosa *Governance for a Sustainable World* (2003) 279,300.

²⁴⁷ Ibid 290.

²⁴⁸ The South African Board for People Practices Women's Report, 2011.

²⁴⁹ The Gender Commission Report (2013).

²⁵⁰ Ibid 290

²⁵¹ The South African Board for People Practices Women's Report (2011).

5.2.8 Institutionalised culture

Culture is an integral pattern of human behaviour which is not limited but translates to workplace behaviour in practice, manners, beliefs, relationships, roles, customs and expectations.²⁵² Culture is multi layered and malleable over time and can change because it must always be considered in context.²⁵³

A controversial question has always been: Can workplace culture change now? Looking at the way women are climbing the ranks it is evident that change is inevitable. This is supported by the literature, which states that culture has always been dynamic and changes over time, hence institutionalised culture in the workplace still has room for change. Scholars have illustrated this by looking at how many times the role of women has changed in society, which inevitably affected the workplace. So why is it so difficult to change the academic institutions in South Africa? In the past women have contributed to society in dynamic ways, for instance when men went to war, women took control of the workplace as the dominating labour force.²⁵⁴ Hence they have a lot to offer the workplace if they are given equal opportunities to shine and deliver. Women have proven that they are capable of advancing within the system, but they require development, recognition and dedicated resources to continue pursuing their fields of expertise.

Taking a look at the numerous changes women have gone through, it is clear that this is possible. For instance research points out that there was a time in ancient history when women were revered and in early societies regarded with awe and property descended through the female line.²⁵⁵ However, change occurred in the early Hebrew years when women were seen as the other rib and their inferiority role reinforced by the early Christian patriarchy system of seeing the women as a temptress, the evil one who led Adam the rightful male into sin.²⁵⁶ For a long time women remained in the private arena until men went to war and women were called to take up employment in the public sphere since there was shortage in the labour force. But once the men came back from wars the women were once again

²⁵² M Evans 'Gender in an Age of Austerity' (2013) 22(5) *WHR* 838, 840.

²⁵³ *Ibid* 290.

²⁵⁴ Evans (note 251 above) 290.

²⁵⁵ M Mdladlana *Affirmative Action and Reverse Discrimination* 2 ed (2003) 123, 99.

²⁵⁶ *Ibid* 290.

recalled and shuttled into their traditional roles until feminism came to their rescue.²⁵⁷ This shows that culture is fluid and South Africa is an excellent example because the women's liberation movement made itself felt and became strong and changed typical traditional culture by fighting against any system that discriminated against women in any sphere post-1994.

Culture not only shapes society but also shapes behaviours, structures, perceptions and becomes a way of life in a particular workplace.²⁵⁸ In today's context it is vital to look at how culture in the workplace influences gender equality. It is further argued that behaviour is derived from the social and personal world hence the workplace remains part of a socially created world.²⁵⁹

5.2.9 Gender gap

In 2011 the shocking realisation in South African universities was that female academics still earned far less than their male counterparts.²⁶⁰ An alarming rate was that female lecturers were estimated to earn R30, 000 to R50, 000 per annum less than their male counterparts despite having gender policies in place in almost every university in South Africa.²⁶¹ This is usually sugar coated in the justification of relevant experience and is well known that female academics are usually underutilised as opposed to males who then tend to gain more experience hence can negotiate for a better pay based on such experience.²⁶² An academic career is challenging for anyone, yet the gender gap suggests that the current system still continues to favour men in academia. This is displayed in the low success rates for funding and publications being lower for females as compared to males. This gender gap begins at a tender age when young girls are raised to be nurturing and complaisant yet males are raised to be competitive and assertive. These factors often affect females at some point even in the most subtle ways in their careers.²⁶³

²⁵⁷ Evans (note 252 above) 290.

²⁵⁸ S de Beauvoir *The Second Sex: Women as the Other* (1949) 341.

²⁵⁹ de Beauvoir (note 133 same as above).

²⁶⁰ A Bezuidenhout & F Cillier 'Age Burnout, Work Engagement and Sense of Coherence in Female Academics at Two South African Universities (2008) J 746,842.

²⁶¹ Ibid 290.

²⁶² Bezuidenhout & Cillier (note 259 above) 290.

²⁶³ 'Women in the academia, late starters, late achievers' *The Star* (7 February 2010).

