

COVID-19 and Affirmative Action: A Response

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Abstract

Ovett Nwosimiri argues in a paper he published in 2021 that affirmative action and preferential hiring policies are no longer appropriate for South Africa because of the economic impact of the COVID-19 pandemic. The case he makes is that since COVID-19 has impacted people of all races, there should no longer be any consideration of race in hiring policies and practices. He claims that continued preferential hiring practices unfairly discriminate against non-designated groups. I argue that this claim presumes that the pandemic has been a devastating but equalizing force in economic opportunity and participation for people in South Africa. I show that this claim is simply false and that the falsity of his claim undermines Nwosimiri's case. Nwosimiri does not take account of the false premise his case is founded on because of his inappropriate methodological choice to ignore empirical evidence that has bearing on his argument.

Keywords: Affirmative action, Preferential hiring, Race-based policy, Apartheid, Economic justice

Introduction

South Africa is notorious for its policy of Apartheid which was a complete socio-political and economic system of White supremacist segregationist exploitation. Following on from earlier colonial racial exploitation often codified in law (e.g., see ADHIKARI 2005, 3), the numerous discriminatory practices of South Africa set a hierarchical colour bar for various industries with White people at the top and Black people at the bottom. "Discriminatory legislation and social practices in pre-democratic South Africa led to a labour market strongly stratified by race, with whites holding the most-skilled and best-paying jobs" (GRADÍN 2019, 573). The introduction of several laws in education, training, and formally enacting job reservations favouring White people affected even the most mundane of professions over this period (KENNY 2020). The result of this has been that the present-day economic structure of South Africa resembles and is continuous with that of Apartheid (FRANCIS, VALODIA, and WEBSTER 2020; GRADÍN 2019). In the first few years of democratic South Africa, correcting this inequitable and unjustly created imbalance was seen as a top priority for the 'new' amalgamated government. One of the measures taken by this government was to repeal racist

discriminatory legislation and introduce corrective legislation in its place. The repealing of a suite of Apartheid laws, including job reservation legislation was followed by the Employment Equity Act, No. 55 of 1998. This development was in line with global lessons “from other societies, such as the United States or Latin American countries, [that] indicate that removing all discriminatory legislation is not enough to eradicate racial discrimination and segregation” (GRADÍN 2019, 573).

The Employment Equity Act contains affirmative action legislation or policy in Chapter III of the Employment Equity Act of 1998. Affirmative action targets designated groups which have historically been unfairly excluded from the workplace and opportunities thereof (LEE 2020). The Employment Equity Act aims to achieve employment equity in the South African workplace. The Preamble of the Act gives its rationale as an effort to redress the employment and broader economic imbalances caused by Apartheid and other discriminatory laws and practices. The focus of my comment here is on racial inequities. In the words of the legislators, they explain that “as a result of apartheid and other discriminatory laws and practices, there are disparities in employment, occupation and income within the national labour market” (DEPARTMENT OF LABOUR 2014). It is recognized that these “disparities create such pronounced disadvantages for certain categories of people that... cannot be redressed simply by repealing discriminatory laws” (DEPARTMENT OF LABOUR 2014), hence the interventions introduced by legislation such as the Employment Equity Act and others (see MCGREGOR 2007).

The Employment Equity Act and all its amendments identify “designated groups” as women, people with disabilities, and Black people in the broader inclusive sense of ‘Black’. The category ‘Black’ is not always used in this inclusive fashion, but the understanding of who is Black in this Act (and related legislation) includes “Black Africans, Coloured people, and Indian [or Asian people]” unless otherwise specified. In a similar vein, the Broad-Based Black Economic Empowerment Act 53 of 2003, and its more recent amendments, states that ‘Black people’ “is a generic term which means Africans, Coloureds and

Indians” (THE SOUTH AFRICAN GOVERNMENT 2014).¹ The category ‘Indian’ is also often used ambiguously to include people of Chinese and East Asian descent so that the category is referred to as “Indian/Asian” in a generic sense. Importantly, the classifications Black African, Coloured, Indian or Asian, White, and Other are defined as *population designations* rather than as *race groups* by the official government statistical agency, Statistics South Africa.

Nevertheless, their population designation groups are demographic population groups purposefully designed to correspond to Apartheid race group classifications. These demographic population groups are groups “with common characteristics (in terms of descent and history)” (STATISTICS SOUTH AFRICA 2010, 72). For the purposes of this essay, I will be using the population group terms used in the abovementioned Acts and Statistics South Africa as classifications that refer to the demographic groups relevant to this discussion.

