



CHAPTER 3

PERCEPTIONS, ATTITUDES AND CHALLENGES RELATED TO AFFIRMATIVE ACTION AND EMPLOYMENT EQUITY

3.1 INTRODUCTION

The researcher includes this chapter as part of the research project for the following reasons :

- One of the focuses of the present study is on the perceptions of and attitudes to the practices and procedures related to Affirmative Action and Employment Equity.
- The literature survey reveals that such perceptions and attitudes generally have a bearing on the success or failure of Affirmative Action and Employment Equity programmes.
- Given the theoretical framework of Affirmative Action as discussed in the previous chapter, the researcher wishes to assess the impact of perceptions and attitudes to Affirmative Action against this framework.
- The questionnaire in this study was administered to explore the perceptions of and attitudes to Affirmative Action and Employment Equity among academic staff in Higher Education Institutions. The responses will be evaluated against the relevant information in the review of literature.

A review of the constraints and challenges facing the successful implementation of Affirmative Action and Employment Equity programmes which forms the second part of the chapter would provide food for thought for the implementers. Apart from alerting them to the possible challenges, it could engage them in a search for alternate

strategies to avert such problems.

Further, the present study also surveys the constraints and challenges experienced by the local Higher Education institutions. Such challenges would be explored against those revealed by the literature.

In attempting to educe the general perceptions and challenges facing Affirmative Action and Employment Equity this chapter will examine arguments for and against Affirmative Action. This will complement the various perceptions, attitudes and challenges that have already been discussed in Chapter 2 and those related to specific countries in Chapter 4.

During the last two decades the relationship between Affirmative Action, justice and equality has been extensively examined by many legal scholars and philosophers abroad, especially in the USA. In fact in the USA, during the period 1978-1990 the USA Supreme Court has given verdicts on ten closely divided major Affirmative Action cases (Rosenfeld, 1991 : 1). While there is great concern in South Africa about Affirmative Action, that is revealed, *inter alia*, by the numerous articles in newspapers (refer Appendix 3), there is still a dearth of information and research regarding the perceptions of and attitudes to Affirmative Action in South Africa, more especially in Higher Education. This is probably due to the fact that post-apartheid South Africa has become a recent addition to the list of countries such as USA, Australia, Canada, Fiji, Germany, India, Israel, Malaysia, Namibia, Nigeria, Northern Ireland, Pakistan, Peru, Sri Lanka, Sudan, Yugoslavia and Zimbabwe, pursuing social transformation through Affirmative Action (De Villiers, 1997 : 1).

3.2 THE AFFIRMATIVE ACTION DEBATE

While some progress has been made regarding clarification of the diversity of viewpoints on Affirmative Action abroad, on both the constitutional and philosophical fronts, the debate continued to intensify in the early nineties with foes and advocates

bitterly divided as ever. Likewise, in South Africa, Affirmative Action is a term that has attracted much scorn in some circles and has also enjoyed high acclaim in others. This is evident in the following fiery and often contentious remarks as well as headlines in local newspapers : Black Advancement : firms threatened (**The Natal Witness**, 30 July 1991); Whites helped since 1910 (**City Press**, 13 October 1991); Fight for Affirmative Action gets underway (**Sowetan**, 25 January 1993); A quota system might be a way of the future SA (**Business Day**, 7 September 1992); A just answer to past wrongs (**Sowetan**, 3 May 1993); Emigration considered by a quarter of SA's Whites (**The Sunday Times**, 6 May 1990); Natal University not lowering its standards (**The Natal Witness**, 9 August 1990); Blacks robbed of plum jobs (**The Mercury**, 25 May 2000); The New Discrimination (**The Sunday Times**, 24 October 1993); Lets have affirmative action ... without the racism (**Post**, 15-18 March 1995); White Backlash (**The Sunday Times**, 31 March 1996); Perils of Whiteness (**The Mercury**, 5 July 1999); De Klerk, Sanlam express alarm over affirmative action (**The Natal Mercury**, 30 July 1995); and, Implement job equity or face state's wrath (**Sunday Tribune Business Report**, 13 October 2002).

Clearly, apparent in the above headlines are the varying perceptions of and attitudes to, Affirmative Action. Given these perceptions, it is not surprising that Mandela (1991 : Conference) in Cape Town had this to say about Affirmative Action :

“To millions, Affirmative Action is a beacon of positive expectation. To others it is an alarming spectre which is viewed as a threat to their personal security and a menace to the integrity of public life.”

There is widespread agreement on the principle that first-order discrimination, i.e., discrimination against Blacks or women on the grounds that they are inferior or different is morally wrong because it violates the inherent quality of people. Somehow, this constrains the debate on the legitimacy of Affirmative Action. Since first-order discrimination is rejected, opponents contend that it would not serve to justify the legitimacy of Affirmative Action. Whether the philosophical notions of justice and

equality or the constitutional constraints imposed by the Equality Protection clauses in some countries, such as the USA and South Africa, can justify Affirmative Action without thereby legitimizing first-order discrimination depends on the meaning and interpretation of such key concepts as justice, equality and Affirmative Action and the contexts in which they are applied. Many variables are likely to affect the validity of the arguments for or against Affirmative Action. Therefore, it is important and necessary to provide some insight into those concepts that were outlined in Chapter Two.

The dispute between those who perceive Affirmative Action as a means of providing handouts to the so-called previously disadvantaged and those who believe that the abolition of Affirmative Action will lead to a return to the traditional old boy network, typical of the apartheid regime in South Africa, may appear to be a simple political dispute related to the allocation of scarce social services. However, something more profound is involved, as will be evidenced by the various perceptions, attitudes, viewpoints and debates emanating from them.

In this regard Rosenfeld (1991 : 2) proclaims that :

“The passionate opposition against Affirmative Action cannot simply be explained in terms of resentment against departures from the meritocratic system in the awards of jobs or scarce educational opportunities.”

He substantiates this by quoting the example of people who are in competition for university places or jobs and fail to obtain them because of nepotism, powerful personal connections or preference for senior persons, etc. Such departures from the ideal of meritocracy hardly arouses the kind of passion that race or gender-based preferential treatment does. The Affirmative Action debate is, therefore, not between people who are pro-equality and those who are anti-equality. Both proponents and opponents proclaim their allegiance to the ideal of equality. The fact that ardent advocates and vehement foes of Affirmative Action are partisans of equality has the effect of both

constraining and intensifying the debate concerning the legitimacy of Affirmative Action.

Hence, whilst the proponents and opponents of Affirmative Action share a common identity at some level this should not obscure the deep rifts that set them against one another. For example, while both are in general agreement with the notion that racial and sexual differences should not prejudice the previously disadvantaged, the agreement breaks down when the issue is, whether such differences should be considered in support of policies that favour the previously disadvantaged. The opponents of Affirmative Action proclaim that there should be equal treatment, irrespective of race or gender and argue that preferential treatment of the previously disadvantaged is as recriminative as the preferential treatment of White males.

