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# Policy Brief 2

Commission for Gender Equality

*A society free from gender oppression and inequality*



# Gender Equality in the Private Sector in South Africa

## An Elusive Dream?

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## 1. INTRODUCTION

It appears that the goal of gender equality remains largely elusive in the private sector in South Africa. Work conducted by the Commission for Gender Equality (CGE) continues to reveal the intractable challenges facing efforts to transform gender relations and empower women in this sector.

Building a South African society free of sexism and gender inequality has been a major focal point since the advent of democracy in 1994. Countless measures have been put in place, not only to transform the socio-economic and political circumstances of millions of previously disadvantaged people, but also to transform gender relations and create an environment that empowers women in all sectors of society.

In its efforts to achieve this goal the country has made considerable progress: a framework of gender-friendly legislation and policies has been drawn up and South Africa has been a signatory to many regional, continental and global treaties and protocols that aim to attain gender equality for women and their empowerment.

In spite of these efforts, women continue to face serious gender-related constraints to their enjoyment of their constitutional human rights. This is the case not only in the public sector, but also in the private sector, particularly through restricted or unequal employment and remuneration opportunities.

While acknowledging that gender inequality is rife across all sectors of society, this Policy Brief will focus attention on the private sector. It is based on a study conducted by the CGE in 2008 titled Report on Gender Equality in the Private Sector. The study sought to investigate and assess progress in terms of gender mainstreaming in the private sector, with particular emphasis on the representation of women in various

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categories of employment. Gender representation is only one of them, but is a crucial strategy in achieving gender representation and is considered one of the key starting points. The implementation of current measures in pursuit of this goal remains woefully inadequate and the outcomes are unsatisfactory.

This Policy Brief will therefore highlight and discuss some of the key findings of that study, particularly in respect of the limited prospects for gender equality and unfair representation of women employed in the private sector. This is a severe obstacle to achieving women's economic empowerment. Some of the key findings of the study will be discussed.

## 2. GENDER EQUALITY IN THE WORKPLACE: CONSTITUTIONAL, POLICY AND LEGISLATIVE FRAMEWORKS

Since 1994, this country has done much to promote gender equality, by putting in place a wide range of constitutional provisions, policies and legal/legislative frameworks aimed at gender equality and women's empowerment. These frameworks are not only essential for attaining gender equality in society in general, but also in the workplace.

The private sector, like other sectors, is obliged to observe and implement the provisions of these policies and legislations. Underpinning all current policy,

legal/legislative and other formal provisions on gender equality is South Africa's Constitution. Chapter 2 of the Constitution incorporates the country's Bill of Rights, and Section 9 guarantees the right to equality, and prohibits discrimination on a range of grounds, including gender. One of the key legislations is the Employment Equity Act (EEA) of 1998, aimed at addressing gender inequality in employment, skills and education. Among others it seeks to advance the interests of designated groups in the workplace, particularly women, in terms of employment equity and fairness in remuneration and representation in various categories, including at senior management level.

Other key pieces of legislation in this regard include the Affirmative Action Act (1986), the Promotion of Equality and Prevention of Unfair Discrimination Act (2000), the Broad-Based Black Economic Empowerment Act

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(2003), the Labour Relations Act (LRA) and the Basic Conditions of Employment Act (BCEA).

The country has also ratified a number of regional, continental and global treaties, protocols and declarations committing the signatories to gender equality and the elimination of gender discrimination. Included among these are the 1979 Convention on the Elimination of All Forms of Discrimination against Women and its 1999 Optional Protocol, the 1995 Commonwealth Plan of Action on Gender and Development, and the Beijing Declaration and Platform

of Action. Central to these treaties, protocols and declarations is the attainment of gender equality and empowerment of women in various areas, particularly in the workplace. All key role players in various sectors of the country, including the private sector, are obliged to observe and implement key provisions of the policies and legislations identified by the signatories and countries given above.

