



EMPLOYMENT EQUITY AMENDMENT ACT

IRR challenges new workplace
race quotas

Mlondi Mdluli & Marius Roodt

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AGENDA

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- 2** Unconstitutionality of the EEA
- 3** Challenging the EEA in court
- 4** Draft Employment Equity Regulations
- 5** Zero targets both 'crass' and formulaic'
- 6** An urgent need to address South Africa's racial poverty and economic inequality
- 7** 'Less intrusive means' to promote upward mobility and provide redress
- 8** Q&A session

Overview of the EEA

New nationwide race quotas introduced under the amended Employment Equity Act (EEA) **signed into law by President Cyril Ramaphosa in April 2023.**



Photo by Baba Jiyane accessed via [Biznews.com](https://www.biznews.com)

More power to Employment and Labour Minister, Thulas Nxesi

Setting **racial “numerical targets”** to pursue goals “at all levels of the workforce”

Identify national economic sectors which are defined as “an industry or service or part of any industry”.



Photo accessed via businessstech.co.za

More power to Employment and Labour Minister, Thulas Nxesi

Reintroduces **racial no-entry criteria** for government tenders

Employers may be delegated the odious **“pencil test”** duty of second-guessing workers’ racial self-identification



Photo accessed via [businessstech.co.za](https://www.businessstech.co.za)

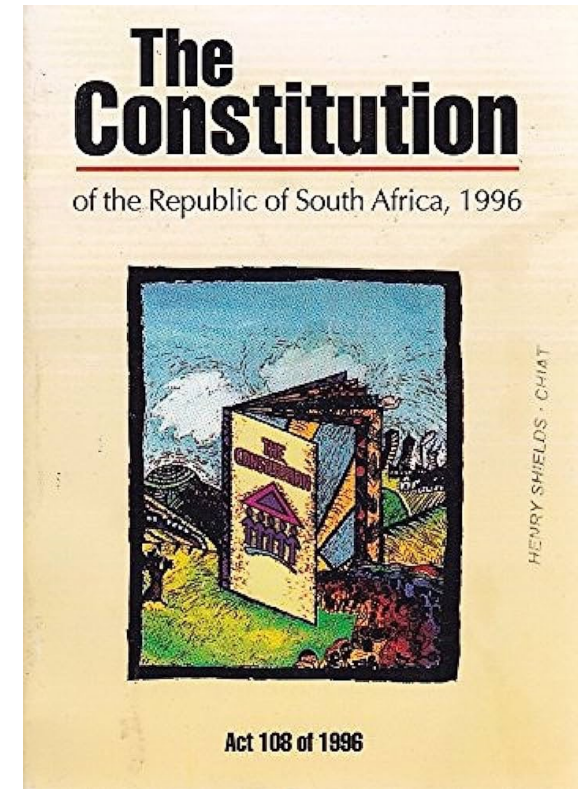
Unconstitutionality of the EEA

IRR opposes EEA's inconsistency with the Constitution

Emphasis on **race classification and racial preferences**, runs counter to non-racialism

Contrary to the certainty required by the **rule of law**

Inconsistent with Section 9: requires **equality before the law** and bars unfair race (and other) discrimination



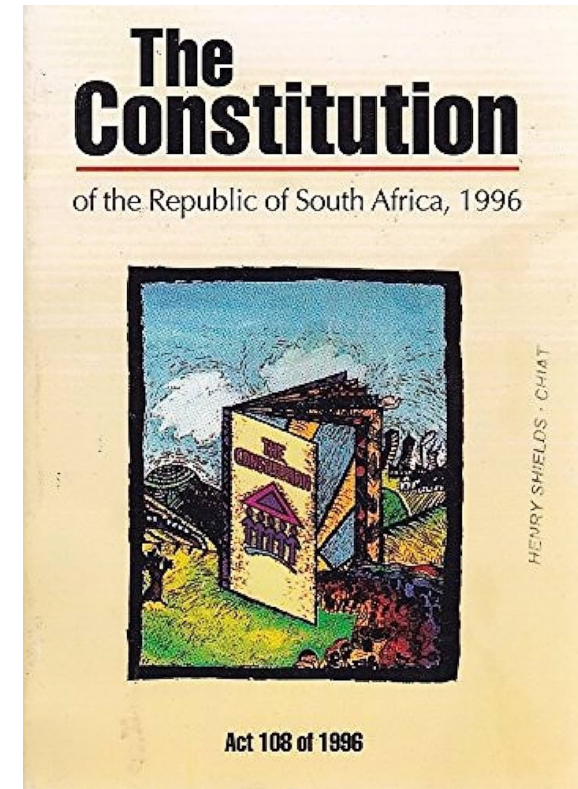
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Preferences must help **advance the poor**