Supporters of Affirmative Action, on the contrary, argue that equal treatment may result in the perpetuation of existing inequalities and that, whilst the preferential treatment of White males would intensify such inequalities, favouring the previously disadvantaged would promote the elimination of race and gender-based inequalities in the workplace. There are disagreements even among those who believe that the concept equality is not totally in opposition to certain departures from equal treatment, arising out of prevailing or past circumstances and, on this basis, are willing to acknowledge the legitimacy of Affirmative Action.

3.2.1 Arguments Against Affirmative Action

The critics oppose Affirmative Action as a programme which rewards people on the basis of their genetically determined characteristics such as race, ethnicity and sex. They feel that this would ultimately lead to the destruction of the foundations of a democratically just society. Such programmes, by proposing proportionate group representation, based on the above-mentioned characteristics, also undermine the democratic concept of equality of opportunity. To critics, such as Bell (1972 : 41), the principle of :

“... equality of opportunity denies the precedence of birth, of nepotism, of patronage or any other criterion which allocates places, other than fair competition open equally to talent and ambition. It asserts ... universalism over particularism, and achievement over ascription.”

Thus, the critics claim that individuals should be given the opportunity to compete justly for jobs, etc., on the basis of their own abilities. Moreover, Bell (1972 : 41) argues that in the past people were traditionally judged and rewarded on the basis of individual merit. He criticizes that merit, according to the principle of Affirmative Action, **“is held as a new source of inequality and of social, if not psychological injustice”**. Proponents of Affirmative Action, on the other hand, perceive the new equality to mean equality, not at the start of a race but at the finish; equality not of opportunity but of result. Under this new equality, critics assert that ascription, referring to the gaining of a place by assignment or inheritance, replaces personal achievement.

This principle of merit being subordinated to group ascription rights, is further subverted, according to critics of Affirmative Action, by deliberate government policies and practices. Such intervention by the state, opponents argue, violates a further democratic principle, in that an important function of government should be the removal of barriers to equal opportunity, for example, enforcing laws to prohibit discrimination based on genetically determined factors such as race, sex, etc. Instead the government, through its imposition of Affirmative Action and Employment Equity programmes, forces educational and other institutions to set up the very barriers it originally sought to eliminate. Today, proportional group representation based on race, gender, etc., opponents of Affirmative Action claim, is enshrined as the criteria for employment and admission to Higher Education, while individual merit is relegated to the outer reaches.

Critics also believe that Affirmative Action undermines the principles of Distributive and Compensatory Justice. They maintain that justice requires that rewards be allocated in accordance with an individual's ability and not on the basis of inherent characteristics such as race and gender. Justice, they assert, requires that compensation be made to those individuals who were wronged. They strongly object to and regard as unjust the compensation to entire groups or classes of people by another group or class or by society at large.

Affirmative Action critics also argue that innocent White males, who were not directly involved in the discrimination levelled against the previously disadvantaged, are penalized through no fault of their own. It is claimed to be unjust because of the disproportionate negative effect it is said to have on this specific group of White males, who it is claimed, cannot be held totally responsible for the social evils sought to be remedied through Affirmative Action (Lediga, 1994 : 2; Rosenfeld, 1991 : 304; Poovalingam, 1995 : 15-18).

There is also the belief by opponents of Affirmative Action that individuals should be worthy of compensation only if they have been personally wronged and have been unable to overcome the debilitating effects of the injury such as unjust discrimination. Preferential treatment is not deserved simply by membership of a group which has been traditionally discriminated against. They maintain that personal injury must be demonstrated.

With regard to utilitarian considerations, claims that preferential treatment is necessary to achieve social cohesion to reduce social stereotypes and to provide services to the previously disadvantaged, are decried by the critics. Social cohesion and integration of the races, critics contend, will not be achieved. Rather they perceive that such preference will increase hostility among the races causing resentment, particularly among White males who see themselves as being deprived of education and employment opportunities, not because they are unqualified but because they do not belong to the politically

correct sex or race. It is felt that preferential treatment will also cause chaos, as competing group interests fight for a greater share of the distribution of goods and services.

Preferential treatment is thought to reinforce the perception that the beneficiaries cannot make it on their own without the assistance of Affirmative Action. Consequently, it contributes to the very stigma and loss of respect that it was supposed to eliminate. They argue that such beneficiaries will also suffer lowered self-esteem since they would not know whether they advanced economically or educationally through their own abilities or simply because they received special treatment.

Another common perception of the opponents of Affirmative Action is that it leads to a lowering of standards in the workplace. They claim that people who are not qualified to do a job replace those who are qualified from the previously advantaged group resulting in the services of the latter being terminated. This, indeed, is not a principle of true Affirmative Action, especially in South Africa. However, the Employment Equity Act, No. 5 of 1998 (DOL : section 15,3) states categorically that no White may be removed from a position due to Affirmative Action and that Affirmative Action does not call for dismissal of people from non-designated groups. This merit and standards debate has been dealt with in greater detail in Chapter Two.

3.2.2 Arguments for Affirmative Action

Affirmative Action can be **“justified only in those sociopolitical contexts which embrace the ideal of equality of opportunity”** (Rosenfeld, 1991 : 284). Initially it would appear difficult to detect any connection between equality of opportunity and Affirmative Action. This is because preferential treatment based on race and gender runs counter to the principles of equality of opportunity - a view that invariably accounts for much of the opposition to Affirmative Action.

This compromise is also discussed in Chapter Two.

An obvious justification for Affirmative Action involves the compensation of victims of past discrimination in that **“the adoption of any distributive rule implies that when violations occur, perpetrators are to be held liable and victims compensated in order to keep distributions as consistent with the demands of the rule as possible”** (Goldman, 1979 : 65-66). Thus, when people’s right to equal opportunity to compete for a scarce place or position has been violated, as was the case in South Africa under the apartheid rule of the National Party, the best means of compensation would be to provide those persons with a competitive advantage in subsequent competitions for the same or similar positions that are commensurate with the disadvantage suffered previously.

Goldman (1979 : 65-67) convincingly argues in the discussion on Compensatory Justice, as referred to in Chapter Two, that such compensation is not only in accordance with the norms of Compensatory Justice but also essential to uphold the integrity of a just distributive system based on the principles of equality of opportunity. Compensation, as a means of Affirmative Action, in the above case, is consistent with the distributive and compensatory aims of equality of opportunity (Rosenfeld, 1991 : 34-35). Moreover, it satisfied, according to Rosenfeld (1991 : 286), **“justice as reversible reciprocity”**. This simply means that the previously advantaged, in placing themselves in the shoes of the previously disadvantaged, view the injustices thrust upon them from the perspective of the disadvantaged. Arising out of this they experience a change in perspective, which causes them to appreciate the need for Affirmative Action.