### 3. GENDER EQUALITY AND WOMEN'S EMPOWERMENT: CURRENT SITUATION

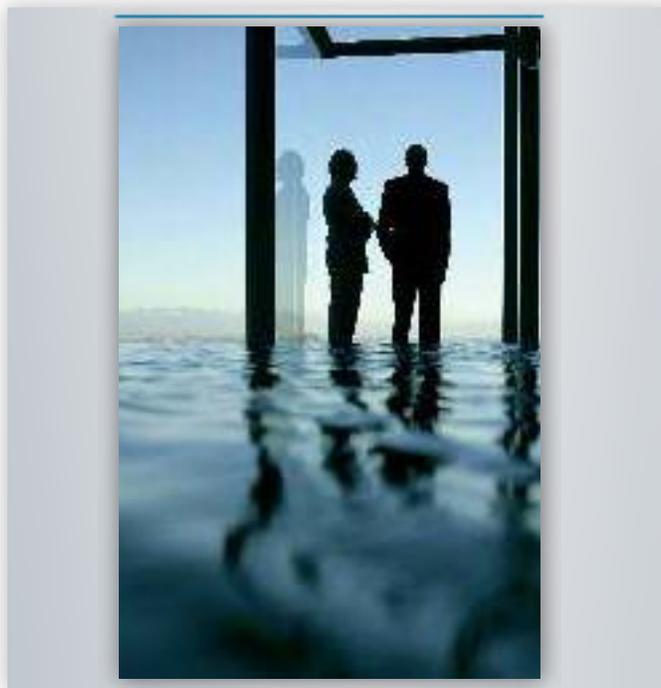
In assessing progress in terms of gender equality and gender mainstreaming in the private sector, a total of 33 companies were sampled from the Agriculture, Transport, Construction, Finance and Business, Hospitality, Manufacturing, Media, Petrochemical/Heavy Industry, Retail, Security and Tourism industries. From this group of companies, an overwhelming majority (83 percent of employees were men across all categories of employment. Women comprised only 17 percent. At top management levels, men continue to dominate (84 percent), with women making up only 16 percent of the total. The same trend applied at senior management levels.

The representation of women in the professional categories stands at 20 percent while men continue to dominate (80 percent). Similarly, in lower employment categories, women were generally under-represented. For instance, in the technical/skills categories, men constituted 86 percent of all employees of companies included in the study, with women at only 14 percent. In the semi-skilled employment categories, men made up 82 percent of the total, with women at 18 percent. Men were also overwhelmingly dominant in unskilled labour, with 8 percent representation compared to 13 percent for women.

Women are largely over-represented in the administrative categories of employment in many of the companies included in this study, and less so in company decision-making structures.<sup>1</sup> A number of reports from the Department of Labour, the Employment Equity Commission, labour force surveys and the Business Women's Association indicate that although some private sector companies are trying to implement gender mainstreaming, the overall picture is bleak.

It should be noted that in 2007 the chairperson of the Commission for Employment Equity indicated that "Compliance with Employment Equity was at an all-time low, especially among the 100 listed companies on the Johannesburg Stock Exchange." The government even cancelled its employment equity awards ceremony in 2007 because of the indifference of the private sector and poor levels of compliance, or no compliance at all.

In 2011 the CGE conducted Employment Equity Public Hearings during which it was revealed that the poor compliance with employment equity legislation and failure to meet gender equity targets in private sector employment had not improved. On average, figures provided by the companies show a 12 percent representation of women in senior and top management positions. This was typical of the mining sector, which is traditionally male-dominated. All the companies included in the study did have employment equity plans and programmes in place, and regularly submitted reports on these. However, the key failure was in terms of developing and implementing effective gender equity interventions and ensuring that balanced gender representation in employment was the outcome. Clearly, many of these companies have attempted to meet the most basic of the formal provisions of the Employment Equity Act, while failing to utilise internal instruments at



their disposal (such as affirmative recruitment, training, remuneration, and promotion policies and programmes) to ensure outcomes in terms of specific targets for employment equity.

The under-representation of women in private sector employment is a clear violation of women's right to equality as enshrined in the Constitution and in law. The study found that the violation of women's rights in the work-place is often compounded by a number of other factors.

First is the lack of appropriate gender-based empowerment programmes. For instance, the majority (82 percent) of the companies did not have gender-based programmes to empower women. For those companies that did, such programmes were limited in scope, focusing only on leadership training for women in lower levels of the organisation. In such cases the prospects for any impact on high-level decision-making structures in the organisation are limited.

<sup>1</sup> Commission for Employment Equity Reports (2006/7 and 2007/8)

Secondly, none of the companies had documented gender policies to guide effective internal strategies and approaches for gender mainstreaming. Although 67 percent of them had anti-sexual-harassment policies in place, effective implementation remained a major problem. Only eight companies reported having dealt with, and resolved, a total of 33 cases of sexual harassment over a period of five years. However, they could not provide evidence to substantiate these claims.

### 3. POLICY IMPLICATIONS

It is clear that the problem of under-representation of women in private-sector employment is symptomatic of other important underlying factors. One of these is a lack of willingness to take gender equality seriously at senior company management levels.

