

Introduction

Framing the issues around affirmative action and equity in South Africa: policy, progress, prospects and platitudes

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Introduction and Rationale

Globally, affirmative action (AA) has been used widely both as a policy tool as well as for social redress and transformation. Far from being simply common cause, in a number of geographical contexts, arguments for its moral and instrumental rationales have not waned (Guillebeau 1999, Hall 2004, Htun 2004, Human 1996, Moses 2010, Sacks 1996). For example, in South Africa, as is the case elsewhere, AA has generated renewed public debate, discussion and dissent (most recently in the case taken up by the trade union Solidarity against the Tshwane Municipality).¹ Scholars and activists on both sides of the issue have vociferously voiced their support or dissent in various media. Taking up the debate, Bentley and Habib (2008: 24) conclude:

The implementation of redress since 1994 has both positive and negative intended and unintended consequences. It has contributed to ensuring a more demographic representative nation, although this has not been undertaken as effectively or even in the form [that] was envisaged by the legislation. The redress initiative may also have reified racial identity and as a result inhibited the emergence of conditions for the realisation of a cosmopolitan citizenship.

Like most concepts, AA defies (and possibly resists) full encapsulation. Although much has been written about and spoken on AA, one of the most contentious, controversial, and critical questions regarding the concept still remains: What is the *matter* with AA? Phrasing the question this way implies that AA has much to do with ideological, philosophical and indeed practical

implications. In extending this question to South Africa, the question becomes: What are the specific current meanings of AA in the context of social transformation and redress in the post-1994 era? This question inspires consistent interest in the public conscience in South Africa, and it is in this regard that this journal and others in the field have intermittently focused on the various dimensions of and perspectives on AA in the country. Many contributions have discussed the unintended consequence of AA, including the ‘racial bargain’ and the perpetuation of racial prejudice, as well as the effect of the globalising market on the implementation of reconciliation policies (see for example, Alexander 2007, Durrheim et al 2007, Guy 2004, Montalti and Bellengère 2008, Southall, 2007). Similarly, some have maintained that nation-building efforts and responses to the social question are interlinked, and that there is no concrete divide between the national and social question, with the consequence that different redistributive struggles might require separate agendas (Mkandawire 2009).

It was with the above context in mind that our ‘autobiography of the question’ (Miller 1995), our interest in AA in the South African context, was born. The special issue emerges out of a 2010 international conference, ‘A South African Dream: Negotiating Affirmative Action for Social Cohesion in the Transformative State: policy, platitudes, progress and prospects’. Examining cutting-edge issues in the ongoing delineation of the parameters of AA (as concept, policy, and as practice), the conference was motivated by, among other factors, the fact that the issue has not received much political and policy attention, and that at best it tends to be minimised in the national dialogue. The only exceptions to this consistent minimisation tend to be the episodic attention occasioned by the annual reports of the Employment Equity Commission (see, for example, Samantha Enslin-Payne, ‘Days of crying wolf about equity are numbered’, *Sunday Independent* (Business Report Section), August 1, 2010; Chris Barron, ‘Playing the numbers game’, *Sunday Times* (Business Times), August 15, 2010; and Mpho Sibanyoni, ‘Firms are failing black youth’, *City Press* (Business Section), August 1, 2010).

Several questions emerged from the framing of the title of the conference. The first related to the parameters or the borders of the dream vis-à-vis the geographical/political borders of South Africa. For example, in the South African context or in the South African national policy space, would this refer to the progressive realisation of an *African Dream* or a *South African Dream*? What are the constitutional and legislative discourses that need to

be engaged? The second important question raised by this title concerns the nature (and delineation of) the appropriate conceptualisations of AA. Is AA related to affirmation, redress, empowerment, transformation or is it about Africanisation?

A third question is: what are the public discourses around this issue? At another level of analysis, while there is a need to engage the various discourses, there needs to be serious debate and dialogue regarding which of these should be privileged. Questions which foreground issues, principles, visions and scenarios within policy and programme debates about AA and social cohesion in the country should be raised. One school of thought is that the values and principles contained in the country's Constitution must of necessity anchor the debate. Another is that it is issues about belonging and citizenship and citizenship rights, issues of social justice and the Freedom Charter that should inform debate. Similarly, a case could be made for this particular debate to be anchored in relation to racism, poverty, insecurity, patriarchy and other elements that corrode the social fibre of South Africa. While these issues coalesce to impact on social fragmentation, they also offer opportunities for how such fractures could be mended.