Compensation is regarded as justified under the Equal Protection Clause in the USA (Rosenfeld, 1991 : 286) as well as by the South African Constitutional Court which identified the following as one of the basic structures and premises of the new constitution :

“... a legal system which ensures equality for all persons before the law, which includes laws, programmes or activities that have as their objective the amelioration of the conditions of the disadvantaged, including those disadvantaged on the grounds of race, colour or creed.”

(Govender, 1998 : 82)

From the perspective of the victim discriminated against at the job level or at the Higher Education entrance level, Affirmative Action, in the strict compensatory sense, may provide the best possible measure of compensation. For other victims of past discrimination, however, such a narrow form of Affirmative Action will probably be of little benefit. In this regard, Rosenfeld (1991 : 287) argues that a Black person who receives an inferior public education because of a policy of racial discrimination is often more likely to experience a disadvantage in the competition for a scarce position. In this case, compensation in kind, such as a superior or upgraded school education or its equivalent, may be inadequate.

This would be especially true if the education in question requires several years of study and the job applicant were an adult who needs to earn a living in order to support a family. On the other hand simply awarding such persons the position they seek, on a preferential basis, may seem inappropriate because, unlike the person discriminated against at the job-seeking level, there is no reasonable assurance that the victims of past discrimination at the public school level would have secured the job had it not been for the discrimination.

Discrimination at the educational level, which was pervasive during the apartheid regime in South Africa, deprived many members of society of important tools/skills needed in the competition for jobs. Like discrimination at the job-seeking level it undermined the integrity of any fair distributive scheme

based on the principle of equality of opportunity. Such integrity was further undermined both because of a loss of legitimacy arising from the denial of an equal opportunity to these deprived members of society and because of a loss in efficiency to society as a whole. This resulted in the indirect removal of probably talented individuals from the market place simply because they lacked the necessary skills/tools required, through no fault of their own.

Ezorsky (1991 : 41) refers to a job applicant with the basic qualification who was denied the job because of discrimination. She maintains that, giving some individual the job in compensation over and above a more qualified White, is unlikely to disrupt seriously the efficiency of the system of distribution based on equality of opportunity. However, in the case of those who were denied tools/skills necessary to compete successfully for jobs because of discrimination, granting them jobs as compensation could have a serious impact on the efficiency of the system of distribution and would worsen the already impaired functioning of the system destroyed by the injustices of the past. Unfortunately, such appointments are often made as a form of tokenism or to be politically correct. Such tokenism is misconstrued for Affirmative Action.

In view of the above, it may seem more appropriate to refrain from compensating victims of past educational discrimination with jobs for which there are other persons who are more qualified. Rather, what is needed is an attempt to reintegrate these victims of past discrimination into the mainstream of society which would probably entail receiving a share of the jobs allocated by society without having to grant victims jobs that they would not have obtained had they not experienced any discrimination.

To the extent that competitive disadvantages are the product of social, as opposed to natural causes, the principle of equality of opportunity requires that such social injustices be eliminated. Affirmative Action is but one powerful tool to effect such elimination.

Without a measure, such as Affirmative Action, scarce job allocations will not be a function of differences in natural talents and efforts. This can lead to diminished prospects for some and increased prospects for others and can also possibly result in reverting to the *status quo* prevalent during the past era of discrimination and inequality. By eliminating social injustices that prevailed in the past, Affirmative Action appears to be well suited to bringing almost everyone's prospects to where they most likely would have been, had there been no earlier discrimination.

Suppose, for example, that systematic racial discrimination results in reducing the prospects of success of Blacks by 20% while increasing that of Whites by a corresponding percentage, then preferential treatment, in improving the prospects of success of Blacks by a corresponding 20%, would ensure the possibility of success of both Blacks and Whites. This would have been the position had there not been any discrimination.

While it may be rational to assume that the disparity between the proportion of Whites and the proportion of Blacks who hold certain desirable jobs is attributable to the effects of first-order discrimination, there is the possibility that at least part of the disparity is due in some way to other causes. This mere possibility of something that is not really substantial should, in the researcher's view, not serve as a deterrent in advocating Affirmative Action as a compensatory device.

On the contrary, in the case of long standing, substantial and systematic injustices, such as those that were levelled against South African Blacks, it seems justified to presume that the existing discrepancies in the prospects of their success are the result of first-order discrimination. Perhaps it is up to the party that opposes the preferential treatment through Affirmative Action to provide evidence of factors other than racial discrimination that could explain the relevant discrepancy. Also given the prevalence of sex discrimination in South

Africa, a similar presumption would seem justified in the case of women.

In summary, therefore, Affirmative Action, used in the area of job allocation for the benefit of those victims who experienced deprivation in education in the past, is Compensatory rather than Distributive. Because Affirmative Action is Compensatory, as discussed earlier, it should be viewed as consistent with the principle of equality of opportunity. Accordingly, such Affirmative Action should be permissible to the extent that the Equal Protection Clause No 91(1) which states : **“Everyone is equal before the law and has the right to equal protection and benefit of the law”** constitutionalizes the principle of equality of opportunity (RSA, 1996 : Clause 9(1) : 7).

In this regard Rosenfeld (1991 : 291) maintains that : **“Not only wrongful deprivation of education assets but also wilful interference with or withholding of other social assets may lead to reduction in the prospect of success in the sphere of job allocation and thus calls for compensatory Affirmative Action”**. He argues further that pervasive, deeply rooted prejudice, negative stereotypes, demeaning treatment and a constant stream of indignities experienced on a daily basis are likely to produce in their victims a negative self-image, low self-esteem, lack of motivation and despair. Such treatment inevitably results in the victim’s prospects of success in the job market to decline. This epitomizes the South African scenario of the past when there was a multi-faceted racist and sexist assault on equal opportunity rights, often referred to as the total onslaught.

Preferential treatment, with regard to job allocation, is, therefore, justified in accordance with the principal of equality of opportunity as a means of compensation. In view of the fact that first-order discrimination was systematic, pervasive and significantly violated equal opportunity rights, preferential treatment should be constitutionally permissible.

While Affirmative Action can legitimately serve the aims of Compensatory or Distributive Justice, improvement of prospects through preferential treatment makes sense only for those who already possess at least minimal qualification necessary to perform satisfactorily in an academic programme or in a job for which they applied. Favouring those who are not minimally qualified on the other hand would not only be completely unproductive but would also be self-defeating. In other words, it would be tantamount to either setting someone up for failure or appointing someone as a token.

Hence, awarding positions to those who are incompetent to handle them seems unlikely to lead to integration or rather reintegration of those who had experienced past deprivation of socially relative assets into the mainstream of society. Therefore, while Affirmative Action cannot benefit all those who have suffered from social deprivation, it remains, nevertheless, useful for those who are minimally qualified to cope with the deficits in prospects attributable to such deprivation. How substantial a role it might play depends on the size of the pool of minimally qualified candidates. In low and medium skill occupations that pool is likely to be large, while in the high skill occupations, like that of academic staff in Higher Education institutions it is expected to be rather small. With regard to low or medium skill occupations Affirmative Action, either on its own or complemented with the provision of short term training, is likely to play a major role in coping with the disadvantages caused by past socially-relative deprivations.