Secondly, there is a lack of effective institutional structures and capacity, not only to comply with current legislative and policy requirements, but also to establish and implement internal gender-sensitive policies, programmes, plans and strategies to achieve balanced gender representation in the work-place. For instance, many of the private-sector companies included in this study did not have dedicated gender units with the authority to pursue relevant strategies and allocate the necessary resources towards gender mainstreaming and the empowerment of women.

Thirdly, it is clear that senior management in many private-sector companies in South Africa still do not consider gender equality of strategic importance in terms of company productivity and growth. Gender equity continues to be seen as a legislative burden and a financial cost – to be avoided where possible.

As indicated earlier, despite the existing framework of constitutional provisions, policies, legislation and other instruments aimed at achieving gender equality and economic empowerment, women continue to experience severely limited employment prospects in the private sector and low levels of representation in various categories of employment. Three key policy implications arise out of this.

In the first place, the continuation, and in some cases intensification, of gender inequality in the workplace, particularly in the private sector, implies that the implementation of current measures is totally inadequate.

In the second place, current government systems and mechanisms for monitoring the implementation of the Employment Equity Act and other related policies and laws, are woefully inadequate.

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Thirdly, it is clear that current government systems for enforcing compliance with policies relating to gender equity are not working effectively.

The result of all these factors is the widespread flouting of gender legislation in the private sector, because of a lack of sanctions for non-compliance. Moreover, much of the compliance with some of the requirements (i.e. to submit Employment Equity Plans and Employment Equity Reports), as already noted in this Brief, is symbolic at best and malicious at worst.

In other words, the incentives to comply are largely outweighed by the lack of severe consequences for non-compliance.

## 4. CONCLUSIONS AND RECOMMENDATIONS

Based on this discussion, two key conclusions can be drawn.

- It is evident that gender equality remains largely a low priority in the private sector. This is possibly a reflection of the widespread failure among private-sector companies to regard gender equity as having strategic value in terms of company productivity and growth.

- Despite the existence of many gender-based policies and legislation, including the Constitutional provisions enshrining the right to gender equality, the levels of compliance are very low, even non-existent, which suggests either that incentives for companies to comply are lacking, or there is a lack of punitive measures for non-compliance, or both.

The following recommendations were derived from the study.

- The study revealed a clear lack of internal mechanisms within the private sector to prioritise gender mainstreaming and gender equality in the workplace. It is recommended therefore that effective monitoring mechanisms be put in place by employers to ensure that implementation of gender mainstreaming policies and legislation is integrated into organisational strategic plans, including the performance contracts of senior management.
- Private sector employers continue to incorporate gender equality issues under routine human resources management processes, which suggests that gender mainstreaming is not considered a strategic priority. It is recommended that private sector employers establish dedicated gender focal points or units with the requisite capacity, resources, clear definition of responsibilities and the authority to

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develop the necessary internal policies and programmes to develop and mainstream gender equality in the workplace.

- There is a lack of effective monitoring of compliance with national gender policy and legislative frameworks in the private sector, which explains the lack of progress in terms of gender employment equity in this sector. It is recommended therefore that the CGE, in collaboration with the Commission for Employment Equity, Department of Labour and Department of Women, Children and People with Disabilities, develops effective measures for enforcing compliance with the necessary and relevant gender equality policies and legislations.
- The Department of Labour should consider introducing an incentive/reward scheme, similar to the current BEE employer rating scheme, for private sector best practices in gender equality in the workplace.
- Employers should develop training schemes geared towards targeting and fast-tracking women into senior management positions as well as developing their skills in categories of employment traditionally dominated by men.
- The Department of Labour, in collaboration with organised labour, organised industry, the Commission for Employment Equity and the CGE, should convene a national summit on

gender mainstreaming in the workplace. The Summit should provide a platform for government, private and public sector stakeholders to focus attention on common experiences and challenges, sharing ideas on how to mainstream gender equality in the workplace and securing commitments from the stakeholders on the way forward in terms of improving compliance and meeting employment equity targets.

- Organised industry and organised labour should jointly develop industry or sector-wide monitoring and evaluation systems with gender relevant indicators with clear targets and time-frames.
- It is recommended that organised labour and organised industry, with the collaboration of the CGE and the CEE, drive joint gender awareness campaigns in the workplace to sensitive employers not only of their legal obligations, but also the importance of treating gender mainstreaming in the workplace, as a strategic priority. The process should be accompanied by facilitated gender training workshops for senior management within private sector entities, focussing on existing gender policy and legislative frameworks.

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