



Positive measures for women on top? Corporate boards quotas and South Africa's multidimensional strategies for workplace equality

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Abstract

Over the past twenty years, countries in the global north introduced positive measures, by way of preferential appointment to corporate boards, tied to targets or quotas. During the same period, South Africa put in place extensive race- and gender-based affirmative action and empowerment programmes for appointment and promotion at all levels of the workplace, including targets for positions of ownership, control and management across the economy. This article interrogates the South African experience in advancing women at the top end of the economy against the backdrop of CBQs in the global north, thus contrasting a singular focus on CBQs with an approach that embeds them within a wider set of measures.

Key words

Positive measures, gender equality, quotas, substantive equality, economic power

Resumen

En los últimos veinte años, los países del norte global han introducido medidas positivas, mediante el nombramiento preferencial en los consejos de administración de las empresas, vinculadas a objetivos o cuotas. Durante el mismo período, Sudáfrica puso en marcha amplios programas de acción afirmativa y empoderamiento basados en la raza y el género para el nombramiento y la promoción en todos los niveles del ámbito laboral, incluidos objetivos para puestos de propiedad, control y gestión en toda la economía. Este artículo analiza la experiencia sudafricana en la promoción de las mujeres en los puestos más altos de la economía, en el contexto de las cuotas y objetivos cuantitativos (CBQ) del norte global, contrastando así un enfoque centrado exclusivamente en las CBQ con otro que las integra en un conjunto más amplio de medidas.

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Palabras clave

Medidas positivas, igualdad de género, cuotas, igualdad sustantiva, poder económico

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1. Introduction

Despite progress in labour markets across the world, particularly in the global north, women remain significantly underrepresented and underpaid in high-earning and high-status occupations: an inequality that is particularly marked in industries that drive economic growth (World Economic Forum 2025, 5-6, 49-51). One of the most visible mechanisms to address this particular inequality has been the introduction of corporate board quotas (CBQs). Thus, over the past twenty years, countries in the global north — many of which had eschewed the use of affirmative measures, especially quotas, in the workplace — introduced positive measures, by way of preferential appointment to corporate boards, tied to targets or quotas. During the same period, South Africa put in place extensive race- and gender-based affirmative action and empowerment programmes for appointment and promotion at all levels of the workplace, including targets for positions of ownership, control and management across the economy. If countries in the more inclusive global north focused on economic decision-making on corporate boards (initially only for non-executive positions), South Africa, a country of the global south emerging from a long history of race and gender inequalities, provides an example of how positive measures for women at the top have been part of a wider set of strategies to address entrenched, systemic inequalities across the labour market and economy.

This article interrogates the South African experience in advancing women at the top end of the economy against the backdrop of CBQs in the global north, in part contrasting a singular focus on CBQs with an approach that embeds them within a wider set of measures. In doing so, I start in part two by considering the contested justifications for CBQs, and then examining their role, limits and effects in the global north. Here, I contrast a more dominant (neo)liberal idea of CBQs as pathways to enhanced representation and individual empowerment with a more substantive claim that CBQs should be embedded in multiple strategies for wider structural change. Part three turns to South Africa, where positive measures are a core mechanism for achieving wide-reaching, even transformative, change. I explore the extent to which these have achieved better outcomes not only for the representation of women at the top, but also for the establishment of a more gender just workplace. I argue that South Africa's regulatory framework holds the potential for a multidimensional approach to labour market inequality. However, while a persistent focus on race and gender targets has produced significant, if uneven, changes to the demographic representation of the workforce, including at senior levels, deeper structural inequalities persist, especially at the intersection of race and gender. While some of this can be attributed to a failure to implement and enforce the law to its fullest potential, there remain significant gaps, including the absence of comprehensive rights and obligations in relation to care work. I consider, in part four, how South Africa's multidimensional approach to advancing substantive equality in the workplace might better realise its significant transformative potential. I conclude in part five by briefly drawing out the lessons of the South African experience.

2. Lessons from the global north

The introduction of CBQs in the global north followed a plethora of measures on gender equality in the workplace that did not, on their own, reduce inequality in top corporate positions, seen to be the most resistant to women's inclusion (Hughes *et al.* 2017, 332). Quotas were first introduced in Norway in 2003, and in ten European countries by 2018 (Mensi-Klarbach and Seierstad 2020, 618), ahead of the application in 2024 of the European Commission's (EC) Directive 2022/2381. This set a target of 40% for the under-represented sex on non-executive boards of large, publicly listed companies and 33% among all directors. These measures have been subject to considerable debate on their justification, including whether they represented positions of meaningful power or whether they merely essentialised women as "good for business". And as more women assume board positions, there is increasing research on their role and effects. Below, I briefly set out the different, often contested, justifications for such measures, followed by evidence of their effects.

2.1. Justifications

Justifications for CBQs generally fall into one of two broad approaches: (1) a more structural and transformative approach, focusing on questions of justice, rights, democracy, substantive gender equality and structural change, and (2) a more (neo)liberal and inclusive approach, often derived from an idea of equal opportunities, but which tends toward economic justifications and individual empowerment.

2.1.1. Justice: A matter of democracy and/or substantive equality

These approaches broadly argue that women's under-representation in powerful positions of economic decision-making should be corrected, as a matter of justice, based on democracy, rights and/or substantive gender equality.

In Norway and in early European Union (EU) debates, feminist justifications for women's participation in economic decision-making built on arguments about women's participation in political decision-making to tie CBQs to economic governance and democracy (Elomäki 2018, 60-61). As Elomäki argues, quotas draw attention to gendered power in the economy and how the under-representation of women and their "exclu[sion ...] from decisions that matter to them and society is a problem of democracy" (2018, 59). Quotas thus enhance "gender balance in economic decision-making" and have "the potential to democratize the economy and ensure that those affected by economic decisions take part in making them" (Elomäki 2018, 60). Because both political and economic decision-making are connected to democracy, the economy cannot be seen as an autonomous sphere but is subject to the same values of representation and participation as the political sphere. Economic corporations wield significant power, and the principles of democratic legitimacy and economic fairness justify state intervention, via quotas, to ensure better representivity in economic governance (Franceschet and Piscopo 2013). Here, of course, the expectation is that women would exercise meaningful corporate power, beyond non-executive positions.