¹ The terms in official use as seen in this description can be problematic because the demographic categories used refer to different kinds of group identifiers that can create redundancy and/or contradiction if not just confusion. For instance, the use of the category ‘African’ as distinct from ‘Coloured’ seems to raise a tension about how Coloured identity is constructed in South Africa (cf. ADHIKARI 2005). That there are Africans, such as peoples included in the racial classification Coloured, not counted in this use of the term ‘African’ make this use of terminology incomplete or inconsistent, causing confusion. This confusion has deep historical roots, but it is also connected to the social distinctions that have been made between *population concepts* such as ‘African’ and *racial concepts* such as ‘Black’ in South African race discourse (MSIMANG 2021). With a more recent recognition of shared African heritage between indigenous groups in South Africa, this has not been accompanied by a reconfiguration and transformation of the politics of racial identities or racial classification. Thus, a sensitivity to the idiosyncrasies of the contemporary political construction of race needs to be considered as racial classifications do not have a simple relationship with the facts of heritage such as continental group population belonging, shared ancestry, or culture. Perhaps in an attempt to have such sensitivity and avoid confusion, but by so doing creating ‘new’ confusions (e.g., about who are African people), government uses these categories as only demographic groups rather than as racial classifications. Nevertheless, their demographic groups are designed to have a direct correspondence to Apartheid racial categories for the purposes of addressing historical injustices, leading to some of these challenges in their use of a mixture of group-identifying concepts. It is the interchanging of race-based terms with population-based terms that causes some of this confusion. I do not subscribe to views such as Chimakonam’s who claims that “either we are uncritical in holding the views that people are black or white, or we are acting immorally by holding such views” (CHIMAKONAM 2019, 2) because I hold that racial classifications can be used for functions beyond racism and can help us in our anti-racist efforts in at least allowing us to collect data on issues pertaining to racial (in)equity such as in the discussion in this paper.

This discussion will be looking at the case against affirmative action made by Ovet Nwosimiri, which he bases on an argument constructed from philosophical sources (see NWOSIMIRI 2021). When Nwosimiri speaks about affirmative action and preferential hiring in his paper, he is “referring to the preference [to hire] black [people] (and women) South Africans over white South Africans (and people of other nationalities)” (NWOSIMIRI 2021, 12). Other aspects of preferential hiring are not dealt with in his paper. He specifically finds exception with—and only focuses on—why Black South Africans should be preferred over White people and people of other nationalities.

Affirmative action policy in South Africa has rightly been criticized and sometimes condemned given some of its formulation as Black Economic Empowerment (BEE) policy. Criticism of BEE policy in all its updated iterations centre on the observation that it has been used to favour the politically connected over the betterment of the groups it is meant to support. It is unclear why our policies do not exclude the ‘creamy layer’ of elites and focus on the disadvantaged in their affirmative action policies (cf. GURURAJ et al. 2021). Moreover, industry often exploits BEE policy to win contracts and fulfil their institutional interests whilst treating the problems for which BEE policies are designed to intervene as secondary or irrelevant (MAKGOBA 2019).

South Africa is one of the most unequal countries in the world, with most of this economic inequality being gendered and racially structured – even in the fallout of the COVID-19 pandemic (CASALE and POSEL 2021). Inequality in South Africa is a serious historical problem that has proven to be stubbornly persistent (ZIZZAMIA, SCHOTTE, and LEIBBRANDT 2019). The so-called new South Africa is in many ways a continuation of a structurally racist society (KINCAID 2018, 16). Unfortunately, we are nowhere near solving the problem of inequality, including the racial character of this inequality in South Africa (GRADÍN 2019). The health and economic consequences of the COVID-19 pandemic have only made this situation more dire (CASALE and Posel 2021) with the pandemic highlighting and exacerbating the aforementioned inequalities (FRANCIS, VALODIA, and WEBSTER 2020, 343). Under these conditions, Nwosimiri asks us “given the COVID-19 pandemic and the fact that job losses affected people of all races, should affirmative action policies and preferential hiring still be considered in South Africa?” (NWOSIMIRI 2021, 2).

In the rest of this paper, I argue for why we should still consider affirmative action policy and challenge Nwosimiri’s argument for why he thinks that we should not. I do this by undermining some of the major claims he makes in his paper and questioning his decision to forgo the consideration of empirical evidence that has a bearing on his case. I will frame the question about affirmative action and preferential hiring as one about justice. Then I will highlight evidence that the job losses during the pandemic have not been an equalising force across race groups, meaning that the pandemic has not altered the structural conditions of

economic participation in employment towards non-racialised conditions. To the contrary, I discuss some recent research about employment bias that shows that designated groups are still disadvantaged in the workplace and have a more difficult time finding work than equivalent employees from non-designated groups. The argument that I present is that if affirmative action policy and preferential hiring practices were justified before, the pandemic has only strengthened their case given the racially differential burden of loss and suffering experienced during this time that is continuous with (and has exacerbated) the racial inequities established through colonialism and Apartheid in South Africa.

A Case of Misdirection about AA policy: (Mis-)using the COVID-19 Pandemic

The debate about affirmative action remains important and controversial in many respects, not the least of which is how it may affect the economic prospects of entire demographic groups (GURURAJ et al. 2021). For this reason, it remains a publicly contested topic and a central talking point in South African politics (LEE 2020).

Nwosimiri argues that since COVID-19 has affected the entire South African population, we need to rethink the management of our economy. Specifically, he argues that COVID-19 has changed the economic landscape such that preferential hiring policies should be abandoned. He makes such predictions and recommendations as the claim that for “South Africa to get out of its (post)-COVID-19 slump, every qualified individual in the country should be given job opportunities to uplift the economy given that the pandemic did not choose a certain race, sex or nationality to affect” (NWOSIMIRI 2021, 15).