It is claimed by opponents of Affirmative Action that the distributive burden imposed by Affirmative Action on the innocent White male is disproportionately heavy. This is refuted by supporters of Affirmative Action.

If it is accepted that both Blacks and Whites are equals as subjects and if it is accepted that Blacks should not be disadvantaged because of their race, then it follows that as equals both would not be disadvantaged. Often a parallel is

drawn between the plight of racially discriminated Blacks and innocent Whites disadvantaged by Affirmative Action. Such an analogy is purely abstract and superficial. If this were the case it would be hard to believe that the remedial Affirmative Action plans, resulting from various decisions handed down by the Supreme Courts in the USA, were the product of racist feelings against White Americans.

With regard to the above Joseph (1979 : 352) argues that, in the South African context, the impact of discrimination against Blacks and females was far greater than any possible problem suffered by Whites. Any possible impact on Whites will, therefore, be relatively minimal. Consequently, to claim that innocent Whites are singled out for disfavourable treatment because of their race, can be considered untrue, except from the standpoint of a purely abstract perspective which is completely ahistorical and acontextual. In this regard Ezorsky (1991: 42) cites the case of a White male :

“His rejection is not based on a derogatory false notion of racial inferiority; thus he is not a victim of overt racism even in reverse.”

On the contrary, Affirmative Action is meant to be inclusionary rather than exclusionary as was the case with sexism and racism of the past. Its intention would be to make up for socially-caused deprivations that have placed Blacks and women at a competitive disadvantage. According to this perspective, while innocent White males may be affected negatively to some extent by Affirmative Action, neither those who implement it nor the Blacks and women who benefit from it are likely to be motivated by any desire to treat White males as inferior or to deprive them of equal respect and dignity. In other words, while the intention of racism and sexism was to retain the members of target groups as outcasts or as inferior, Affirmative Action seeks to reinstate those previously excluded into the mainstream of society.

Generally an individual's standing in society, as well as the respect he/she enjoys, often has much to do with his/her achievements in education or employment. Failure in this regard may result in loss of standing and of respect. Arising from the historical disparities in the treatment of the two races, however, the loss of an educational or employment opportunity at the onset of an Affirmative Action policy and much later, is unlikely to have the same impact on a White person as it would have on a Black person who had suffered such indignities in South Africa for approximately 300 years.

The well known rejection of Alan Bakke's application to a medical school in the USA (Regents of University of California v Bakke, 1978 : 357-358) and others who had the same fate at other institutions in the USA is unlikely to lead Whites to being stereotyped negatively as unworthy members of society. On the other hand, while society may, on the basis of prejudices nurtured by racism and sexism, brand a Black person or a woman as inferior because of their failure to succeed in a competition for a job or entrance to an educational institution, the same would not occur in the case of a White person placed in a similar position. This is because Affirmative Action is not intended to denigrate equal dignity or equal rights. Rosenfeld (1991 : 307) adds that **"although Affirmative Action treats innocent White males unequally, it need not deprive them of genuine equal opportunity rights"**. Since an Affirmative Action programme is designed to redress the losses in opportunities for success, caused by past racism and sexism among the previously disadvantaged, it merely deprives the innocent White males of the corresponding undeserved increases in their prospects of success. Affirmative Action offers prospects of success for all competitors to a point at which they would have been in the absence of racism and sexism. It merely places them in the position in which they would have been if the competition had always been conducted in strict compliance with the equal opportunity rights.

With regard to the criticism that race and sex are morally irrelevant characteristics, the proponents of Affirmative Action argue that these very same characteristics have been made morally relevant and were used as criteria for discrimination in the past. Such discrimination, it is claimed, was directed against them because they are either Black or female and not because they were ordinary individuals. Since institutionalized injustice was directed at them, as members of these victimized groups, then society as a whole owes them some form of compensation or reparation.

Affirmative Action programmes are, therefore, perceived as appropriate means for society to discharge its obligations to those wronged groups. The concept of equality, as the right to equal treatment and the right to compete for society's benefits on the basis of one's ability without regard to race, gender or ethnicity, is regarded as a myth by proponents. They regard such equality as a myth since the pervasive pattern of past discrimination perpetuated a massive maldistribution of power, status, wealth and authority. They argue that, to eliminate such maldistribution, it is necessary to consider one's race, sex or ethnicity because these characteristics are the reason for the discrimination that brought about such maldistribution in the first place.

Social utility justification for Affirmative Action, which was criticized by opponents earlier on, is based on the need to promote public welfare or common good. For example, by increasing educational and employment opportunities for the previously disadvantaged, poverty and inequality can be reduced, thus decreasing the potential for racial conflict. Increased opportunities for the previously disadvantaged, moreover, will enhance cohesion by eliminating racial stereotypes, providing role models for disadvantaged youth and enhancing the self-esteem of Blacks and women.

With regard to criticism against group rights to Affirmative Action, proponents claim that Affirmative Action which targets specific groups is the only efficient

way to ensure that individuals who were discriminated against in the past are rewarded. Taylor (1991 : 62-67) corroborates this view with the argument that membership of a group was given birth to by the discriminatory practices of the past. It is for this very reason that it is justifiable to target members of a group.

From the aforementioned it is apparent that Affirmative Action is regarded as controversial because it seeks to remedy inequalities by means of unequal treatment. It also seems radical because it apparently departs from the ideal of equality of opportunity. In actual fact, Affirmative Action is conservative insofar as it is designed to eradicate the effects of first-order discrimination without undermining the educational or employment scheme that operates in accordance with the principle of equality.

Indeed where formal equality of opportunity would merely perpetuate the effects of first-order discrimination and fair equality of opportunity would provide too slow a remedy to satisfy justice as reversible reciprocity, Affirmative Action becomes necessary. This would ensure the fair and prompt restoration of a system based on genuine or substantive equality of opportunity. Ironically, the sooner Affirmative Action is allowed to complete its mission the sooner the need for it will disappear altogether.