Overall trends in academia reveal that a gender gap still exists and it remains clear that women face an uphill climb in terms of equal treatment. Even though most data on earnings does not provide full insight it is clear from the emerging sub themes that illuminate trends, attitudes and experiences of both men and women that the gender gap is evaluated in the workplace in an era of a narrowing yet persistent gender inequality.²⁶⁴

5.2.10 Family and work overload

Since 1994 labour legislation has supported the involvement of women in the workplace with the introduction of equality laws such as paid maternity leave, but there are constant challenges that seem to prove bigger than the law, which is unable to attain the equity goal on its own. A multidisciplinary approach is needed to deal with the problems that require a supportive structure for equality in the workplace to be achieved. The constant spill over from family to work or work to family causes huge conflict between work and family roles.²⁶⁵ A number of authors have argued that work and family have never been easily combined in the same person. Due to the fact that working in academia negatively impacts on the ability of the individual to perform her family responsibilities results in the likelihood of conflict between work and family roles.²⁶⁶

The universities took advantage of the developments in law post-1994 and committed a small number of academics deemed to have the potential and offered them advancement in the light of affirmative action measures. This was a great gesture but women were not prepared for role change was and so were already disadvantaged even before the initiative started. These female academics were expected to work the same hours as men without support yet they were also still carrying the burden of being women.²⁶⁷

Typically, culture prepares men for leadership roles hence their minimal involvement in care work at home and allows them to excel in academia because they can remain in the office for long hours to do extra work without feeling guilty because it's a traditional expectation for the men to work hard in the public sphere. On the other hand, the female academics support

²⁶⁴ R Smith 'Work-family Spill Over Revisited, is there Hope for Marital Happiness in Dual-earner Families?' (2000) 66 *Koers* 603,620.

²⁶⁵ C Boughy 'From Equity to Efficiency' (2012) 12 *SAJHR* 33, 43.

²⁶⁶ *Ibid* 290.

²⁶⁷ Smith (note 264 same as above).

was neglected and her role in the workplace taken for granted. As a result women remain marginalised by cultural practices, customary norms and behavioural patterns and attitudes even though they were legally set free post-1994.²⁶⁸

The difficult part in advancing women is that their capacity is not supported and the academic environment has not adopted a women-friendly atmosphere. For instance most women academics had to shuffle office hours and fetching children from school and dropping them at home. Yet if after care services were provided things would be a lot easier and so much time would be saved dodging the lunch-hour traffic.

5.2.11 Role overload

Role overload refers to the emotional demands of a magnitude of conflicting role demands.²⁶⁹ Mothers feeling guilty because of occupational involvement face a dilemma of how to provide children with quality care as well as provide the employer with high levels of energy, total commitment and dedication given the demands of time in the workplace.²⁷⁰ Some of these working mothers end up declining a promotion because of role overload. The disadvantages of role overload include inconsistent career advancement because the individual becomes unreliable, has low work energy through exhaustion and reduced work productivity.²⁷¹ How can women then advance efficiently in the workplace with so much on their plate?

Other authors argue that it becomes better as the children grow because job demands are deeply embedded in the course location and social status. Coping strategies vary according to the age, number of children, career stage and influence of the prevailing gender norms.²⁷² But in most cases by the time the children grow these female academics would have already lost many opportunities for career advancement because family responsibility limits networking

²⁶⁸ C Boughey 'From Equity to Efficiency' (2012) 12 *SAJHR* 33, 43.

²⁶⁹ HC Jain et al *Employment Equity and Affirmative Action: An International Comparison* 4 ed (1995) 145-7.

²⁷⁰ Boughey (note 267 above) 290.

²⁷¹ Smith (note 263 same as above). R Smith 'Work-family Spill Over Revisited, is there Hope for Marital Happiness in Dual-earner Families?' (2000) 66 *Koers* 603,620.

²⁷² Ibid 290.

and collaboration. It has been proven that many women still bear the brunt of domestic child-care responsibilities even in egalitarian families where family responsibilities are supposed to be shared in principle. Even promotions are affected by not having time to publish since larger responsibilities towards family mean limited participation and achievement in the academic sphere. Attending seminars, conferences and book launches becomes difficult and even if they do manage to attend they leave early due to feeling guilty for neglecting their family responsibilities. This is a clear indication that compliance with one role is incompatible with full compliance of the other role.

5.2.12 Gender stereotyping

The concept of women's liberation has been rooted deeply in workplace culture because for many centuries women always had no measure up to men while men's position always remained the same.²⁷³ It has been long debated that the current workplace model is gendered and even in academia there are still traces of inequalities suffered by female academics due to this gendering. For instance leadership is associated with power and masculinity not femininity. Despite women's emancipation through the legislative policies women still continue to battle with unfair and unfriendly working environments dominated by traditional patriarchal attitudes.²⁷⁴ For instance, in the case of *Wallace v Du Toit* (2006) 8 BLLR 757 (LC) Wallace's services were terminated as a result of her employer terminating her contract after discovering Wallace was pregnant. The judge ruled in favour of Wallace stating that her dismissal constituted unfair discrimination since an agreement not to fall pregnant at work conflicts with the right to reproductive health.