Nwosimiri’s argument amounts to the claim that “the COVID-19 pandemic affected everyone in one way or another and did not discriminate” (Nwosimiri 2021, 15). From this, he surmises that “affirmative action and preferential hiring should not be considered in South Africa” (NWOSIMIRI 2021, 15). Against the implementation of affirmative action policy, he argues that jobs ought to be equally divided amongst everyone that has lost their jobs due to the pandemic. Employers should have nothing but the company’s best interest when they are choosing candidates for a job. Race, sex or nationality should not be a priority when engaging potential candidates, but the best-qualified candidate should be chosen... everyone should be given an equal platform and opportunity to prove themselves in workplaces, regardless of their race, sex, nationality and so forth.” (NWOSIMIRI 2021, 15)

Without getting into a debate about the values promoted above, we can simply note that there are tensions in the above statements. One is the suggestion that jobs be divided ‘equally’ whilst employers are meant to only consider the company’s best interest when choosing candidates. Moreover, only considering

the company's best interest may conflict with the social goal Nwosimiri assents to of having a more inclusive workforce and a less economically unequal society. My discussion of Nwosimiri's case will not focus on these and other internal tensions in his statements. Rather, my focus is on how his claims about the South African economy are false and do not support his view.

I argue that his case against affirmative action is baseless since it rejects empirical evidence unjustifiably and does not ground its case in the actual economic state of affairs we find ourselves in (i). I take note of the fact that affirmative action can make people uncomfortable or even unhappy, as Nwosimiri suggests, but I argue that despite this being a legitimate concern and consideration it gives us no guidance on whether affirmative action is just (ii). I then follow with an argument against Nwosimiri's intimation that there is not a space for White people and people of other nationalities in the South African workplace. I do this by making recourse to present trends in the labour market that show a disproportionate share of employment for a group he argues we need to make (more?) space for. I suggest, conversely, that more needs to be done for employment equity for other segments of populations in South Africa (iii). I stress that it is important to take into account the demographic history and structure of loss, suffering, and misfortune that has befallen communities in order to make fairer socioeconomic interventions and that the demographic dimensions of the effects of the COVID-19 pandemic support rather than undermine the targeted interventions of affirmative action policy (iv).

(i) No empirical findings

A serious limitation of Nwosimiri's argument is that it does not engage with relevant employment statistics despite making recommendations on what it is we should do about employment. He justifies this by stating that his "paper is philosophically based" (Nwosimiri 2021, 2). By this he means that he will rely on "published books and articles [in philosophy]... as opposed to empirical findings" (NWOSIMIRI 2021, 2).

But one cannot simply forgo empirical evidence and make a case despite what empirical evidence may pertain to an argument. There must be principled—sound—reasons why the matter is not dependent on empirical considerations. To merely state that a case is "philosophically based" does not justify a turn away from observational or statistical evidence, especially when such evidence has a bearing on the case being made. To be philosophical is not to ignore empirical evidence out of hand.

Nwosimiri, nevertheless, does selectively cite empirical evidence about South Africa's economic state of affairs. Despite framing his enquiry as 'philosophical', Nwosimiri depends on unemployment statistics to make the case that COVID-19 has impacted South African economic activity and participation negatively. He does this in a three-page exposition discussing job loss statistics

close to the entirety of his section “COVID-19 and Job Losses” (Nwosimiri 2021, 4–6).² He says of the statistics that they “clearly [show] the devastating effect of the coronavirus and lockdown on people and jobs” (NWOSIMIRI 2021, 5).

Nwosimiri’s reliance on job loss statistics to illustrate the seriousness of job losses suffered due to the pandemic shows recognition, to some extent, that his is not only a ‘philosophical’ argument but is an argument dependent on the actual economic situation in South Africa. So even if we were to accept his version of a ‘philosophical approach’ to the question, we find that he does not follow his own provision for what his argument is meant to be based on. By this token, we can consider his rejection of empirical evidence as selective and inconsistent. Empirical evidence does have bearing on his case in his own account.

Furthermore, Nwosimiri is making an empirical claim when he says that “the COVID-19 pandemic... did not discriminate” (Nwosimiri 2021, 15). From this claim, he argues that “considering the current situation caused by the pandemic, race, sex, and nationality should not be a priority when engaging candidates” (NWOSIMIRI 2021, 15).

I put to question the premise upon which Nwosimiri bases this argument. If his premise is false, then his argument and his subsequent conclusion about affirmative action do not follow. For us to know whether it is true that the effect of the pandemic did not discriminate – that it was not biased – we need to look at the empirical evidence collected about how different groups have been affected by the pandemic. For the purposes of this argument, I will make recourse to official South African labour statistics. I present these statistics in (iii) and (iv) to demonstrate that the economic effects of COVID-19 have disproportionately affected the same demographic groups affirmative action policy is targeted at assisting. I argue that empirical evidence undermines Nwosimiri’s case against affirmative action.