3.3 CHALLENGES AND CONSTRAINTS FACING AFFIRMATIVE ACTION/ EMPLOYMENT EQUITY

Experience with Affirmative Action programmes locally and abroad have revealed certain challenges, problems and constraints. In this review of the challenges and constraints facing Affirmative Action and Employment Equity lie important lessons for South Africa. Human (1991 : 15) asserts that it is not automatic that an Affirmative Action policy will meet with success once implemented. Failure, she claims, can have severe repercussions for the respective institutions. She argues, further, that such failure can be attributed to the large degree of confusion related to the implementation

details of Affirmative Action in South Africa. She is of the opinion that Affirmative Action operating with vague criteria places too much reliance on discretion and provides no indication as to where or when it should end. According to her the following are some of the reasons/problems that cause Affirmative Action to often fail and should, therefore, serve as challenges for future success :

- They are based on models of development that view development simply in terms of only educating Black people. Unless the issues of prejudice, racism, stereotyping and negative expectations on the part of White managers are addressed as well, education itself will have only a limited benefit.
- Line management is generally not truly committed to the respective programmes, a factor she regards as crucial. Top management, it is claimed, who are sincerely intent on implementing Affirmative Action, are frustrated in their attempts to overcome the hurdle of negative attitudes on the part of most line managers (Sherrocks, 1992 : 3). Many White managers, however, claim that they do not have the time to train Blacks (Ntshakala, 1992 : 1). Small wonder then that the business world, although aware that companies are implementing Affirmative Action policies, is uncertain as to whether employees are getting a fair deal (Sherrocks, 1992 : 3).
- The tendency of companies is to emphasise short term numbers rather than long term development. This means that there is a tendency to look for quick-fix solutions. Quick-fix is a very temporary solution and solves very little. It may ultimately be regarded as tokenism. Tokenism generally invites backlash and is detrimental to the institution and to the development of Blacks in general.

There is often a lack of sufficient effort at improving their capacities by all the parties involved. Development requires a level of realism, a level of humility and a great deal of effort on both sides. One has to look at the extent to which Blacks as well as Whites are willing to put time and effort into developing themselves and in assessing their

development needs with a view to individual training. The above criticism could be one of the probable reasons for Zashin's (1985 : 378) finding in the USA, viz., that Affirmative Action had not produced dramatic employment increases for Blacks in higher grades of jobs and that their percentages were still far below those attained in the lower grades.

Too often, in implementing Affirmative Action programmes, individuals are selected for Higher Education employment or promotion on the basis of group characteristics rather than in terms of relative individual qualifications, potential or ability. Consequently, unqualified Blacks are selected over better qualified Whites. In this regard Maphai (1992 : 7) cautions that the filling of positions by unqualified appointees leads to incompetence, inefficiency and lowering of standards. Rosenfeld (1991 : 296) as well objects to granting preferential treatment to an entire group because it **“unduly exalts the group at the expense of the individual”**.

In institutions where Affirmative Action is interpreted literally as reverse discrimination, the capabilities of Blacks or women in senior positions are often questioned. In fact, according to Charlton and Van Niekerk (1994 : 53-60), Affirmative Action appointees are often regarded as being inferior. People of this view operate on the assumption that a Black or female, hired through Affirmative Action, are less qualified than themselves. They fail to realise that because the new incumbents need assistance (which they were denied previously), it does not necessarily make them inferior.

Asmal (1992 : Conference, Durban), contends that one of the purposes of Affirmative Action is to provide competent Blacks or females with jobs in which they would have succeeded had it not been for discrimination. The radical aspect of construing Affirmative Action as reverse discrimination denies Blacks, who have made it on their own, the satisfaction of knowing that (Zashin, 1985 : 378). Therefore labelling all Blacks as Affirmative Action babies is reprehensible (Carter, 1991 : 4-5). Whatever the case, Affirmative Action, unfortunately stigmatizes all those from preferred groups, including those who would have been successful had the system not been in operation.

In response Carter (1991 : 5) says that :

“We are who we are, and we are where we are. But no matter who we are or where we are our lives and careers will always be marked, fairly or not, by the era in which we came of age.”

It is argued that the presumption by White workers that a Black or female presence is explained only by preferential treatment means that a Black or female worker is under constant pressure to prove his/her worth (Thomas, 1992 : 2). This leads Blacks and females to doubt their own qualifications and ability, resulting in a lack of self-esteem and self-confidence. This resultant pressure and self-doubt has been described as the Token Black / female Syndrome. It undermines Black and female performance, thus making racist and sexist presumptions of inferiority superficially self-fulfilling (Mitchell and Arnott, 1992 : 13-16). It is apparent from this that, if Affirmative Action is viewed negatively, it can undermine the self-confidence of the direct beneficiaries of the policy, create dependency among them and result in their low productivity.

So-called Affirmative Action programmes, that enables Blacks and women to obtain desired positions without meeting the required standards, create a disincentive to personal effort. In this regard it is argued that Affirmative Action creates a reliance among the disadvantaged on government assistance (Innes *et al.*, 1993(a) : 64-70). The disadvantaged groups are, therefore, not expected to excel but to merely meet the minimum standards because of special preference granted through Affirmative Action. Van der Aardt (1994 : 94) theorizes that they do not have to excel since they can get by without exerting themselves to their maximum potential. The general view, therefore, is that government assistance replaces personal development as a vehicle for advancement. This impacts on White workers in that there is no incentive for White males to perform well because they feel that any extra effort on their part is a waste of time because of the fact that any promotion or desirable position will invariably be awarded to Blacks or women. Human (1993 : 5) disagrees with this; she maintains that many countries have implemented Affirmative Action without this problem.

Often those who implement Affirmative Action lose sight of the goal of a discrimination-free society by focussing on the goal of providing a sophisticated form of proportional representation based only on colour and gender (Boulle : 1986 : 2). In this regard Cohn (1988 : 250) cautions that Affirmative Action threatens, through quota system, to create fixed racial categories for the distribution of government employment.

Leonard (1985 : 6) contends that another challenge is the overwhelming cost of implementing Affirmative Action. He claims that the government should rather assist disadvantaged Blacks by concentrating on remedial efforts in other areas. On the contrary, Rosenfeld (1991 : 305) argues that administration costs of operating Affirmative Action plans are likely to be modest when compared to the large number of state-run programmes in a country.

Further, the distributive cost imposed on each individual member of society, attributable to losses in efficiency related to Affirmative Action plans, is also likely to be modest. In cases involving composite efficiency, an Affirmative Action plan may lead to overall efficiency. Rosenfeld (1991 : 305-6) quotes the example of an Affirmative Action plan, introduced to promote racial integration of a police department servicing a racially mixed area that resulted in reduction of racial tensions, increase in confidence in the police force, increase in rapport with the community and ultimately, the overall efficiency of the department.

Too often a hostile environment, where Whites are against Affirmative Action, results in slow progress of Blacks because of, among other things, a lack of support. In this regard Maphai (1992 : 7) advises that the environment in which people work and where Affirmative Action is in operation, must be a positive one - one of integrity that must include all levels of staff, otherwise it could do more damage than the decades of discriminatory practices. He also criticizes those Affirmative Action models that view development simply in terms of training Blacks and expecting them to function efficiently in a White world which, in his view, often remains fundamentally unchanged

and uncommitted to people development.

Lawrence (1987 : 7) warns that there is no guarantee that members of disadvantaged groups, who attain higher level positions in government through Affirmative Action, will automatically identify themselves or contribute to the upliftment of their own racial group. This was clearly evident in the case of Zimbabwe and Namibia (discussed in Chapter Four).

Persons from Black communities, employed in leadership and role model positions on the basis of tokenism (which is misconstrued for true Affirmative Action) could have a negative impact. They could contribute significantly to the political and economic weaknesses of these communities.