Section 217: State procurement - contractors must be **efficient and cost-effective**

EEA **contradicts** the Preferential Procurement Policy Framework Act (PPPFA)



**IRR will be
challenging the
amendment of
the EEA in court**

THE GOVERNMENT'S CAMPAIGN TO SOCIALLY ENGINEER SOCIETY

Minister Nxesi's proposed
sectoral race 'targets'

Minister Nxesi's has reached a
'Rubicon' moment



Photo accessed via [businessstech.co.za](https://www.businessstech.co.za)



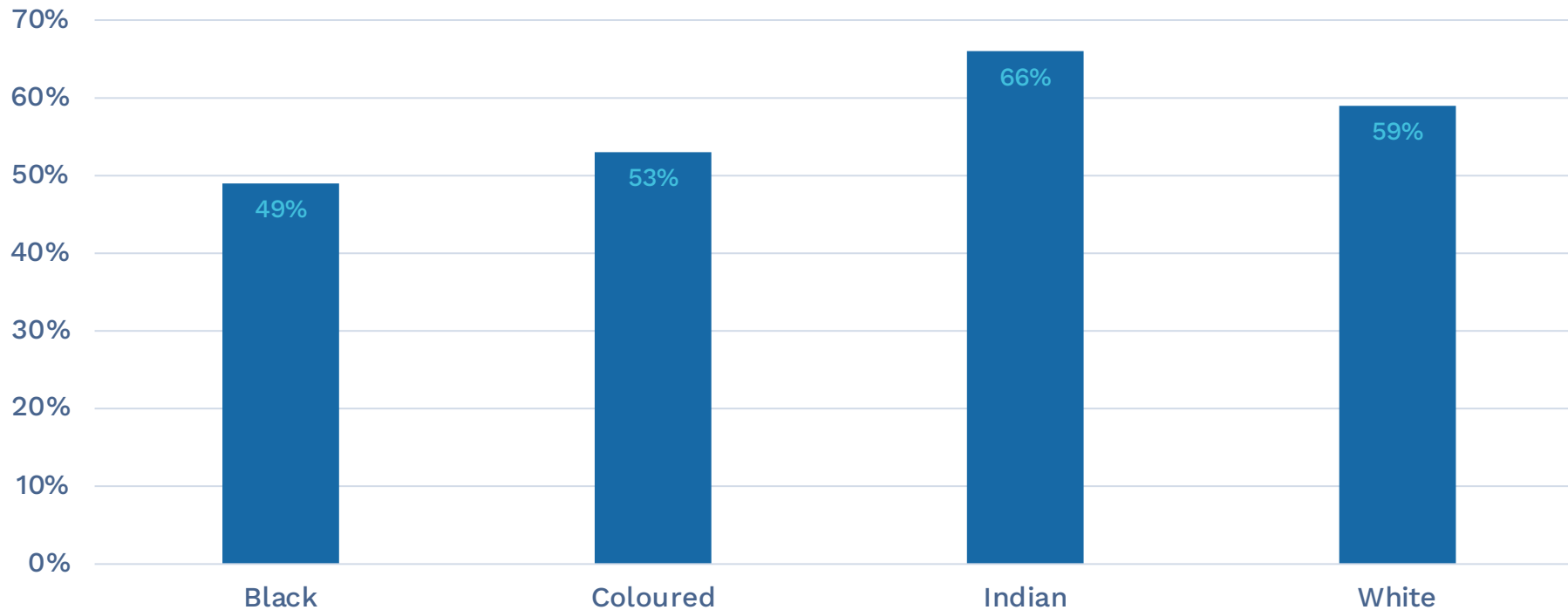
Photo accessed via [enca.com](https://www.enca.com)

WHAT MINISTER NXESI'S PROPOSED SECTORAL RACE 'TARGETS' WILL DO:

- Disregard **relevant variables**, e.g. age, experience, skills, education, entrepreneurship, leadership strengths.
- 85% of formal private workforce subjected to **'more aggressive' targets**.
- Freeze recruitment and deter direct investment.
- Ultimately **worsen unemployment, poverty and inequality**.

MOST SOUTH AFRICANS OPPOSE MINISTER NXESI'S RACE-FIRST POLICY

Appointments should be made on the basis of merit, but there should be special training to help previously disadvantaged groups



Zero targets both 'crass' and formulaic'

Under the draft Regulations, many of the sectoral targets for Indian and Coloured people are set at 0.0%.