There has been a very strong signal that issues of social cohesion are fundamental to where we could be in about 25 to 50 years' time. For instance, in the scenarios that were developed by the Presidency (*South African Scenarios 2025*, The Presidency, 2009), they remain central. Similarly, the National Department of Labour's approach to these issues focuses on participation in the labour market, and who occupies executive positions in business, in the commercial sector, as well as on issues around income inequality, social capital and macro social trends in South Africa.

The fourth question relates to the fact that there is an urgent need to focus on some very practical questions. To illustrate, one set of questions focuses on policies: What are the policy options and trade-offs that need to be examined? What sort of sequencing of policies should be proposed? Is there coherence between various policies and various policy domains? What should be the duration of various policies that are translated into practice? Another set of questions centre on the mechanisms and incentives that should be put into place in order for these policies to be effective (Kalev et al 2006): What are some of the implementation constraints, in the South African context, that need to be taken into account? What sort of enforcement mechanisms need to be considered? What are some of the outcomes of past policies and programmes and, very importantly, what are some of the

unintended consequences of policies and programmes that have been put into place?

The contributions in this issue of *Transformation* respond in various ways to some of these questions, often posing more questions for consideration, and often identifying gaps in research, in policy and in practice. Importantly, informed by debate and scholarship around AA and social cohesion, the contributions in the issue also point to needed and feasible interventions. From the organisation of the conference which gave rise to this special issue, to the contributions themselves, we hoped to bring together nuanced and diverse understandings of AA and social cohesion among researchers, policy makers and activists. Our hope was to bring the issues back into the public (and academic) sphere and to debate and critique the various policy and public discourses from a variety of perspectives. With this in mind, we considered the vested interests that need to be confronted as well as the political costs surrounding AA as we try to intervene in this area. Additionally we considered how those vested interests may be structured into policy considerations and policy interventions. That said, we recognised the need for a comparative multi-stakeholder dialogue with the explicit objective of ultimately influencing the directions and the contents of public policy. While we have not included perspectives from the United States and Malaysia (noting that the Malaysian model of AA is to some extent the model South Africa has appropriated), we believe much can be drawn from these experiences.² In essence, we sought to enable a collective intervention that would instigate discussions, articulate some of the imperatives that need to be addressed, create a demand for policy action, and build momentum around AA and social cohesion in South Africa.

Admittedly, in some ways these may have been lofty ideals at a dialogue level. However, the contributions in this issue of *Transformation* offer fresh and nuanced insights into how AA within institutions can be better understood, conceptualized and implemented,³ discuss current and future challenges, and offer some new and diverse models for thinking about the issues, and for policy and practice. The various contributions in the issue illustrate how AA is much more embedded in, and reflective of, interacting social, cultural and political processes that are complex and dynamic rather than static. While the contributions in this issue foreground the national and social question in terms of redistributive struggles, each also examines, in varied ways, the ascribed meanings and imbedded values that illuminate and inform this complex inquiry. The authors raise various questions related to

the social, political and economic issues that straddle the complex debates around AA, transformation and equity. While the conference (and indeed, this special issue) foregrounded AA and social cohesion, it generated further debate and dialogue around issues of race, identity, diversity, and social re-engineering (we return to this later in this discussion). That said, the arguments contained in these papers suggest that it is difficult to presume there is a common portrait of AA, but what is common are the questions that they stimulate. And perhaps herein lies some prospect for us to grapple with solutions to the challenge for policy making.

A South African Argument

As already indicated, the papers assembled in this issue of *Transformation* interrogate some of the factors, features, contestations and complexities informing AA, and reflect on the social, political, cultural, and economic influences that are informing debates in and about the issue. Collectively, the papers offer a rich and diverse menu of disciplinary lenses for examining the issues. The insights disclose the extant research base in the field – to say they are *transformative* is to sound clichéd – but powerful they are. The reader will discern, and may organise, a number of themes, among them diversity, redress, legitimacy, social fragmentation, and attitudes. Running throughout the papers is a sense of urgency about the need for researchers, practitioners, and policy makers to understand the strengths and limitations of AA, but also to work towards more research solutions to the complex questions arising from them.