Alongside arguments about democracy, one might develop justifications based on substantive equality. Here, a commitment to transformative, substantive gender equality means that women should be able to participate equally and substantively at all levels

of the economy, free of gendered social, cultural and economic barriers, and that the state should create the mechanisms and conditions that enable that (Albertyn 2018, 461-463). This idea of substantive equality recognises the multiple possible effects of CBQs. To apply Fredman's idea of multidimensional equality (Fredman 2011): CBQs can challenge the patriarchal norms that shape male stereotypes of economic leadership (Nae 2022, 57-58), redistribute economic positions and power (Franceschet and Piscopo 2013, 312) and enhance women's participation in the upper echelons of the economy.

In these arguments, a more representative system at the top levels of the economy is a good in itself, demanded by the principles of democracy and/or equality. At the same time, CBQs that open senior positions, and meaningful economic power, to women are part of transformative strategies for structural change. Thus, they are located within wider feminist concerns about dismantling the sexual division of labour and changing work/family relations, addressing the multiple burdens of care work, expanding public provision for reproduction and care, and flattening gendered and other hierarchies in the workplace. In other words, arguments for CBQs are constructed as part of wider feminist commitments to dismantling the gendered distribution of power and resources in the economy (Nae 2022, 54) and developing new forms of social and economic organisation in interests of the quality of life and well-being of both women and men (Elomäki 2015, 293).

In an increasingly neoliberal world, CBQs are seldom bolstered by these arguments. Instead, they are increasingly tied to economic outcomes registering a shift from gender equality as a substantive value, regardless of cost, to gender equality as an economically productive asset.

2.1.2. Equal opportunities and economic benefits

Over the years, a common justification for CBQs has been grounded in the liberal feminist call for women to have equal opportunities, representation and rights at all levels of the economy. Here, persistent gendered stereotypes mean that, to advance fairly on merit, positive measures or quotas may be necessary to allow women to have the same opportunities as men to contribute effectively to decision-making processes (Nae 2022, 54). The principle of gender equality remains an important justification for CBQs, signifying gendered inclusion (Szydło 2015, 97).

Under neoliberalism, these have morphed into more instrumental arguments that focus on the macro-economic benefits of women's participation in economic decision-making. Thus, women's inclusion can enhance economic growth, competitiveness, business profitability and other economic benefits. Bringing women in not only enables a more productive work environment and better economic performance, but is a return on the investment in women's education and makes efficient use of "unused human capital" — a question of economic efficiency (Nae 2022, 58-59). This shift from equality based on gender justice and democracy to more instrumental claims about the economic and business benefits of gender equality was particularly visible in the EC debates on CBQs (Elomäki 2018, Havelková 2019, European Parliament and Council Directive 2022/2381, preamble, para 16) and is increasingly supported and used by corporations and economic institutions, such as the World Bank (World Bank 2024, 51, World Economic Forum 2025, 8).

Economic arguments are thus seen to be practical and effective ways of advancing CBQs. However, the promotion of corporate feminism to advance women at the top runs the risk of essentialising women and dilutes, even silences, justifications based on wider understandings of economic democracy, substantive equality and justice (Fraser 2013). In a study on the economic arguments in the EC debates, Elomäki (2018, 55) argues that these depoliticise the debate on gender and economic decision-making in two ways. First, by adopting apolitical and individualised understandings of gender inequality, they focus on the career paths of individual women, avoiding issues of structural inequality and power. And second, they take an uncritical approach to the economy and role of gender therein. Overall, the centring of dominant (neoliberal) economic goals obfuscates the underlying power relations and inequality effects of economic decisions (Kantola and Squires 2012).

2.2. *The effects of positive measures and CBQs*

The effects of CBQs can be analysed in purely representative terms (do more women get in?) and in consequential terms (do CBQs trigger wider effects in the workplace, sector and economy?) at different scales (do CBQs affect individuals, the labour market and/or economy?).

2.2.1. Quotas, targets and representation

Positive measures for women in economic decision-making positions are state-enabled interventions to break the glass ceiling for women by side-stepping the corporate networks that men rely upon, as well as the systemic prejudice and discrimination that women face in climbing a corporate ladder (Bertrand *et al.* 2019, 192). They take different forms, with a broad distinction between quotas and targets. Quotas or hard measures are less flexible than targets, focusing on achieving numerical outcomes with little wriggle-room in doing so. They generally apply to state-owned and public companies, are set externally by legislation or policy and enforced by the state. The failure to achieve quotas leads to penalties ranging from corporate dissolution to monetary penalties, suspension of board fees and leaving seats open (Mensi-Klarbach and Seierstad 2020, 620). While quotas initially focused on corporate boards, they have begun to expand to senior corporate positions (Hughes *et al.* 2017, 334). In 2021, France and Germany extended their quotas to executive managers, demonstrating that hard measures have become necessary at senior management levels (Smith and Von Essen 2025, 4).

Measured in terms of numbers, Mensi-Klarbach and Seierstad (2020, 624) conclude that “hard CBQs are met no matter the institutional context”; hard quotas lead to compliance and achieve more representative boards even in unfavourable political contexts (Smith and Von Essen 2025, Borges *et al.* 2025). In a study of Norway’s CBQ of 40% for each gender, the first of its kind, Bertrand and others concluded that the measure was successful in its goals of achieving representation and reducing pay disparity at that level, thus also dispelling the main business argument against the policy — a lack of qualified women — and beginning to break existing “old boy” networks (Bertrand *et al.* 2019).

Targets or soft measures are goals that may be set by legislation or internally by corporations where they are subject to fair procedures for achieving them and allow

flexibility in doing so (Mensi-Klarbach and Seierstad 2020, 615). They do not impose penalties and are seen to be voluntary, preferring policy guidance, public monitoring and a comply or explain approach (Falconiere *et al.* 2025, 6). According to Smith and Von Essen (2025, 3), by 2024, nineteen countries had soft laws by way of targets or goals for women on corporate boards, the fulfilment of which is not mandatory. These extend to executive managers in some countries. However, softer quotas or targets are often not attained, unless developed in favourable climates (Mensi-Klarbach and Seierstad 2020, 624).

Hard and soft measures illustrate different approaches to state intervention in the economy and the use of state power to engineer change, include women and enforce gender equality norms. Overall, CBQs and targets have improved the representation of women in the upper echelons of the economy. Whether they can exercise meaningful power and whether there are wider effects, however, remains contested and uncertain (Borges *et al.* 2025).

2.2.2. The wider effects of CBQs

A more difficult question is whether CBQs trigger social and cultural change in the workplace and economy: are they merely pathways of individual empowerment and surface representation or do they lead to wider structural change in ways that enable access to power, dismantle gendered barriers and open the labour market and economy to women generally? More fundamentally, can women's participation in decision-making contribute to dismantling the gendered distribution of power and resources to more egalitarian ends. This can be addressed at three levels.

