IMPLEMENTATION OF THE *EMPLOYMENT EQUITY ACT* 55 OF 1998 BY THE DEPARTMENT OF WATER AFFAIRS IN SOUTH AFRICA

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Submitted in accordance with the requirements

for the degree

MASTER OF ADMINISTRATION

in the subject

PUBLIC ADMINISTRATION

at the

UNIVERSITY OF SOUTH AFRICA

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FEBRUARY 2016

CHAPTER 1
GENERAL INTRODUCTION

1.1 INTRODUCTION

The main focus of this study is to determine how managers assess the implementation of the Employment Equity Act 55 of 1998 (hereafter referred to as Employment Equity Act) in the Department of Water Affairs. In terms of the structural arrangement that is adopted in this department, the Chief Directorate of Human Resources, as part of the Corporate Services branch, plays a critical role in the implementation of the Employment Equity Act. Prior to 1994, the period after which rigorous transformation initiatives were introduced in the South African public sector, this department was known as the Department of Water Affairs and Forestry (hereafter referred to as Forestry). The responsibility of the Forestry was, post the 1994 transformation period, relocated to the then Department of Agriculture and Fisheries which was then to be known as the Department of Agriculture, Forestry and Fisheries. After the relocation of the responsibilities of Forestry, a new department which had a dual responsibility for Water and Sanitation was created in May 2014. Although this department is known as Department of Water and Sanitation post the 2014/5 financial year, its former name, Department of Water Affairs, is used in this research because it is consistent with the period at which the data was gathered.

The discussions in this chapter are introductory in nature and most importantly, they introduce the context around which the need to conduct research on the implementation of the Employment Equity Act in the Department of Water Affairs arises. By way of introduction, this chapter, presents the background and rationale, problem statement, research objectives, units of analysis and observation as well as the significance of the study. This chapter also highlights the hypothetical statement on which the research is premised, the research methodology, definition of keywords and also presents the sequence in which chapters have been arranged. Although the keywords are briefly explained in this chapter, they are elaborately explained and contextualised in the literature review chapters.

1.2 BACKGROUND AND RATIONALE

One of the critical challenges that managers in the South African public service sector are faced with is to ensure that the public sector is representative of the South African population. They perform this function to comply with legislative requirements that were enacted post 1994, notably the Basic Conditions of Employment Act 75 of 1997, Labour Relations Act 66 of 1995, Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000, and Employment Equity Act 55 of 1998. In South Africa, the implementation of employment equity generates a lot of debate among academics in different disciplines, between political parties and the society in general. In order to ensure that the implementation of the Employment Equity Act yields the intended outcomes, institutions such as the Commission for Employment Equity and Department of Labour were established. These institutions are mandated by legislation to ensure that all public institutions in the South African public sector are representative institutionally and in terms of service delivery. Being representative institutionally means that by composition, the workforce profiles of the public institutions must reflect the demographics of the country, and by being representative in terms of service delivery means that historically disadvantaged groups (i.e. blacks, women and people living with disabilities) must have equal access to goods and services that are rendered by public institutions.

The Department of Water Affairs, like many other South African public institutions, was during the time at which research activities were undertaken, undergoing a process of formidable and fundamental change. The political changes that were effected as part of the transformation process post-1994 had a major impact on its structure, role and ethos. This impact was visible in its requirement to implement Employment Equity Act, using its Chief Directorate: Human Resources as the driver. The implementation of the Employment Equity Act is the responsibility of the Chief Directorate: Human Resources through the Directorate: Transformation. The process of implementing Employment Equity as required by law must be inclusive in scope and non-discriminatory in content and practice. The roll-out of the process of implementing the Employment Equity Act was adopted in this department as project-driven, systematic, and integrated – a mammoth task for an institution which had until 1994 strictly adhered to and practiced a fragmented, exclusionary and

uncoordinated approach of policy implementation. Amongst the challenges that were experienced by managers in the department was the need to create well-resourced transformation structures and mechanisms to ensure a coordinated employment equity implementation process and to contribute to the fundamental change of mindset, work ethics and beliefs of more than twenty thousand employees.

From personal experience of the researcher as a former employee of this department, the implementation of the Employment Equity Act, as a result of structures and mechanisms put in place, is inadequate. There is unevenness and inconsistency that breeds lack of interest and poor understanding of the Employment Equity Act, which ultimately leads to non-compliance and subtle forms of resistance. It therefore is assumed that the reviewing of transformation structures and mechanisms that were put in place to implement the Employment Equity Act in this Department can positively contribute to its effective implementation.

1.3 PROBLEM STATEMENT

As a result of decades of racial segregation and the use of repressive laws against blacks[1], South Africa is a deeply divided and unequal society (Charlton & Van Niekerk, 1994). The impact of this historical repression is evident in the inability of blacks to access socio-economic benefits to the same extent that some racial groups do, also as a result of apartheid spatial planning. The discriminatory practices such as by successive National Party governments resulted in the distinctions in conditions of service and employment practices and remuneration based on race, gender, sexual orientation, disability, age, religion and culture. The ascendance to power by the National Party government in 1948 intensified and systematised discriminatory practices that were geared to uphold white supremacy (Asmal, Asmal & Roberts, 1996:8). These discriminatory practices promoted white domination which later graduated into a racist labour system, epitomised by an array of racist legislation enforced by managers in public sector institutions.

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[1] The conception of 'blacks' is used in this study to refer to previously marginalised groups in South Africa, i.e. Africans, Coloureds and Indians, who are in terms of the legislation are described as the designated groups.

As argued by Qunta (1995:11), the first legislation through which racial discrimination in the South African public sector was enforced, was enacted in 1913. This legislation prescribed that only whites could be appointed to technical positions. However, the first major occupational reservation law was the Mines and Works Act 25 of 1926 which barred blacks from being employed in occupations that required educational certificates. The Mines and Works Act of 1911 led to recruitment practices that were based on race. As a result of the enforcement of these acts, blacks were barred from being appointed to occupations such as carpenters, blasters and other skilled occupations in the mining industry– a gross violation of economic rights by any standard.

According to Bendix (1996:86) the National Party rode on the wave of dissatisfaction of the postwar economic slump in the late 1940s – a period characterised by the economic recession which resulted in job scarcity and the huge influx of Africans to the urban areas. The National Party-led government saw this as an opportunity to pass the date influx control legislation which further polarised relations between race groups. The stage was then set to legislate racial laws which were highly disputed. Asmal *et al.* (1996:127) argue that white segregationist policies of separate development and white supremacy could not be implemented without the supply of cheap black labour. The supply of black labour was only for the purposes of providing labour and not permanent residency. It was therefore a regulated privilege and not a right for blacks to be in a white area (Asmal *et al.* 1996:127). The movement of blacks in and around white areas was subject to a myriad of rules and restrictions that forbade them from owning property. The *Pension Act* of 1912, *Public Service Act* of 1923 and *Public Service Act* of 1984 ensured that blacks were denied employment opportunities in the public sector unless as cleaners and messengers. The public sector employment policy in South Africa from 1948 to 1994 was based on the ideological principles of separate development for different racial groups, that is, the socio-political destiny of blacks could not be linked to that of whites. As a result of this segregationist approach, blacks were confined to homelands. In total, ten homelands were created in South Africa. These were the Transkei, Bophuthatswana, Ciskei, Venda, Gazankulu, KaNgwane, KwaNdebele, KwaZulu, Lebowa, and QwaQwa. The homelands were designed for specific ethnic groups

whose public services were characterised by inefficiency and ineffectiveness as a result of poor, and in some instances, non-existent human resources development.

South African legislation acknowledges that the public sector that was inherited by the African National Congress (ANC) led-government in 1994 is still influenced by apartheid laws. Those who are most disadvantaged by the remnants of apartheid legislation, who are still under-represented in the public sector's top management, are blacks, women and people with disabilities Asmal *et al.* (1996:127) These designated groups were denied access to decent and technical education and prevented from being appointed to positions of power in both the private and public sectors. Section 195 (i) of the Constitution of the Republic of South Africa (1996) provides that "Public administration must be broadly representative of the South African people, with employment and human resources management practices based on ability, objectivity, fairness and the need to redress the imbalances of the past to achieve broad representation". It is on the basis of this constitutional provision that in October 1998, the then State President of the Republic of South Africa, Thabo Mbeki, signed the Employment Equity Act (Act 55 of 1998) into law. The enactment of the Employment Equity Act confirmed the long awaited acknowledgement that the need for employment equity had dawned upon South African public institutions. Because apartheid laws have been abolished, it means that the country has formally moved from public institutions that were characterised as discriminatory to a new phase in which substantive equity is a legislative requirement.

As a result of the long period in which apartheid policies have been implemented, there are still persistent inequalities in employment and occupation in the South African public sector. In terms of the provisions of the Constitution of the Republic of South Africa (1996), inequalities in employment and occupations need to be remedied to achieve employment equity in the South African public sector. Since the Employment Equity Act was enacted into law, positive strides in, for example, setting up of consultative structures and compliance with the reporting requirements, other public institutions – including Department of Water Affairs, still experience challenges with the implementation of the Employment Equity Act. The implementation of employment equity within the Department of Water Affairs is a controversial topic

about which most officials have diverse, strong and, in some instances, contradictory opinions. The Department's employment equity policy evokes varied reactions from different groups of employees. The implementation of employment equity in the South African public sector and in particular, the Department of Water Affairs evinces a number of research questions, which are listed below.

- Are there international experiences from which managers in the South African public sector are able to learn how best to implement employment equity?

- What legislative support do managers in the South African public sector (including the Department of Water affairs) enjoy in the implementation of employment equity and what is the purpose of employment equity in the South African public sector?

- How do managers in the Department of Water Affairs assess the:
  - practical contexts in which the Employment Equity Act is implemented,
  - effectiveness of the legislative and institutional framework for employment equity,
  - roles of the Transformation and Employment Equity structures in the implementation of the Employment Equity Act,
  - challenges and barriers to effective Employment Equity Act implementation,
  - extent of interventions by and commitment of senior managers to the implementation of the Employment Equity Act?
- From an assessment by managers, what is the status of implementation of Employment Equity in the Department of Water Affairs?
- What interventions can be pursued to improve the implementation of the Employment Equity Act?

1.4 THE RESEARCH OBJECTIVES

As noted in the introductory remarks, the focus of this study is to determine how managers in the Department of Water Affairs assess the implementation of the Employment Equity Act. In order to respond to the research questions that are raised in the foregoing discussion, the following research objectives were formulated:

- to explore international experiences from which managers in the South African public sector are able to learn how best to implement employment equity,

- to determine the legislative support that managers in the South African public sector enjoy in their implementation of employment equity and to explain the purpose of employment equity in the South African public sector,

- to determine how the managers in the Department of Water Affairs assess the:
  - practical contexts in which the Employment Equity Act is implemented,
  - effectiveness of the legislative and institutional framework for employment equity,
  - roles of the Transformation and Employment Equity structures in the implementation of the Employment Equity Act,
  - challenges and barriers to effective Employment Equity Act implementation, and
  - extent of interventions by and commitment of senior managers to the implementation of the Employment Equity Act,

- from the findings of an assessment by managers of the implementation of Employment Equity Act, present the findings that may be helpful in understanding the nature of the challenges or opportunities that are experienced and the interventions that may be sought; and

- from the findings which this study arrives at, conclude and make recommendations on how the implementation of the Employment Equity Act can be improved.

1.5 UNIT OF ANALYSIS

The unit of analysis as identified in this study is the implementation of the Employment Equity Act. The implementation of the Employment Equity Act by South African public sector institutions is a critical aspect that helps public institutions to satisfy the needs of a transforming society.

1.6 UNIT OF OBSERVATION

Despite reference in general being made to 'implementation', the units of observation are implementation activities such as the practical contexts in which the Employment Equity Act is implemented, legislative and institutional frameworks that support the implementation of the Employment Equity Act, roles of Transformation and Employment Equity structures, challenges and barriers to effective implementation and the extent of intervention by and commitment of senior managers to the implementation of the Employment Equity Act in the Department of Water Affairs.

1.7 SIGNIFICANCE OF THE STUDY

Chapter 10 of the *Constitution of the Republic of South Africa* (1996) contains an unprecedented statement about the importance of public administration in a democracy, and underlines the principles and values by which a post-apartheid public administration should be governed. The chapter provides recourse to the legacy of apartheid public administration through the codification of these basic values and principles and identifies public administration as a constitutional imperative as opposed to a mechanism of social and political control (Mathebula, Mafunisa & Makobe, 2002:45; Gutto, 1996:27).

The public sector's performance in the area of employment equity is essential for several reasons. The public service employs more than one million employees and it

therefore constitutes a significant proportion of the formal labour market in South Africa (Commission for Employment Equity, 2004:41). Public sector institutions should take the lead in implementing the Employment Equity Act. This is important because equal representation (employment equity) contributes to equitable service delivery.

The implementation of the Employment Equity Act contributes to achieving the outcomes of the Bill of Rights as it helps uphold human rights and preserves the dignity and values of the South African society (Cloete 1993:14-15; Van der Vyver, 1979:23-24).

In terms of the Employment Equity Act, institutions in both the public and private sectors may not unfairly discriminate against any person on one or more of the following grounds: race, gender, sex, pregnancy, marital status, family responsibility, ethnicity or social origin, colour, sexual orientation, age, religion, HIV status, conscience, belief, culture, political opinion, language or birth. As a public institution, it is therefore a legal requirement for the Department of Water Affairs to implement the *Employment Equity Act* in order to ensure that, among others, suitably qualified employees from the designated groups have equal access to employment opportunities and are equitably represented in all the occupational categories of the Department of Water Affairs. If public sector institutions are not representative, they may be perceived as serving the interests of one group to the detriment of others.

1.8 STATEMENT OF HYPOTHESIS

Employment Equity structures and mechanisms that are put in place by the Department of Water Affairs are inadequately equipped to assist the Department of Water Affairs in implementing the Employment Equity Act effectively.

1.9 RESEARCH METHODOLOGY

The research methodology that was used in this study is of a quantitative nature. Literature reviews of scholarly work on the topic being researched, legislation and official documents of the Department of Water Affairs and an empirical research are used.

1.9.1 Literature review

For the purpose of the literature review, published books, scholarly and newspaper articles, dissertations and theses that focus on diverse aspects of employment equity internationally and in South Africa are consulted. The study also makes use of literature sources accessed from the internet as part of the literature review.

1.9.2 Legislation and official reports

Despite consulting literature that is written on aspects of employment equity, South African legislation and official reports of the Department of Water Affairs were used as a source of information. The official reports that were consulted are annual and quarterly reports, proceedings of conferences – especially the Grasdak Conference of 1995 and policies of the Department of Water Affairs.

1.9.3 Empirical research

As part of an empirical research, this study made use of a specially designed questionnaire to gather data from managers in the Department of Water Affairs (see Appendix 1). Although most of the questions in the questionnaire are closed-questions - from which managers are able to choose alternatives, there are also open-ended questions through which managers are able to elaborately explain their views.

1.10 DEFINITION OF KEY WORDS

The keywords, which are defined subsequently, are used frequently in the study. These keywords are explained elaborately in the discussions of the literature review.

- Employment equity

Employment equity is a complex term, with different meanings for different people and in different international contexts (Portnoi, 2003:80). Employment equity is aimed at creating an enabling environment in which employees are treated equally and fairly, irrespective of their race, culture, color and creed (Portnoi, 2003:80; Maelane 2004:12; Thomas & Robertshaw, 1995:5-6; Agocs, 2000:66).

- Affirmative action

Affirmative action in the South African context is seen as a measure or strategy that is aimed at speeding up the creation of a representative and equitable workforce (Portnoi, 2003:80; Naidoo, 1995: 19). It is intended to create an environment that supports and enables historically disadvantaged groups to fulfil their potential in the workplace. As defined by Quanta (1995:1-2), affirmative action is a systematic, planned, structured and thought-out strategy that provides opportunities and that maximises the potential of employees in the workplace and minimises the incidence of discrimination in its different forms. It refers to proactive and remedial measures that are designed to bridge the gap between formal equality of employment opportunity and substantive equality of opportunity (Swanepoel, Erasmus and Schenk 1998: 106-107). It is intended to eradicate subtle forms of discrimination in the workplace which may impact negatively on the performance of employees from the previously marginalised groups (Human, 1993:154). It helps achieve representation of previously marginalized persons (Mello, 2000: 32) and redresses inequalities in the workplace to achieve a long-term vision of employment equity (Department of Labour, 1997:2).

- Previously excluded or marginalised persons

A previously excluded or marginalised person refers to persons who, on the basis of group identity, were formally and systematically deprived of rights, career opportunities and training or job advancement under the system of apartheid or as a result of its continuing effects (Department of Water Affairs, Employment Equity Policy 1995: 2). In terms of the Employment Equity Act, members of the designated groups are Black people, women and people living with disabilities. People that are living with disabilities are identified as those who have a long term or recurring physical or mental impairment which substantially limits their prospects of entry into, or advancement in employment.

- Discrimination

As defined in the Department of Water Affairs' Employment Equity Policy (1995:3) discrimination refers to:

a. any form of treatment, restriction of opportunity or differentiation that perpetuates, aggravates or fails to alleviate the imbalances caused by past discrimination policies,

b. any special provisions or limitations in job selection or service conditions that are not based on legitimate job requirements or on the fundamental principles of corrective action and fundamental equality of opportunity, and

c. any action or behaviour, which implicitly or explicitly displays prejudice or stereotyping in relation to any person or group of persons.

- Government

Government refers to a body of people and institutions that make and enforce laws for a particular society (Ranney, 1975:177). Worral (1971:2-3) argues that government distinguishes itself from other organisations in four ways: firstly, by its comprehensive authority and the involuntary membership through the rules of citizenship, secondly through its authoritative rules, thirdly through the sanction that it may apply such as imprisonment and execution, and fourthly the legal application of force to compel authority.

- Public institution

As defined in the *Collins Dictionary* (2007:1309) a public institution is part of the public sector or an institution established by way of law to provide goods and services to members of the society. It is that part of the economy that consists of state-owned institutions, including institutions at national, provincial or local spheres of government. According to Thornhill and Hanekom (1995:167), public institutions are established to fulfill expected roles of making decisions pertaining to programs which contribute to the improvement of the common good. In the context of this

study, the Department of Water Affairs is seen as a public institution that has been mandated to deliver goods and services to South African citizens.

- Transformation

The concept transformation is central to social change in the South African public sector. Access to public services and a representative public administration is now a legislative requirement. Within the Department of Water Affairs - the study area - transformation seeks to promote and extend service delivery to the previously marginalised persons and ensure that its human resource policies are aimed at achieving representivity reflecting the demographics of the South African population (Transformation Status Report, 2001:1-2). Transformation is a structural shift from the dominant, exclusionary relations of power of successive colonial-cum-apartheid regimes to the more equitable, inclusive dispensation of the new South Africa (Williams, 2000:168-169). The implementation of the Employment Equity Act in this study is one amongst many initiatives that aim to achieve the outcome of transformation. Transformation as a process is riddled with challenges and barriers. Woolridge & Cranko in FitzGerald, McLennan & Munslow, (1995:331) view it is a contestation of actors, or an act through which the form, shape or nature of public institution is completely changed and a way of developing a shared vision that helps public institutions to formulate and implement new strategic plans and directives to remove the discriminatory barriers.

1.11 SEQUENCE OF CHAPTERS

Chapter 1
The first chapter of this study is introductory in nature. Amongst others, the chapter presents the background and rationale, problem statement, research objectives and significance of the study. In addition, the chapter explains the research design and methodology and defines the keywords that are frequently used in the study.

Chapter 2

The discussions in Chapter 2 are about the international experiences on the implementation of employment equity. This chapter explores the literature review of employment equity and focuses on three case studies, namely India, Malaysia and the United States of America.

Chapter 3

The legislative framework for and purpose of employment equity in the South African public sector are discussed. Like in Chapter 2, the discussions in Chapter 3 are of a theoretical nature.

Chapter 4

The discussions in Chapter 4 are about the research design and methodology. As a prelude to the discussion, the chapter highlights the study area at which research activities were carried out and two main related sub-areas from which respondents were drawn.

Chapter 5

The discussions in Chapter 5 are about the findings of the study. In terms of structure, the discussions in this chapter follow the structure and logic that has been used in the questionnaire.

Chapter 6

Based on the findings that are presented in Chapter 5, Chapter 6 concludes the discussions and recommends mechanism through which the implementation of the Employment Equity Act can be improved in the Department of Water Affairs.

CHAPTER 2

INTERNATIONAL EXPERIENCES ON THE IMPLEMENTATION OF EMPLOYMENT EQUITY

2.1 INTRODUCTION

The focus in Chapter 1 was to explain the context around which the need to conduct research on the implementation of employment equity in the South African public sector, and in particular in the study area arises. The chapter presented the description of the problem statement, research questions and objectives. A general line of argument that is drawn from these discussions is that the South African public sector is, as a result of the long history of apartheid, characterised as comprising racial, gender and occupationally-based divisions.