(ii) *It is about our feelings*

Nwosimiri recounts a standard argument for affirmative action policy in South Africa. He argues that the rationale for affirmative action and preferential hiring policies is to correct the injustices of the Apartheid era (NWOSIMIRI 2021, 13–14). Stronger claims than those he reviews are often made for affirmative action and why it is necessary when the wrong of Apartheid is viewed in its larger historical setting as an episode in a longer racially exploitative system of domination with its roots in colonialism and its laws (see MCGREGOR 2006; cf.

² It is significant to note that none of the statistics he cites breaks down job losses by demographic. It is arguable that if he did cite job loss statistics by population group/demographic, his case would not get off the ground. See (iv) for a discussion of this point.

DLADLA 2017; MODIRI 2020). The view that Nwosimiri is describing is weaker and concerns itself only with the wrong of Apartheid narrowly construed. What affirmative action is meant to remedy in this construal is simply the inequities created by the discrimination of Apartheid.

Nwosimiri suggests an awareness that the pandemic has not changed the historical facts that have established racial inequality in South Africa – the historical facts supporters of affirmative action tend to use to establish their case. In arguing for his view, he summarises the pro-affirmative action stance under the present pandemic thus:

...whether [we are in a] pandemic or not, there is still a need to make amends for the historical injustices through the compensation of jobs. Therefore, affirmative action and preferential hiring should still be considered and is very much needed; it is one of the many solutions that will help South Africa bridge the inequality gap. (NWOSIMIRI 2021, 14)

Discrimination under Apartheid was White supremacist and was designed to specifically advance and benefit White people at the expense of the rest of the people in the country. The consequence of this system of discrimination and domination, a part of the *longue durée* of the colonial and racially-biased exploitation of South Africa, is the hierarchical economic structure we have maintained well into democratic South Africa (see GRADÍN 2019). Nwosimiri mentions some of the ways COVID-19 has exacerbated the economic problems of South Africa, including the concentration of poor economic outcomes for certain demographic groups. He notes:

South Africa is suffering from an infamously high level of inequality marked by the Gini index. The high level of inequality display[s] itself in various ways. Some of the ways include racialization and regional differences, income distribution and unequal access to opportunities. To this, social and economic divides between white and black South Africans exist, and *these divisions have been made worse by the coronavirus pandemic*. (NWOSIMIRI 2021, 12; emphasis mine)

The significance of this observation is lost on Nwosimiri in respect to what it means for his case against affirmative action. He reasons from this problem that “affirmative action and preferential hiring are measures employed to redress the injustice of apartheid which affected just a section of the people, whereas the COVID-19 pandemic and the attendant economic downturn affected not just a section but all” (NWOSIMIRI 2021, 14). He argues from this that affirmative action and preferential hiring practices should be abandoned.

Yet his observation of disproportionality in the economic effects of COVID-19 creates problems for this conclusion, particularly the premise it is

based on. The observation of disproportionality in the demographic effects of COVID-19 stand in direct contradiction to other claims Nwosimiri makes, like his claim that “COVID-19... did not discriminate” (Nwosimiri 2021, 15). This is a serious oversight because, as I will show in (iii) and (iv), the recognition of the disproportionality in effect and affect undermines Nwosimiri’s argument by contradicting the premise upon which it is built. If COVID-19 did not have South Africans lose their jobs equally (and is not an equalising force), how could Nwosimiri justify the claim that the effects of the COVID-19 pandemic have made consideration of demographic group belonging, particularly in terms of race and nationality, irrelevant?

Nwosimiri deals with the objection that the pandemic has affected some groups disproportionately by pointing out that he doubts that white South Africans (and people of other nationalities) living in South Africa can in good faith feel happy that they lost their jobs because of the pandemic, and also knowing that there are high chances that in the (post)-COVID-19 black South Africans stand a better chance of getting a job that they (white South Africans and people of other nationalities) are best qualified for (NWOSIMIRI 2021, 14).

Nwosimiri is inviting us to consider how affirmative action and preferential hiring policy make people feel when they are disadvantaged by such policies. This is a legitimate concern and consideration (LEE 2020), yet it is not clear how this concern or consideration as presented relates to whether it is just for us to have preferential hiring and affirmative action policies. Nwosimiri uses our sympathy and duty of care for the misfortune of people who have lost their jobs or will lose out on opportunities to persuade us against preferential hiring policies. But having the ability to sympathise or empathise with the misfortune of other people does not mean that affirmative action and preferential hiring is or is not the correct course of action to take.

At this juncture, Nwosimiri makes several claims that are relevant to this discussion. The first is that White South Africans and people of other nationalities are (can be?) best qualified for the jobs available in South Africa. This is an empirical matter, and one which I presume should be settled on a case-by-case basis. The second is that Black South Africans have a much better chance of getting a job than other groups. Relating the first claim to the second, Nwosimiri claims Black South Africans’ chances are so good that they have a better chance of getting a job than Whites and people of other nationalities who are—purportedly—best (or better?) qualified for these jobs. That Black South Africans have a better chance of securing a job than Whites and people from other countries is simply not the case given the statistics on the absorption rate of job seekers into the labour force we will review in (iii) (see also Figure 1).