First, research considers the effects of CBQs on economic performance. This is still relatively new and the findings can sometimes be ambiguous and risk essentialising women (Nae 2022, 55-56, Smith and Von Essen 2025). Nonetheless, there are positive findings in several studies that find better board performance on issues such as market-based efficiency, corporate governance practices and so on (Atinc *et al.* 2022, Smith and Von Essen 2025).

Second, research analyses the effects of CBQs on firms and economic sectors. This has evolved over time. Beyond representivity and reductions in the pay gap, Bertrand and others (2019, 192, 228) found no "robust evidence" in Norway of further labour market outcomes for senior women, nor "that the reform benefitted a larger sector of women employed in the companies". CBQs did not increase the recruitment or promotion of women to senior positions in the corporations, nor did it generate corporate policies to address the work-life balance for employees (Bertrand *et al.* 2019, 193). A later comparative review of CBQs by Smith and Von Essen (2025, 1) found some evidence of "positive spillover effects from women on [boards of directors] to gender diversity among top executives" and that "female top executives may positively affect women's career development at lower levels in the organization". Recently, Falconiere *et al.* (2025) found that CBQs had positive effects on the appointment of senior women in the sectors where they were introduced, leading to an 8 to 13% increase in women CEOs, especially where quotas were mandatory. However, these are also limited to senior levels and significant disparities persist in representation and promotion across the labour market.

Finally, there is limited evidence of wider cultural shifts. Most studies found no evidence of this (Betrand *et al.* 2019, Falconiere *et al.* 2025). A few identify greater attention to gender equality issues such as leadership and family care. In a study on the Italian CBQ, Latura and Weeks (2023) find this to be a positive spillover effect of the quota. Smith and Von Essen emphasise the role of the core structural barrier for women in the workplace: the sexual division of labour. Women are far less likely to be attracted to corporate positions and opt for part-time work because of the work-family balance. Thus, to attract more women into corporations: “policymakers may need to shift their focus to addressing the underlying causes, including promoting a more equal division of career and family responsibilities” (Smith and Von Essen 2025, 8). In other words, the answer is not to assume — or hope for — trickle down effects of a quota. As Borges *et al.* (2025) argue, too much focus on CBQs can also divert attention from the need to engage in wider structural change through comprehensive and integrated measures to address structural and cultural barriers across the workplace.

In sum, CBQs achieve important but limited results: more women at the top, but insufficient evidence of access to positions of meaningful power and of broader effects. CBQs do not necessarily reach beyond non-executive to executive decision-making positions. This is, arguably, at least partly because they are often advanced by corporate, rather than feminist, actors and tend to be framed in neoliberal terms. To return to earlier, and more transformative, feminist ideas of an egalitarian workplace: CBQs should always be embedded in wider strategies encompassing multiple actors, both state and private, for more far-reaching change. Within this is the question of whether extending and deepening quotas, within a wider set of measures, is necessary to secure not only a more representative workplace at all executive and occupational levels, but also a more gender just workplace. In other words, quotas or targets should be possible at all occupational levels and should be combined with other positive measures, especially those relating to women’s care roles. Only this kind of multidimensional approach might enable a more radical redistribution of power and decision-making beyond mere questions of representation. As is evident in some of the above research (Mensi-Klarbach and Seierstad 2020), such questions are best explored with an understanding of specific context and their opportunities and constraints. Hence, to explore this further, I turn to South Africa which has engaged a wider set of positive measures, embedded in policies and laws, to enhance the representation and/or participation of women at all levels of the labour market and to overcome its entrenched racial and gendered inequalities.

3. Lessons from the global south and South African positive measures: Affirmative action and black economic empowerment

Positive measures and CBQs have increasingly found traction in the global south. In Africa, the World Bank suggests that, in 2023, women occupied 21% of corporate board (CB) seats and constituted 8% of CB chairs and 9% of CEOs (SSE/IFC 2023). South Africa led the way with 32% of CB seats held by women, followed by Kenya (20%). Both Kenya and South Africa have strong normative and constitutional commitments to gender parity, but only two African countries have adopted CBQs, Morocco and Egypt, with others integrating gender representation into principles of corporate governance (SSE/IFC 2023). This section focuses on South Africa as a country with robust equality

guarantees and a policy and legislative framework that pays attention to women's labour rights, and to representative employment, as well as economic ownership, management and control as part of wider positive measures in the labour market and economy. Its widespread use of affirmative action and equity targets sets it apart from countries in the global north.

3.1. *A framework of substantive and redistributive equality*

Centuries of colonialism, apartheid and patriarchy in South Africa resulted in structural exclusion and disadvantage based on race, gender and class. Crucially, the South African economy was built on a system of racial capitalism, grounded in the exploitation and exclusion of black people from productive resources, education and skills (Legassick 1974a, 1974b, Tangri and Southall 2008). An entrenched patriarchy also placed women, especially black women, outside or at the bottom end of the economy. While democracy was expected to enable transformation of an economy dominated by white men, this was always going to be a challenging task given the structural nature of economic inequalities manifest in deep racial and gendered exclusion, occupational segregation, employment and pay disparities (Ranchhod *et al.* 2025).

Unlike the more inclusive capitalist economies of the global north, inclusion — if not transformation — was much more of a challenge for South Africa after 1994 given its deep structural inequalities. Also in play was the global economic climate of the 1990s. South Africa's transition to democracy took place at a time when neoliberalism and liberal democracy were on the rise and the African National Congress's (ANC) economic policy shifted from a more socialist vision to a race- and class-based, national-democratic reconstruction that supported a capitalist trajectory and conciliation with business (Freund 2013, Padayachee and Van Niekerk 2019). Within this, positive measures would be central to breaking down race and gender barriers to economic inclusion and to dismantling “the patterns of structured advantage and disadvantage created by apartheid and patriarchy replicat[ing] themselves from generation to generation” (ANC 1992, para B.6). These are anchored in the section 9(2) constitutional commitment to “achieving equality” through “legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination” (Constitution 1996). As Constitutional Court judge, Moseneke, writes: “[this] heralds [...] the start of a credible and abiding process of reparation for past exclusion, dispossession and indignity within the discipline of our constitutional framework” (*Minister of Finance v Van Heerden* 2004 para 25). Thus, in normative and aspirational terms, positive measures assist in dismantling the deep structural inequalities of the past, aimed at a substantive equality that pays attention to both race and gender.