Consequently, female academics have to constantly establish and reset their authority as leaders and equal partners in the workplace through challenging stereotypes who still believe the role of women is to stay at home. Stereotyping continues to prevail and even now when women have open access to all professions they still opt for the more traditional female occupations just as a preventative mechanism.²⁷⁵ Also in instances where they are in dire need for job flexibility they opt to leave academia because most of the university practices are not in favour of the female academic.

²⁷³ K Lewis-Enright et al 'Towards a Workplace Conducive to the Career Advancement of Women' (2009) 35 SAIP 832,877.

²⁷⁴ Ibid 290.

²⁷⁵ Lewis (note 271 above) 290.

5.3 Implications of the Research

Future research is critical to look into the on-going debates to illustrate how addressing gender inequality benefits the whole nation. For instance, it is argued that ending gender inequality is one of the most effective means of reducing poverty.²⁷⁶ Due to the fact that advocates of gender equality have not just argued for equality solely as a human right. But have further argued that any claims and efforts to reduce poverty will produce drastic results, only if they address the issue of gender inequality. If this is the case why has the South African workplace not hastened their steps in doing so? This demonstrates the need for future research to strengthen such advocacy points because they have potential to strengthen the collaborative efforts of ending gender inequality in the South African workplace. Further, this research calls upon human rights advocates to remind the state of its obligations to women's emancipation.

5.4 Limitations of the Research

Due to the lack of monitoring of affirmative action policies not much statistical information can be gathered with regard to how many individual female academics have actually benefited from affirmative action and equity measures post-1994. Hence it is always generalised that much has been done but as to how much exactly still remains a question to be tackled by future studies. This research was specifically aimed at answering if these affirmative action measures can be used as an enabler of gender equality in the workplace. Thus a case study of academia was adopted which was broad but due to a lack of academic writings on the topic it was not possible for the researcher to focus on a particular group or department since the availability of literature on this topic was minimal and thus limiting.

5.5 Recommendations

Universities must be better equipped to display that gender equality in the workplace can be achievable through hard work and collective efforts. This means that universities themselves must ensure that they too are not reproducing the problem of gender inequality within their

²⁷⁶ R Smith 'Work-family Spill Over Revisited, is there Hope for Marital Happiness in Dual-earner Families? (2000) 66 *Koers* 603,620.

own institutional systems, policies, procedures and organisational cultural practices. Otherwise how are they expected to heal the world if they themselves are perpetrators? Therefore, it is recommended that institutions of higher learning play a leading role in demonstrating how all these legal policies, affirmative action measures and equity laws can work effectively if they address not just the legal and law enforcement components but the social ills, political sphere in context and take a human rights angle with an interdisciplinary approach. This interdisciplinary approach is further needed to improve and strengthen the capacity of the national gender machinery to hasten the implementation and tighten the monitoring mechanisms of affirmative action measures that were put in place post-1994 to advance gender equality in the Republic of South Africa. Universities have always played a pivotal role in shaping the country in advocating for change. Thus in the broad scope of human rights by developing a greater transformation in gender discourse we might find ourselves better capacitated in addressing other dimensions of human rights oppressions because of the dynamics in the South African workplace, which makes gender the most complex human right to deal with, more especially in academia. Due to the fact that the university is a global institution that has to respond not just to academic calls, but political conditions that the country faces.

Africa needs strong creative and intellectually productive institutions of higher learning to address continental challenges in a manner that is closely grounded in the sociological, political and practical space. This approach must take into consideration organisational culture and the human rights aspirations of a diverse people for all genders but baring in mind that women academics are the most challenged.²⁷⁷ Hence affirmative action policies need to ensure that academia is gender sensitive and friendly to women academics not just in theory but in practice. This can only be ensured if practical; implementation strategies are stringently enforced and constantly monitored as well as evaluated. Currently through the lack of monitoring and evaluation it is very difficult to draw best practices from other universities as well as take accurate stock of what is really happening on the ground in each institution of higher learning. Thus the recommendation would be for academia to pay focused attention on labour redress because the marginalisation of women is not an issue only

²⁷⁷ J Israelstam 'Young Men's Responses to Media Portrayals of Masculinity: A South African Qualitative Investigation' (2012) 13 *MRR* 103,145.