We must admit that it would be unusual for someone who must miss out on an opportunity or meaningful employment to be happy about it. Nwosimiri is

right to point out that being overlooked for an opportunity because of affirmative action is unlikely to make anyone happy. Nevertheless, that any such person would not be happy does not tell us whether they understand or agree with the reasons why they would be passed over for particular opportunities. Moreover, and more to the point, whether certain individuals or groups are happy about affirmative action does not give us any insight into the rightness or wrongness of affirmative action policy and whether we should pursue it.³

Nwosimiri is suggesting that since White South Africans and people of other nationalities would not feel happy about being passed over for opportunities because of affirmative action or preferential hiring policies, we should not employ such policies. If the argument for implementing affirmative action policy is one about justice, it does not seem directly relevant that some people would not feel happy. The question would rather be if affirmative action promotes justice or not. That some people will not be happy is not enough reason not to undertake such action or follow such policies – unless, of course, it is viewed as a greater injustice that some people would not feel happy about affirmative action and preferential hiring than its implementation. Deference to the feelings of those who miss out on opportunities because of affirmative action is a rhetorical strategy that functions to shift the argument from one about whether affirmative action is just to an argument about prioritizing certain groups' feelings above the question of justice. What must be noted about these kinds of arguments is that they do not consider the feelings of the groups that would be the beneficiaries of affirmative action, especially in how they would feel and continue to feel about their marginalization under present conditions. If we are to consider how the use or non-use of affirmative action has affect, then the feelings of the possible beneficiaries of such policies should also be considered. But beyond the concern we share about how people may feel about affirmative action, we want to know if affirmative action is just.

(iii) There is no space for Whites (and people from other countries)

In making his case for the employment of White people and people from other countries, Nwosimiri says that he is “not in any way suggesting that they should be preferred to black South Africans” but that he wishes “to suggest that something needs to be done to make space for them [White people and people of other

³ If we were to find that most people do not enjoy paying their taxes, and that paying taxes does not make them happy, it is an insufficient reason for us to stop paying taxes given what the rationale or reason is for us having to pay taxes is in the first place. The same can be said with the implementation of affirmative action policy. The rationale and justification for the policy is where our focus should lie although it is polite *and* good to also consider and address people's feelings.

nationalities] in the workplace” (NWOSIMIRI 2021, 14). He goes as far as to say that employers are subjected to the hiring of blacks and female South Africans as opposed to white South Africans (and people of other nationalities) who are more qualified. This evidently shows that black and white South Africans (and people of other nationalities) do not have an equal right to the job advertised (NWOSIMIRI 2021, 11).

Nwosimiri’s suggestion that something needs to be done to make space for White people and people of other nationalities in the workplace presumes that they do not have space in the workplace. What Nwosimiri is suggesting is that White people and people of other nationalities are unfairly disadvantaged by affirmative action and preferential hiring policies. This is a claim we can put to the test by looking at what hires have been made since institutions in South Africa have been implementing affirmative action and preferential hiring action policies.

South Africa has mandated affirmative action policies for decades and incentivizes the hiring of designated groups whilst still routinely employing people from all race groups and nationalities. As I have mentioned elsewhere (MSIMANG 2022, 13–14): employment statistics show that White people, for example, have the highest absorption rate into the labour force of 61,6% in the first quarter of 2021 as compared to 48,3% for Indian/Asian people, 42,9% for Coloured people, and 35% for Black people (Statistics South Africa 2021, 28–29). Whites enjoy the privilege of being both the most desired workers in the economy and those who also land jobs that tend to pay them better than other demographic groups, for a variety of reasons. How we know that Whites continue to be *unfairly* favoured by employers is that “segregation and stratification” in employment “remain when blacks and whites with similar characteristics are compared” (GRADÍN 2019, 553; cf. NAIDOO, STANWIX, and YU 2014).

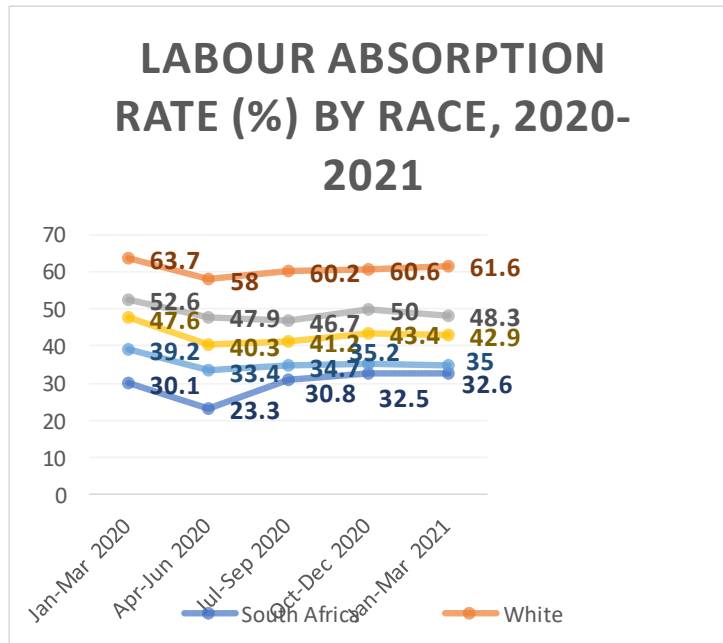


Figure 1: White people as a demographic have the highest absorption rate in the country, meaning they are the most likely to group to secure employment. This has been the case throughout COVID-19. This employment preference for White people continues a trend that begins before the pandemic. The source of this data is the Stats SA Quarterly Labour Survey 2021 Q1 (STATISTICS SOUTH AFRICA 2021).