According to Dessler (1984 : 421), racial tensions are increased as a result of Whites feeling that their opportunities are being unfairly diminished by preferential treatment given to the so-called disadvantaged. Likewise in the USA the Bush and Reagan administrations cast some doubts on the benefits of Affirmative Action by stating to the public that Affirmative Action is somehow unfair to Whites (Asmal, 1992 : Conference, Durban). Zashin (1985 : 384-388), on the other hand, maintains that it is scandalous to lay this racial tension at the feet of Affirmative Action. He argues that there are many other causes of racial tension as well, such as economic recession and widespread unemployment.

According to Dessler (1984 : 60), Affirmative Action helps only middle class Blacks and women and fails to assist the most disadvantaged, who bore the brunt of discrimination most directly. This implies that Affirmative Action benefits the most talented at the expense of the least talented. Asmal (1992 : Conference, Durban) refutes such criticism maintaining that more affluent Blacks also suffered the same discriminatory laws as poorer Blacks but have succeeded through their own initiative despite the prohibitive apartheid barriers. Therefore, they should not be denied the benefits of Affirmative Action.

In response to the criticism that Affirmative Action favours the most talented or affluent over those who are less endowed, proponents maintain that it is not, strictly speaking, the product of Affirmative Action *per se* but that of equality of opportunity on which Affirmative Action is parasitic. According to Rosenfeld (1991 : 96) Affirmative Action's failure to cater for all those who are entitled to compensation should only be objectionable if Affirmative Action is meant to be the only means of compensation. If it is acknowledged that there are other means the argument falls away.

The above view, however, completely overlooks the gain to society in general that arises from middle class Blacks attaining positions of respect and power. Apart from serving as role models they open new avenues for other Blacks with potential. Rosenfeld (1991 : 293) points out that while Affirmative Action can legitimately serve the aims of Compensatory or Distributive Justice, improvement of prospects through preferential treatment only makes sense for those who already possess the minimal qualification necessary to perform satisfactorily in an academic programme or in a job. Favouring those who are not qualified on the other hand would not only be inefficient but self-defeating. Indeed awarding positions to those who are incompetent to handle them is unlikely to lead to integration or reintegration of those who were subjected to deprivation of socially relative assets into the mainstream of society.

Affirmative Action is also accused of leading to patronage, nepotism, corruption and mismanagement. Opponents claim that Affirmative Action is a guise for officials who wish to hire relatives and/or political supporters. Such individuals are often not qualified for the job and this frequently leads to mismanagement (Dessler, 1984 : 10).

Critics also maintain that the posts occupied are also often used for personal enrichment and corruption (Dessler, 1984 : 60). Such generalisation is refuted by both Asmal (1992 : Conference, Durban) and Human (1993 : 20) who maintain that Affirmative Action is conducted in a number of other countries without this problem. While there may be some truth in it, the main problem appears to be lack of accountability to some higher authority and, therefore, not significant enough to

become a generalisation.

According to Romano (1990 : 20) many covert and overt strategies of resistance at the workplace, some of which have already been touched upon, hinder progress in effecting Affirmative Action policies. Examples of some overt strategies are blatant discrimination, lack of training or developing of subordinates, communication barriers, anti-Black advancement sentiments. Covert resistance strategies take the form of setting people up for failure, biased appraisals of Affirmative Action beneficiaries, accusing the victim for management mistakes, subverting communication channels, discriminatory application of rules, hoarding information and creating an atmosphere of conflict within the institution.

Fulmer (1977 : 443) identifies another set of problems related to the work ethics of Affirmative Action candidates, which are : low rate of production, poor quality of work often resulting in excessive additional cost, high rate of tardiness, absenteeism and high staff turnover, uncertainty or hostility about work regulations and supervisory practices, sloppy or inconsistent work habits, inability to conform to demanding work schedule or strict regulations, fighting, loafing and interfering with another's work and slow progress. This, he attributes to the years of discouragement from White supervisors which the previously disadvantaged find difficult to overcome.

It is evident that there are negative as well as positive perceptions and attitudes to Affirmative Action. It also highlights the various challenges that confront its effective application. Nevertheless, advocates of Affirmative Action defend the continuation of such programmes. Therefore, in order that Affirmative Action and Employment Equity succeed a positive attitude towards it is important.

3.4 THE POSITIVE IMPACT OF AFFIRMATIVE ACTION ON SOCIETY

The advocates of Affirmative Action defend the implementation of Affirmative Action programmes on the following grounds, some of which are highlighted by Leonard (1985: 40) :

- Affirmative Action is regarded as a symbol of national purpose to bring Blacks and women in full participation into all aspects of society and, for this reason, earns the government's commitment to it.
- Higher-level positions, which are generally significant in employment systems for policy formulation and implementation, are relatively small. The increase in the number of persons from previously disadvantaged groups in such positions will in time contribute to accelerating the process.
- Greater racial balance in critical institutions such as the government will help increase tolerance for differences in society at large.
- Affirmative Action programmes contribute towards developing a Black middle class with high occupational status, a class of persons who, apart from serving as role models will ultimately be politically and socially influential in their own communities.
- Affirmative Action is a means by which the government can demonstrate that the public service itself can overcome the long-standing exclusion or absence of women and Blacks from the highest positions.
- Boule (1986 : 5) lends further support and elucidates moral arguments in favour of Affirmative Action. He maintains that it :
 - redresses past injustices suffered by a particular group by offering

compensation;

- leads to a more realistic reflection of society in whatever social institution it is applied; and,
- provides opportunities for individuals based not only on past performance but also on a holistic assessment of factors, including an estimate of potential future performances and so on.

Purcell and Cavannagh (1986 : 20) and Dube (1988 : 95) argue that Affirmative Action is necessary for the following reasons :

- It provides a realistic base for upward mobility of previously disadvantaged groups that would help reduce the existing gap between different classes and categories of the population and pave the way for an egalitarian society.
- Only through Affirmative Action can a society rebuild itself from the foundations upwards so that the most deprived begin to realise their human worth and potential.
- Affirmative Action is the only way of breaking the cycle of disadvantage by guaranteeing that, at the collective level and over time, covert discrimination cannot be practised.
- Such a policy would result in the emergence of a participative society with a share in decision-making powers extended to those who have so far been denied them. Such a policy can lead to genuine national integration and to equal participation of all sections in the development process.

Blanchard and Crosby (1989 : 94) argue strongly that Affirmative Action is necessary and it is the most effective strategy to achieve equal employment opportunities.

Moreover, they contend that colour-blind procedures in themselves are not sufficient to reverse the effects of years of personal and institutional discrimination. Ezorsky (1991 : 89) also underscores the benefit of Affirmative Action that through such programmes in academe children see more Black persons as teachers, administrators and professionals. Having such role models in academe tends to improve the self-image, vocational aspirations and learning ability of Black students. This could possibly increase the pool of qualified candidates available for training and employment, a development that is likely to raise standards.