In a global environment in which different countries share resources, information and knowledge, countries in which records of best policy and implementation practices exist become international sources from which transforming countries are able to learn. The logic in this chapter is therefore that managers in the South African public sector may acquire knowledge and experiences that are shared by countries who have a record of implementing employment equity practices. The discussions in this chapter are consistent with the first research objective 'to explore international experiences from which managers in the South African public sector are able to learn from how best to implement employment equity'. Insights from three countries i.e., India, Malaysia and the United States of America (USA), at which a record of implementing employment equity practices is noticeable, are explored.

2.2 INTERNATIONAL EXPERIENCES ON THE IMPLEMENTATION OF EMPLOYMENT EQUITY

Despite employment equity being widely recognised as a tool for compensatory justice in several countries (Hugo, 1993:43-44), it lacks a formal definition. At the practical level, policy makers see employment equity practices as a solution to ethnic conflicts or dissatisfactions and outbursts by affected groups. This is because its prominence is pronounced on ethnic and class-based divisions than on bridging the gap of inequalities. Research that focuses on employment equity as a means to achieve social justice reveals that it may lead to devastating ethnic conflicts than those based purely on class. Qunta (1995:29), Hodges-Aeberhard (1999:249) and Puthucheary (1993:230) assert that despite controversies and conflicts about the adoption and implementation of employment equity practices, governments continue to endorse employment equity legislation in favour of designated groups. South Africa had to follow suit and adopt the Employment Equity Act to achieve equal representation by dismantling work-based discriminatory practices that were inherited from a long history of implementing apartheid labour policies. The designated groups of the Employment Equity Act are, in South Africa classified into three previously disadvantaged groups - blacks (Africans, coloureds and Indians), women and persons living with disabilities.

The structure and cross-cutting areas on which the discussions of these international case studies focuses are about the impact of employment equity practices in fostering social cohesion, the improvement of economic conditions of designated groups and access to educational opportunities as a human resource development aspect. The need to introduce employment equity policies in India, Malaysia and the USA emerged along ethnic lines. The designated groups in these countries belong to a particular ethnic group. This approach contributed to ethnic violence in Malaysia and led to the polarisation of views on the importance of these policies.

South Africa, having a multi-ethnic and diverse cultural outlook, could draw lessons from Malaysia, India and the USA case studies. Central to the USA's implementation of employment equity is an expressed need to ensure that its government complies with what the Federal Constitution of 1787 prescribes. The role of the courts in

settling employment equity disputes is critical, especially to assure the non-designated groups that fairness will always be upheld. The courts may help to minimise dissatisfaction and resentments of unfair discrimination of both designated and non-designated groups. The discussion of the implementation of employment equity in India follows subsequently.

2.2.1 The Indian experience

Like South Africa, the Indian society consists of diverse cultural and religious groups (Beteille, 1993:4-5). India's employment equity policy is based on positive discrimination; it is extensive in scope and complex in content. Like in South Africa, the need to implement employment equity in India resulted from decades of colonial history. Even though this policy has been implemented for decades, the idea of positive discrimination still generates controversy, acrimony and passion and has even contributed to the changing of government in India. The beneficiaries of employment equity policy in India are divided into two groups, which, as in South Africa, were previously disadvantaged on the basis of a class[2] structure. The first group of beneficiaries is referred to as the untouchables, generally known in India as a type of class of persons who comprised 135 to 140 million citizens, approximately 15% of the total Indian population in 1993 and secondly, a tribe constituting 7% of the population of India, approximately 65 million persons (Weiner, 1993:5-6). India's employment equity policy makes provision for special reservation or quotas for admission into educational institutions such as schools, colleges, medical and engineering institutions (Weiner, 1993:5-6).

Even though the reservation policy has been implemented for more than four decades (Hodges-Aeberhard, 1999:265), representation of the previously

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[2] Often referred to as caste that in 1993 constituted 400 communities and that greatly varied in size, physical characteristics, linguistic and religious usage, and traditional modes of livelihood. What chiefly distinguishes scheduled tribes from other tribes before the colonial period was their ecological situation in relatively isolated hill and forest areas. This isolation was generally associated with a simple or less developed technology (Beteille, 1993:5). Discrimination on the basis of a caste system or class structure was determined by birth and it meant that in some communities, if parents were poor, their children were also going to be poor as a result of inheritance.

disadvantaged groups in the India's public sector is still inadequate. As part of ensuring that there was progress in the implementation of the employment equity policy, the Indian Parliament set-up the 'Mandal Commission' in 1979 to investigate how best the employment equity policy outcomes could be accelerated. In its report back to Parliament, the Mandal Commission recommended that 27% of positions in educational institutions of the central and state departments be reserved for the Hindu and non-Hindu disadvantaged groups. On the 13th of August in 1990 the central government of India issued a memorandum through which it further reserved 10% of public sector positions for other historically disadvantaged persons not provided for by other reservation schemes.

This memorandum was challenged in court in a case of _Indira Sawhey and Others v Union of India and Others_ (1992). The Supreme Court, in its ruling, which was in favour of government, declared that the 27% job reservation was valid as a means of overcoming the past and existing discrimination on the basis of social origin. The court further ruled out that the memorandum be implemented with exclusion of the socially advanced persons (Beteille, 1993:8-11). The judgement excluded from reservation appointments of specific positions, among others, defence personnel, research scientists, medical specialists and university professors. Irrespective of the wording and intentions of the reservation policy and the memorandum, persons and not groups could be identified as the primary beneficiaries of this policy. These beneficiaries of the reservation policy were largely persons who were well-off and not the worst-off of the communities to which they belong and in whose name the quotas are allocated. What complicated this matter is that there was income, occupational and educational inequalities among the targeted beneficiaries.

Hugo (1993:45) draws some interesting parallels between the contexts in which the Indian and South African employment equity practices were implemented. The beneficiaries of employment equity policy in both India and South Africa constitute the majorities (over two-thirds of the total populations); the Constitutions of the two countries emphasise merit as an inherent occupational requirement. Both these Constitutions guarantee equality of opportunity and outlaw discrimination on the basis of religion, race, class, and gender. The implementation of employment equity policy in India, like in South Africa, utilise affirmative action measures to uplift

designated persons and groups who have historically been excluded from participating in mainstream economic activities. Despite decades of implementation, affirmative action outcomes in India prove to be difficult to achieve.

In India, the intensification or expansion of reservation policies could be done for political reasons, particularly, during election campaigns. In 1990, the Indian Prime Minister, in an attempt to win greater electoral support, announced that there would be reservation or quotas for the other disadvantaged persons in university admission and government employment. This announcement triggered a wave of demonstration and violence by the non-beneficiaries of the reservation policy, who felt that a moral injustice was being committed and that equal opportunity was being sacrificed at the altar of political expediency (Hugo, 1993:45).

India emerged unscathed from these policy setbacks and its well documented high illiteracy rates. Mills (2010:66-67) argues that India remains competitive in world markets due to its highly prized and sought after technically skilled labour force. Despite high levels of illiteracy amongst the Indian citizens, which was estimated to be approximately 40% or constituting approximately 300 million in 2000, India's skills levels remain its greatest strength. By the end of 2000, India had managed to produce 2.5 million graduates of which 350 000 were engineers (Mills, 2010:66-67). India's success story is not without challenges despite the shortcomings of India's education system, the stiff competition of more than a billion citizens striving to make a living serves as a motivator and creates healthy competition.

Like in South Africa, finding employment in the public sector is neither automatic nor easy for new graduates. Since the year 2000 some 400 000 applicants for positions advertised in the public sector annually wrote the preliminary Indian public sector examinations, and 8 000 to 10 000 applicants were selected for the main examination. Of those applicants who were selected to write the main examinations, only a quarter were invited for the interviews for approximately 900 positions. The applicant-position ratio for the positions in the public sector was 750:1, the forest service 1 000:1, the central police service 250:1, the Indian economic service 115:1, and the railway service 42 000:1. Only 32 new appointments of officers were made annually, into the Indian Foreign Service (Mills 2010:66-67). As one measure of the

competitiveness of the employment process and the quality of the applicants, among the educational backgrounds of applicants that had applied for these positions were those who had achieved Master of Arts and Master of Philosophy degrees, whose success rate was 4.5%, and Master of Commerce, Master of Business Administration and Master of Public Administration whose success rate was 9.5%. Competition for public sector employment was heightened by the slow dismantling of the class/caste system (Mills, 2010:66-67).

While the class system still exists even under an economy based on an advanced technology, India is regarded as the fourth largest economy in the world, based on the purchasing power parity and it is able to satisfy its domestic skills needs and is exporting the surplus products to other countries (Mills, 2010:66-67), Acemoglu and Robinson (2012:118) criticise India's uniquely rigid hereditary class-based system, which according to them limits the functioning of markets and allocation of labour across different occupational classes. However, a gradual trend is emerging in India where the economic empowerment of the historically disadvantaged persons is rendering the distinction meaningless.

India, like other countries that have legislated employment equity policies, is confronted with a question around the life span of the policy during which the policy will be implemented. Although the implementation of employment equity and affirmative action measures are acknowledged by policy makers as temporary measures (Hermann, 2007:66), they tend to be implemented endlessly to gain political patronage. Even against fierce opposition, legal challenges and open conflicts, there is no end in sight for them. In India, this has led to a condition in which employment equity has assumed a life of its own in which citizens try to reclassify themselves as belonging to designated groups in order to enhance their access the benefits. Despite the success that has been made in reducing illiteracy through improving elementary and secondary education (Charlton & Van Niekerk, 1995:40) to improve the living conditions of marginalised persons, there is still criticism that is levelled against the job reservation policies. The source of this criticism is because initially, the job reservation policies were conceived as temporary measures, but have become a permanent feature owing to political pressure.

2.2.2 The Malaysian experience

The implementation of employment equity in Malaysia emerged from the New Economic Policy (NEP[3]) (Emsley, 1996:7-8) – a comprehensive affirmative action programme that was launched in 1971 after the riots in Malaysia. Like India, Malaysia serves as an interesting case study for South Africa, particularly with regard to how employment equity practices are linked to economic growth[4]. The beneficiaries of employment equity in Malaysia, like in India and South Africa, constitute the majority of the total population (Emsley, 1996:8). However, an important feature that distinguishes Malaysia from South Africa is that the non-designated groups in Malaysia, the Chinese and Indians, – who are presumed to have benefited from past regimes, have never been in a position of political power. The Chinese and Indian minorities in Malaysia benefited not through targeted public policies sanctioned by a government, but they were empowered because, unlike other population groups, they were able to take advantage of economic opportunities within the Malaysian system (Puthucheary 1993:23).

Malaysia, like South Africa, was a British colony in the 19th century (Emsley, 1996: 15). The Malay population was almost entirely rural and like in many less developed rural areas, many households depended on the land for farming and as a result had a strong attachment to it. Due to industrialisation and its attractions, the Malays were

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[3] A policy adopted to extend preferential treatment to the politically dominant Bumiputera (Malays and indigenous people) in sectors such as education, employment, business and asset ownership.
[4] The high rates of economic growth of between 6 and 8 percent per annum resulted in a general increase in the level of income for all ethnic groups. This economic prosperity was brought about by a rise in the international price of rubber and oil, combined with the discovery of rich oil reserves in the 1970s (Puthucheary 1993:30).

willing to relinquish their land in order to work in the modern sector. The demographics of Malaysia steadily and continuously changed for over a period of 50 years due to the immigration of both the Chinese and Indians, which in the 1930s resulted in Malays becoming a minority in their own country (Emsley, 1996:15). During this period social contact between the different racial groups was limited, with Indians working primarily on the plantations and the Chinese in the mines, but Indians simultaneously diversifying their economic activities as small and medium-sized traders strategically occupying a lucrative niche between the established large European businesses and the peasantry. In terms of settlement, the Indians were confined to the plantation villages while the Chinese predominately resided in urban areas. As the colonial economy expanded, both the Malays and the British realised that the emerging inequalities could result in tensions and conflicts unless measures were put in place to support the Malays. In the countryside the Chinese often set up as shopkeepers. It was not long before many Malay peasants, using their land as collateral, fell into debt to the Chinese. This was settled by transferring their title deeds to the Chines. This trend caused the colonial government to be concern to such an extent that in 1913 a decision was made that certain areas be exclusively owned by the Malays. Malays were guaranteed employment through the reservation policy of higher grades of civil service as early as the 1920s (Emsley, 1996:17).

The Malaysian economy grew during the 1960s due to the growth in the manufacturing sector. However, the drivers as well as beneficiaries of that economic growth were the Chinese. This led to deep economic disparities between the racial groups as economic growth alone was not sufficient enough to reduce unemployment. Decisions were taken to extend the Malay land reservation policy especially in the urban areas. Quotas in the civil service were made more visible by the expansion of public employment and quotas for scholarships and business licences were also introduced in favour of the Malays. The fact that such policies were being introduced by a democratic government and not a colonial power only served to increase irritation and anger among the non-designated groups (Puthucheary, 1993:23).

The growing resentment in all racial groups came to an explosive level following the general election in May 1969 after which a share of the ruling alliance's votes

dropped. The popular reaction to this result among the Chinese and Indians was to taunt and mock the Malays. The Malays' resentment resulted in widespread urban rioting with over 200 fatalities reported and 6000 people left homeless (Emsley, 1996:20). The government responded to this crisis by declaring a state of emergency and discontinued parliamentary sessions. The day-to-day business of the country was governed through a national operations council composed of the heads of security forces and the domestic and foreign civil service. The Malays were the dominant ethnic group in the composition of the national operations council – undoubtedly a significant shift of power in favour of the Malays.

In addition, the Malays entrenched their power through the passing of legislation that greatly curtailed free speech and press freedom, in particular making it an offence to question the provisions of the Malay Constitution of 1957 in which Malay rights were enshrined and a national ideology, Rukurenga (which meant that the indigenous Malay rights could not be questioned in parliament), was announced. This step ensured that the reservation policies were now part of the Malaysian way of life and embedded in the country's political discourse. The Rukurenga ideology ensured that the Malays' indigenous rights and fundamental principles, such as racial bargaining could not be questioned by parliament. The Malay language, Bahasa Malaysia, was made compulsory in all schools (Emsley, 1996:19-21). This legislative provision ensured that the Malay culture is entrenched and was to be learned by coming generations.

There are, however, conflicting views on the success of the Malay's preferential treatment policies. Hermann (2007:30-31) argues that for a period of 20 years following the introduction of employment equity policies, the Malaysian economy grew by between 7% and 8% annually. This combination of economic growth and special advantages created a strong Malaysian middle class. According to Hermann (2007:30-31) the introduction of preferential treatment policies had three devastating and tragic consequences. Firstly, they caused social disruption in 1964, secondly, Malaysia experienced large scale capital flight, and thirdly, thousands of skilled people in the non-designated groups left the country to seek greener pastures abroad. Despite having created many Malay urban middle class households in a short period of time and being acknowledged as the world's most extensive and successful (see Emsley, 1996:7; Naidoo, 1995: 135; Charlton & Van Niekerk,

1994:42; Puthucheary, 1993:30), some of the negative consequences associated with Malaysia's preferential policies are that it also created nepotism, rampant cronyism and intra-ethnic income inequalities, particularly among the Malays. The political and education systems are riddled with ethnic tensions, while employment and business opportunities are conducted along ethnic lines.

As a result of these negative consequences (see Hugo, 1993:46), and like in the case of India, people in the non-designated groups viewed these employment equity policies with abhorrence and dismay as they could no longer secure employment or educational opportunities within Malaysia, these conditions left with no other option but to emigrate in search of a better future. Like most preferential policies, a large number of beneficiaries of these polices were the Malay elite and not the majority[5] of citizens in whose name these policies were implemented (Herman, 2007:31). In order to accommodate the new entrants into the public sector, the Malay government expanded the public sector by making appointments in the proportion of four Malaysians to one non-Malaysian. The growth of the economy at the time ensured that the country was able to absorb major shocks and thus able to afford non-Malays employment opportunities in the private sector.

2.2.3 The United States of America's experience

In addition to India and Malaysia, the United States of America (USA) is an interesting case study from which managers in the public sectors of developing countries can learn from. Despite the experience being valuable to developing countries in general, it is necessary for managers in the transforming South African public sector as it is the most important instrument for change. The USA, as explained by Charlton and Van Niekerk (1994:38), is exemplary of a deeply divided society that has achieved good results after integrating employment equity practices with other major programmes. These programmes, as pointed out by Naidoo (1995:149) include among others, training and development. Unlike Malaysia, whose employment equity is linked to economic growth, the USA's employment equity focuses broadly on how social problems about health, education, unemployment and reduction of violence can be resolved.

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[5] Malaysia's preferential policy benefited only 5% of the initially anticipated and most of the designated persons whom the policies targeted were actually advantaged

Like in India and Malaysia, the implementation of employment equity in the USA is supported by legislation, notably the Civil Rights Act of 1964 which is a landmark piece of civil rights legislation in the USA that outlawed discrimination on the basis of race, color, religion, sex and national origin. It ended unequal application of voter registration requirements and racial segregation in schools, at the workplace and by facilities that served the general public. As explained by Weiner (1993:9-10), the legislative requirement to implement employment equity emerged during 1964 in the USA. A year later, in 1965, the then President Lyndon Johnson signed the Executive Order 11246, which, among other things, created the Office of Federal Contract Compliance Program. This executive order/Federal Contract Compliance Program required all government contractors to comply with government rules that were aimed at reducing discrimination against the designated groups - minority African Americans and women. During the 1970s, the implementation of employment equity had matured to an extent to which the Equal Opportunity Employment Commission established quotas for the employment of the designated groups (Weiner, 1993:10). The USA's Equal Employment Opportunity Commission (EEOC) is a federal law enforcement agency that enforces laws against workplace discrimination. The EEOC investigates discrimination complaints based on an individual's race, color, national origin, religion, sex, age, disability, genetic information, and retaliation for reporting, participating in, and/or opposing a discriminatory practice.

Like in many changing societies, during the initial stages, employment equity practices in the USA were interpreted differently by both the designated and non-designated groups (Weiner, 1993:9-10) and as a result of dissatisfactions of the non-designated groups certain employment equity decisions, complaints were filed and therefore, the courts had to play a critical role to resolve them (Sylvia, 1994:75). The two cases that were filed and heard in the USA courts were those of *Defunis v Odegaard* and *University of California Regents v Bakke* in which the sources of dissatisfaction were about the applicants being denied admission to register with higher education institutions. The latter was as a result of a complaint filed by DeFunis, a white applicant to the University of Washington Law School, who alleged that he was discriminated against on the basis of his race (Hodges-Aeberhard, 1999:250-251). DeFunis was denied admission to the University of Washington Law

School despite having obtained test scores that were higher than those obtained by applicants from the designated groups. DeFunis then asked a trial court to require the school to admit him. On appeal, the Washington Supreme Court reversed the decision, upholding the school's decision to deny DeFunis admission. The United States Supreme Court considered the case as DeFunis was entering his final year of studies. The Supreme Court held that the equal protection clause of the Federal Constitution of 1787 did not make all racial classification illegal.

The second case, which also resulted from dissatisfaction with the outcomes of an application for admission (cf Hodges-Aeberhard, 1999:250-251) was the *University of California Regents v Bakke*. Mr Bakke was a white male who was denied admission to a programme offered by the medical school of the University of California for two consecutive years. In terms of this programme, only applicants from designated groups could be considered for sixteen of the hundred places in each year's intake, leaving applicants from non-designated groups to compete for the other eighty four places. The complainant argued that he would have been admitted if not for the special reservation of places based on the criterion of gender and race. At the level of the state court, the judge struck down the special admission programme as contravening the Civil Rights Act, the State Constitution of 1789, and the Equal Protection Clause which is part of the Fourteenth Amendment to the United States Constitution. This clause, which took effect in 1868, provides that no state shall deny to any person within its jurisdiction "the equal protection of the laws." At the level of the Federal Supreme Court, a 5:4 majority accepted that racial classification could be used to achieve state policy objectives. The judges upheld the University's employment equity to resolve the case (Hodges-Aeberhard, 1999:250-251).

Even though employment equity practices were implemented in the USA since 1964, they remain a source of dissatisfaction amongst people from non-designated groups (Peterson, 2005:1) as the result of legal and political developments at various levels of the society. The implementation of employment equity in the USA, as seen by Henry (1995:262-263) is a highly sensitive and emotive subject. The appointment of people from the designated groups at the national sphere of government through affirmative action measures has a major impact on the national employment profile.

As in the case of South Africa where people from the designated groups had limited access to education, stringent employment requirement linked to educational qualifications disadvantages the people from the designated groups in the USA as they are less likely to have attained the same qualifications as the non-designated groups (whites). It is on this basis that the government is the primary source of employment as a result of the implementation of employment equity.

Because the implementation of employment equity is supported by legislation in the USA (Dye, 1975:62), government plays a critical role in ensuring that implementation is hassle-free. The government plays a redistributive role in as far as disparities in education, income and employment are concerned. However, this role brings to the fore a major challenge – how to dismantle the cross-cutting effects of deprivation in education, skills development, health, housing, employment, crime and delinquency.