White advantage in employment – and the overall Apartheid structure of employment in SA – is a fact reflected by Whites as a demographic having the lowest unemployment rate in the country of 8,1% compared to Black people at 36,7%, Coloured people at 25,2%, and Indian people at 14,9%. Whites also enjoy the highest labour market participation by population group of 67,1% as compared to Black people at 55,3%, Coloured people at 57,3%, and Indian/Asian people at 56,8% (STATISTICS SOUTH AFRICA 2021, 28–29). Although some White people are economically vulnerable and poor, White poverty in 2015 was at about 4%, whereas poverty for Black African population was at about 71% (FINN 2015, p. 7). The unacceptable problem of poverty is concentrated in the Black

populations of South Africa, especially Black Africans and Coloured people (see Figure 2).⁴

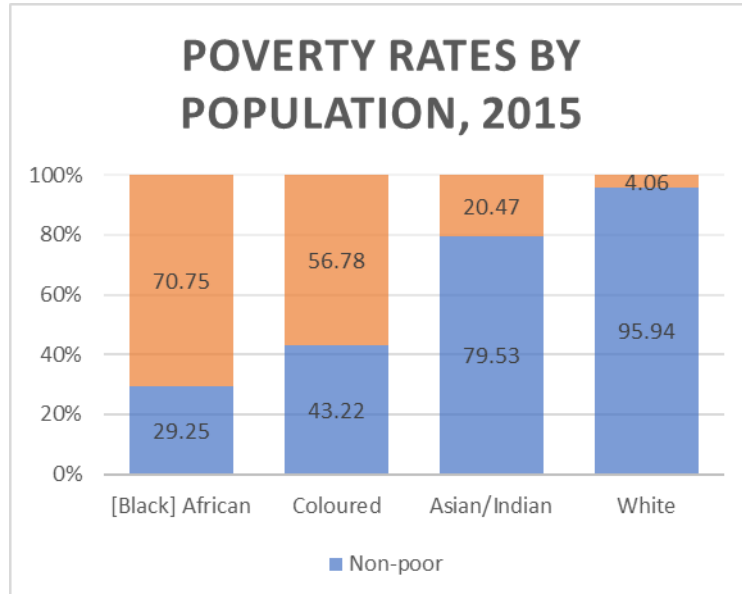


Figure 2: Poverty rates from Finn (2015, p. 7) A national minimum wage in the South African labour market context. Last accessed on 29 June 2021, retrieved from: <http://nationalminimumwage.co.za/wp-content/uploads/2015/09/NMW-RI-Descriptive-Statistics-Final.pdf>

There are numerous reasons for why Whites in South Africa enjoy the highest absorption rate into the South African labour force, but of importance to us in this debate is that one of the reasons is racist favour and discrimination. Despite such behaviour going against the Employment Equity Act among other legislation – and despite it going against the purported social contract of the ‘new South Africa’ – general economy-wide hiring practices and the work of private recruitment agencies show that racist discrimination against people who are not White and a preference for White candidates still plays a significant role in our inequitable

⁴ I was not able to secure more recent estimates of poverty by racial population group from Statistics South Africa.

employment outcomes even when we have controlled for relevant factors such as age, education, experience, and skill level discrimination (GRADIN 2019, 553; MARTIN and DURRHEIM 2006).

In the profession of philosophy in which Nwosimiri and I work, a recent study of universities showed that Whites made up 80,2% of the teaching staff in the institutions that participated (PAPHITIS and VILLET 2017, 8) despite White people only making up about 8% of the country's population in the same period (STATISTICS SOUTH AFRICA 2017). People of nationalities other than South African made up about 20% of the staff compliment of these universities with about 80% of those people of other nationalities being European (PAPHITIS and VILLET 2017, 8). What was interesting to note here is that of the Black staff compliment of these universities of about 10,9%, 62,5% of them were Black people from South Africa and 37,5% of them were non-South African Blacks (PAPHITIS and VILLET 2017, 8). Although the samples used in the report were not comprehensive or necessarily representative of the entire South African university landscape, particularly in philosophy, what we can take away from the statistics available is that there is space for White people and people from other countries in our employment practices in philosophy. All South African demographic groups other than Whites are under-represented in the academy, and Black people from other countries have better representation in the academy than Black, Coloured, and Indian people from South Africa.