Positive measures in South Africa are thus justified by a commitment to substantive equality, the strands of which broadly mirror the transformative and (neo)liberal narratives about CBQs in the global north. In its most powerful and transformative form (Albertyn 2018, 459-463), substantive equality in South Africa is a commitment to overcoming structural and systemic inequalities based of race, gender and class, “re-imagin[ing] power relations in society” (*SAPS v Solidarity obo Barnard* 2014, para 29). In the context of the labour market and economy, positive measures address the exclusion of women, especially those facing intersectional exclusion (*Mahlangu v Minister of Labour* 2020, paras 85-91), not only in representative terms, but also in dismantling the structural

barriers that women face and creating the conditions for their full participation. At the centre of this is addressing the racialised and sexual division of labour. By contrast, in its more inclusive forms, substantive equality has been interpreted to provide inclusive constitutional and legal protection to outsider groups, without dismantling the socio-economic status quo (Albertyn 2018, 457-459). Positive measures in the labour market thus address representation and inclusion without significant attention to structural barriers.

Race has been the primary narrative in justifying positive measures, dominating the jurisprudence, public discourse and political contestation over race-based preferences and often dislodging gender (Albertyn 2026, 333-412). Similarly to debates in the north, this has tended to focus on representation in an inclusive economy, rather than structural change. Indeed, Makgoba (2024, 13) argues that while black economic empowerment (BEE) uses the language of structural transformation and empowerment, it “reduce[s] the[se] concepts ... to the notions of participation, targets, numbers, and inclusion”. By promoting the “distribution, representation, inclusion, and the participation of Black people into the existing and historical structures ... BEE does ‘not in any way trump or change neoliberalism, but is one of its expressions’” (Makgoba 2024, 12, citing Gibson 2011, 71).

Academic and policy debates on gender-based positive measures focus on the representation of women across politics, social institutions and the economy and labour market.² In relation to economic decision-making, a concern to address the under-representation of women is generally seen as an instance of gender equality. As reflected in the global north and as discussed further below, arguments often focus on the business benefits of women leaders (especially in the corporate sector), the need to develop individual pathways to success and individual strategies to overcome barriers, without disrupting the status quo. There is limited feminist debate that links positive measures to deeper structural transformation of the economy and workplace (Bosch and Booysen 2021). At the centre of this lies a broad theoretical concern with substantive equality and with overcoming patriarchal norms and the sexual division of labour (Smit and Tessororf 2021). As I argue in this article, a commitment to positive measures, as part of transformative substantive equality, requires an intersectional and multidimensional understanding of the institutions, conditions and practices that foster gendered misrecognition, maldistribution and lack of participation in the economy. This means that positive measures must be embedded in a wider package of measures for structural change. Whether this is the case in South Africa is discussed below.

² Although this article focuses on the labour market and the economy and two key acts: the Employment Equity Act 55 of 1998 and the Broad-based Black Economic Empowerment Act 53 of 2003, it is worth noting two legislative attempts to develop positive measures across multiple sectors. First the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000, chapter 5, requires a series of positive measures to promote equality, calibrated across different sectors of the state and society. This chapter has not yet been promulgated and proposed amendments in 2021 remain in limbo after conservative pushback from religious groups, civil society organisations and business bodies (De Vos 2021). In 2013, the Women’s Empowerment and Gender Equality Bill [B50D – 2013] proposed a 50/50 % representation for women in decision-making structures across public and private bodies (clause 3(e)). It was processed by both Houses of Parliament, but was never signed into law. The Bill was subject to extensive criticism for duplicating existing laws, for its inattention to intersectionality, and for its focus on formal rather than substantive equality (PMG 2014).

3.2. *Law and policy*

Section 9(2)'s normative frame for positive measures in the labour market and the economy is operationalised via a series of laws to advance the economic participation of black people and women. What is important — and distinguishable from parts of the global north — is that positive measures address different levels of the workplace, with targets rather than quotas³ for black people and women at all levels, including senior positions, supported in two complementary laws: the Employment Equity Act 55 of 1998 and the Broad-based Black Economic Empowerment Act 53 of 2003. As part of a broader set of policies and laws to deracialise capitalism and build an inclusive economy,⁴ these were central to the ruling ANC's project to expand the black middle class and deracialise the top end of the economy (Southall 2014).

3.2.1. The Employment Equity Act: Achieving representivity at all levels of the workplace

The Employment Equity Act (EEA) aims to achieve equality in the workplace by eliminating unfair discrimination and implementing affirmative action measures for “designated groups” (black people, women, and people with disabilities) who have faced historic disadvantage in employment. The goal of affirmative action is to ensure that all “suitably qualified” people have equal employment opportunities and are “equitabl[y] representat[ed] at all occupational categories and levels in the workforce” (EEA, sections 2, 15). To achieve this, all employers with more than 50 employees must consult with their employees to develop an employment equity plan with targets, timelines and strategies. This may include “preferential treatment and numerical goals, with timelines, but must exclude quotas” or any policy or practice that “establish[es] an absolute barrier to the prospective or continued employment or advancement of [those] not from designated groups” (EEA, sections 13-17). In practice, this requires flexibility in setting and achieving racial and gender targets, taking account of national and provincial demographics (EEA, section 42). Compliance is measured via reporting and enforced through labour inspectors, who may issue compliance notices and fines (EEA, sections 21, 22, 35-37).

Although it is possible to read employment equity plans to require a detailed interrogation of systemic barriers to substantive equality and full participation in the workplaces, in practice these plans have come to focus on numbers (Gabie and Phillips 2025, 304). In this sense and, as discussed further below, the EEA achieved remarkable success in representation at all levels in the public sector. However, the apparently slow pace of change in the private sector led to the Employment Equity Amendment Act 4 of 2022, section 15A of which extends the Minister's power to identify national economic sectors and set targets for the private sector, previously set by employers. Regulations,

³ Quotas are unlawful under the Employment Equity Act 55 of 1998, section 15(3). In addition, section 15(4) prohibits practices which constitute ‘an absolute barrier to the prospective or continued employment or advancement of people who are not from designated groups.’

⁴ These include the Skills Development Act 97 of 1998 to drive the systemic growth of skills of employees; the Preferential Procurement Policy Framework Act 5 of 2000 to encourage and assist emerging black-owned businesses to gain access to government contracts; the Mineral and Petroleum Resources Development Act 28 of 2002 to provide for equitable access to, and sustainable development of, mineral and petroleum resources and the Competition Act 89 of 1998 to reduce monopolies and enhance competition, as well as legislation and policy in multiple sectors.

in effect from September 2025, explicitly set minimum targets for women in the top occupational levels. For example, employment equity plans must now set a five-year target of between 20% to 46% (depending on the sector) for women in top management (executive decision-making) (Department of Labour 2025). In addition, section 53 has been brought into operation. This requires an employment equity compliance certificate to do business with the state.