Van Jaarsveld (2000:25-26) and Durrheim (2003:241) draw some interesting similarities between South Africa's and the USA's employment equity programmes. According to them, both the programmes are regarded as remedial measures that are aimed at reducing the inequalities created by past discriminatory laws. Both countries have also ensured that these remedial policies are enshrined in their legislations. However, there is also a difference as far as the implementation of the employment equity programmes are concerned. Like in the cases of India and Malaysia, the opponents of the employment equity practices in the USA are people from the non-designated groups, whose main argument is that only a few people from the designated groups benefit at the expense of the majority of those that deserve to benefit. Like South Africa's broad-based black economic empowerment (BBBEE) which is criticised as benefiting only a few, few African Americans that are in the middle-class and who have relocated to affluent areas are able to benefit from the USA's employment equity programme.

2.3 SUMMARY

As explained in the introduction, this chapter discussed international experiences on the implementation of employment equity. From the three case studies, it can be summarised that the implementation of employment equity is not a new

phenomenon. Although it is a post-1994 intervention in South Africa, it has been implemented for decades by countries that at some stage found themselves under circumstances in which the South African public sector find itself. It emerges from these discussions that the implementation of employment equity also enjoys immense legislative support. Despite being implemented under different contexts and in different eras, there are similarities in procedures that are used and outcomes that governments intend to achieve by implementing employment equity. Quotas, as referred to across the three case studies, are an example of ways through which governments enforce implementation, whilst the outcome that governments intend to achieve is representation and the distribution of benefits across sectors of their economies.

The implementation of employment equity, as reflected upon by the three case studies, evokes different and intense reactions. People from designated groups, as a result of their dissatisfaction, tend to immigrate to other countries, which has negative implication, most notably a possible brain drain. Because of the dissatisfaction of people from non-designated groups, the courts tend to play a critical role in ensuring fairness exists. A crucial aspect that managers in the South African public sector need to be cautious of is that because of dissatisfaction that the policy arouses, complaints may be filed with the courts, which may ultimately decide adversely. Adverse rulings by courts may be costly and as a result will deplete already non-existent financial resources. Managers also have to ensure that employment equity benefits the actual beneficiaries that have been identified in policy, not a few elite as identified in the case studies. From a policy perspective, it also is important for policy makers in South Africa to forecast the life-span during which employment equity will be implemented. The discussion in Chapter 3 is about the legislative framework for and purpose of the implementation of employment equity in the South African public sector.

CHAPTER 3

THE LEGISLATIVE FRAMEWORK FOR AND PURPOSE OF EMPLOYMENT EQUITY IMPLEMENTATION IN THE SOUTH AFRICAN PUBLIC SECTOR

3.1 INTRODUCTION

The main objective of the discussions in Chapter 2 was to explore international experiences on employment equity implementation. This exploration used three main case studies that were drawn from India, Malaysia and the USA. From these case studies, it emerged that the implementation of employment equity in these countries enjoys legislative support. Despite support derived from the Constitutions of these countries, there are also other types of legislations, for example orders and quotas that are from time to time enacted to guide managers in their duties to oversee effective implementation of employment equity policies. In order to enforce these legislative requirements, there are institutions that are also established in terms of the law whose mandate is to resolve cases through which dissatisfactions are reported. The courts, as gathered from the discussions of the case studies, play an important role in resolving cases that relate to employment equity implementation.

In terms of the outline of chapters that was explained in Chapter 1, this chapter presents the literature review of the legislative framework for the purpose of employment equity in the South African public sector. The discussion of the legislative framework for employment equity in the South African public sector reflects on the types of legislation that make provision for employment equity and in particular, the guidance that such legislations offers to managers in the public sector. Because each type of legislation has an overall objective or purpose and a gap that it intends to bridge, the discussion of the purpose of implementing employment equity in the South African public sector draws heavily on the nature of activities that legislations require managers in the South African public sector to perform. For managers in the public sector to understand the key performance areas on which they are expected to deliver, knowledge of the legislation and the purpose for which the legislation has been adopted is necessary.

3.2 LEGISLATIVE FRAMEWORK FOR EMPLOYMENT EQUITY IN SOUTH AFRICA

The transition from a system of apartheid to that which is democratically founded in South Africa entailed the enactment of new legislation whose main objective was to redress the racial and economic imbalances and discriminatory practices that were a dominant characteristic of South African public sector (Booysen, 2007:47; Esterhuizen, 2008:30). Although a democratic system through which South Africans elected a government of their choice commenced immediately after the general elections in 1994, significant law reforms, through which the ANC-led government wanted to achieve equality and social justice, were made during the period 1996 and 2003. During this period, the Constitution of the Republic of South Africa of 1996 was enacted as the supreme law of the country and to which other laws that were passed by the Parliament of the Republic had to conform.

In support of the Constitutional democracy, some of the legislations that were enacted during this period include the Labour Relations Act 55 of 1995, Employment Equity Act 55 of 1998, Skills Development Act 97 of 1998, Preferential Procurement Policy Act 5 of 2000, Promotion of Equity and Prevention of Unfair Discrimination Act

4 of 2000 and the Broad-Based Black Economic Empowerment Act 53 of 2003.These legislations are discussed in this chapter as the legislative framework that institutions in the public and private sectors must comply with and to which they must conform. The Department of Water Affairs as an organ of state whose status is defined in Section 239 of the Constitution of the Republic of South Africa (1996) complies with the requirements of these legislations whilst implementing employment equity practices.

3.2.1 Constitution of the Republic of South Africa of 1996

The Constitution of the Republic of South Africa 1996, often interpreted as being revolutionary (Partington, 2005:358-359) is the supreme law of the country. It defines equality as both a value and right. In its preamble, the Constitution recognises the nature of injustices that were created by apartheid and commits all South Africans to working together to improve the quality of life of all citizens and to free the potential of each person. Chapter 2 of this Constitution makes provision for the Bill of Rights, the same rights that are seen in the context of being the cornerstone on which democracy in South Africa is founded. With this Bill of Rights, the Constitution enshrines the rights of all people in South Africa and affirms the democratic values of human dignity, equality and freedom. The state, in terms of section 7(2) of the Constitution, must respect, protect, promote and fulfil the rights in the Bill of Rights. This Constitution further provides that in order to promote the equality of persons or categories of persons that are or were disadvantaged by unfair discrimination, legislative and other measures designed to protect or advance them must be undertaken.

Article 195(1)(i) of the Constitution of the Republic of South Africa (1996) provides that "public administration must be broadly representative of the South African people, with employment and human resource management practices that are based

on ability, objectivity, fairness and the need to redress the imbalances of the past". Furthermore, Section 217(3) of the Constitution directs the national government to prescribe a framework providing for preferential procurement to address the social and economic imbalances and past discriminatory laws. The organs of state must implement these preferential procurement policies as remedial action through which they empower the people from previously marginalised groups.

3.2.2 Labour Relations Act 55 of 1995

Section 23 of the Constitution of the Republic of South Africa (1996) provides for the institutionalisation of fair labour relations practices in both the public and private sector institutions. These practices, as provided for in the Constitution, should guide labour relations decisions to which managers and employees arrive in these institutions. The Labour Relations Act 55 of 1995 provides for the establishment of a working relationship in which employers, workers and trade unions recognise each other's rights. In this working relationship, workers' rights include the freedom to form and join a trade union, participate in the activities and programmes of a trade union, and to strike. Employers have rights to form and join employers' organisations and to participate in the activities and programmes of an employer's organisation.

The Labour Relations Act 55 of 1995 was the first legislation that pronounced on activities that managers in both the public and private sector institutions need to undertake to realise employment equity outcomes. Despite making provision for the rights of employers and employees, the Labour Relations Act prohibits discrimination of any form and gives guidance on how to arbitrate disputes emanating from the working relationship between employers and employees.

The Act prohibits discrimination against job applicants and employees on the same grounds listed in Section 187(1) (f). The Act aims to promote equality and prevents unfair discrimination in all spheres of social activity other than those to which the Employment Equity Act 55 of 1998 applies. It is therefore not applicable to:
- members of the South African National Defence Force, the National Intelligence Services and the South African Secret Service; and
- non-designated employers in respect of matters regulated by Chapter III of Employment Equity Act 55 of 1998.

3.2.3 Employment Equity Act 55 of 1998

The implementation of the Employment Equity Act 55 of 1998 is seen by Oosthuizen and Naidoo (2010:1) as part of a broader transformation process in South Africa. The Act was introduced as law to redress or dismantle structural inequalities and discriminatory practices that were created by apartheid in both the public and private sectors (Madi, 1997:20; Jeffery, 2013:27; Mashele & Qobo, 2014:73; Swanepoel, Erasmus & Schenk, 2003:128). This Act, as interpreted by Spiegel (2008:103) responds to the plight of victims of institutionalised racism. The purpose of the Employment Equity Act is to achieve equal representation, a diverse and integrated workforce that reflects the demographics of South African society (Jain, Sloane & Horwitz, 2003:34-35), to promote equal opportunity (Collins, 1992:8) and fair treatment of previously marginalised groups, that is, black people, women and people with disabilities (Thomas & Robertshaw, 1999:5-6).

As a way of complying with the requirements of the Employment Equity Act, public institutions in the South African public sector are required to establish consultative forums through which managers consult key human resources (HR) decisions and policies with trade unions. In addition to consulting HR decision, this Act requires them to develop Section 20 plans through which they project future HR needs, plan for numerical and non-numerical targets that they intend to achieve over a reporting cycle. From these Section 20 plans, which are implemented over a period of a year, managers in public institutions are legislatively required to report annually on the progress that they have made. The process of reporting is done through Section 21 reports, which are widely used to monitor nationwide progress, eliminate implementation barriers and to provide information that can be used as a basis to inform future employment equity plans. An important legislative requirement that is contained in the Employment Equity Act is that public institutions implement Affirmative Action measures to achieve equal representation of previously marginalised groups. These appointments are carried out to, in particular, achieve the numeric targets that are planned for in a reporting cycle.

3.2.4 Skills Development Act 97 of 1998

In addition to discriminatory practices, South African public sector institutions are faced with a challenge of skills shortages (Levy, 1995:14; Hirsch, 2005:185-187). As a result of apartheid's fragmented and disintegrated education system that was implemented along racial lines and that produced skills that are irrelevant to the needs of the economy (Calland, 2006:67), South Africa's labour market largely comprises employees that are inadequately trained (Jain, Sloane and Howitz 2003:225). The ANC-led government acknowledged the importance of promoting human resource development as early as 1994. This culminated in parliament adopting the Skills Development Act which sought to resolve, amongst others, problems relating to skills gaps between different race groups, systematic career-paths and in general, the skills deficit in the South African workforce (Mashele & Qobo, 2014:47).

In terms of Chapter 1, Section 2 of the Skills Development Act, the purpose of the Act is to develop the skills of the South African workforce in order to improve (a) the quality of life of employees and their chances of securing employment, (b) productivity in the workplaces and to ensure that employees are competitive, (c) self-employment, (d) the delivery of public services, and to (e) ensure that more resources are invested in training and development. The Skills Development Act encourages employers to utilise workplaces as alternative learning institutions, promote reskilling, offer job opportunities for new entrants in the labour market and to ensure that people from the designated groups are able to access employment opportunities. It emphasises self-development through which people are able to learn. The Act further provides for the establishment of a National Skills Authority (NSA) which advises the Minister of Labour on issues such as a national skills development policy, guidelines on the implementation of a national skills development strategy and the allocation of subsidies from the National Skills Fund.

The report covering the period 1995-2001 tabled before the Parliamentary Select Committee on Local Government and Administration *(*1995*)*, acknowledges the skill requirements for employment opportunities that require higher levels of applied competence in South Africa. The report predicts that "this competence, motivation

and adaptability of the workforce will be a determining factor in the performance of the country in the global economy".

Besides the enactment of an array of legislation whose aim is to develop skills in the public sector, the South African government formulated strategies to complement the Skills Development Act. These strategies, as explained by Chelechele (2009:52) include Accelerated and Shared Growth Initiatives for South Africa (*AsgiSa*) to develop skills in priority sectors of the economy; and Joint Initiative on Skills Acquisition (JIPSA), an initiative aimed at developing priority skills that are identified in *AsgiSA* to encourage economic growth. Additionally, skills development interventions that were introduced by the South African government include the formation of the National School of Government (NSG[6]) and Sector Education and Training Authorities (SETAs) to develop skills through learnerships in various sectors of the economy.

3.2.5 Preferential Procurement Policy Act 5 of 2000

Section 217(1) of the Constitution of the Republic of South Africa (1996) gives effect to the institutionalisation, by organs of state at national, provincial and local spheres of government and those established by way of law, of a preferential procurement system. When contracting out goods and services, these institutions must do so in accordance with a preferential procurement system which is fair, equitable, transparent, competitive and cost-effective. This Act contains a framework for the application of preferences in the public sector bidding system. It requires that if any organ of the state implements a policy of preferences, it must only implement preferences within the framework prescribed in it.

The rationale of the procurement policy and procurement policy reforms in the South Africa public sector commenced in South Africa in 1995. At a basic level, the procurement policy sought to achieve two broad objectives: (1) upholding the principles of good governance and (2) the introduction of a preference system to

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[6] The National School of Government is an institution listed as a national department and its mandate is derived from Section 4 of the Public Service Act. This institution was previously known as Public Administration Leadership and Management Academy (PALAMA) which had replaced the then South African Management and Development Institute (SAMDI). The mandate of the NSG is to contribute to establishing a capable, professional and responsive public sector that is committed to, and that has institutionalised the values and policies of a developmental state.

address certain socioeconomic goals. The Preferential Procurement Policy Act seeks to enhance the participation of historically disadvantaged individuals (HDIs) in the mainstream economic activities and to empower them to own, manage and gain control of Small, Medium and Macro Enterprises (SMMEs). Section 2 of the Act allows an organ of state to aim for specific goals which may include contracting with persons historically disadvantaged by unfair discrimination on the basis of race, gender or disability. The objectives of the PPPFA are to address the inequalities of the past, allow for more flexibility in public procurement decision-making and to eliminate fronting and corruption.

Various stakeholders play an important role in the implementation of the Preferential Procurement Policy in the South African public sector. The National Treasury, for example, prescribes periodic regulations that managers in public institutions have to observe in their daily performance of duties in the government gazette. Because of its link to financial management decisions, public institutions' performance of activities related to the preferential procurement system are audited by the Auditor General of the Republic of South Africa (AGSA), an institution established in terms of Chapter 10 of the Constitution of the Republic of South Africa. Additionally, in South Africa there have been cases in which political parties and ordinary members of the society request the Public Protector to investigate cases in which gross violation of this policy is suspected. Despite the roles that are played by other stakeholders, accounting officers of public institutions are held liable by the Public Finance Management Act of 1999, to oversee the implementation of this Act. Amongst other initiatives, it does this through developing policies and appointing skilled employees to perform activities intended to realise the goals of this Act. In addition, they are required to develop and implement policies that helps achieve a professional and ethical culture in the public sector.

3.2.6 Promotion of Equity and Prevention of Unfair Discrimination Act 4 of 2000

The promotion of equity and the prevention of discrimination in the South African society are seen in the context of upholding human rights. As a result, a variety of legislations including the Human Rights Commission Act 54 of 1994, may be interpreted as making similar provisions that are contained in other legislations as

reflected upon in Loyson (2009:43). Another is the Promotion of Equity and Prevention of Unfair Discrimination Act which refers to any act or omission thereof, including a policy, law, rule, practice, condition or situation which directly or indirectly imposes burdens, obligations or disadvantage on or withholds benefits, opportunities or advantages from any person on one or more of the prohibited grounds. The grounds on which discrimination is prohibited, as identified in Section 8(2) of the Constitution of the Republic of South Africa (1996) are race, gender, sex, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture and language. The main purpose of the Act is to give effect to Chapter 2, Section 9(4) of the Constitution of the Republic of South Africa (1996) which provides that "no person may unfairly discriminate directly or indirectly against anyone. Amongst other factors, this Act appreciates the values of equality, dignity and social justice, a commitment to the traditional philosophy of *Ubuntu and* international law on human rights agreements. As explained by Esterhuizen (2008:32-33), Chapter 1, Section 2 of the Promotion of Equity and Prevention of Unfair Discrimination Act gives effect to the letter and spirit of the Constitution of the Republic of South Africa and in particular equal enjoyment of all rights and freedoms by every person, promotion of equality, values of non-racialism and non-sexism and prohibition of hatred based on race, ethnicity, gender or religion, that constitute incitement to do harm.

This Act also provides for measures to facilitate the eradication of unfair discrimination, hate speech and harassment, procedures for the determination of circumstances under which discrimination is unfair, measures to educate the public and raise public awareness on the importance of promoting equality and overcoming unfair discrimination, hate speech and harassment and remedies for victims of unfair discrimination, hate speech and harassment, and persons whose rights to equality have been infringed. It sets out measures to advance persons disadvantaged by unfair discrimination and facilitates compliance with the obligations of international law.

3.2.7 Broad-Based Black Economic Empowerment Act 53 of 2003

Although the Broad-Based Black Economic Empowerment (BBBEE) Act was adopted in 2003, it became operational in August 2008 after the codes of good

conduct were gazetted. The aim of BBBEE, as explained by Kalula *et al.* (2009:2), is to economically empower black people, youth, people with disabilities and those that reside in rural areas. . The use of the phrase 'black' is used differently to 'designated groups' in that it denotes African, Coloured, Indian and Chinese persons who are natural persons and are citizens of the Republic of South Africa either through birth, descent or naturalisation.   Section 4 of the BBBEE Act provides for the establishment of the Black Economic Empowerment Advisory Council whose primary function is to advise on a black economic empowerment strategy and to monitor and report periodically on progress. Section 9 empowers the Minister of Trade and Industry to issue codes of good practice by means of a government notice to promote the objectives of the Act.

The BBBEE Act is implemented by means of diverse but integrated socio-economic strategies that seek to increase black-owned companies, facilitate co-operatives and ownership of collective enterprise, develop skills, promote affirmative procurement and increase investment in enterprises that are managed and owned by people from the designated groups.   As an initiative that aims to further the provisions of the Employment Equity Act, BBBEE attracts quite a lot of criticism. Some of its critics assess it as being based on black ownership alone and therefore using a narrow approach to empowerment whilst the scope of the codes is broad, encouraging fronting by companies black people through which companies over-state their BBBEE credentials and benefiting only few individuals that are politically connected (Leon, 2008:598; Gevisser, 2007:585 ; Sunday Times, 5 August 2012).

Instead of empowering the majority of black people economically, BBBEE is assessed by critics as intensifying income inequalities amongst South Africans. The discussions in the next section focuses on the purpose of the Employment Equity Act.

3.3 THE PURPOSE OF EMPLOYMENT EQUITY IN THE SOUTH AFRICAN PUBLIC SECTOR

The legislative framework for employment equity as discussed in the preceding section reflects on what the purpose of employment equity is and the outcomes for

which it is instituted in the South African public sector. This legislation bestows on managers the roles and responsibilities to ensure that its implementation is effective. From this discussion, it can be deduced that the purpose of employment equity is to (1) promote consultation between employers, trade unions and ultimately employees, (2) promote cohesive planning for which both numeric and non-numeric targets are set, (3) prohibit unfair discrimination and (4) monitor of progress against standards and to eliminate barriers.

3.3.1 Consultation between employers, trade unions and employees

The need for employers to consult with trade unions and employees is an intervention that was introduced post-1994 to mitigate the existence and recurrence of conflicts between employers, trade unions and employees in general. As an intervention, consultation in the context of implementing employment equity is intended to deal with secrecy and acknowledges that trade unions and employees are critical partners without which public institutions cannot deliver goods and services to satisfy the needs of the society. Section 16 of the Employment Equity Act compels a designated employer to take reasonable steps to consult and attempt to reach agreement with a representative of a trade union that represents employees in a workplace. Consultation, in terms of this Act may involve employees directly or representatives that they have nominated for that purpose. The process of consultation, as provided for in Section 17 of the Act must be about the analysis of employment policies, practices, procedures and the working environment. Processes of consultation between these three groups must help public institutions to identify employment barriers which may adversely affect people from the designated groups. In order to ensure that consultation is successful, a designated employer is in terms of Section 17 of the Act, expected to share with a representative trade union information regarding the profile of the employer's workforce which determines the degree of underrepresentation of designated groups in the workplace (Barker, 1998:57).

3.3.2 Cohesive planning

In addition to consultation, the purpose of implementing employment equity in the South African public sector is to help managers in public institutions to plan cohesively or in an integrated manner. The need to plan cohesively is a legislative requirement from Section 20 of the Employment Equity Act, in terms of which a designated employer has to prepare and implement an employment equity plan which will help to progress towards achieving both numeric and non-numeric employment equity targets. This plan is seen as a roadmap of the way in which the public institutions are will promote the employment prospects of people from designated groups (Barker, 1998:58). Section 20 of the Employment Equity Act requires the designated employer to develop numerical goals to achieve the equitable representation of suitably qualified people where underrepresentation of people from designated groups has been identified, and within each occupational category and level of the workforce. The designated employer is also expected to develop a timeframe within which the numeric goals are to be achieved, strategies that will be used to achieve the numeric goals, procedures that will be used to monitor and evaluate the implementation of the plan and whether reasonable progress is being made towards implementing the plan.