White people are generally overrepresented in the workplace, with their concentration relative to economically active population size increasing in overrepresentation the higher up institutions and economic strata one goes (DEPARTMENT OF LABOUR 2019, 15–19).⁵ The Department of Labour's *20th Commission for Employment Equity Annual report 2019-20* notes that there is an employment "preference of Foreign Nationals rather than SA Nationals at entry occupational levels" (Department of Labour 2019, 1). They also noted that, at managerial levels, "White people and Foreign Nationals account for 62% in 2018 (58%: 2017), with Black [men] recording 16,76% (20%: 2017) and [women] at 21,63% (18%: 2017)" (DEPARTMENT OF LABOUR 2019, 6). The demographic characteristics of foreign nationals preferred at entry level positions compared to foreign nationals absorbed into management positions is a significant factor of consideration but one which I will not address. What is relevant at this juncture of the argument is that this trend in the labour market shows a year-on-year increase in the proportion of White and foreign national management, for instance, which suggests that there is space for these workers in the employed workforce. Despite some controversy on points of equity, White people and people from other countries rightly continue to be hired because our preferential hiring practices do

⁵ This is also true of the Indian/Asian population, but to a lesser extent than Whites (see Department of Labour 2019, 15–19).

not exclude anyone from employment; there is only a preference for certain candidates so that we can have a more equitable workplace and a less unequal society. Statistics and present employer behaviour are not consistent with the view that there is no space in the workplace for White people and people from other countries. These statistics suggest quite the opposite. It is arguable that there is evidence of the continuation of the historical marginalization of South African Black and Coloured peoples from economic participation despite strides in other directions in employment equity.

What, then, could Nwosimiri mean by suggesting that something is to be done to make space for White people and people from other countries in the workplace? There is demonstrably space for them in the workplace, and Whites in particular are over-represented in the workplace because of historical legislated discriminatory practices and current systemic issues (see DEPARTMENT OF LABOUR 2019). The argument Nwosimiri makes is redundant if its purpose is to 'make a space' for White people and people of other nationalities in the workplace since they already have a space in the workplace. This leaves an alternative function for Nwosimiri's argument: it is not about making a space for these groups in employment but, rather, to reject affirmative action and preferential hiring practices even at the expense of maintaining or increasing present levels of disproportional representation. The problem with this approach is that it is based on false claims about present employment dynamics that also misleads on the actual demographic constitution of the South African workforce. By this token, Nwosimiri's policy suggestion to rid ourselves of affirmative action and preferential hiring policies does not follow from the conditions upon which his case rests.

In the broader policy debate and social discussion in South Africa about the legitimacy or illegitimacy of affirmative action and preferential hiring policy, Nwosimiri's view and rhetorical strategy are not unique. How the argument against affirmative action is meant to be persuasive here is by appealing to a fear of people who are not White being unfair, and a fear that Whites and people of other nationalities will be (or are already being) unfairly discriminated against. There truly is this moral risk inherent in setting out preferences in employment. We do not want to have discrimination re-emerge as the marginalization of different groups depending on who is writing the laws. The fear and concern appealed to in Nwosimiri's case can be found in political parties such as the Democratic Alliance who take explicitly anti-affirmative action stances (see AFRICA 2019, 379), some of which arguably should not be controversial (such as means testing), and in the reports of civil society actors like the South African Institute of Race Relations (MSIMANG 2022). But given the data available on this issue, such as the data I have just reviewed, their fears and concerns about affirmative action and preferential hiring policies are not justified by actual hiring

practices. Affirmative action and preferential hiring has not led to a situation in which Whites and people from other countries are excluded from the labour market and employment. The argument that Whites and people from other countries are being unfairly discriminated against in hiring practices is not reflected in the data on the economic participation and absorption rates of the labour force. The fear of affirmative action being ‘reverse Apartheid’ or ‘reverse racism’ is not borne out by present and historical trends in recruitment, participation, stratification, and economic segregation. In fact, these trends suggest that people who are not White are still unfairly discriminated against in the work place.

Recent studies “have not found compelling evidence to supporting the idea that the distribution of occupations has been effectively either [racially] desegregated or [racially] destratified in post-apartheid South Africa” (GRADÍN 2019, 573), a situation also reflected in the country’s continued dire inequality (Francis, Valodia, and Webster 2020). There is a deeply racial dimension to the economic problems of South Africa, parts of which are still driven by racism and a preference for Whites in the workplace (GRADÍN 2019; NAIDOO, STANWIX, and YU 2014; MARTIN and DURRHEIM 2006). Furthermore, inequality in South Africa is also driven by systemic forces and is often the result of the structurally racist organization of our society (KINCAID 2018, 16). This suggests that the problem of inequality cannot be understood or effectively solved by looking at the problem from the level of the individual alone. It is evident that this problem is one with particularly demographic components, so the challenge is also one that needs to deal with the demographic realities of the problem even if in some policy arrangement we are yet to formulate. Echoing Steven Freedman on the Democratic Alliance’s ‘non-racial’ (race-blind and colour-blind) orientation, it does seem that Nwosimiri’s insistence that policy and hiring practices must ignore race in South Africa “is like insisting that economic inequality should have been ignored in nineteenth century Europe” (FREEDMAN 2020).