to be addressed by feminists since it derives directly from the position of men in society which then makes it a societal concern.²⁷⁸

5.6 Conclusion

It seems as if, even though strides have been made to advance the right to equality in the workplace by adopting measures such as employment opportunity and affirmative action women in formal work have not benefited from affirmative action opportunities the way that men have.²⁷⁹ Judging from the fact that women have been welcomed to join academia in large numbers they have low representation in decision-making roles in academia.²⁸⁰ Inequality still persists despite legislative intervention, hence little progress has been made despite progressive legislation and aggressive organisational policies.²⁸¹ This is due to the fact that patriarchal boys' clubs still persist in ways informed by the dynamics of South African academic institutions of higher learning. For instance, male career models still linger in academia whilst women are subtly forced to choose between upward mobility in career and family career in the home or even no family at all as a result of the insensitive environment in academia.²⁸² As a result of these dynamics little gains have been made. However, affirmative action is a short-term goal that was meant to be an enabler of gender equality in the long run.

Exploring gender in academia resulted in the following conclusion: that gender discrimination is deeply rooted in both social and economic disparities. Female academics are still not reaping the rewards of section 9 of the Constitution that speaks of a nation free from all forms of discrimination.²⁸³ Even South Africa's authorities admit that there is still much that needs to be done to increase women's representation in top leadership positions in the workplace.²⁸⁴

²⁷⁸ Ibid 290.

²⁷⁹ J Israelstam 'Young Men's Responses to Media Portrayals of Masculinity: A South African Qualitative Investigation' (2012) 13 *MRR* 103,145.

²⁸⁰ Ibid 290.

²⁸¹ J Israelstam (note 278 above) 290.

²⁸² B van Zyl 'Female Perception of Employment Equity: Is The Glass Ceiling Cracking?' (2006) 1 *SAJHRM* 13-20.

²⁸³ Constitution of the Republic of South Africa, 1996

²⁸⁴ 'South Africa to Act on gender equity' *BuaNews* (10 August 2010).

The President challenged women's under-representation at top management positions stating that 36% of women in top management positions is unacceptable.²⁸⁵ Echoing the fact that women occupy the highest numbers in the workplace but are still amongst the majority that occupies the lowest paying jobs and the minority in leadership positions demonstrates that there is still a long way to go before gender inequality can be eradicated.²⁸⁶ However, affirmative action has given women another grinding stone to continue with the struggle for equality. As they pledged in 1956, they will leave no stone unturned until women have equal rights.²⁸⁷ It is therefore of the essence for women to fight for gender rights as part of human rights and it is critical to take stock post-1994 and effectively reiterate the president's sentiments that the country is not achieving the kind of gender parity required by its democratic rule.²⁸⁸

This paper aims to be a useful tool for advocacy groups, calling upon the state to prioritise the implementation of affirmative action programmes that promote women's equality and fast track monitoring programmes. Affirmative action legislation would be far more effective if it further challenged gender norms and stereotypes that hinder the advancement of South African woman in the workplace post-1994.

Taking cognisance that South Africa is signatory to the Convention of the Elimination of all forms of Discrimination Against Women, a commitment to women's equality at all levels must be in place.²⁸⁹ The state must be reminded of its constitutional commitment to the women of South Africa.

South African women have achieved formal equality before the law yet they still remain in a position of substantial social and economic disadvantage even post-1994. Therefore hastened strides are of the essence to bring about transformation in a strategic direction that is compatible with a human rights approach, a political context and a sociological direction that will address social ills associated with gender discrimination and inequality in the workplace, starting in academia.

²⁸⁵ Van Zyl (note 281 above) 290

²⁸⁶B van Zyl 'Female Perception of Employment Equity: Is The Glass Ceiling Cracking?' (2006) 1 *SAJHRM* 13-20.

²⁸⁷ Ibid 290.

²⁸⁸ van Zyl (note 285 above) 290.

²⁸⁹ Convention on the Elimination of all forms of Discrimination Against Women (1980).

Many other problems may appear to be more pressing than gender but there is no justification for the present existence of the other than its expansion into an indefinitely open future.²⁹⁰ Hence women must escape the sphere assigned to them and aspire to full membership of the human race.²⁹¹ Therefore making affirmative action an enabler of gender equality and calling upon the end to stagnation in achieving gender equality in academia is critical and inevitable in the current status quo.

²⁹⁰ I bid 290.

²⁹¹ Convention on the Elimination of all forms of Discrimination Against Women (1980). .

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