3.3.3 Prohibition of unfair discrimination

Designated employers are legally required to prohibit unfair discrimination in the workplaces and to ensure that employees from designated groups are empowered. Unfair discrimination is therefore defined in Section 6(1) of the Employment Equity Act as "any type of unjustified differentiation on one or more of the following grounds: race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language or birth" (Barker, 1998:54-56).

In order to prohibit unfair discrimination, managers in public institutions are expected to implement affirmative action measures. These measures, as stipulated in Chapter 2 of the Employment Equity Act, do not constitute unfair discrimination as they do not prefer or exclude any person on the basis of an inherent requirement of the job".

Whilst implementing affirmative action measures, managers must be able to distinguish between direct and indirect discrimination. As explained by Baker (1998:54-56), direct discrimination is about differential treatment on the basis of one or more of the grounds mentioned above, while indirect discrimination finds expression in a rule or practice that has a negative impact on certain individuals or groups of people. At a practical level, indirect discrimination refers to measures and practices which appear to be harmless and neutral, but negatively affect a disproportionate number of specific groups. It is important to note that whether the employer actually intends to discriminate unfairly or not will be irrelevant. Even if the employer does not so intend, a particular act or practice might still amount to unfair discrimination. In terms of Section 6(2) of the Employment Equity Act, implementing affirmative action measures consistent with the purpose of the Act and making distinctions, excluding or preferring any person on the basis of an inherent requirement of a job, does not constitute unfair discrimination.

In terms of the legislative requirements, it is important for employers to scrutinise their human resource management policies and practices to determine possible unintended discriminatory effects.

3.3.4 Monitoring to eliminate employment barriers

In addition to prohibiting unfair discrimination in workplaces, the purpose of employment equity in the South African public sector is to allow monitoring through which managers are able to detect and eliminate employment barriers that may negatively affect people from designated groups. The monitoring of activities to eliminate employment barriers is undertaken in South African workplaces to achieve affirmative action goals. The underlying assumption for which employment barriers need to be monitored is that if they are not detected or monitored, they could prevent people from designated groups from accessing employment opportunities. An example of an employment barrier could be a setting of weight requirement as a formal requirement for appointment into the South African Police Service. In the case people with disability, they are expected to modify or adjusting the job or the working environment to enable them to have access to, and participate in work activities. This could refer to, for instance, aspects such as a door handles installed

at a height suitable for wheelchair-bound employees, restrooms for wheelchair bound employees, after-care facilities for working mothers and flexi-hours where possible.

3.4 SUMMARY

The discussion in this chapter focused on two aspects, namely the legislative framework for the purpose of employment equity in the South African public sector. From these discussions, it can be concluded that South African legislation is indicative of the nature of the activities that managers in public institutions should engage in and the nature of outcomes that they should achieve (purpose). This legislation does not only support managers in their roles, but is intended to create a favourable environment in which the rule of the law is upheld in workplaces and to ensure that people from designated areas are able to access the same benefits that non-designated groups have. The legislation responds to a historical legacy in which public institutions are characterised as being unreceptive to the employment needs of people from designated groups.The discussions in the subsequent chapter focus on the research design and methodology.

CHAPTER 4
RESEARCH DESIGN AND METHODOLOGY

4.1 INTRODUCTION

The two previous chapters focused respectively on the discussion of the literature review of the international experiences on and legislative framework for and purpose of employment equity in the South African public sector. From these two chapters it emerges that although the contexts in which employment equity is implemented are different, the reasons underlying the need for governments to regulate it and outcomes that they intend to achieve are the same. Like in case studies to which reference is made in Chapter 2, the implementation of employment equity in South Africa is a legislative requirement. The discussion in Chapter 3 validates that the implementation of employment equity in the South African public sector enjoys solid legislative support. In addition to visualising the future demographic outlook of the South African public sector, this legislation creates an awareness of the activities and roles in which managers in the public sector need to engage.

The two main discussions that are presented in this chapter are about the research design and methodology. The discussion of the research design sheds insight into the sampling procedure and research population as well as the method of enumeration, whilst the discussion of the research methodology highlights the items that are contained the questionnaire. In addition, this chapter also reflects on the limitations of the study and measures undertaken to adhere to the ethical requirements. However, prior to the discussion of the research design and methodology, the chapter introduces the study area at which the research activities were carried out. As mentioned in Chapter 1, the Department of Water Affairs has been chosen as the study area. As a public institution that is situated at the national sphere of government, the research undertaken in this department may give insight into how the implementation of employment equity by public institutions in the same sphere of influence can be improved.

4.2 THE STUDY AREA

Like all public institutions, the Department of Water Affairs has been established in terms of the provisions of the Constitution of the Republic of South Africa (1996). The department's legislative mandate is to ensure that the country's water resources are protected, managed, used, developed, conserved and controlled. It regulates and supports the delivery of effective water supply and services. This legislative mandate is in accordance with the requirements of water related policies and legislation, which are to guarantee the right of access to water and to transform the economy and eradicate poverty (Department of Water Affairs Annual Report: 2011-2012).The Department of Water Affairs is one of the oldest national departments in the country whose functions and mandate remained relatively the same over many years. In terms of the official Year Books of the Republic of South Africa (1978, 1988 and 1998),the mandate of this department centred around ensuring that there was optimum supply and utilisation of the water resources in South Africa.

A fundamental change to the mandate bestowed over this department came forth in 1994 after the election of the former State President, Nelson Mandela into office. As part of the restructuring process that took place during 1994, a new department, then called the 'Department of Water Affairs and Forestry' was created. This new department encompassed the amalgamation of all water and forestry related services, functions, budgets and employees from the former homelands, namely Transvaal, Bophuthatswana, Venda and Ciskei (also referred to as the TBVC states) and those from the old South African government. The initial focus of transforming this department during that period was to make water resources accessible to those communities that were denied access to it by the apartheid government. In May 2009, following the election of Jacob Zuma as the President of the Republic of South Africa, the name of this department, its functions and mandate were slightly changed. This change involved transferring the responsibility for Forestry to the Department of Agriculture which was to be known as the Department of Agriculture, Forestry and Fisheries. After transferring the responsibility for Forestry to the Department of Agriculture, the Department of Water and Sanitation was created in May 2014.This new post-2014 department is regarded as the custodian of South Africa's water resources and as explained in the department's Annual Report (2012-

2013), is primarily responsible for the formulation and implementation of policy that governs the water sector. It also has an overriding responsibility for water services provided by local government in South Africa.

4.2.1 ORGANISATIONAL STRUCTURE OF THE DEPARTMENT

The Department of Water Affairs is a national department that has been established in terms of Section 40 of the Constitution of the Republic of South Africa (1996). This department is headed by Director-General (DG), who is the accounting officer of the department. It consists of six (6) divisions that are headed by the Deputy-Director Generals (DDGs). Each division consists of chief directorates, sometimes referred to as sub-divisions of the main division that are headed by Chief Directors. Like most formal organisational structures that are adopted by public institutions in the South African public sector, the structure of this department is illustrative of formal vertical and horizontal lines of communication, levels of interaction of employees and grades of occupational classes to which employees are attached. As illustrated in Figure 4.1 below, the DDGs report to the DG and the DG reports directly to the Minister of Water Affairs.

Figure 4.1: Organisational Structure of the Department of Water Affairs
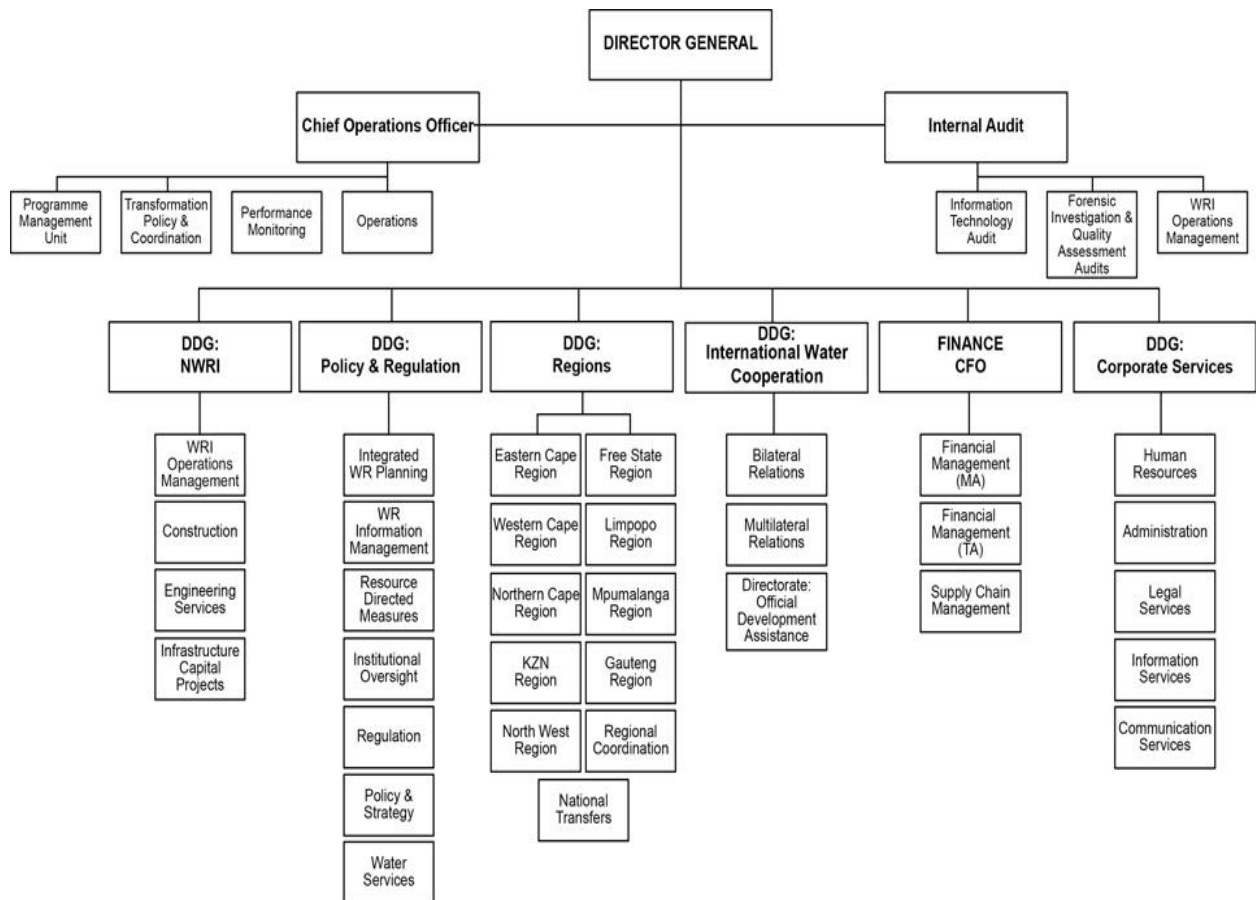
Source: Department of Water Affairs: Annual Report 2011-2012

As illustrated in Figure 4.1, the Chief Directorate of Human Resources is a sub-division of the Corporate Service Division and is headed by a Chief Director. This chief directorate is the primary driver of the implementation of the employment equity within the Department of Water Affairs. Despite this chief directorate's responsibility being to drive the implementation of employment equity, managers at all levels of the department play a critical role in ensuring that effective implementation is achieved. The DDG of the Regions Division is, for example, tasked to coordinate employment equity implementation at the regions, a key performance area that is further cascaded to managers of the regions. Whilst carrying out their employment equity implementation roles, managers are expected to observe a broad spectrum of the legislative requirements that are discussed in Chapter 3. They participate, collectively with representatives of trade unions and employees, in the department's

national and regional Employment Equity Consultative Forums, Employment Equity Committees and Gender Committees and are, in terms of their leadership positions, appointed as Change Agents whose influence is critical to achieving effective employment equity policy implementation.

4.3 EMPLOYMENT EQUITY IMPLEMENTATION IN THE DEPARTMENT

In order to comply with the legislative requirements that were discussed in Chapter 3, South African public institutions had to,post-1994 democratic elections, engage in mandatory activities that were initiated to help them achieve the outcomes specified in the employment equity legislation. A major intervention with which they were expected to comply was to develop and adopt Employment Equity policies that were consistent with the legislation that was discussed in Chapter 3.

4.3.1 Adoption of the Department's Employment Equity Policy (1995)

The adoption of the Employment Equity Policy in 1995 was seen as an initiative intended to accelerate the streamlining of effective employment equity implementation in this department. This policy created a platform through which managers, representatives of trade unions and employees in general could internally engage consultatively in employment equity and related decisions. Amongst the programmes that derived from this policy was the organisation of internal consultations and workshops to convey the policy intentions to its employees, particularly to those that were geographically located in the remote areas such as forest stations and water schemes. While this was an important step paving the way for an effective implementation, it was neither a guarantee for broader acceptance by employees nor an assurance that the policy goals and objectives would be pursued. Various departmental reports point to situations in which employees, including senior managers, disagreed on issues, misinterpreted policy objectives or were institutionally ill-prepared to implement the policy, and as a result compromising both its content and intent. The adoption of this policy further created the need for the department to create the National and Regional Transformation Forums (NRTFs), and Employment Equity and Gender Committees, whose roles are discussed in the following sections.

4.3.2 National and Regional Transformation Forums

Resulting from the Employment Equity Policy (1995), both the national and regional transformation forums were established at head office and in all nine regional offices respectively. The primary functions of the NRTFs were for them to serve as platforms and as sounding-boards for the Department of Water Affairs to assess its own progress and also to identify potential barriers to effective implementation. They were mandated to assist the Department in identifying transformation priorities and developing ways through which the priorities could be achieved. Regional forums were regarded as being of strategic importance by employees as they were used to convey to head office the need for basic office equipment such as computers, telephones, transport, information, uniforms and safety clothing. The regional structures are representative of the employees in the regional offices and, as per the directive of the Transformation Status Report (2001) comprise representatives of trade unions and shop stewards. The meetings of the national transformation forum were, per the requirements of the Employment Equity Policy (1995), convened annually and served as a platform to create common position on the Department of Water Affairs transformation priorities and progress that was made annually.

The Department of Water Affairs Report of the Transformation Strategic Workshop held on 2-3 March 1999, revealed a shortcoming in the operation of the NRTFs in that they lacked a formal complaint system which could enable junior employees(e.g. cleaners, messengers, drivers and gardeners) to report cases of unfair discrimination which they experienced in their workplaces. Instead of capacitating the regional transformation forums, the Department of Water Affairs, through the Transformation Status Report of 2001, tabled a recommendation that led to the demise of regional forums and further questioned the value of holding the annual national transformation forums. After disbanding the regional transformation forums, the Transformation Status Report of 2001 further recommended that the transformation process be undertaken in a systematic fashion to ensure that the goals and objectives of the transformation would be carried out in a mutually reinforcing manner.

4.3.3   Employment Equity Committee

In addition to the establishment of NRTFs, the Employment Equity Committee, whose role was to drive the implementation of employment equity and related policies in the department, was established. The members of this committee were largely hand-picked by the Minister, with two members seconded by the trade unions or associations recognised by the Public Service Bargaining Council (PSBC). The Employment Equity Committee's existence, composition and functions were prescribed in the Department's Equity Policy (1995). The functions of the Employment Equity Committee, as spelt-out in the policy are, amongst others, to:

- oversee, promote, monitor and evaluate the implementation of the Employment Equity Policy (1995),
- make recommendations on specific numerical targets (but not rigid quotas) for the inclusion of people from designated groups at every level of departmental activity, including the procurement of outside goods and services,
- initiate policies or programmes that are designed to achieve fundamental equality of opportunity and the related goals of representation, employee participation, education, training, and all matters incidental thereto, and
- evaluate the implementation of such policies or policy proposals submitted by others.

The Employment Equity Policy (1995) made provision for the appointment of a Corrective Action Officer to serve on the Employment Equity Committee and to perform functions including but not necessarily limited to:

- advising on issues of compliance with and / or necessary changes to this Employment Equity Policy of 1995,
- drafting and securing the approval by the Committee and/or the Minister or his/her designee(s) (who may include the DG and/or the management committee) for measures designed to implement this policy,

- offering guidance to DDGs, Chief Directors and the management committee on how the policy can be effectively implemented,

- receiving, reviewing, investigating and evaluating all complaints in respect of the implementation of the Employment Equity Policy of 1995, and

- initiating, proposing the expansion of or modification of the functions of the Corrective Action Officer and implementing such expansions or modifications upon the written consent of the Minister after consultation with the DG.

In addition to the support role that the Corrective Action Office had to offer to the functioning of the Department's Employment Equity Committee, the Employment Equity Policy (1995)provided that such a committee shall operate under the direction and control of the Minister of Water Affairs and shall report to him/her.

4.3.4 Gender Policy of 1995 and Gender Committee

In addition to the establishment of the NRTFsand the Employment Equity Committee, a Gender Policy (1995) was adopted and a Committee to oversee the implementation of this policy was sought as critical in the department. Both the adoption of the Gender Policy and establishment of the Gender Committee were seen in the context of enabling the department to deal with discrimination based on gender and were undertaken to not only adhere to the requirements of the Department's Employment Equity Policy (1995), but to further comply with the requirements of Section 9(3) of the Constitution of the Republic of South Africa (1996) that forbids discrimination on the grounds of amongst other factors, gender, sex, pregnancy, marital status and sexual orientation, all which relate to gender.

The adoption of the Gender Policy (1995), which was aligned to the principles of the United Nations Convention on the Elimination of all forms of Discrimination Against Women (CEDAW, 1979), signified that the Department acknowledged gender discrimination as both a historical and present fact, and therefore strived for the promotion of gender equality in the supply of and management of water resources. The Gender Policy (1995) stipulated that the way in which the department renders services will conform to the principles of gender equality as enshrined in the

Constitution of the Republic of South Africa (1996). The main objectives of this policy were, among others, to:

- promote gender equality in recruitment, placement, promotion and conditions of service,
- eliminate all forms of gender discrimination from departmental regulations and administrative practices,
- ensure the elimination of all forms of sexual harassment within the department, and
- develop administrative rules and procedures to enable the department to achieve gender parity in numbers employed in all occupational categories.

In order to ensure that the efforts aimed at dismantling discrimination on the basis of gender received the necessary support, the Gender Policy of 1995 made provision for the establishment of the Gender Committee, a departmental committee sought to advise on the implementation of the Gender Policy (1995).

4.3.5 Change agents

In addition to the initiatives that have been explained in this section, managers in departments and in recognition of their influential positions in their respective environments, had to assume the roles of being change agents. Change agents, sometimes referred to as "champions" are often appointed to support a proposed change and are therefore necessary to ensure that the proposed change is implemented successfully (see Hodge, Anthony and Gales 1996:376-377). Through their roles, champions provide leadership, communicate proposed strategies, identify barriers and challenges that may inhibit effective implementation, and are therefore helpful in overcoming resistance to change (Swanepoel *et al.*2003:741).As an attempt to popularise the process of change and to meaningfully promote dialogue with employees, the Department resolved in 1997 to appoint managers as change agents. Networks of change agents were established at both the head-office and regional levels of operation in the department. The main task given to the change agents was for them to be the 'eyes and ears' of the Department and were as a result responsible for facilitating upward and downward communication and

providing feedback on transformation-related issues to employees. The key personal attributes that were used to identify suitable change agents were, as explained in the department's Change Management Strategy (2007:3),high-level communication, problem solving and leadership skills.

4.4 RESEARCH DESIGN

A brief introduction of the research design was given in Chapter 1. The writing of the research design was preceded by a preview and consultation of literature on research design and as such this research design is informed by literature of authors such as Hague and Jackson (1996:64),Baker (1991:32-33), Fred and Perry (2005:72-75), Booysen (2007:52), Netshakhuma (2006:11), De Vos (2001:240), and Polit and Hungler (1999:17).

4.4.1 Sampling procedure and research population

A convenient and purposive sampling procedure was used to select managers who could serve as respondents to the questionnaire. This procedure entailed administering the questionnaire to employees who were available at the time and who were keen and willing to participate. Three categories of respondents, namely senior, middle and junior managers were selected as the targeted population. These managers formed part of the department, which at the time of undertaking the research activities in 2013, had a staff complement of approximately 34 000 employees. Senior managers, as illustrated in the organisational structure of the Department of Water Affairs in Figure 4.1, consisted of the DG, DDGs, Chief Directors and Directors. The reason for identifying senior managers as the target population is that they determine the policy content and oversee its implementation. The second category of respondents consisted of professionally qualified and experienced specialists. Managers in this category possess the tactical skills and information on how policy is implemented. The third category of respondents comprised junior managers, employees that interact on a supervisory capacity, for example foremen and plant superintendents. Junior managers are an important link to unskilled and semi-skilled employees in the department. This category of respondents consists of employees who interact at the level at which the actual work

is performed, the impact is felt and either embraced or rejected. Whilst selecting the respondents, measures were undertaken to ensure that the sample is representative and not restricted by race, gender, age and the number of years of respondents' experience.