3.5 CONCLUSION

A summary of the aforementioned discussion is encapsulated in the mind maps provided (refer to figures 4, 5 and 6). The respective mind maps refer to the attitudes to, and perception of Affirmative Action by opponents (figure 4); the attitudes to, and perception of Affirmative Action by proponents (figure 5) as well as the challenges, constraints and problems facing the implementation of Affirmative Action (figure 6).

One wonders whether the so called myths about Affirmative Action, so vociferously proclaimed by its opponents, existed when Affirmative Action of some sort for the White Afrikaners in South Africa was implemented during the early years of the nineteenth century. Sonn (1993(a) : 3), Innes (1993(b) : 4) and others claim that for many years White Afrikaners (mainly men), being favoured over others, were enabled to strive ahead with the help of the Broederbond, the civil service and parastatal employers.

A report by the 1904 Transvaal Mines Commission described the Afrikaner beneficiaries as **“incompetent and apathetic indigents who can hardly be considered in efficiency the equal of a native”** (Slovo, 1992, **Business Day**, 4 September). **“Yet these same pariahs were turned into skilled and efficient mine workers and managers”** (IDASA, 1995 : 3). For the same reason there is hope that similar or perhaps even better outcomes are possible in the new South Africa with Affirmative Action candidates - more so, because the practice during the apartheid

regime was not based on redress as Affirmative Action is, but on blatant White racism.

Colonialism, sexism and apartheid in South Africa prevented Black people and women of colour from getting an equal education and an equal opportunity to compete in the job market. Affirmative Action, is therefore, necessary, since merely preaching non-discrimination for Blacks and women will make little difference to the effects of past discrimination and of the systemic discrimination within organizations. This is a situation that South Africans can no longer afford morally, politically or economically.

Affirmative Action is just one strategy designed to provide justice and equality for the previously disadvantaged. **“It is a peaceful strategy for making a transition to a fair and equitable society”** (Fleming *et al.*, 1978 : 4). If society decides not to support Affirmative Action programmes in the future, such a course will not only hinder the advancement of justice, but it certainly cannot and will not stop the disadvantaged from striving to achieve what is rightfully theirs. There is no question that, if Affirmative Action fails, the previously disadvantaged citizens will seek new strategies, some of which may not permit the nation to move smoothly and peacefully to a more equitable society. Burke’s words epitomize such consequences :

“I do most seriously put to the administration to consider the wisdom of timely reform. Early reformations are amicable arrangements with a friend in power; late reformations are terms imposed upon a conquered enemy.”

(Peacock, 1993 : Preamble)

The following chapter deals with a historico-comparative study of Affirmative Action policies and procedures in six selected developed and developing countries. In the course of the discussion on Affirmative Action in the respective countries other perceptions, attitudes and challenges (sometimes unique to the specific country) would also emerge.