Insofar as the targets for employees are set at different occupational levels for different racial groups (African, Indian, coloured and white)⁵ and for gender, it is possible to measure the progress of intersectional groups generally and at the top end of the economy. This includes top and senior management, including employees in positions of decision-making and control, such as CEOs, executive managers and executive directors, but excludes independent, non-executive directors on corporate boards (non-employees). Beyond the EEA, black economic empowerment measures extend to all board members, as well as positions of ownership, to which I now turn.

3.2.2. The Broad-based Black Economic Empowerment Act: Targeting ownership and control

If the EEA sought redress in the labour market, black economic empowerment and the 2003 Broad-based Black Economic Empowerment Act (B-BBEE Act) constitute a distinct economic policy to “promote the achievement of the constitutional right to equality [and] increase broad-based and effective participation of black people in the economy” at multiple levels (B-BBEE Act, preamble), with a particular emphasis on ownership and control in the economy. Broadly, as specified in section 1, the Act aims to break the stranglehold of white, male domination in the economy by expanding black “management, ownership and control of enterprises and productive assets”; achieving equity in employment and skills development; enabling preferential procurement from, and investment in, “enterprises that are owned or managed by black people”; and enhancing the socio-economic welfare of black people via social development. The Act, in section 2(d), makes a particular commitment to “increasing the extent to which black women own and manage new enterprises, and increasing their access to economic activities, infrastructure and skills training”. Unlike the EEA, it excludes white women as beneficiaries and includes all members of corporate boards.

B-BBEE is a complex project of direct and indirect empowerment, human resource and enterprise development which aims to encourage and incentivise businesses to increase ownership and management by, and employment of, black people. Driven by the Department of Trade and Industry (DTI), it has wide application to organs of state, public entities, public listed companies, and entities with a turnover of more than a stipulated amount. It is measured via points-based scorecards that assess compliance

⁵ South Africa’s racial categories require some explanation. In this article ‘Black’ refers to all persons previously categorised as such under apartheid and is sub-divided into three groups: ‘African’ (indigenous inhabitants and the majority at about 82% of the population), coloured people who are descendants of a mix of indigenous groups, slaves from Africa and Asia, and racial mixing (about 8.5% of the population) and Indians who descend mainly from indentured workers and merchants who travelled from India in the 1800s (about 2.6 % of the population). White South Africans descend from European immigrants and now constitute about 7.2 % of the population. These categories continue to have resonance in so far as they describe inherited inequalities.

with race and gender targets set by generic or sector-specific codes of good practice (B-BBEE Act, section 9) or transformation charters (B-BBEE Act, section 12). The overall scores determine a B-BBEE rating which opens up a range of benefits, including access to government contracts, preferential procurement, licences and concessions, funding and development opportunities, such as business grants, and skills development programs.

Primarily conceived to address racial exclusion, the B-BBEE Act's approach to gender has evolved over time. Prior to the Act, there was little consideration of black women as the focus of BEE was solely on race: building black ownership through empowerment deals (Tangri and Southall 2008). After the Act, employers could set their own gender-specific targets with no state-led mandate. With the introduction of scorecards in 2007, the Department instituted an adjusted recognition for gender, allowing black women to be doubly weighted in the overall score on race (DTI 2007). After it emerged that the primary beneficiaries of positive measures in the EEA and B-BBEE were largely white and Indian women, on the one hand, and black men (Burger *et al.* 2016, 18), on the other, the B-BBEE Act was amended in 2013 to acknowledge the racial and gender dimensions of inequality and explicitly prioritise black women. Targets were now prescribed for black women in both ownership and management control (voting board members, executive directors and senior management) (DTI 2013). These targets constitute minimum thresholds which could be increased in specific sector codes and charters and, in some instances, have been enhanced by the 2025 targets under the EEA.

In short, when talking about women at the top in South Africa, BEE addresses the intersectional exclusion of black women, with state-led targets, and incentivises the private sector to include them at senior levels. Indeed, the value of black women on the BEE scorecard is enhanced by the fact that they count for both gender and the race targets. However, the generic targets are set at modest levels: a 25% gender target in management and control (board members with exercisable voting rights and executive directors (race at 50%); and a 30% gender target at executive and senior management (race at 60%).⁶ These barely meet the threshold of CBQs adopted in the global north, discussed above, which range from 30 to 40%. Notably, the gender targets do not disaggregate within the black racial group, thus risking a “creamy layer” phenomenon.⁷

3.2.3. Other measures targeted at corporate boards

Aside from the new EEA targets for the private sector and the B-BBEE targets of 25% of women on corporate boards, there are several soft measures for gender diversity. Firstly, the listing requirements of the Johannesburg Stock Exchange (JSE) require companies to adopt and disclose gender and race diversity policies with targets, “where applicable”. (JSE Limited 2019, section 3.84 (i)-(j)). The qualifier, “where applicable”, gives some space to avoid these targets. Second, the King V Code for Corporate Governance in South Africa (King V) promotes diversity on CBs, but does not explicitly call for targets, preferring a proportionality approach which allows organisations “to adapt governance

⁶ These increase as one moves down the management scale: middle management (75% black and 38% black female) and junior management (88% black and 44% black female).

⁷ Indian, coloured and African women all score equally in these codes. Given the relative privilege of, for example, Indian women over African women, this can disadvantage the latter.

practices in line with their size, nature and context” (King V 2025, 9, Just Share 2025, 11-12).

3.3. *The effects of positive measures for women at the top*

As with the earlier discussion on CBQs, this section canvasses the effects of the legislation in terms of enhanced representation of women in the upper echelons of the economy, followed by a discussion of the wider effects of the measures, before interrogating the systemic barriers that these reveal and how they have — or might be — addressed.

3.3.1. Representation: Targets and the labour market in South Africa

In 1994, the upper levels of the labour market were dominated by white men, with black women invisible at any management level. Thirty years later, on the back of the EEA, the B-BBEE Act and supplementary measures, the numbers tell a different, if skewed, story. There are substantial increases in black people and women in public sector, top⁸ and senior⁹ management, while the private sector demonstrates persistent progress, even though it remains dominated by white men.