4.4.2 Size of the target population and method of enumeration

The questionnaire targeted a total of one hundred (100) managers that were placed at the head office of the Department of Water Affairs in Pretoria. The sample therefore did not include those that are placed at any of the nine regional offices. A contact person within the Department of Water Affairs, whose task was to distribute and receive completed questionnaires from the targeted respondents, was appointed by Chief Director: Human Resources. Although there were due dates at which completed research questionnaires had to be returned, the respondents were allocated enough time during which they could complete the questionnaire. In order to ensure that the questionnaires were accurately completed, respondents were encouraged to seek clarity on any of the items of the questionnaire.

4.5 RESEARCH METHODOLOGY

As in the case of the research design, numerous literature sources (see Hague & Jackson, 1996:107; Smith & Roodt, 2003:32-33; Leedy, 1989:143 ;) that provide insight on how a good questionnaire can be constructed were consulted prior to its compilation.

4.5.1 Pretesting of the questionnaire

Before the questionnaire was administered to the respondents, they were pretested using a few selected employees of the Department of Water Affairs and academics in the social sciences. This pretesting was conducted to ensure that the items contained in the questionnaire were valid, not ambiguous, and that they could be well understood. The pretesting of the questionnaire helped in proactively identifying and correcting errors. After the questionnaire was pretested, the comments and suggestions given by participants were used to improve its validity and objectivity.

4.5.2 Research questionnaire

As explained in Chapter 1 and in the discussion of the research design, this study used a quantitative research method for the purpose of gathering empirical data. This questionnaire (See Annexure A) was divided into five (5) sections (A-E). The first section (A) gathered the respondents' biographical data on three main items, namely the respondents' level of interaction in management, the number of years of experience in management and the highest educational qualification that they had obtained. As part of gathering data on their level of interaction in management, they could choose whether they interacted at senior, middle or junior management within the department. As part of gathering data on the respondents' number of years of experience in the management of the department, they could choose between three categories as well, namely whether they had been in management for periods less than five years (0 – 5 years), five and ten years (5 – 10 years) or more than ten years (10 years +). As part of gathering the data on the highest educational qualification the respondents had obtained, they could choose from four alternatives, namely, whether they had obtained a diploma certificate, an undergraduate degree, masters degree or a doctoral degree.

Whilst constructing the questionnaire, an attempt was made to ensure that the use of keywords was consistent throughout the study. Therefore, as in the discussions of the literature review in Chapters 2 and 3, all reference to the *Employment Equity Act* as expressed in this questionnaire incorporates affirmative action as a measure that is undertaken to achieve Employment Equity outcomes. The second section of the questionnaire (section B) focused on respondents' learnt practical experiences on whether:

1. There is a common understanding of what the *Employment Equity Act* mean and seek to achieve in the department

2. Employment Equity Act is central to the achievement of the mission and the vision of the department

3. All the programs and projects of the department are furthering the purpose of the *Employment equity Act*

4. The implementation of *Employment Equity Act* is viewed by non-targeted groups as discriminatory and unfair

5. The implementation of *Employment Equity Act* is viewed by the targeted groups as slow and only benefiting the few

6. The implementation of *Employment Equity Act* polarise and contribute to racial tension within the department

7. The department is better off with than without the implementation of *Employment Equity Act*

Whilst responding to these questionnaire items, respondents could choose from a five point scale ranging from whether they strongly agreed (SA), agreed (A), uncertain and therefore neutral (N), disagreed and strongly disagreed (SD) with the statement. In addition to the twelve questionnaire items about which this questionnaire enquired, respondents could still comment generally about the experiences they thought where not captured.

Certain elements of the theoretical discussion of the legislative framework for the implementation of Employment Equity in South Africa, as discussed in Chapter 3, were also considered useful for inclusion in the questionnaire. This section (C) also required that respondents should be able to choose from a five-point scale to indicate their of (dis)agreement with six questionnaire items that are contained in the questionnaire. This section gathered data on whether:

1. The *Employment Equity Act, Skills Development Act, Labour Relations Act,* the *Promotion of Equality and Prevention of Unfair Discrimination Act* and the *Constitution of the Republic of South Africa* provides the department with sufficient

legislative armoury to dismantle the historical impact of discriminatory human resource practices

2. There is a need to create awareness amongst employees about the implications and legal effect of the above mentioned legislation in the department

3. The successful implementation of the *Employment Equity Act* in the department is undermined by the shortage of suitably qualified recruits from the designated groups

As discussed in Chapter 3, employment equity implementation enjoys enormous legislative support in the South African public sector. Some of this legislation, especially the Employment Equity Act, sets out employment equity activities that need to be undertaken, for example consultation, planning, implementation and reporting. As such, it also provides for the establishment, in public institutions, of bodies or structures that will see to it that employment equity activities are implemented effectively. In order to recognise the critical roles that these bodies play in achieving employment equity outcomes, section D gathered data on respondents' evaluations of the impacts and roles of the transformation and employment equity structures. The questionnaire items in this section gathered respondents' evaluation of whether:

1. Transformation and Employment Equity Structures pursue unclear and contradictory mandates

2. Transparency and constant communication by transformation and employment equity structures with employees performing employment equity activities will increase participation by employees in employment equity matters

3. Transformation and employment equity structures can deal decisively with real or perceived human resources

The intention of Section E, as illustrated in the questionnaire (see Annexures A), was to gather respondents' views about how they evaluated senior management's

intervention and commitment to the implementation of employment equity in the department. The reason for gathering respondents' views on the intervention by and commitment of senior managers to the implementation of employment equity is consistent with the discussion of the legislative requirements that places the responsibilities to oversee, manage, monitor and to be accountable on all initiatives that are implemented in their departments. A further justification of the important role played by senior managers in the implementation of employment equity, as mentioned in the discussion of the target group is that even though they are legally able to delegate the responsibility further down to other managers, they do not delegate the responsibility to account

In this section, four questionnaire items, to which respondents had to indicate their level of (dis)agreement using the four-point scale referred to earlier, were posed. These questionnaire items enquired about:

1. Senior managers help create an organisational culture that upholds diversity and the values of democracy

2. Senior managers provides for the creation of a new organisational culture respectful of diversity and dedicated to the values of the new democracy in South Africa

3. Senior managers demonstrates leadership and commitment to the implementation of the *Employment Equity Act*

4. Senior managers commit themselves to developing employees to meet future challenge of reducing the skills backlog and representivity in the designated groups

4.6 LIMITATIONS OF THE STUDY

As explained in the discussion of the size of the population, in total a sample hundred (100) managers were targeted for the purpose of this study. Although the majority of these targeted respondents cooperated satisfactorily, there was however limited cooperation from senior managers. Junior managers were also reluctant to complete the questionnaire as they felt that the implementation of the Employment Equity Act in this department benefits only few employees that are connected to senior managers. Some white employees ignored or flatly refused to complete the questionnaire because they suspected that the study was a 'witch-hunt' by senior managers to identify and side-line 'trouble makers'.

4.7 ADHERENCE TO ETHICAL REQUIREMENTS

As in the case of the research design and methodology, a literature review of the importance and aspects of the ethical requirements that guide research were consulted. Sources that were consulted in this regard were those authored by Lutabingwa and Nethonzhe (2006:697), Huysamen (1996:178-185), Nation (1997:108), Malim and Birch (1997:13-14), Leavit (1991:112-113), and Baker (1991:101-102). In addition to this literature review, the policies of the University of South Africa (Unisa) and Department of Water Affairs which guide research that involves human beings as participants were observed.

4.7.1 Permission to conduct research

In order to access official documents such as departmental reports and to distribute questionnaires to the targeted respondents in the Department of Water Affairs, certain procedures and protocols had to be adhered to. A letter requesting permission to obtain official documents and to conduct the research was written and addressed to the DG. Permission to conduct the research activities was granted on 17 October 2014 (see Annexure B). As explained in the research design, the department also made available a contact person who could facilitate the distribution and receipt of questionnaires from the respondents.

4.7.2 Confidentiality

In order to ensure the respondents of confidentiality, they were informed in the preamble of the questionnaire that the questionnaire had been designed for the purposes of gathering data for a Masters degree study at Unisa and therefore, information they provided would be used solely for that purpose and will be treated as confidential. Although they were encouraged to participate by completing the questionnaire, they were also informed that their participation was voluntary and that they could decline to respond it if they wished. The respondents were not required to disclose their names or any information that could help identify them. The researcher explained and assured all selected employees that their responses to the questionnaires would only be used for academic purposes. In addition, the researcher assured respondents anonymity and strict confidentiality

4.8 SUMMARY

As indicated in the introductory remarks, the purpose of this chapter was to discuss the research design and methodology. To kick-start this discussion, it became necessary to identify and briefly discuss the study area at which research activities were carried out. Aspects that were reflected upon as part of the study area are the organisational structure and implementation of Employment Equity in the department. From these discussions, there is evidence that the activities that are undertaken by the department to implement Employment Equity emanated from its policy, which was adopted in 1995.

As part of the of the research design, the chapter reflected on the discussions of the sampling procedure and research population and size of the target population and method of enumeration, whilst the discussion of the research methodology reflected on the pretesting of the questionnaire and explained in some detail the scope and content of the questionnaire. The questionnaire is used as a framework of the discussion of the findings. The discussion in the next chapter presents the findings of the study.

CHAPTER 5

THE FINDINGS OF THE STUDY

5.1 INTRODUCTION

The main purpose of Chapter 4 was to explain the research design and methodology. Before embarking on the discussion of the research design and methodology, it is important to introduce the study area at which research activities were undertaken. The introduction of the study area, especially the organisational structure of the department, highlighted the structural composition of the different levels at which managers interact. This discussion also highlighted how the human resources sub-division, as the key role player in the implementation of the Employment Equity Act, features in the organisational structure of the department. The discussion of the study area also provided an overview of the progress that had been made in respect of the implementation of the Employment Equity Act. The most important aspect of the discussion of the study area was the adoption by the Department of the Employment Equity Policy in 1995, from which most of the implementation activities are derived.

The discussions in this chapter are consistent with the research objective highlighted in Chapter 1, namely to present the findings that may be helpful in understanding the nature of the challenges that are experienced or opportunities that exist in the department and from which the necessary interventions may be sought. This chapter presents these findings in the sequence that was introduced in the research methodology chapter. The findings from all the sections are presented in that same order and are elaborated with diagrammatic representations to illustrate how each of the managers that were selected as the target population assessed progress with the implementation of Employment Equity Act in this department.

5.2 THE FINDINGS OF THE STUDY

The biographical data of respondents (Section A) are presented in the next section of this chapter.

5.2.1 BIOGRAPHICAL DATA OF RESPONDENTS

Section A of the research questionnaire gathered respondents' biographical data on three main items, namely, level of interaction in management, number of years of experience in management and the highest level of education achievement.

5.2.1.1 Level of interaction of respondents in management

As illustrated in Figure 5.1 below, the majority of the respondents were middle managers (51%), with the second highest majority being junior managers (34%). Only 15% of the senior managers participated as respondents to the questionnaire.

Figure 5.1: Level of interaction of respondents in management
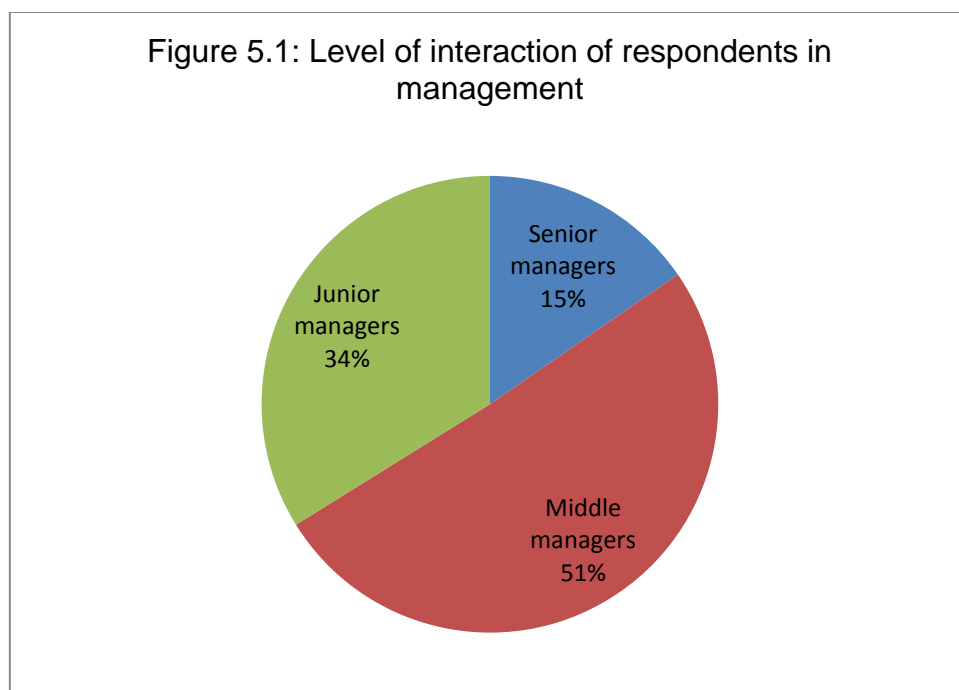
This response rate by senior managers was considered satisfactory since, in terms of the placement in the organisational structure, they are outnumbered by both middle and junior managers.

5.2.1.2 Number of years of experience in management

In order to indicate the number of years of experience they had acquired in the management of the department, the respondents could choose from three categories: whether they had been in the management of the department for periods of less than five years, between five and ten years or for a period exceeding ten years. As illustrated in Figure 5.2, the majority of respondents (46%) had been in the management of this department for a period of less than 5 years. The second majority (43%) consisted of those who had been managing this department for a period of between five and ten years, whilst only 6% had been in the management of this department for more than 10 years. The respondents' number of years of experience in the management of this department is depicted in Figure 5.2 below.

Figure 5.2: Number of years of experience in management
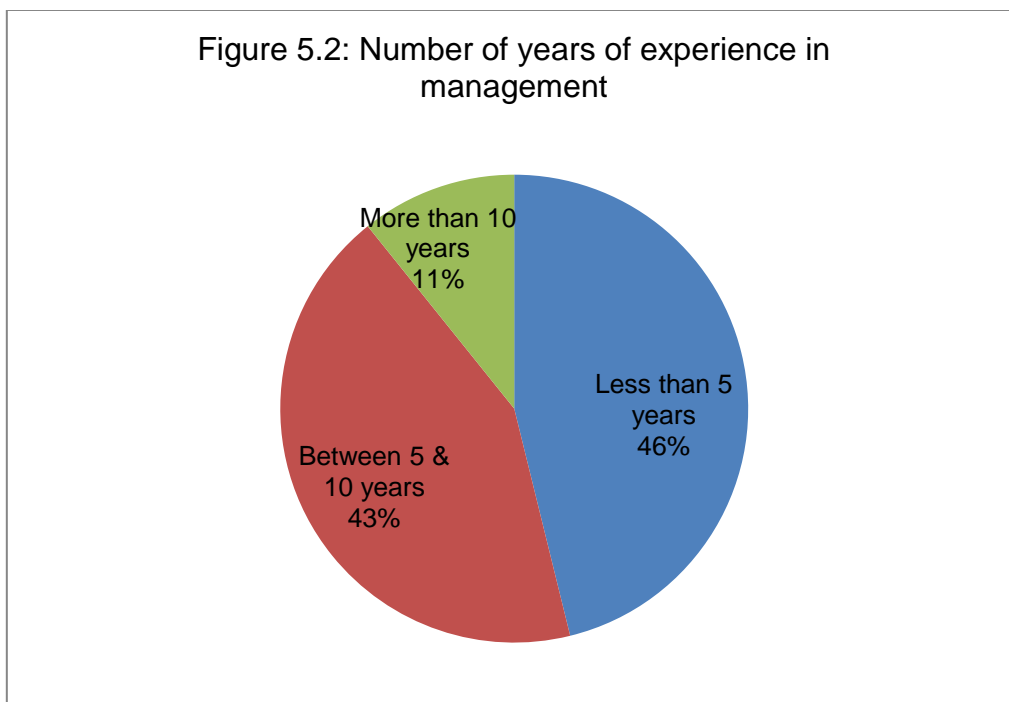
5.2.1.3 Highest level of educational achievement

The highest level of educational achievement of respondents was determined using four main items from which respondents could select the most applicable. As illustrated in Figure 5.3 below, the highest majority (35%) had obtained undergraduate degrees. Although not listed as an alternative from which respondents could select, the second highest majority of respondents (31%) had achieved educational qualifications that were not listed in the research questionnaire. Respondents in this category could possibly include those whose highest educational achievements may be a Grade 12 certificate or grades below that, national certificates obtained from Further Education and Training (FET) colleges, former technikons or any other educational institution they could have previously attended. Figure 5.3 below illustrates the highest level of educational achievements of respondents.

Figure 5.3: Highest level of educational achievement of respondents
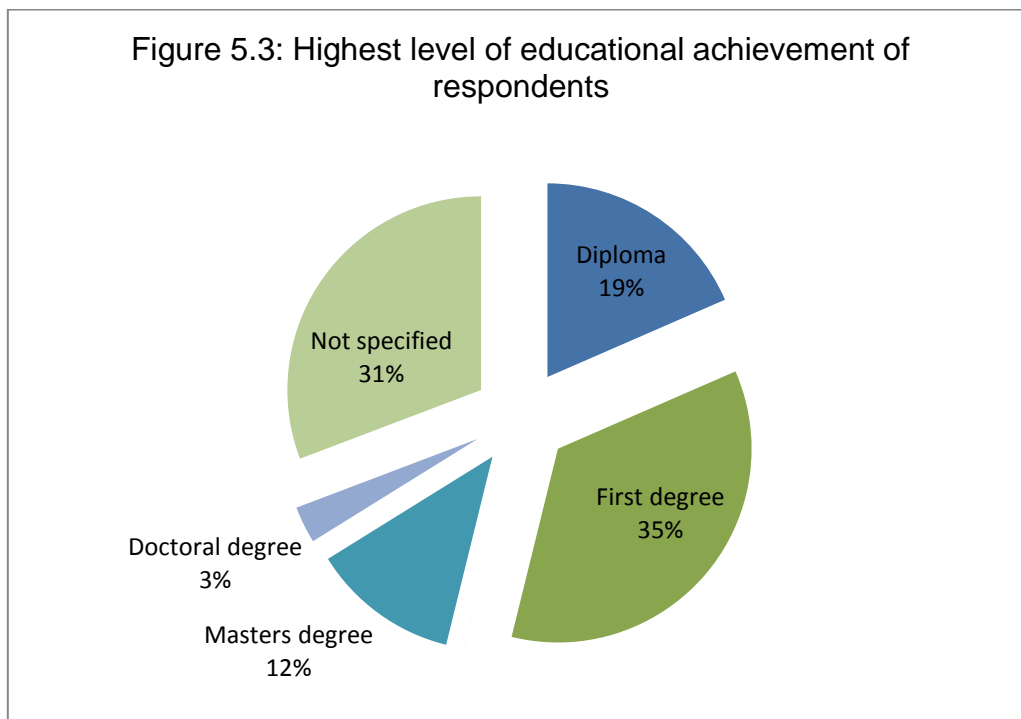
As depicted in Figure 5.3, the third highest majority consisted of respondents that had obtained diploma certificates (19%), followed by those that had achieved Masters degrees (12%). Only 3% of respondents had achieved doctorate degrees in unspecified disciplines.

5.2.2 PRACTICAL CONTEXT

The findings on practical experiences of respondents are presented in this section. Whilst responding to the research items on which this section enquired, the respondents could select from five predetermined alternatives, i.e., whether they strongly agree (SA), agree (A), are neutral (N), disagree) or strongly disagree (SD). In interpreting the findings in this section, an acronym 'EEA', which stands for Employment Equity Act, is used.

5.2.2.1 Common understanding of what the EEA means and seeks to achieve

This research item required the respondents to reflect on the experiences they have acquired over time and in particular enquired whether they thought there was a common understanding (shared vision) amongst employees in the department of what the EEA means and seeks to achieve. As illustrated in Figure 5.4, the majority of respondents (77%) disagreed that there was common understanding of what the EEA means and seeks to achieve, whilst 23% of them were neutral.