For example, Ulrike Kistner's contribution, 'Under new management: the ambiguities of "transformation" in higher education', outlines the multifaceted reasons for the glaring blind spots in the higher education landscape. Her argument is that university transformation analysts continue to cast their findings in binary oppositional terms that fail to take cognisance of micro-structural institutional processes (eg, transformation *versus* restoration, substantive transformation *versus* lip service to transformation, black *versus* white, and the embracing of transformation *versus* resistance to transformation). Kistner's central point addresses how universities have committed systematic intellectual sacrifice in the context of managerialism that informs the transformation agenda.

For his part, starting from the perspective that AA has a very specific set of meanings that are contested, Gerhard Maré in "'Broken down by race ...": questioning social categories in redress policies' maintains that the racial

discourse reinforces racial consciousness to a point where it imposes a painful burden on the new generation who are, according to him, potentially without the same racial prejudice. Consequently although it draws on AA and Black Economic Empowerment (BEE), the paper is fundamentally about redress. It is about corrective action, and about ways of dealing with discrimination and exploitation.

Indeed the challenges of AA take on further complication in relation to Chinese South Africans. This is an issue that Yoon Park takes up in 'Black, yellow, (honorary) white or just plain South African? Chinese South Africans, identity and affirmative action'. In a way Park builds on arguments developed in an earlier formulation concerning the court challenge to exclude Chinese South Africans in the Employment Equity and Black Economic Empowerment legislation (Erasmus and Park 2008). According to Park, for Chinese South Africans, their fight had everything to do with the sense that they had been excluded from the specific language of the AA legislation. While they were broadly included during apartheid and under various laws as either coloured or generically as non-whites or specifically Chinese or Asiatic, they had not been mentioned at all in either the Employment Equity Act or the Broad-based Black Economic Empowerment Act. For Park, the fight was about inclusive citizenship consistent with the principles of the post-apartheid constitution.

In 'Moving from the letter of the law to the spirit of the law: the challenges of realising the intent of employment equity and affirmative action', Stella Nkomo focuses on the challenges of translating AA policy into practice and identifies the kinds of interventions that organisations in South Africa are using to achieve transformation. For Nkomo, the critical question relates to what is actually going on in organisations as they try to achieve transformation and how these organisations manage to measure up in terms of attaining social justice. The author theorises how organisations think about marginalisation, gender and power as well as how they address AA.

Ironically much of the complexities related to AA point to attitudes, feelings and perceptions, certainly not a new issue in thinking about the subject (Durrheim et al 2007). In this regard, Roberts et al in 'Minding the gap: attitudes toward affirmative action in South Africa' engage the official statistics (National Department of Labour) on AA and explore attitudes of the South African public towards AA (South African Social Attitudes Survey). The findings suggest that attitudes to race-based and gender-based AA appear generally favourable on aggregate but vary considerably

and somewhat erratically at a disaggregate level and over time. From a policy design perspective, the specified beneficiary does seem to matter and, and harbours, the authors unsurprisingly note more positive opinions towards AA, where policies target women, disabled persons and those targeting racial disadvantage. Importantly, attitudes toward AA tend to vary with individual characteristics, issues taken up in this piece.

Turning to disability more specifically, Schneider and Nkoli (‘Affirmative action and disability in South Africa’) make a case for an inclusive diversity that is not fully realised with regard to disability. This article addresses three critical questions that structure the argument: First, why are people with disabilities one of the target groups for AA? Second, what are the barriers and facilitators to people with disabilities who seek and want to maintain employment? And thirdly, what is the economic, social and psychological case for employing people with disabilities?

For her part, in ‘Women’s representation in government: quotas, substantive equality and self interested politicians’, Amanda Gouws directs attention to women in government (in particular, women parliamentarians belonging to the ANC Women’s League). Gouws maintains that quotas are a form of AA and, that, when it concerns women, it increases the possibilities for women who can be considered amongst the historically excluded. The central challenge however for Gouws is whether meeting quotas ultimately contributes to substantive policy influence that impacts on and is beneficial to all women.