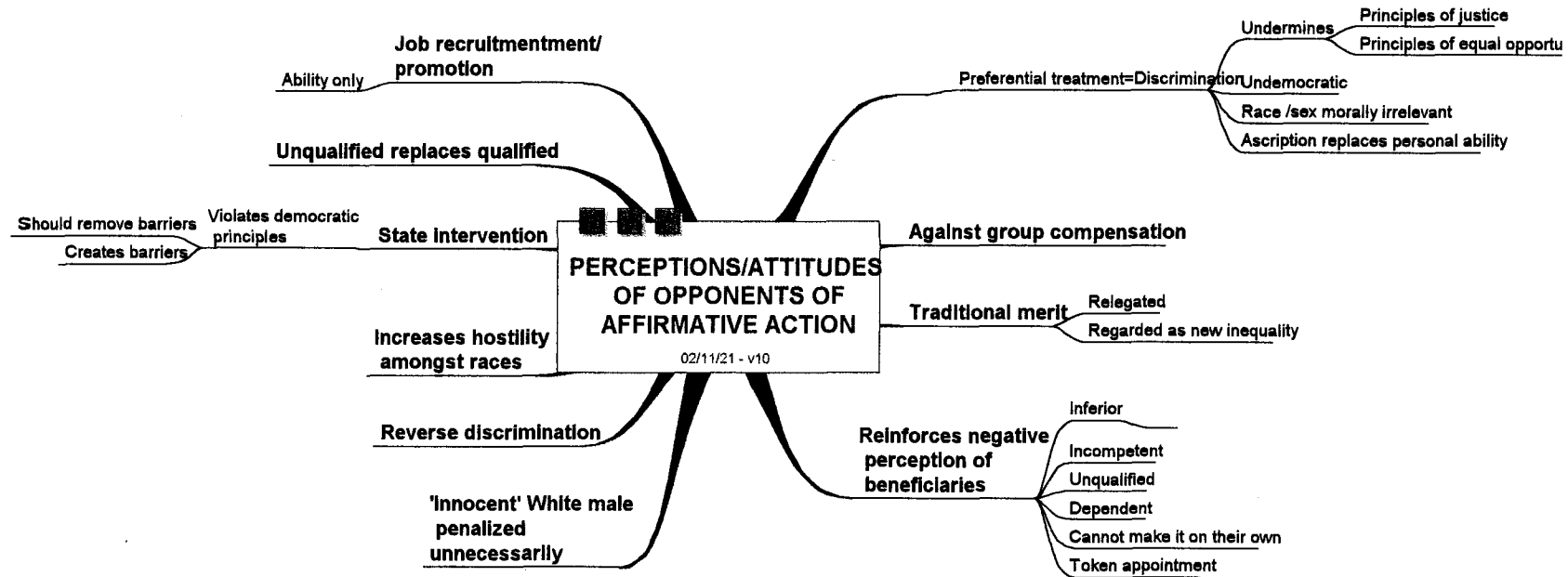


FIGURE 4 : SUMMARY OF NEGATIVE PERCEPTIONS AND ATTITUDES TOWARDS AFFIRMATIVE ACTION

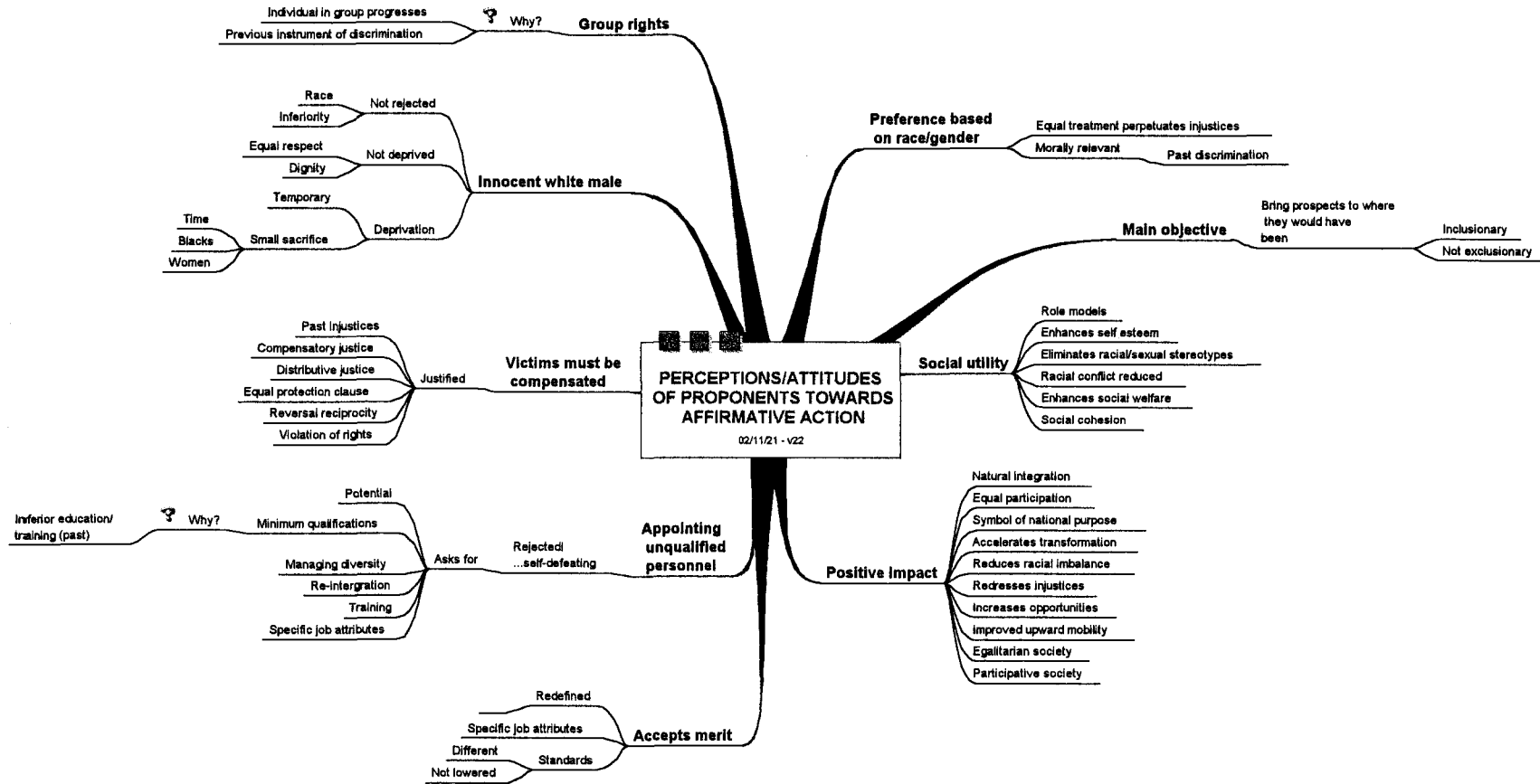


FIGURE 5 : SUMMARY OF POSITIVE PERCEPTIONS AND ATTITUDES TOWARDS AFFIRMATIVE ACTION

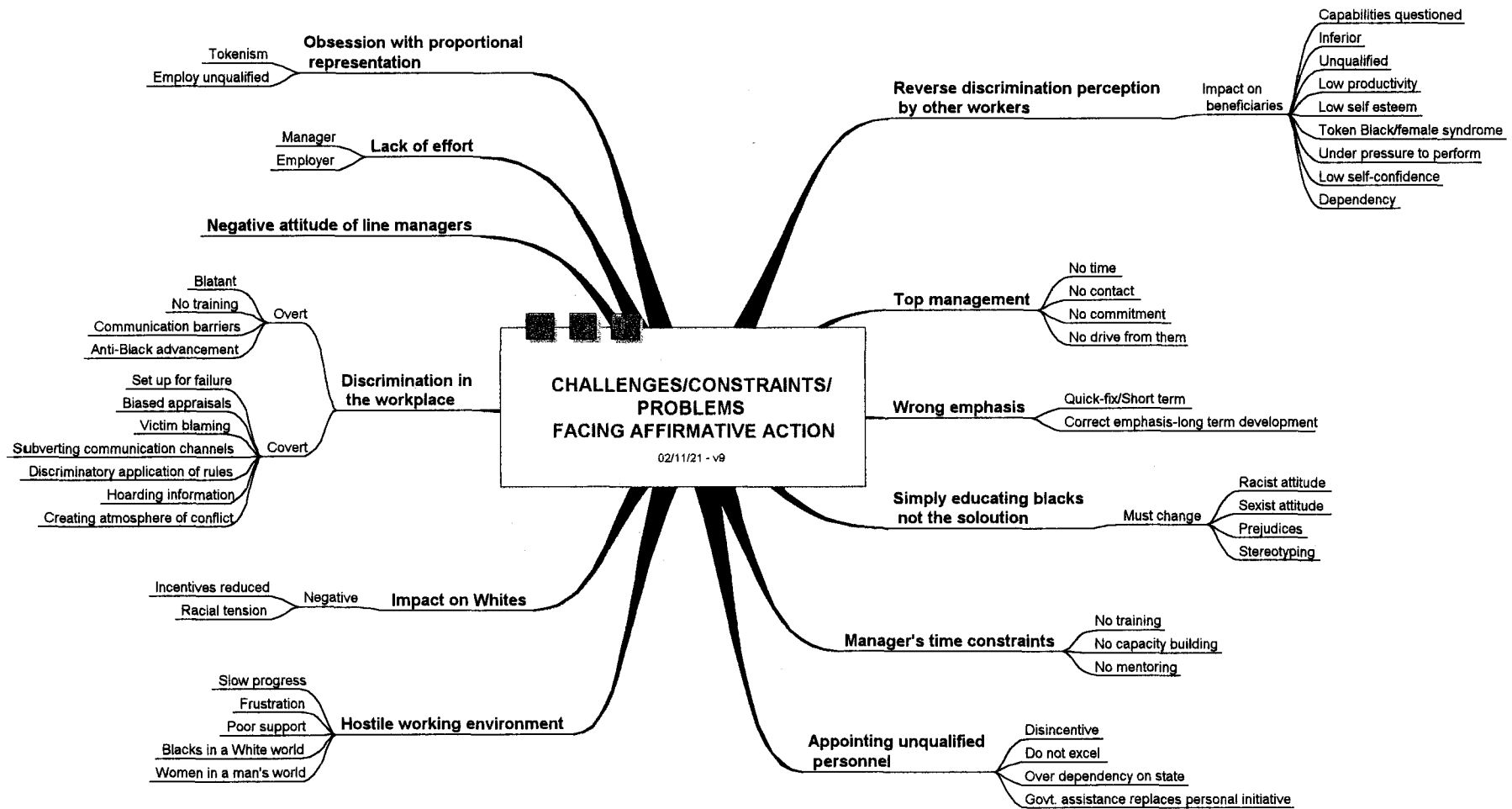


FIGURE 6 : SUMMARY OF CHALLENGES/CONSTRAINTS AND PROBLEMS FACING AFFIRMATIVE ACTION