Figure 5.4: Common understanding of what the EEA means and seeks to achieve
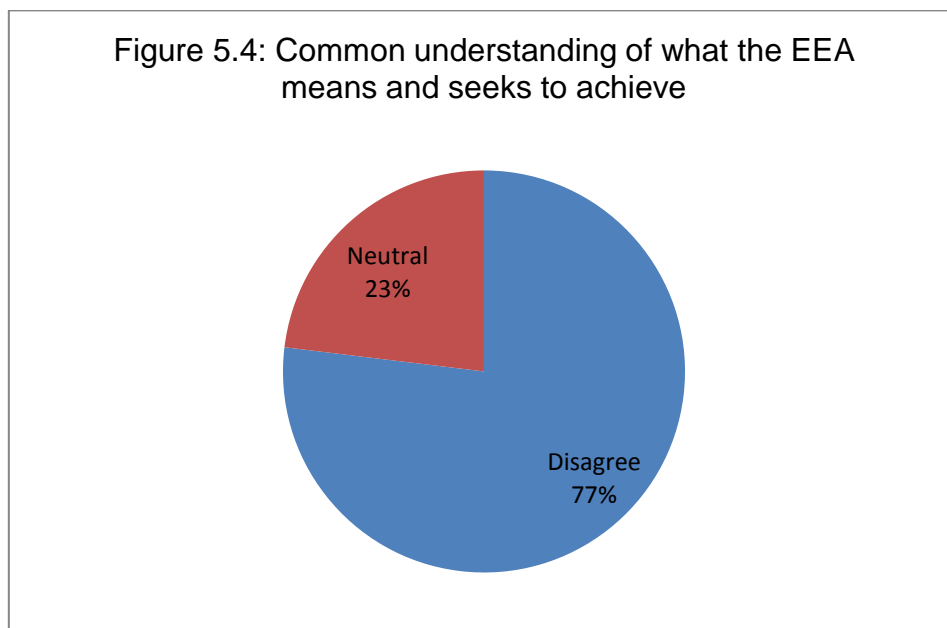
The majority of respondents whose experiences were that there is a lack of common understanding of what the Employment Equity Act means and seeks to achieve (i.e., disagree) were of the opinion that most activities that are undertaken to implement the EEA are largely compliance driven and as such, the value is compromised along the implementation process.

5.2.2.2 EEA is central to the achievement of the mission and vision of the department

This research item enquired from respondents whether they experienced the EEA as central (significant) to achieving the mission and vision of the department. As explained in Chapter 4, the vision and mission of the department, as captured in the National Strategy (1996:1-2), requires the department to be inclusive in scope and non-discriminatory in content and practice and the implementation of EEA to be integrated into the department's core business. All the respondents (100%) agree that the EEA is indeed central to the achievement of the vision and mission of the Department of Water Affairs.

5.2.2.3 Programmes and projects undertaken by the department to further the purpose of the EEA

Examples of programmes and projects that are undertaken by the department to further the purpose of the EEA may include initiatives and events such as the Grasdak 1 Conference which was hosted by the department in April of 1996 and structures developed to implement the EEA, for example Employment Equity Consultative Forum, Gender Committee or any other initiatives that are provided for in the Employment Equity Policy (1995). These programmes and projects include any other initiatives that the respondents may have been exposed to during their period of employment in the department. As illustrated in Figure 5.4 below, a proportionate number of respondents (46%) strongly disagreed that programmes and projects that are undertaken by the department further the purpose of the EEA. Contrarily, another 46% of respondents experienced programmes and projects that are undertaken by the department as furthering the purpose of the EEA.

Figure 5.5: Programmes and projects undertaken by the department further the purpose of the EEA
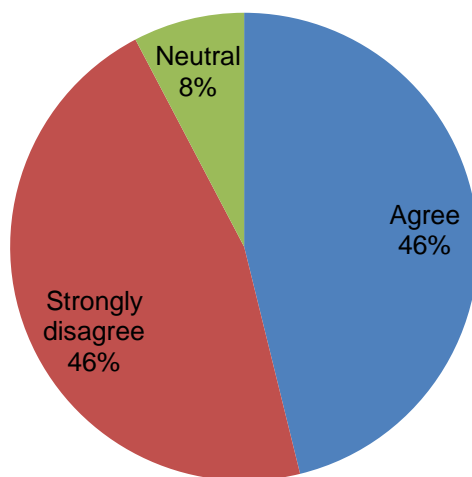
Only eight percent (8%) of respondents, who possibly could have been newly appointed managers, i.e., appointed into a management position for a period of less than five years, chose to be neutral in their response to this research item.

5.2.2.4 Implementation of EEA is viewed by non-designated groups as discriminatory and unfair

In a diverse society and government in which public institutions are required by legislation to rapidly initiate transformation interventions such as South Africa's, the impact that these initiatives have on individuals or groups may evoke mixed reactions. In this particular case, it then was necessary to enquire from respondents about the types of impacts the implementation of the EEA has on non-designated groups. The majority of respondents (92%), as depicted in Figure 5.6 agreed that indeed non-designated groups view the implementation of the EEA as discriminatory and unfair whilst 8% were neutral.

Figure 5.6: Implementation of EEA is viewed by non-designated groups as discriminatory and unfair

Neutral
8%

Agree
92%
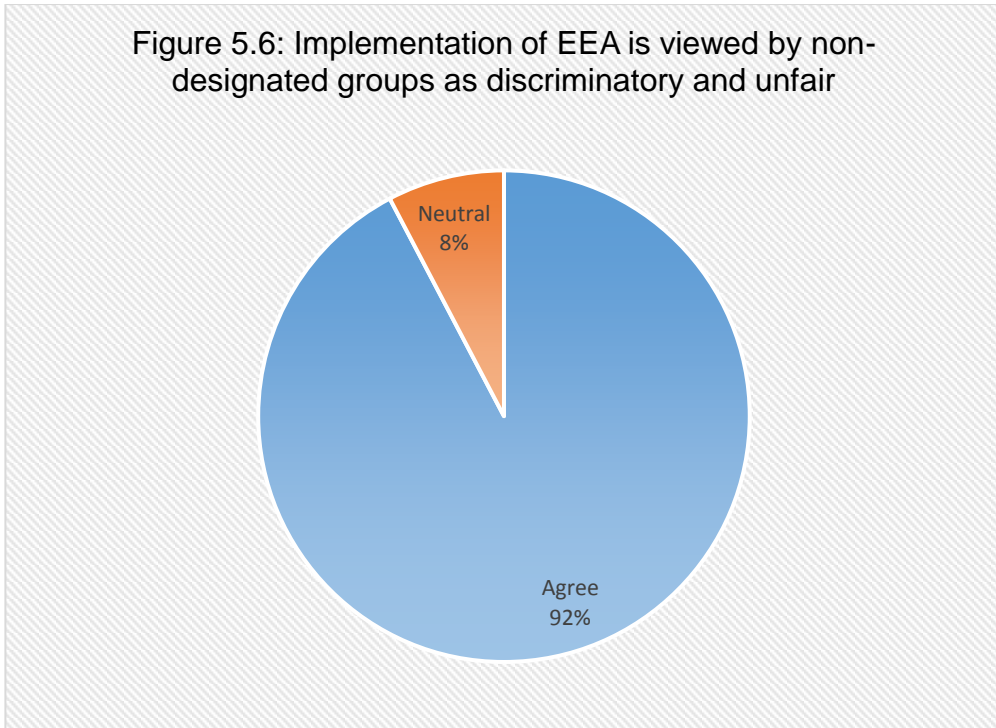
5.2.2.5 Implementation of EEA contributes to racial tension in the department

Further, regarding the types of reactions that the implementation of the EEA may evoke, the research questionnaire also enquired from respondents whether the EEA contributes to racial tensions in the department. As depicted in Figure 5.7 below, the majority of respondents (77%) strongly agreed that it does contribute to racial tensions. The second majority of respondents (15%) consisted of respondents that held a contrary view to the latter. A further 5% of the respondents agreed that the implementation of EEA contributes to racial tensions and 3% of them were neutral.

Figure 5.7: Implementation of EEA contributes to racial tensions in the department

Agree 5%

Neutral 3%

Strongly disagree 15%

Strongly agree 77%
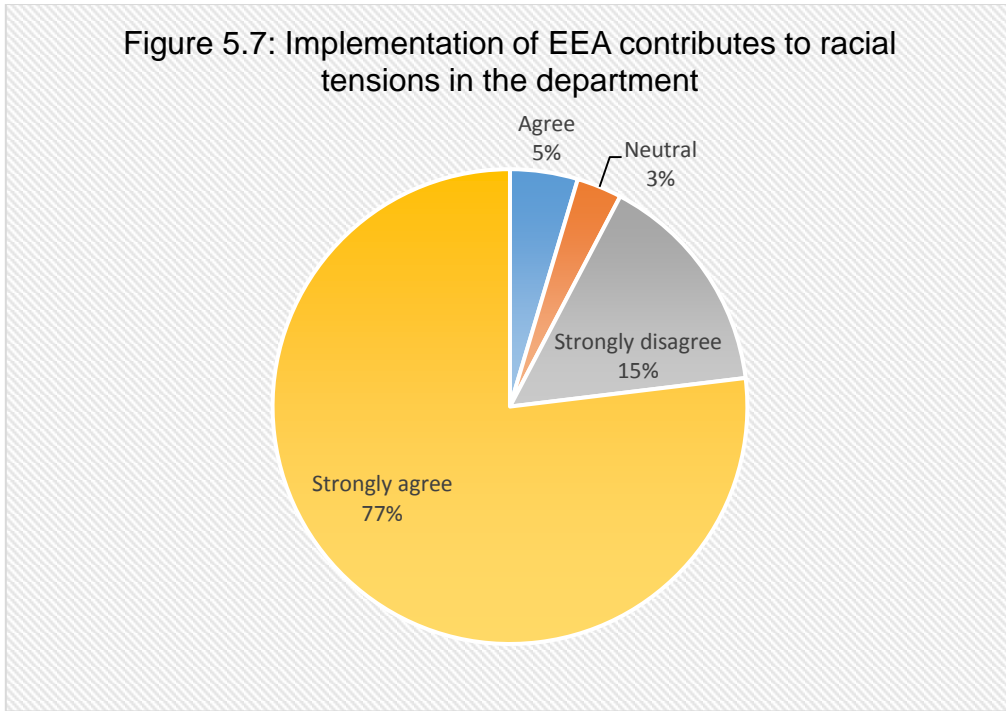
5.2.2.6 The department is better-off without the implementation of EEA

The main reason for including this research item was to determine from respondents whether they thought there was a need for the department to implement the EEA. In actual fact, this research item assessed the respondents' opinions on whether they thought the department was better-off with or without implementing the EEA. The majority of respondents (62%) strongly disagreed and a further 15% of them disagreed. In terms of the findings, these respondents held the opinion that it is necessary for the department to implement the EEA. However, there was 15% of them that held an opposing assessment that indeed the department is better-off without the implementation of the EEA. As illustrated in Figure 5.8 below, 8% of the respondents were neutral.

Figure 5.8: Department is better-off without the implementation of EEA
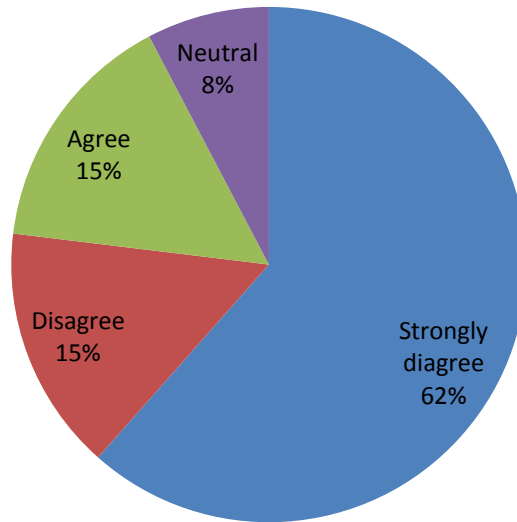
5.2.3 LEGISLATIVE AND INSTITUTIONAL FRAMEWORK

The legislative framework for Employment Equity was noted in Chapter 3 as an important theoretical aspect without which deliberations about employment equity will be incomplete. As referred to in that chapter, legislation gives managers the authority to implement the policy. In this case, legislation bestows on managers the authority to implement the EEA to achieve diverse workforces. The focus in this section is placed on whether legislation and institutional frameworks or arrangements are supportive of an effective implementation of the EEA. The findings of the research items that were introduced in Chapter 4 are presented in subsequent sections.

5.2.3.1 Legislation provides managers with sufficient armoury to dismantle the historical impact of discriminatory human resource management practices

The first research item of Section C enquired from respondents whether or not the legislation (Employment Equity Act, Skills Development Act, Labour Relations Act, Promotion of Equality and Prevention of Unfair Discrimination Act and the
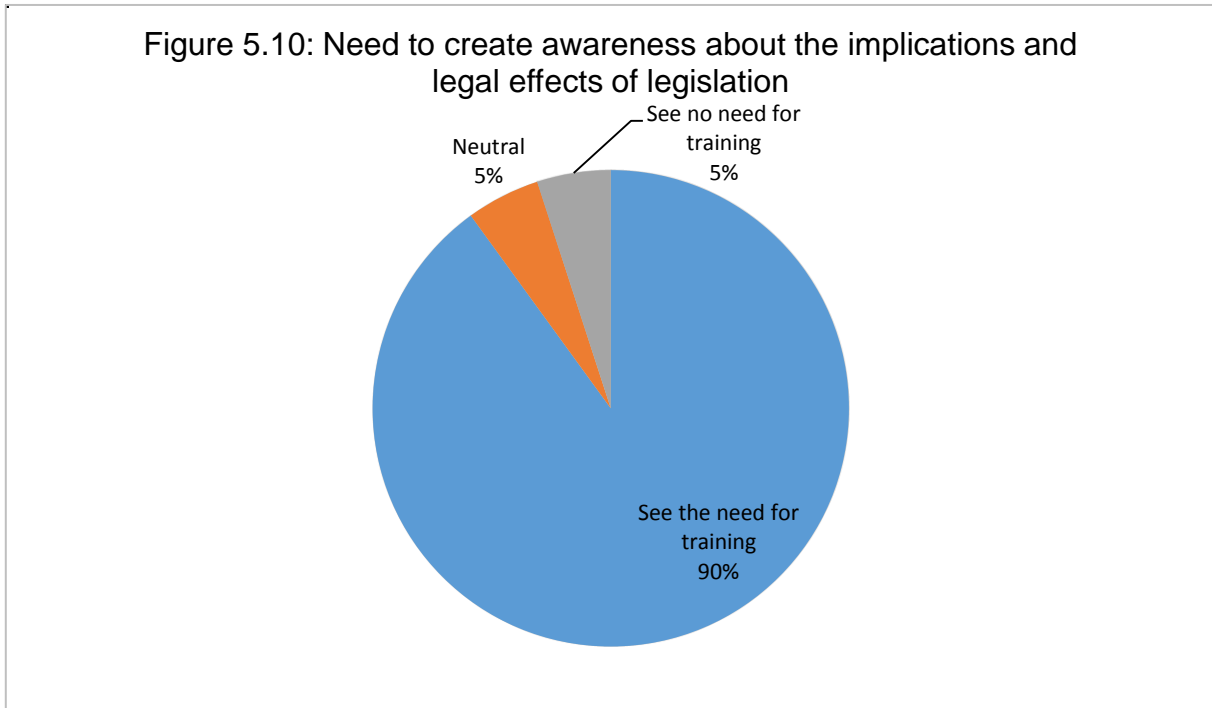
Constitution of the Republic of South Africa) empower managers in the department with sufficient armory to dismantle the historical legacy of discriminatory human resource management practices. Although there is a low proportion of respondents (23%) that were neutral, the majority of the respondents (62%) agreed that legislation indeed does provide managers with sufficient armory to deal with the historical legacy of discriminatory human resource management practices. However, in terms of the experience of 15% of the respondents, the implementation of legislation alone is insufficient to dismantle the legacy of discriminatory human resource management practices. These finding are illustrated in Figure 5.9 below.

Figure 5.9: Legislation gives managers sufficient armoury to dismantle the historical legacy of discriminatory human resource management practices
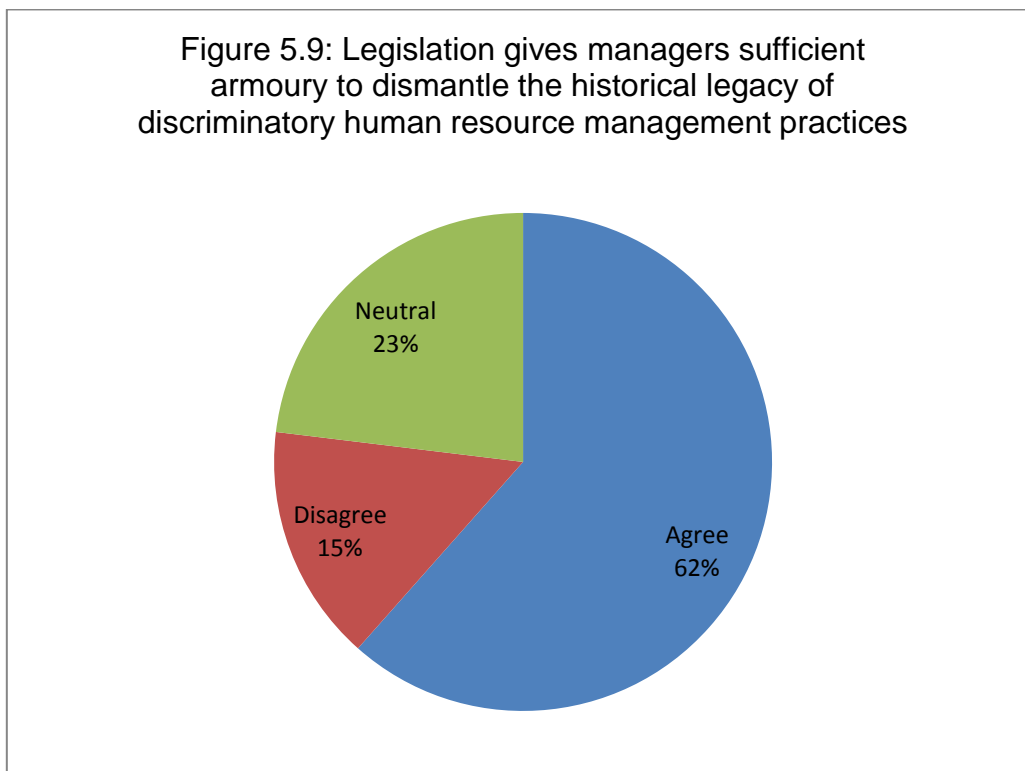
5.2.3.2 Need to create awareness about the implications and legal effects of the EEA

Flowing from the first research item, it also became necessary to enquire from the respondents whether they thought there was a need to create awareness about the implications and legal effects of the EEA amongst employees of the department. As depicted in Figure 5.10, the majority of the respondents (90%) felt (agreed) that such an intervention is necessary whilst a small proportion of them (5%) held an opposite

opinion (disagreed). A further 5% of the respondents, as illustrated in Figure 5.10, were neutral.

Figure 5.10: Need to create awareness about the implications and legal effects of legislation

Neutral
5%

See no need for training
5%

See the need for training
90%

5.2.3.3 Successful implementation of EEA is undercut by the shortage of suitably qualified candidates from the designated groups

South African legislation, as explained in Chapter 3, makes provision for designated employers to identify barriers that may inhibit effective implementation of the EEA. Amongst other barriers, the shortage of skilled and experienced candidates amongst the designated groups is a barrier that inhibits effective/ successful implementation of the EEA. Although the negative impacts of skills shortages are diverse amongst the economic sectors, their impact is severe in the water sector since it is a core business that requires candidates with skills of a specialised nature. Most careers or occupations in this sector are classified as scarce skills (for example, technicians, scientists and engineers). In this sector, the shortage of employees with specialised skills may inhibit both the ability of the department to render services effectively as it may, as a public institution, be unable to compete with private sector companies in recruiting and retaining suitably qualified candidates from designated groups.

In response to this research item, the majority of the respondents (69%) strongly agreed that the successful implementation of the EEA is undercut by the shortage of suitably qualified candidates from the designated groups, whilst 16% of them held a contrary view (strongly disagreed). As illustrated in Figure 5.11, 15% of the respondents were neutral.