Starting with race, the latest Commission for Employment Equity (CEE) Report (2024/2025, 19) states that whites, who are 7.5% of the economically active population (EAP), still occupy 61.1% of top management positions overall. A comparison of the public and private sectors reveals that Africans (81% of the EAP) occupied 74.6% of top management positions in the public sector in 2024, but only 14.7% in the private sector. (CEE 2024/2025, 21). Overall, the Report finds that whites, followed by Indians are generally over-represented at senior levels (CEE 2024/2025, 53). Progress for women has been slower. While there has been a “favourable increase” of women at lower and middle management, this has “not translated into meaningful gains” at top and senior management (CEE 2024/2025, 84). By 2024, women remained under-represented across top management (27.5%) and senior management (36.3%), although their public sector representation is higher than the private sector: 35.8% (public) versus 26.6% (private) in top management, and 42.25% (public) versus 37% (private) in senior management (CEE 2024/2025, 20-21, 25-26). From disaggregated figures presented by economic sector in 2024, white women are represented at a much higher rate than black women, taking account of the economically active populations (CEE 2024/2025, 22-23, 27-28). Indeed, in 2023, white women constituted 13.3% of top management (3.5% of the EAP), while black women stood at 11.9% (36.6% of the EAP) (CEE 2023/2024, 31).

Finally, in 2008, 14.3% of directors in JSE listed companies were women (University of Stellenbosch 2020, 2). According to Spencer Stuart (2024),¹⁰ in 2024, 37% of all board directors in the top 40/50 listed companies were women,¹¹ but less than half of these were black women (about 16%). Women were more likely to be appointed to non-executive

⁸ Top management refers to executive decision-making positions, CEOs and executive directors.

⁹ Senior management refers to the implementing roles immediately below top management.

¹⁰ Spencer Stuart: *Diversity: 2024 South Africa* Spencer Stuart board index (<https://www.spencerstuart.com/research-and-insight/south-africa-board-index/diversity>)

¹¹ This is seemingly ahead of the January 2025 EU figure of 34% across all member states (European Commission 2025).

director positions (40%) and less likely to hold executive director positions (22%). Generally, progress is most visible at board level and black women are particularly under-represented in executive roles: the “board-executive gap remains stark, with progress concentrated at board level and slower movement in executive pipelines” (Just Share 2025, 6).

Of course, numbers alone do not tell the whole story and they should be understood in a wider context of racialised education patterns and skill levels, the limited size of the particular markets, the relative movement within groups and so on (Klasen and Minasyan 2021, Collier 2023). Next, I look beyond the numbers to establish trends over times and the relative movement of different groups. Here I am particularly interested in research that has sought to understand whether targets in the EEA and B-BBBEE Act have made a difference.

Burger *et al.* (2016, 18) suggest that, after the implementation of the EEA, more advantaged members of disadvantaged groups, white women and Indian men and women, “experienced a large reduction in their wage gap relative to white males (at the mean and — particularly for white women — at the 90th percentile) as well as an improved representation in highly skilled occupations”. There was limited improvement for African women, but the gap between the average wages of African men and coloured men and women vis-à-vis white men did not improve and there were only “negligible improvements in their representation in highly skilled occupations” (*ibid.*). However, after the B-BBBEE Act in 2003, Burger *et al.* (2016, 18-19) find that the benefits of positive measures shifted away from white women and Indian males (no further improvement in the wage gap and a slowdown in occupational representation) towards more disadvantaged groups. Both African men and women experienced “substantial reductions in their wage gap relative to white males (at the mean and particularly at the 90th percentile) and a growth in representation in highly skilled occupations”. Significantly, they find African men have benefitted most from positive measures: “the legislation has been effective at drawing highly qualified ... [African] men into well-remunerated positions, [...] driv[ing] much of the average effects [...] observe[d]” (Burger *et al.* 2016, 28).

This is confirmed in other studies. Ranchhod *et al.* (2025, 29-30) find evidence of “an increasing share of employment [for women] in high-skill (management and professional) occupations”, even as “women (and especially African and coloured women) continue to be under-represented in high-skilled and managerial positions” (Espinoza *et al.* 2019, 58). Drilling down into the figures, Klasen and Minasyan (2021) find that, after the EEA and B-BBBEE ACT, the employment probability for black women increased at a higher rate than for any other group: black women remain under-represented, but they are closing the gap (see also Collier 2023, 7).¹² This is not the case for white women, who experienced no significant change in their probability of employment (Klasen and Minasyan 2021, 26), even as they dominate senior positions overall.

¹² Unfortunately this research does not disaggregate within racial groups, so it is difficult to see, for example, how Africa and coloured women fare against historically more privileged Indian women.

Recent research on pay gap is far less promising. Mosomi's (2019, 3032) research on the gender pay gap shows that the "decline in the gap at the 90th percentile between 1993 and 2005 has reversed to exhibit a continually unexplained gap in recent years", suggesting a glass ceiling for highly qualified women. At senior management levels, Klasen and Minasyan (2021, 25) find white men experienced the largest pay increases of any group (30 % of their income in the pre-BEE and post-BEE period). Overall, African women are consistently the worst off in terms of employment and earnings outcomes (Posel and Casale 2019). Much of this research suggests "unexplained differences" thus pointing to systemic gender and intersectional discrimination, including at senior levels (Burger and Jafta 2010, 23, Ranchhod *et al.* 2025, 27-28).

In short, a range of positive measures have generally contributed to increasing the number of women in senior positions, top management and corporate boards, with the latter approaching the EU figure of 40%. Put bluntly, targets work. Here, the significant advances within the public sector, vis-à-vis the private sector, suggest that state-led positive measures ensure a considerable measure of compliance, although more in relation to race than gender and, it appears, more for the relatively privileged amongst the disadvantaged groups. This is seen in the initial advancement of more privileged groups of women (white and Indian)¹³ over African women, and of black men over black women. Although there are improvements over time, intersectional exclusion continues to place African women in the most disadvantageous position at the top levels of the economy and labour market. Significantly, the numbers suggest that deep systemic barriers remain for women who continue to face "unexplained" barriers to their advancement in pay and positions, coming up against a glass ceiling — albeit one that differs across racial groups. Even when women are appointed to corporate boards, it is more likely to be in non-executive positions, rather than more powerful executive decision-making positions. This is unpacked further below.

3.3.2. The wider effects of women at the top

Research in the global north has considered the business effects of women at the top, whether they enhance the business of the firm, and whether there are any spillover effects to the enterprise or the labour market. While there is some research on the former in South Africa (Hills 2015), there is little on spillover effects. There is, however, research on the experience of women in executive and senior management: whether they can exercise meaningful power, the barriers they face, and individual strategies for change.