(iv) We all suffer (a gloss of disproportionate affect)

Nwosimiri argues that “affirmative action and preferential hiring should not be considered in South Africa during the (post)-COVID-19” (NWOSIMIRI 2021, 2) era because unlike “apartheid which affected just a section of the people [...] the COVID-19 pandemic and the attendant economic downturn affected not just a section but all” (NWOSIMIRI 2021, 14). We could optimistically assume, as Nwosimiri does, that most “people would agree that achieving a unified and equitable society is something morally desirable” (NWOSIMIRI 2021, 12). His proposal on how to achieve this “is to strategize on how to compensate job losses equally amongst everyone” (NWOSIMIRI 2021, 12).

It is of interest here to consider which people in South Africa and in what proportions have experienced job losses during this pandemic. This question is ignored by—or does not arise for—Nwosimiri because he thinks it is sufficient to state that “the COVID-19 pandemic and [...] job losses [have] affected people of all races” (NWOSIMIRI 2021, 2). This is despite the fact that official statistics show that job losses that are the result of the pandemic have disproportionately negatively affected Black people (see Figure 3), and despite Nwosimiri’s recognition of the disproportionate effect of the pandemic on people of different races (see NWOSIMIRI 2021, 12).

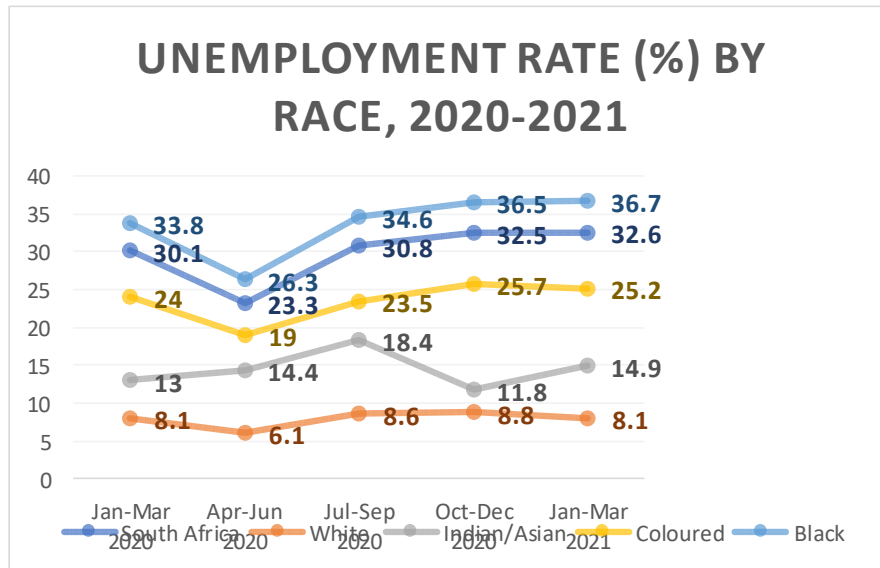


Figure 3: Every demographic except White people has a worse unemployment rate compared to when the pandemic began to one year into the pandemic. Every other demographic has a higher unemployment rate compared to when the pandemic began, with Black people facing the worst outcomes. The source of this data is the Stats SA Quaterly Labour Survey 2021 Q1 (STATISTICS SOUTH AFRICA 2021).

This gloss over the shape and demographic dimensions of suffering and job losses is not innocent, neutral, or harmless. The demographic dimensions of suffering and loss are relevant to the question posed by Nwosimiri’s paper and more broadly to the question of (economic) justice. It is only by ignoring the demographic

dimensions of this tragedy that Nwosimiri can contradictorily maintain that the disproportionate suffering and loss of designated groups gives support to an argument against their further targeted support. Nwosimiri's argument, thus construed, does not seem to follow from the premises of his argument and may, in fact, be contradictory at base. Be that as it may, I have argued that the case Nwosimiri makes against affirmative action is not tenable because it has no foundation in actual hiring practices in South Africa which, when we look at the data, seem to support the opposite case to his own.

Conclusion

If affirmative action was applicable and appropriate before the COVID-19 pandemic, then the development of the pandemic has not created the conditions in which such policy is no longer applicable and appropriate. Instead of making such policies and practices obsolete, the pandemic seems to reinforce the rationale for their employment. This is because the pandemic has only exacerbated the country's racially biased economic problems, with the poor, vulnerable, and economically precarious more generally being the worst affected by the pandemic. Given the racial dimension to South African inequality, labour force participation, and wealth, the economic impact of the pandemic has – and continues to have – racially differential outcomes. In light of these facts, Nwosimiri's case is not persuasive. He gives us no convincing reasons for why we should not consider race and other demographic categories in hiring decisions.

One concern I highlight with arguments like Nwosimiri's is that they give indirect justification to the maintenance of the advantage of dominant groups by undermining a means for the advancement of disadvantaged groups. This also maintains the subordination of disadvantaged groups as no alternatives for their advancement are given. Although some groups and individuals may benefit from the scrapping of affirmative action and preferential hiring policies, even some of those from designated groups (especially in the SA context of BEE), it is not clear that scrapping affirmative action and preferential hiring policies would promote justice and the social goals Nwosimiri agrees to of creating a more equitable and inclusive society.

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