Figure 5.11: Successful implementation of EEA is undercut by the shortage of suitably qualified candidates from the designated groups
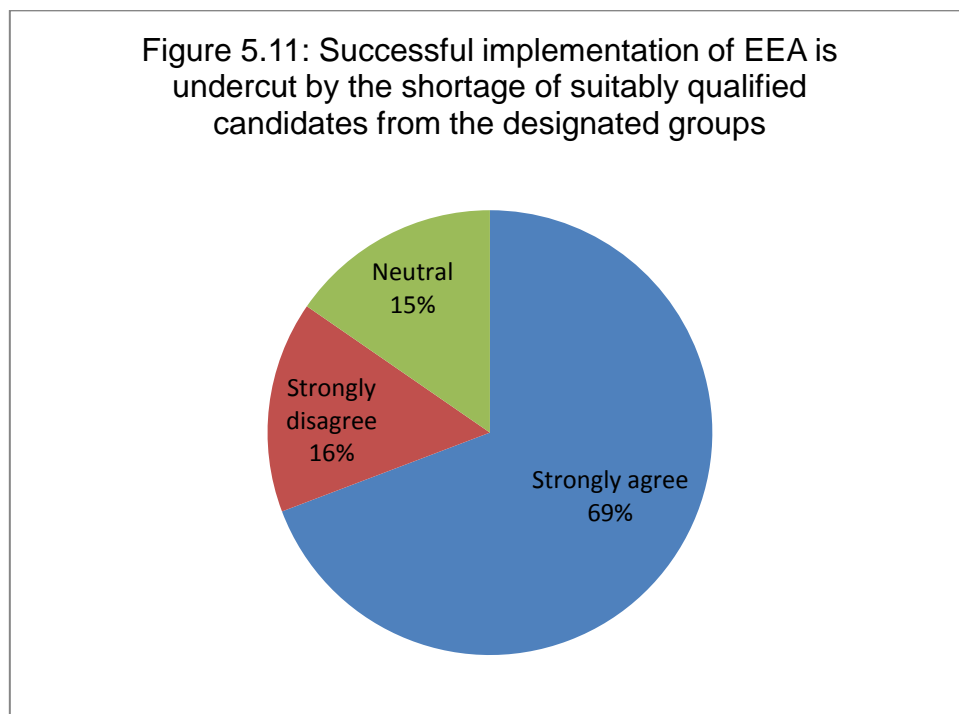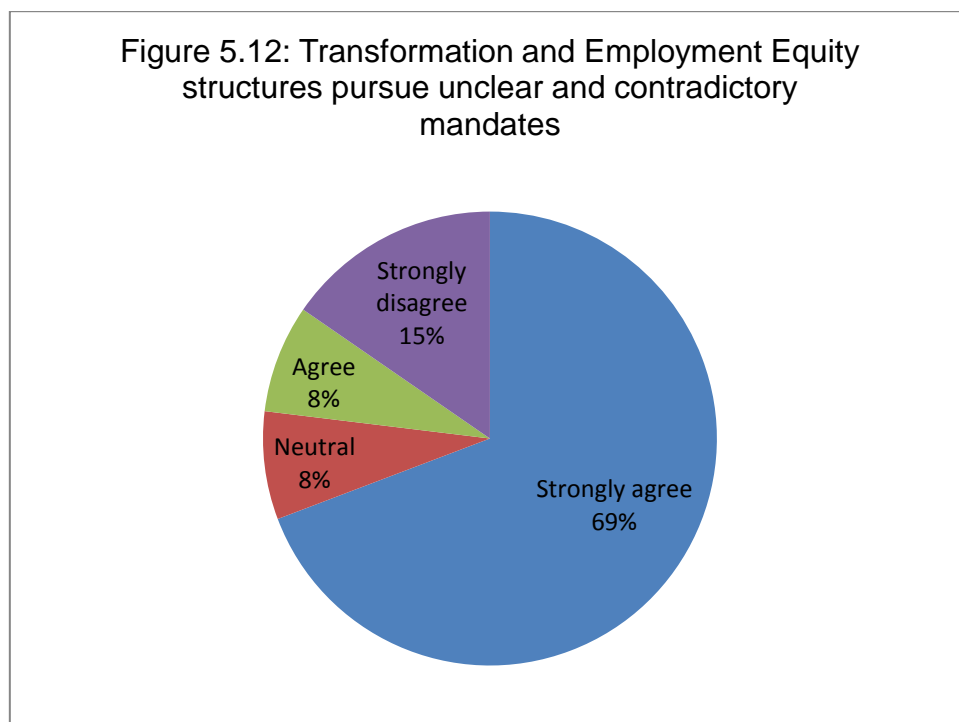
5.2.4 TRANSFORMATION AND EMPLOYMENT EQUITY STRUCTURES

Section D of the questionnaire, as explained in the research methodology Chapter 4, enquired about the role of the Transformation and Employment Equity Structures in the implementation of the EEA. Research items that were included in this section essentially enquired whether there was clarity or contradictions in the mandates that are pursued by these bodies; whether their extent of transparency and intensity of communication enhances participation by employees and whether they are able to decisively deal with real and perceived discriminatory human resource management practices in the department. Transformation and Employment Equity Structures, as referred to in the discussions of the study area in Chapter 4, refer to bodies established in terms of the provisions of the department's Employment Equity Policy (1995) and include the National and Regional Transformation Forums, Employment

Equity Committee, Gender Committee and the roles (e.g. leadership, problem-solving and facilitators) that are undertaken by managers as change agents.

5.2.4.1 Transformation and Employment Equity Structures pursue unclear and contradictory mandates

The role of each of these transformation and employment equity structures was explained in Chapter 4. Even though they undertake different roles, it is important that their efforts are synchronized to assist the department to achieve a common goal – transformed and representative workforce. This research item enquired from respondents whether they observed these bodies as pursuing unclear and contradictory roles or not. The findings reveal that the highest majority of respondents (69%) assessed them as pursuing unclear and contradictory mandates. As illustrated in Figure 5.12, 15% of the respondents observed them as pursuing clear and congruous mandates whilst 8% held a neutral position. Additionally, 8% of the respondents agreed that these bodies pursue unclear and contradictory mandates. These findings are illustrated diagrammatically by Figure 5.12.

Figure 5.12: Transformation and Employment Equity structures pursue unclear and contradictory mandates
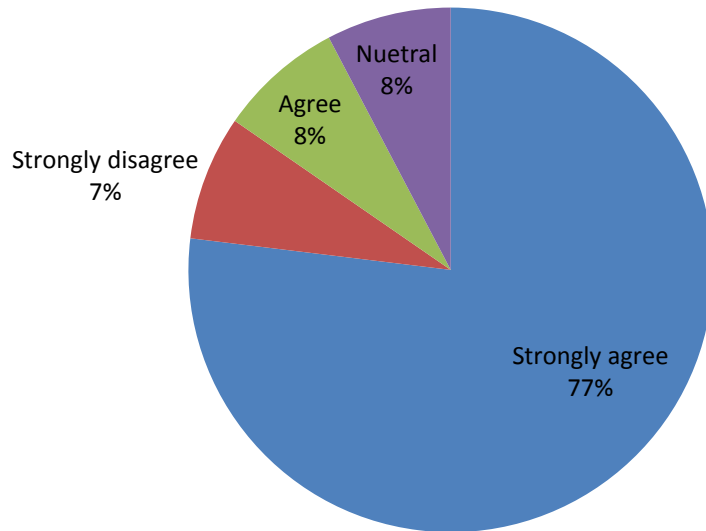
The findings about the extent to which transparency and the intensity of communication by the Transformation and Employment Equity Structures enhance participation of employees in employment equity matters are presented in the next section.

5.2.4.2 Transparency and constant communication by Transformation and Employment Equity Structures enhances participation by employees in employment equity matters

As explained in Chapter 4, Transformation and Employment Equity Structures undertake roles that include ensuring that there is transparency and making information accessible to employees. Through their consultative roles, these bodies engage employees on, amongst other issues, the elimination of barriers that inhibit effective EEA implementation, progress towards achieving both numeric and non-numeric targets, issues of harassment in the department and in general the institutionalisation of fair and just human resources management practices. Whilst carrying out their roles, they are expected to be transparent and to constantly keep employees abreast of the developments. As illustrated by Figure 5.13, the majority of the respondents agreed that transparency and constant communication by the bodies enhances participation by employees in employment equity matters.

Figure 5.13: Transparency and constant communication by Transformation and Employment Equity Structures enhances participation by employees

Contrary to the majority that held the view that transparency and constant communication by these bodies enhances participation by employees in employment equity matters, 7% of the respondents strongly disagreed with the statement.

5.2.4.3 Transformation and Employment Equity Structures deal decisively with real and perceived discriminatory human resources practices

As illustrated in Figure 5.14, most respondents (89%) held the view that the Transformation and Employment Equity Structures are ineffective in dealing decisively with real and perceived discriminatory human resource management practices. This is to say that in terms of the respondents' assessment, the performance of these bodies in resolving disputes about discriminatory human resources management practices is poor.

Figure 5.14: Transformation and Employment Equity structures deal decisively with real and perceived discriminatory human resource management practices

Neutral
8%

Strongly agree
3%

Strongly disagree
89%
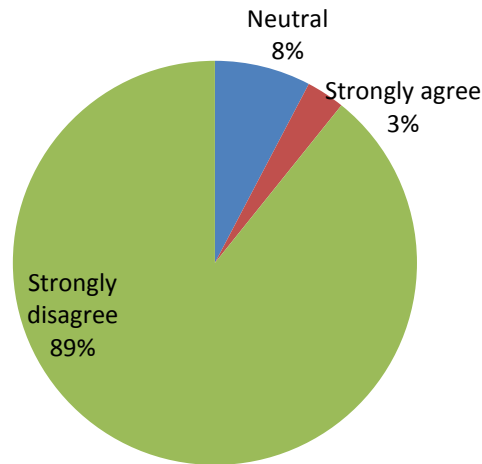
As illustrated in Figure 5.14, quite a small proportion of the respondents (3%) assessed the performance of these bodies in resolving disputes about discriminatory human resource management practices as satisfactory. As in the case of the interpretation of the findings on the previous research item, 8% of the respondents were neutral. The next section (E) presents findings about the interventions by and commitment of senior managers in the implementation of the EEA in the department.

5.2.5 INTERVENTION BY AND COMMITMENT OF SENIOR MANAGERS

Managers generally play a significant role in the implementation of policies. Legislation, as explained in Section C, gives them the authority to implement, and by nature of their roles, are responsible to develop plans, organise resources and co-ordinate activities to ensure that implementation is effective. In this department, they are recognised as champions or change agents whose roles include the provision of support and leading change, the communication of proposed strategies, the identification of barriers and challenges that inhibit effective implementation and the provision of assistance in overcoming resistance to change. Their role as change agents also requires them to further promote communication and dialogue and to solve problems as and when they are encountered. The findings of the research

items that were classified under intervention by and commitment of senior managers are presented in the following sections.

5.2.5.1 Senior managers help create an organisational culture that upholds diversity and the values of democracy

This research item enquired from the respondents whether they observed senior managers as helping to create an organisational culture that upholds diversity and the values of democracy (such as basic human rights, equality, dignity, freedom of association). In essence this research item enquired about the extent to which senior managers are helping to create a free and just departmental culture in which employees are able to engage without any fear of being discriminated against or victimized.

As illustrated in Figure 5.15 below, the majority of the respondents (65%) strongly agreed and a further 17% agreed that senior managers in the department do play a significant role in creating a culture that upholds diversity and the values of democracy. However, a proportion of them (12%) were neutral, whilst few others (6%) disagreed.

Figure 5.15: Senior managers help create an organisational culture that upholds diversity and the values of democracy
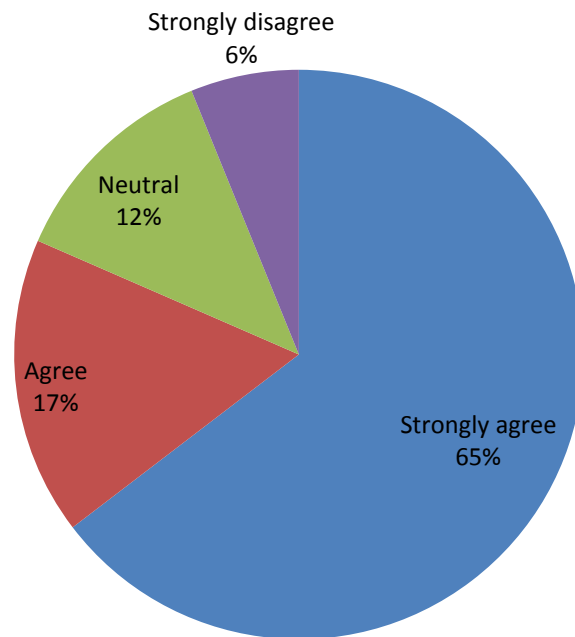
5.2.5.2 Senior managers are committed to developing employees to meet future challenges of reducing skills backlog and improving representation of employees from designated groups

As change agents, managers often engage in employee activities that are about helping to identify possible career paths that subordinates may pursue. At the level of a department, they engage in succession planning activities through which they are able to identify the skills areas in which employee retention should be intensified. In this instance, their roles require them to develop employees for future career prospects and to help ensure that public institutions are able to maintain diverse workforces. This research item required the respondents to assess whether they observe managers as carrying out their developmental roles diligently or not. As illustrated in Figure 5.16, the majority of the respondents (69%) strongly agreed that managers are performing this role satisfactorily, whilst 15% of them strongly disagreed. These findings are illustrated in Figure 5.16 below.

5.16: Senior managers are committed to developing employees to meet future challenges of reducing skills backlog and improving the representation of employees from designated groups

neutral
8%

Agree
8%

Strongly
disagree
15%

Strongly agree
69%
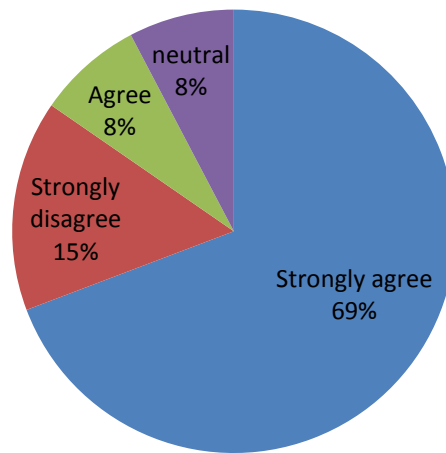
5.2.5.3 Senior managers demonstrate leadership and commitment to the implementation of the EEA

The last research item required the respondents to assess whether they experienced senior managers in the department as demonstrating leadership and commitment to the implementation of the EEA or not. Because the implementation of the EEA is undertaken as one of initiatives to transform the public sector, managers, as change agents, are required to provide leadership to, and support the implementation of the EEA. They are constantly required to communicate and identify the barriers that inhibit implementation. Their roles as champions demonstrate their leadership and commitment to its implementation.

In response to this research item, the largest majority of respondents (88%) strongly agree that senior managers exhibit leadership and commitment to the implementation of the EEA in the department.

The findings about the opinions of respondents about whether or not senior managers demonstrate leadership and commitment to the implementation of the EEA are shown in Figure 5.17.

Figure 5.17: Senior managers demonstrate leadership and commitment to the implementation of the EEA
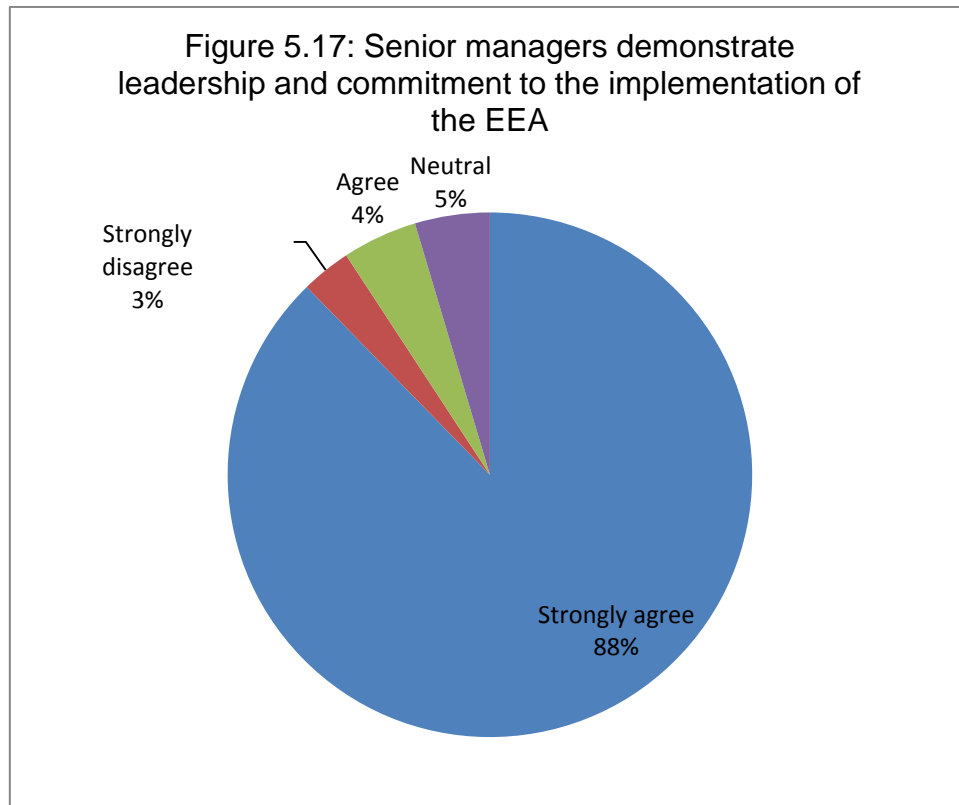
5.3 SUMMARY

As explained in the introductory remarks, the main intention of this chapter was to present the findings of the study. These findings were presented following the sequence that was established in the discussions of the research methodology in Chapter 4. What echoes from these findings is that there are proportions of respondents that are perpetually neutral. This neutrality can be associated with insufficient knowledge and experience by certain respondents about how the department has fared over many years with the implementation of the EEA, which may suggest that respondents whose responses were neutral could be relatively new employees that served the department for a period of less than five years or those that are unfamiliar with the activities that are undertaken by structures whose mandates are to implement the EEA.

Despite the frequency of neutral responses, there is evidence that points to success in the implementation of the EEA by the department. This success is embedded in a stable policy environment that guides implementation activities and roles that are undertaken by Employment Equity Structures and senior managers of different directorates. The department's Employment Equity Policy (1995) appears to be instrumental in creating an environment in which the implementation of the EEA is seamless. The interventions through which the implementation of the EEA in this department can be improved are highlighted by the findings across all the sections. The concluding remarks, from which certain recommendations are proposed, are discussed in Chapter 6.

CHAPTER 6

CONCLUDING REMARKS AND RECOMMENDATIONS

6.1 INTRODUCTION

The main intention of the discussions in Chapter 5 was to present the findings of the study. As per the remarks that concluded the discussions in Chapter 5, the frequency of instances in which the respondents were neutral is a worrying factor that invites further scrutiny. Regardless of the need to clarify the recurrences of neutrality, the findings highlight areas of implementation that require being either sustained or improved. Areas of implementation that require to be sustained, therefore, refer to the findings where the respondents assessed the implementation of the EEA as effective and those for which corrective action measures should be sought refer to research items on which the respondents assessed the implementation of the EEA as ineffective. The latter therefore refers to the research items which the respondents assessed the implementation of the EEA negatively.

The discussions in this chapter are linked to the last research objective that was listedin Chapter 1, namely, to propose recommendations that can be used to improve the implementation of the EEA in the department. This chapter first puts forth the concluding remarks and secondly, it proposes the recommendations for future research. These recommendations are further classified into two categories, namely, research items for which supporting measures should be introduced and those for which corrective measures should be instituted.

6.2 CONCLUDING REMARKS

As explained in the introduction and research objectives in Chapter 1, the focus of this study was to determine how managers (respondents) in the Department of Water Affairs assess the implementation of the EEA. Consistent with this focus, specific research questions that are linked to the research objectives were formulated. These research questions and objectives necessitated the discussions of the literature reviews of the international experiences of the implementation of the

EEA in Chapter 2 and of the legislative framework for and purpose of implementing the EEA in the South African public sector in Chapter 3.

The discussions of the literature review of international experiences on the implementation of the EEA drew from three case studies, namely, India, Malaysia and the USA, from which it was concluded that employment equity is not a new phenomenon since it had been implemented for decades by countries whose labour markets were historically dominated by discriminatory human resource management practices (e.g. inequalities, racial and gender segregation) like South Africa's. Although employment equity in India, Malaysia, USA and South Africa is implemented under different social, political and economic circumstances and periods, remedial actions that are legislated and outcomes that governments intend to achieve are the same. Evidence of similar recourse is embedded in the roles that the courts play in settling employment equity disputes and in the outcomes that governments intend to achieve, examples of which are equality, fairness, redress and broadly representative workplaces which are free of discrimination. Comparatively, the Malaysian experience offers valuable insight from which managers in the South African public sector could emulate in that it links the implementation of employment equity to economic performance. Like in Malaysia, a country whose employment equity was, amongst other historic factors, founded on economic growth that unduly benefited other population groups at the expense of others, linking employment equity to economic growth in South Africa could help create jobs for a large majority of people from designated groups, thus maximising economic benefits and minimising the potential tensions that may emerge as a result of the competition for jobs in a shrinking economy.

From the review of the literature on the legislative framework for and purpose of implementing employment equity in the South African public sector, it can be concluded that similar to India, Malaysia and the USA, managers and employees in the South African public sector enjoy legislative support. Amongst the legislations from which support is derived are theConstitution of the Republic of South Africa of 1996 as the supreme law of the country, the Labour Relations Act 55 of 1995, Employment Equity Act 55 of 1998, Skills Development Act 97 of 1998, Preferential Procurement Policy Act No 5 of 2000, Promotion of Equity and Prevention of Unfair

Discrimination Act No 4 of 2000 and Broad-Based Black Economic Empowerment Act 53of 2003. This legislation, as explained in Chapter 3, does not only shed light on the roles of managers in the implementation of the EEA in the South African public sector, but also reveals the outcomes that they should achieve. This legislation also predicts how the future racial composition or outlook of the South African public sector, and in particular the Department of Water Affairs, should be like. Because each type of legislation has its own objective or purpose, it is important that managers familiarise themselves with these legislations in order to comprehensively understand the key performance areas on which they are expected to deliver.