Ivor Chipkin (‘Transcending bureaucracy: state transformation in the age of the manager’) focuses on general trends around AA, specifically in the public service. He considers one view which contrasts a broadly speaking transformed public service and a congenitally untransformed private sector. Another view, according to Chipkin, is that you may well have a transformed public service, but one in crisis simply not performing properly. These two images inform the argument he engages on democracy and the trends on AA. For Chipkin, while AA is not an obstacle to the state’s performance, but a rethinking of the State itself is necessary.

Finally, the book reviews offer coverage of some recent topical publications that speak to some of the themes in this edition (eg, BEE, discrimination, diversity, inequalities, race matters, and the complexities of Africa’s developmental and transformation challenges).

Conclusions

Collectively, we believe the papers make an important and valuable contribution to our understanding of and the literature on AA in South Africa. This may be considered progress. Several add to an improved appreciation of the complexity of AA in ongoing social transformation. But perhaps their greatest contribution may be to the dialogue on public policy and its formulation. All of the arguments, in their varied ways, compel us to also ask new questions about the character of transformation and how such transformation is associated with demographic change. At its core, are critical questions pertaining to the kind of a society we are living in and how such a society might be described and explained. If in these arguments we are trying to redress the past, if we are trying to find out what needs corrective action, then it seems we also need to again visit *what* apartheid was about. Additionally, if there is agreement that the experience of imperialism, colonialism and apartheid was indeed an experience of land dispossession, of racial brutalisation and intentional pauperisation, then we have to agree that there are inequalities that have yet to be addressed. It might be the case that AA is therefore still perceived in some instances as a band-aid measure to temporarily resolve inequalities. As some papers in this edition have argued, AA tends to gloss over the real challenges of inequalities in driving demographic transformation and thereby re-racialises and intensifies racial polarisation in the country.

Perhaps central is the idea that AA places huge demands on the country; and a conference addressing this issue, as well as the papers in this edition, fundamentally focus less on AA and more on transformation. Inasmuch as the policy dialogue raised questions about AA, there was less of an engagement with social cohesion (even though vibrant discussion also alluded to the fact that we should be engaging more with the politics of social fragmentation) rather than to imagine an artificial glue that holds a divided nation together. The question remains: can we have social solidarity without recognising a fractured past in relation to a fractured present in thinking about the future? Another way of thinking is whether corrective action formulates new inequalities. While correction encompasses the entirety of the transformative project, it is important, for example, to think about blackness or whiteness and its linkage to some moral vision. Is AA a vision that will be sustained or is it a temporary political project? Or, should we be thinking about an output-based act in terms of numerical goals as opposed to an input-based act in terms of training? How do all of these issues feature

in practice? It seems, therefore, that AA requires of us to generate further thought about how better to understand our own ontologies, about the connection between being and context. More importantly, the hidden text that is often not talked or written about is related to the perceptions and attitudes about race in the broader implementation of AA. Perhaps consensus in these papers is that slow, uneven and uncritical implementation is a real challenge and that ongoing scholarship in relation to policy is also therefore necessary.

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Notes

1. This recent case concerns Solidarity's view that the Municipality's affirmative action policy is not in line with the Employment Equity Act. Its argument is that *corrective action* is not at the heart of the municipality's policy which rather takes a *racial approach* (our emphasis). The court application was made by Solidarity on behalf of its member, Marco de Sampaio (Deputy Director of Water and Sanitation in the Tshwane Municipality). De Sampaio applied for the position he was acting in four times over the last three years and his name has, on each occasion, been removed from the shortlist. Solidarity claims this is because the approach by the Municipality is based on racial exclusion and not corrective action. The case is pending.
2. This belief is accompanied by an acknowledgement that 'there are a lot of tacit elements in institutions. Some formal institutions that seems to be working well in an advanced country may be working well only because it is supported by a certain set of not-easily-observable informal institutions' (Chang 2007:29).
3. Elinor Ostrom (2005) offers a broad framework and elaborate method for undertaking such nested institutional analysis using action arenas as a focal unit of analysis.

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