Over the past two decades, there has been some criticism of the exploitation of black women in BEE, appointed to boost compliance scores without affording them real economic benefits or decision-making power (Matotoka and Odeku 2022). In some cases, women become empty signifiers, as those with few qualifications are appointed to make up numbers or qualified women are appointed, only to be sidelined. Characterised legally as "fronting", the Act has been amended to criminalise these practices (B-BBEE Act 2013, sections 1, 13O, 13P, Matotoka and Odeku 2022, 1-6). In addition, evidence suggests that women are often deprived of the opportunity to participate at the highest levels. As noted above, women, particularly black women, are more likely to be

¹³ Indian women experience the most significant reduction in their wage gap relative to white men between 1997 and 2014 (Burger *et al.* 2016, 19).

appointed to non-executive board positions and are less likely to hold executive positions (Just Share 2025, 6). Moreover, some research suggests that black women, in particular, are paid less, appointed for shorter periods, do not actively participate in CBs and are excluded from strategic decisions (Adelakan and Bussin 2018, Mudimba 2023, 110). Board diversity is prioritised over actual influence as women tend to hold positions with little power.

This reflects the numbers that suggest little attention to developing executive pipelines in many top companies (Just Share 2025, 6, 15-16) and qualitative, small-scale research on the systemic barriers that women face in senior corporate positions. If the targets in the EEA and B-BBEE, together with educational achievement and changing societal attitudes are recognized as providing opportunities for women, systemic racial and gendered barriers remain pervasive. The predominance of a white, male corporate culture is evident in visible and hidden biases, gendered stereotyping, bullying and abuse, unequal opportunities for promotion and pay increases, the persistent gender pay gap, lack of mentorship and support, and exclusion from networking opportunities (Klasen and Minasyan 2021, Smit and Tessendorf 2021, Mudimba 2023, 108-118, 136-148, Mathetha and Dhanpat 2025, 5-7). Here race and gender combine to produce complex intersectional barriers of exclusion. Significant is the persistent finding that women's childbearing and care responsibilities are neither recognised nor accommodated: career breaks prejudice women, care roles are ignored (Mudimba 2023, 108-109, 141-144, Mathetha and Dhanpat 2025, 6) and women may elect to forego maternity and parental benefits to avoid prejudicing their careers. In general, individual women establish support networks that enable them to manage their care responsibilities, often relying on poorer women in doing so.

At the same time, research identifies how women espouse different forms of leadership, thus providing role models for younger women and possible spillover effects. This, in turn, generates multiple strategies for empowering women, ranging from mentorship and networking to work/life balance and developing care support networks (Letsoalo 2024, Mathetha and Dhanpat 2025). However, this often focuses on how individual women can work within a gendered workplace, rather than addressing more fundamental change in the labour market. As such, they might enable more privileged women to succeed and even nudge incremental change in some sectors, but they do not — on their own — address the need for wider structural change that is necessary for the fulsome participation demanded by substantive equality.

3.3.3. Where to now? The role of positive measures in navigating patriarchy, sexism and care responsibilities

Undoubtedly, positive measures in the EEA and B-BBEE Act have placed South Africa close to global averages for women in senior levels of the economy and as the leader in Africa. Race and gender targets have helped to redistribute opportunities and top positions to women. They are also part of a wider regulatory framework in support of gender equality at work. The Basic Conditions of Employment Act 75 of 1997 (BCEA) protects maternity and parental rights, providing “at least” four months maternity leave and limited family responsibility leave¹⁴ (BCEA 1997, sections 25-27). A recent court

¹⁴ This is limited to three days for birth or illness of child or death of immediate family.

challenge successfully extended the leave entitlement to both parents, allowing them to share the four-month period: an important affirmation that childcare is the responsibility for women and men, but disappointing in its dilution of hard-won women's rights, rather than expanding father's rights, by levelling down rather than a levelling up benefits (*Van Wyk v Minister of Employment and Labour* 2025). Maternity pay, if not provided by employers, is available under the Unemployment Insurance Fund Act 63 of 2001 (Sections 24-26; Benjamin 2017, 5). The EEA protects against workplace discrimination, pay inequity and sexual harassment, with the latter bolstered by a Code of Good Practice from the Department of Labour (2022). However, this regulatory framework generally falls short in relation to broad care responsibilities of workers, over and above three days family responsibility leave and limited attention to flexible work in managing such responsibilities (BCEA 1997, section 27; Department of Labour 1998). Significantly, there is no direct legal obligation to take account of care responsibilities.¹⁵

For women, including women at the top of the economy, the problem is not always the absence of law, but its uneven implementation and enforcement in an environment in which endemic patriarchal and racist norms persist. Both legal rules and codes of practice are often regarded as legally binding, and women tend not to go to court to enforce them (Smit and Tessororf 2021, 129). Equity plans, sexual harassment and care policies may be developed within workplaces, but are often not implemented (CGE undated). And the gendered burden of care continues to be seen as an individual and private problem, devoid of legal obligations. Thus, as also noted by Smith and Von Essen (2025, 8) in relation to the global north, the gendered workplace, based on sexual division of labour and its multiple ramifications, remains a barrier for all women, including those seeking high positions, and continues to be a major source of structural inequality and unequal power relations in the workplace.

Insofar as dismantling the sexual division of labour and addressing care responsibilities are concerns for all women workers, the situation of women at both ends of the economy is bound up in positive and negative ways. Although all women share a common responsibility, women at the top have the resources to seek help privately, relying on poor and working-class women in doing so, while those women struggle with low wages and additional care (Benjamin 2017). Dismantling this, changing work/family relations, addressing the multiple burdens of care work and expanding public provision for reproduction and care are core strategies that focus on systemic change and will benefit all women. The question then becomes whether and how positive measures can provide pathways to such change. I turn to this in the final section.

4. A feminist approach to positive measures: Multidimensional pathways to structural change

A commitment to substantive equality requires a holistic approach to gender equality in the labour market, including detailed attention to the sexual division of labour and its manifestations in endemic patriarchal norms and women's care responsibilities. While getting women in via targets achieves better representation and begins to redistribute more powerful positions, fragment gendered stereotypes and challenge entrenched

¹⁵ In this respect, it is noteworthy that South Africa has not signed ILO Convention No 156 (1981) on Workers with Family Responsibilities.

norms, it is not enough on its own to dismantle systemic inequalities. Indeed, it might even divert attention from this.