Chapter 4 explained the research design and methodology. As part of the discussions in this chapter, it became necessary to reflect on the study area at which the research activities were undertaken. The two factors that were considered appropriate for introducing the study focus, namely the Department of Water Affairs, were its organisational structure and the implementation of employment equity, with specific reference to roles of the structures whose mandates are to implement the EEA. Insights that were drawn from the description of the study area are that the employment equity structures, whose generic role is to transform the department, namely, National and Regional Transformation Forums, Employment Equity Committee, Gender Committee and managers, in their capacity as champions or change agents, play a significant role in the implementation of the EEA in this department. These structures, as provided for in the Department's Employment Equity policy (1995), contribute towards realising a representative department in which human resource management practices are just and fair.

Using the sequence of the research questionnaire that was explained in the discussion of the research methodology in Chapter 4, Chapter 5 presented the findings of the study. From these findings, it was concluded that the respondents experience the implementation of the EEA in the department differently. There are areas on which the respondents agree that the implementation of the EEA is effective and those whose assessment is contrary. The nine areas on which measures should be introduced to sustain effective implementation emanate from the respondents' assessment and response to:

- how central the implementation of the EEA to the achievement of the department's mission and vision is,

- whether the department is better off without the implementation of the EEA,

- whether legislation gives managers sufficient armoury to dismantle the historical legacy of discriminatory human resource management practices,

  whether there is a need to create awareness about the implications and legal effects of Employment Equity legislation,

- whether successful implementation of the EEA is undercut by the shortage of suitably qualified candidates from designated groups,

- whether transparency and communication by the Transformation and Employment Equity Structures enhances participation by employees on employment equity matters,

- whether senior managers help to create an organisational culture that upholds diversity and the values of democracy in the department,

- whether senior managers are committed to developing employees to meet future challenges of reducing skills backlogs and improving representation of employees from designated groups, and

- whether senior managers demonstrate leadership and commitment to the implementation of the EEA in the department.

These nine areas are referred to as areas on which supporting measures should be introduced because each of them was assessed positively by the respondents. Supporting measures that may be adopted for each of these areas may be the same as those that were utilised during the period at which research activities were carried out, but due to the lapse of time, may be adjusted to meet the changes in the environments in which they are implemented.

Apart from areas that require supporting measures to be introduced, the findings also reveal areas of implementation for which remedial action should be instituted. The respondents' assessment of research items that could be classified as requiring remedial action elucidates areas in which implementation is ineffective. The six (6) areas for which managers should introduce remedial action emanate from the respondents' assessment of whether:

- there is common understanding (shared vision) of what the EEA means and seeks to achieve,

- the programmes and projects undertaken by the department further the purpose of the EEA,

- the implementation of the EEA is viewed by non-designated groups as discriminatory and unfair,

- the implementation of the EEA contributes to racial tensions in the department,

- Transformation and Employment Equity structures pursue unclear and contradictory mandates, and

- Transformation and Employment Equity structures deal decisively with real and perceived discriminatory human resource management practices.

6.3 RECOMMENDATIONS

These recommendations are not impositions, but are merely guidelines that may be considered during the decision-making processes of the department. Implementing them may also be dependent on whether the department has resources at its disposal. This section first recommends supporting measures which must be introduced and remedial or corrective action should be sought.

6.3.1 Research items for which supporting measures should be introduced

6.3.1.1 Centrality of the *Employment Equity Act* to the achievement of the mission and vision of the department

All the respondents (100%) agreed that the implementation of the EEA is central to the achievement of the mission and vision of the department. In essence, this finding implies that all the respondents were aware that the EEA is not implemented in a vacuum, but is meant to expedite change that is envisioned in the department's strategy which is to be inclusive and non-discriminatory.

The respondents were aware of the centrality of the EEA to the achievement of the department's mission and vision and of ways in which these could be sustained, namely through continued communication and support. Managers and Transformation and Employment Equity Structures in the department are better

empowered to communicate or raise awareness of issues that employees in general may not be aware of. They also have the authority and responsibility to provide information support that employees may need to perform their work effectively. Information about progress with the implementation of the EEA in the department may assist employees to explore opportunities for personal growth.

6.3.1.2 The impact of the implementation of the *Employment Equity Act*

In addition to sustaining respondents' knowledge and awareness of the centrality of the EEA to achieving the mission and vision of the department, the second research item whose finding substantiates the implementation of the EEA as effective is the respondents' knowledge that the Department is not better-off without the implementation of the EEA. As illustrated in Figure 5.8 in Chapter 5, the majority of the respondents (62%) strongly disagreed that the Department is better-off without the implementation of the EEA. This is consistent with the respondents' assessment of the centrality of the EEA to achieving the mission and vision of the department and those depicted in Figure 5.10 that are about whether there is a need to create awareness about the implications and legal effects of the EEA. These findings denote that some of respondents understand the historical background around which the need to institute employment equity measures arise, the impacts of discriminatory human resource management practices in the department or in the public or private sectors in general and the significance of the EEA in achieving a transformed society.

As in the preceding subsection, periodic and regular communication by means of training or information sessions, information brochures and through managers and Transformation and Employment Equity Structures can help sustain knowledge of the significance of the EEA in this department. An agenda item that may be communicated through these structures is the progress regarding the implementation of the EEA, which details the progress before and after implementation. Knowledge of the difference between the two periods is important because it may exhibit how the department has benefited from implementing the EEA and how the implementation has improved departmental procedures and

practices for human resource management and in general what the stages of change are that the department has gone through.

6.3.1.3 Legislation gives managers sufficient armoury to dismantle the historical legacy of discriminatory human resource management practices

The finding as illustrated in Figure 5.9 in Chapter 5 reveals that the majority of respondents (62%) agree that the legislation gives managers in the department sufficient armoury to dismantle the historical legacy of discriminatory human resource management practices. Because all the respondents were managers, this finding is a confirmation that they are aware of the powers that the legislation entrusts on them and that they enjoy the support that they derive from the legislation. Although this support is enjoyed by a large majority, a significant number (15%) whose assessment was contrary, need to be carried along. In order to understand their contrary assessment, it is important to institute dialogue mechanisms through which managers share ideas about how, for example, legislation impacts on their performance of duties. Furthermore, in order to sustain the support that managers enjoy from legislation, alternative ways that complement legislation should be sought. This is because legislation alone is not sufficient to achieve the desired change in the Department of Water Affairs. Legislation, if supplemented by effective procedures, supportive institutional culture and management philosophy that supports diversity and the use of best practices, could help achieve the intended outcomes.

6.3.1.4 Need to create awareness about the implications and legal effects of legislation

Because the respondents were aware of the significance of the EEA to the department and they enjoyed support that is entrusted to them by legislation, they were better positioned to respond to this research item that enquired whether or not there is a need in the department to create awareness about the implications and legal effects of legislation. Awareness in this case, could be created through various ways that include training or communication. As illustrated in Figure 5.10, the majority of the respondents (90%) agreed or saw the need for creating awareness

about the implications and legal effects of employment equity legislation in the Department of Water Affairs.

The EEA and any other related legislation articulate the legislative framework within which public institutions and in particular the Department of Water Affairs should operate. Not that the creation of awareness is necessary for sustaining knowledge of the implications and effects of legislation, but for many other critical areas of the operation of the department it is. In this case, the creation of awareness, which may be undertaken through different ways, is therefore necessary because the profile of the Department of Water Affairs, like any other public institution, is not static, but changes continually. As described in the biographical data of respondents in Chapter 5, the profiles of employees in the department changes. New managers may be appointed and existing ones may be promoted to more senior positions or they may go on retirement, thereby leaving a vacuum of knowledge about the implications and legal effects of legislation on the department.

Apart from changes in the profiles of employees, legislation changes overtime. Amendments to the legislation that were discussed in Chapter 3 may necessitate that awareness campaigns be initiated to keep managers and employees abreast of the changes. In order to ensure that this knowledge is sustained, it is therefore necessary to create awareness through, amongst other initiatives, training, induction programmes and general communication. Despite instituting induction programmes, training or communication, mentorship may also be used as an alternative way of imparting knowledge of legislation, its implications and effects, to junior employees. These initiatives may add to those that were undertaken by the Department of Water Affairs in the late 1990s to educate employees through workshops about the importance of implementing the EEA.

6.3.1.5 Successful implementation of the EEA is undercut by shortage of suitably qualified candidates from designated groups

A large majority of the respondents (69%) strongly agreed that the successful implementation of the EEA in the department is undercut by the shortage of suitably qualified candidates from designated groups. In terms of the findings that were

presented in Chapter 5, this finding was then identified as the fifth research item for which supporting measures should be introduced. Skills shortages amongst the designated groups are one of the more critical challenges that are facing the Department of Water Affairs and the South African public service in general. It is a barrier to effective implementation of the EEA and persists in the face of growing demands for a speedy, better and comprehensive service delivery of water as a basic service to the visibly impatient communities. Some of the supporting measures that could be introduced could include making it mandatory for employees to attend training and development programs which will ensure that they are capacitated with relevant skills that would enable them to perform their duties effectively and efficiently and to ultimately achieve their career goals. There is a need to encourage employees to undergo training and development in their areas of functioning to realize the outcomes spelt out in the Skills Development Act.

6.3.1.6 Transparency and constant communication by Transformation and Employment Equity Structures enhance participation by employees

As part of their mandate and roles that were assessed in this study, the Transformation and Employment Equity Structures also have the responsibility to communicate employment equity decisions that they make in consultation with labour unions to employees in the department. This communication, as explained in Chapter 3, is sometimes about the development of the Employment Equity Plans and Reports. As illustrated in Figure 5.13 in Chapter 5, the majority of the respondents (77%) strongly agree that transparency and constant communication by these bodies enhances participation by employees in employment equity matters.

In order to sustain these effective ways through which these bodies conduct their business, it is important to ensure that standards against which transparency will be measured are developed and that the frequency at which these bodies must communicate with employees be agreed upon. Transparency may be achieved by allowing a broader participation of employees and making the decisions that are taken by the Transformation and Employment Equity Structures accessible to all whilst the frequency of communication with employees may be dependent on the number of meetings that they convene per annum. Should these standards and

measures be introduced, they may be able to sustain the level of transparency with which the Transformation and Employment Equity Structures conduct their business and the frequency of their communication with employees.

6.3.1.7 Intervention by and commitment of senior managers to the implementation of the *Employment Equity Act*

Three research items for which supporting measures should be introduced with regard tosenior managers are grouped in this section, namely: (1) their rolein creating an organisational culture that upholds diversity and the values of democracy, (2) their commitment to developing employees to meet future challenges of reducing skills backlogs and improving representation of employees from designated groups and(3) the demonstration of leadership and commitment to the implementation of the EEA, which were assessed as positively contributing to effective implementation of the EEA in the Department of Water Affairs. These research items are grouped in that they formed part of Section C which enquired about the interventions and commitment of senior managers to the implementation of the EEA. Senior manager perform these three roles as part of their mandate as champions or change agents and in compliance with the legislation that was discussed in Chapter 3.

Because employee profiles change rapidly to due to resignations and or promotions, in order to sustain senior managers' performance and commitment to these three research items, it is necessary to ensure that new managers, as and when they recruited and accept management roles in the department, are orientated through formal induction programmes to their roles as champions or change agents and that they are familiarised with the requirements of the legislation. Because employment equity is implemented as part of a larger process of transformation, these managers will also require to be continuously made aware (trained) of their role in managing change, an initiative that could be achieved through exposing them to short courses that focus on change or diversity management, strategic management and any other role that they identify in their personal development plans. The basis of this recommendation is that senior managers must be enabled to adapt to changing

management roles and priorities and to acquire the competencies through which to mentor junior managers on the performance of these roles in the department.

6.3.2 Research items for which remedial action should be sought

Consistent with the discussions of the concluding remarks, six research items on which the implementation of the EEA in this department was assessed as ineffective were identified. Respondents were asked whether (1) there is common understanding (shared vision) of what the EEA means and seeks to achieve, (2) the programmes and projects undertaken by the department further the purpose of the EEA, (3) the implementation of the EEA is viewed by non-designated groups as discriminatory and unfair, (4) the implementation of the EEA contributes to racial tension, and (5) whether the Transformation and Employment Equity structures pursue unclear and contradictory mandates. The first four (4) research items were interpreted as part of the findings on Section B, the findings on how the respondents have practically experienced the implementation of the EEA in the department. The discussions in subsequent sections propose the recommendations that could be considered in order to improve on the implementation of the EEA.

6.3.2.1 Common understanding of what the *Employment Equity Act* means and seeks to achieve

In response to this research item, the majority of the respondents (77%) felt that there is no common or mutually shared vision of what the EEA means and what it seeks to achieve in the department. The negative consequences of the absence of a shared vision about what legislation (in this case EEA) means and its purpose may imply that its implementation is not a 'collective' effort. In such a case, therefore, managers depend on their 'own personal' (and sometimes narcissistic) interpretations which will largely influence the manner in which it is implemented and the goals that are being pursued. The risk of implementing policy for which there is no collective understanding results in uncoordinated, fragmented and disintegrated

activities, which may render the entire implementation process incomplete and unattainable. Despite introducing training interventions through which knowledge of the EEA and its purpose (or objectives) will be imparted, measures to ensure that such understanding is commonly shared, need to be undertaken.

In order to circumvent the occurrence of narcissistic interpretations that may be held by 'individuals' rather than a 'collective', participation of all employees, regardless of their levels of interaction in the department and whether they belong to the designated or non-designated groups, should be encouraged. Managers in different departments must lead the process and where possible, must customise and communicate information of what the EEA means and what it seeks to achieve in their own directorates. Targeted interventions for employees, who may as a result of their designation status, feel discriminated against by the EEA (e.g. white males) must be developed and implemented as part of change management to reduce resistance. Localised interventions such as these are better placed to improve common understanding than those that are initiated and communicated at the level of the department.

6.3.2.2 Programmes and projects undertaken further the purpose of the *Employment Equity Act*

As illustrated in Figure 5.5 in Chapter 5, most respondents (46%) strongly disagreed that the programmes and projects that are undertaken by the Department of Water Affairs advance the purpose of the EEA. Contrary to that, another 46% of the respondents' experienced the same programmes and projects as furthering the purpose of the EEA. These dissenting responses may be attributed to the time that has lapsed since the adoption of programmes and projects whose aims were to advance equity and related processes in the department. These programmes and projects were adopted and implemented in the 1990s.

It could therefore be assumed that most of the respondents were at that time not employees of the Department and therefore they have insufficient knowledge of their effectiveness. Such an assumption is supported by the findings as illustrated in Figure 5.2, in which a large majority (46%) of respondents had been employed in the

department for a period of less than five years. Due to their lack of historical knowledge of EEA initiatives in the department, such employees may therefore be unable to compare the effectiveness of these programs and projects. Those who assess the Department's programmes and projects as advancing the purpose of EEA are likely to have been within the Department at the time when they were conceptualised and adopted. It is however important to acknowledge that it would have been unfair to expect employees who joined the Department of Water Affairs after the 1990s to authoritatively comment on this research item. It is perhaps for the reason mentioned above that 46% of the respondents strongly disagree. It is therefore recommended that senior managers in the Department of Water Affairs institute an audit of all programmes and projects that are aimed at advancing the EEA and out of that exercise develop new focused and goal oriented projects which are attached to specific timelines. In addition, managers in the Department of Water Affairs, should conduct periodically monitor and evaluate whether the programmes and projects help to achieve the intended goals and whether the mechanisms that are put in place detect and correct deviations in time and that updates on progress are swiftly communicated to all stakeholders and employees.

6.3.2.3 *Employment Equity Act* is viewed by non-designated groups as discriminatory and unfair

As explained in the recommendations for improving a common understanding of what the EEA means and seeks to achieve, employees from non-designated groups may interpret the EEA as discriminatory and unfair depending on the strength of internal communication and resistance management interventions that are put in place. This may be eminent in a society that has experienced decades of racial polarisation such as South Africa. The process of change in general and the implementation of legislation such as the EEA is bound to evoke mixed and conflicting reactions from both designated and non-designated groups. The Department of Water of Affairs is not immune from this social dynamic.

It is therefore not surprising that the majority of respondents (92%), as depicted in Figure 5.6 in Chapter 5, agreed that indeed non-designated groups view the implementation of the EEA as discriminatory and unfair. If managers in the

Department of Water Affairs may choose to overlook the fears of the non-designated groups, they (i.e. non-designated groups) will continue to interpret EEA as an alarming spectre and a threat to their comfort zones and job security while designated groups view the same legislation as an inspiration resulting in an unhealthy polarisation of views on an issue of national importance that needs a common understanding.

The fears of those who benefitted from the previous dispensation may, if left unattended, result in them being resistant to change which may lead them to resist or sabotage the implementation of EEA. It is therefore recommended that managers in the Department of Water Affairs strive for a buy-in from all employees and ensure that they fully understand and appreciate the rationale for the implementation of EEA. Non-designated groups are likely to embrace the process of change and appreciate the devastating effects of apartheid policy when managers of public institutions explain the rationale behind the adoption and implementation of the policy (EEA). It is further recommended that managers in the Department of Water Affairs constantly convene information sessions through which inconsistent views are minimised.

6.3.2.4 *Implementation of the Employment Equity Act* contributes to racial tension in the department

Perhaps the most striking finding from this study is the assertion by the majority of respondents (77%) as illustrated in Figure 5.7 in Chapter 5, who strongly agreed that the implementation of EEA contributes to racial tension within the Department of Water Affairs. This is in contrast to 15%of respondents who strongly disagreed and 5% of those that chose to be neutral. Whilst the changes in public institutions are likely to threaten the personal security of the non-designated groups, which are predominantly white males, a racial polarisation within the Department of Water Affairs is not unexpected.

It is therefore worth noting that the more the implementation of the EEA is intensified, the stronger the resistance by non-designated employees and the greater the polarisation along colour lines. Fundamental changes in the working conditions of both designated and non-designated employees and the introduction of new job

specifications may affect their sense of job security and insecurity. The impact of racial polarisation within the Department of Water Affairs could, if unattended to, be a barrier towards effective implementation of the EEA. It is even more destructive if these fears are concentrated at a senior and middle management levels – critical levels that could make or break effective policy implementation. It is therefore recommended that the Department of Water Affairs ensure that employees from the non-designated groups feel as part of the implementation of the EEA. This could be achieved by introducing the mentorship system through which highly experienced senior managers from the non-designated groups mentor new recruits from non-designated groups. This could be achieved if managers in the Department of Water Affairs can pursue an inclusive and gradual implementation process in which clear EEA goals are formulated and agreed upon by all stakeholders and employees.

6.3.2.5 Transformation and Employment Equity structures pursue unclear and contradictory mandates

It is not surprising that the highest majority of respondents (69%) strongly agree that the Transformation and Employment Equity structures of the Department of Water Affairs are pursuing unclear and contradictory mandates. This department had a myriad of transformation structures other than those that are established in terms of its Employment Equity Policy (1995), that pursued poorly formulated, ambiguous and contradictory employment equity objectives during the1990s. This historical legacy resulted in the poor articulation of intended processes and results, which in turn created confusion amongst employees.

In addition to the background information about the operation Transformation and Employment Equity Structures as described in Chapter 4, this finding further justifies why regional transformation forums (RTFs) were abolished and they are also consistent with the recommendation by Transformation Status Report in 2001 in that they call for a systematic, coordinated and integrated approach of implementing the EEA.

It therefore is recommended that managers in the Department of Water Affairs develop a framework that spells-out the roles of each Transformation and Employment Equity Structure that is established in terms of its Employment Equity

Policy (1995). Amongst other specifications, this framework has to determine common areas in which the structures will co-operate to eliminate unnecessary duplication. Senior managers, in their capacities as champions must lead this process by, amongst others, ensuring that employment equity initiatives are well planned and appropriately resourced.

6.3.2.6 Transformation and Employment Equity structures deal decisively with real and perceived discriminatory human resource management practices

In addition to being assessed by a majority of respondents as pursuing unclear and contradictory mandates, the Transformation and Employment Equity structures were found to be indecisively dealing with real and perceived discriminatory human resource management practices by 89% of the respondents. The obvious negative implication that may arise from this assessment is lack of trust in these structures which may negatively hamper their credibility and image. As a way of instituting corrective action to lessen these negative implications, it is recommended that the framework that is proposed in Section 6.3.2.5 also spell out the powers that are entrusted to each Transformation and Employment Equity structure.

If the powers that are entrusted to them are spelt out in a framework, they will be able to discharge their duties without any fear, prejudice or doubt. It is also important that the manner through which these Transformation and Employment Equity structures operate are specified in this proposed framework. In addition to being held accountable by employees and stakeholders in general, they have to conduct their business openly and transparently and to report on their performance on a regular basis.

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ANNEXURE A

QUESTIONNAIRE ON THE IMPLEMENTATION OF THE *EMPLOYMENT EQUITY ACT* 55 OF 1998 BY THE DEPARTMENT OF WATER AFFAIRS IN SOUTH AFRICA SENT TO THE DEPARTMENT OF WATER AFFAIRS

ANNEXURE B

LETTER FROM THE DEPARTMENT OF WATER AFFAIRS GRANTING PERMISSION TO MR SB MABUNDA TO CONDUCT RESEARCH