In theory, the EEA and the B-BBEE Act envisage strategies for deeper change in developing equity plans for the workplace and sectoral BEE codes and charters. Although largely interpreted and implemented to bolster representation, both allow for race and gender targets to be combined with bespoke plans and policies to address the racial and gendered barriers that women experience in the workplace (EEA 1998, sections 15(2), 19(1); 20(2)) and the sector (B-BBEE sector-specific codes and charters). In addition, the development of equity plans is enterprise led, bolstered by an idea of workplace democracy that requires the participation of multiple stakeholders, employee associations and trade unions across different groups (EEA 1998, section 16). Only in 2025 were state-led targets introduced, to some contestation.¹⁶ BEE codes and charters are state-led and require the participation of “major stakeholders” (B-BBEE Act 2013, section 12; DTI 2024, section 10).

Equity plans can address pay equity, workplace culture, flexible work, the care-giving infrastructure in the workplace and childcare policies alongside the more traditional reliance on training, mentoring and development. Few do. Sectoral codes under the B-BBEE Act can consider what might be needed to meet race and gender targets for women in top and senior management. As the Legal Sector Code (DTI 2024) has recently demonstrated, targets can be supplemented with the establishment of transformation funds to address systemic barriers to advancement. The Legal Sector Transformation Fund requires legal practitioners to contribute to the Fund (thus scoring points based on their contributions) and aims to provide support to black practitioners, especially black women. A grant system provides financial assistance, training and support to black junior advocates (subsidies for rental and membership fees, financial assistance during pupillage), as well as funding to black-owned law firms, especially new entrants, for technical equipment, library facilities, office rental and training in specialised areas of law. Significantly, it offers funding to black female attorneys and advocates on maternity leave, often cited as a key barrier for women in practice (DTI 2024, section 37). However, wider care responsibilities are not addressed.

The gap between theory and practice is glaring, influenced by technocratic approaches to targets, a preoccupation with race (Ratuva 2013, 229), the patriarchal nature of many participating organisations and processes (Orr 2019, Chamberlain 2023), and the absence of legal obligations to address the sexual division of labour and the burden of care.

In the end, positive measures that get women in — at all levels — are a necessary, but not a sufficient, condition for achieving substantive equality. Targets and quotas allow the state to act on recalcitrant public and private actors — using political power to do so. Here, Franceschet and Piscopo (2013, 313) argue that the state plays a role in “forcibly reforming institutions, gendering leadership, and redistributing not just political power, but social and economic power”. Targets help build a critical mass of women and shift the needle towards 50% participation. But while this makes it likely that gender equality may be addressed in some parts of the labour market (Franschet *et al* 2013, Latura and

¹⁶ The revised targets have been opposed by multiple political and business groups. See EECMS 2025.

Weeks 2022), it is no guarantee, especially on deeper structural issues across the labour market and economy.

In this respect, a more gender just workplace requires attention to multiple barriers, as well as wider public and private recognition of the care economy and the multiple strategies required to address its deep inequalities. Unlike state participation in care in the global north, care in South Africa, as in most of the global south, is generally privatised and deeply unequal. It benefits more privileged women, historically white, and severely disadvantages poor black women (IEJ 2024, 29-34). To secure substantive equality for all women requires a seismic shift beyond current strategies of building individual care networks, or shifting some of the care burden to men (as in the *Van Wyk* judgment), to embrace the socialisation of care in which both the state and the private sector play an active role in advancing care as a collective social obligation (IEJ 2024, 41). This requires multiple, interlinked strategies in labour market policy, as well as social and economic policy, that allow care workers to be respected and valued, dismantle the public/private divide in accessing care, develop effective and accessible social provision, and so on (IEJ 2024). As such, it envisages a critical role for the state in providing affordable care to all workers and raises important questions of redistribution.

Within the labour market in South Africa, however, much more can be done, including by the expansion of positive measures beyond numerical targets. While these can address a broad range of issues, in relation to care, they would require, first, state recognition of the need to address the care responsibilities of workers, and the development of legal obligations to do so in the BCEA and, particularly the EEA. The record on race- and gender-based targets has demonstrated that it requires the authority of the state to get the private sector to act: in this instance, for equity plans and B-BBEE codes to pay attention to the care responsibilities of workers and structure the workplace accordingly. Here, targets should not operate on their own but should always be tied to meaningful strategies to address systemic barriers, including those relating to care.

This is a deceptively simple conclusion on the expanded role of positive measures. An important rider is that its achievement in South Africa will require sustained feminist advocacy and struggle across different groups of workers, trade unions, scholars, lawyers and civil society. At a normative level, this should centre the care economy, making care a core state principle that regulates labour market and economy. At a practical level, these struggles should link women at top and the bottom with wider social and economic struggles for equality. Law is not enough to achieve transformative change. However, it does offer pathways for more collective action in South Africa. In this context, moving beyond numbers to embed targets in more detailed equity plans and empowerment codes is one pathway towards to more gender just labour market and economy.

5. Conclusion

In the European Union, a 40% gender quota for non-executive directors has been widely debated and, in limited instances, has been extended to executive decision-making positions (Smith and Von Essen 2025, 4). While it has achieved greater representation of women at the top, it has also been criticised for its narrow, individual empowerment approach, without attention to wider structural issues (Elomäki 2018). In South Africa,

positive measures by way of employment equity, BEE and race- and gender-based preferences have targeted all levels of the workplace, including corporate boards and top management. To the extent that they address all occupational levels and provide for multiple positive measures, they provide some insights into how wider measures might operate. They too, have also been the subject of intense debate and contestation. Here, problems of corruption, a predominant concern with race over gender both in implementation and in political challenges to race measures, and criticism of their failure to deal with broader problems of poverty and inequality have often drowned out their positive attributes and potential, especially in relation to gender. However, South Africa's impetus to greater representation at all levels of the economy, rooted in the Constitution, is a positive move towards substantive equality that should not be lost. Targets should continue to press for more women at the top, and at all levels on the labour market, but they should also be linked to more consciously gendered pathways in equity plans, sector codes and the regulatory framework as a whole, bolstered by the power of the state and renewed legal obligations to do so.

In the end, CBQs in the global north and multidimensional positive measures in South Africa face a similar critique: on their own, as quotas or targets, positive measures are important, but limited, and can reproduce a more formal representative equality or an inclusive equality that focuses on individual women and ignores structural inequalities. Both reflect — in different degrees — the influences of neoliberalism in the labour market. Where South Africa differs is that it centres its constitutional commitment to achieving substantive equality and overcoming inherited inequalities in its labour market policy and legislation. This aspiration underpins the legal potential for positive measures to be far wider and more detailed in targeting structural inequalities. At the same time, such measures are resisted at multiple levels and their achievement requires persistent political and legal work to advance a transformative and gender just substantive equality for women in the workplace and economy.

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