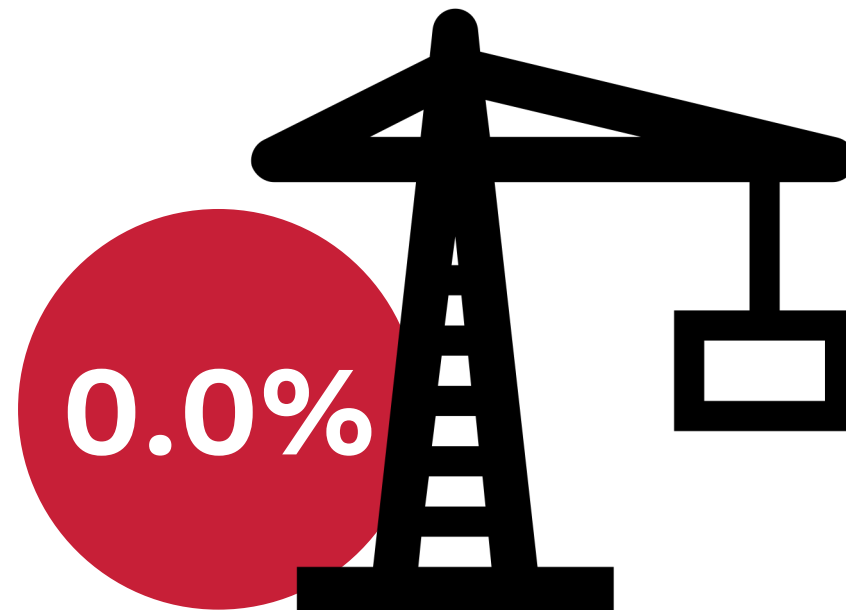
0.0%

Zero targets both 'crass' and formulaic'

Targets make it virtually impossible for Indian and Coloured people to obtain employment in particular sectors and provinces.

Example:

Target for Coloured people in top and senior positions in mining and quarrying in Limpopo = 0.0%

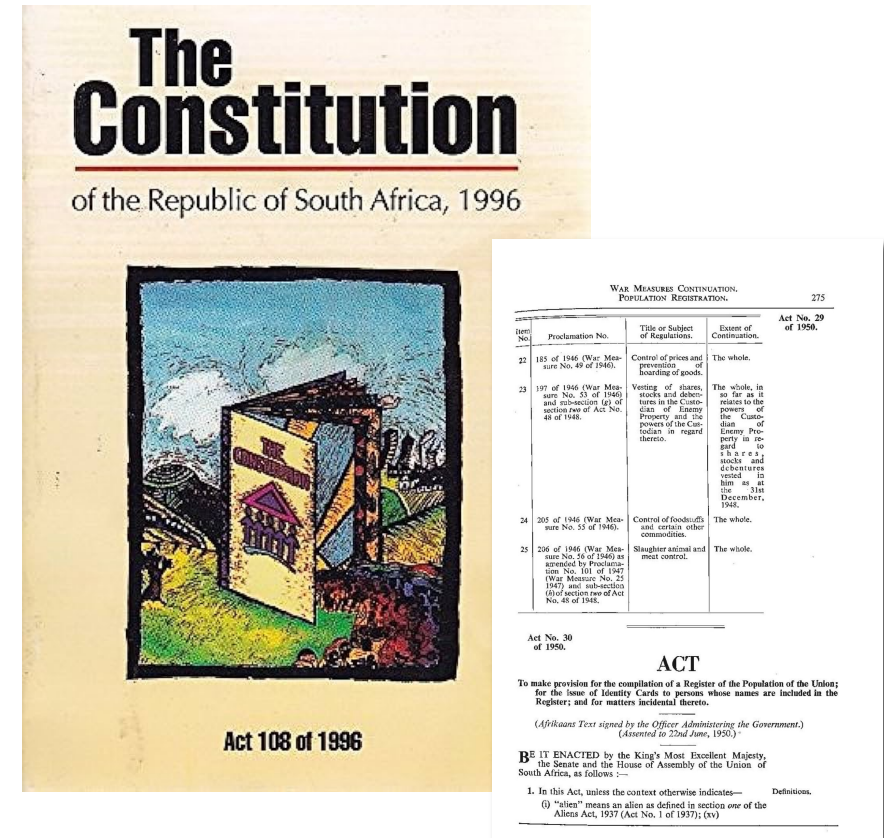


IRR opposes implementation of unconstitutional draft Regulations

Inconsistent with Section 1: identifies ‘**non-racialism**’ as a core value

Section 1: **Supremacy of Constitution and rule of law.**

Requisite racial classification of employees by race and applying ‘**preferential treatment**’



Unconstitutionality of the draft Regulations

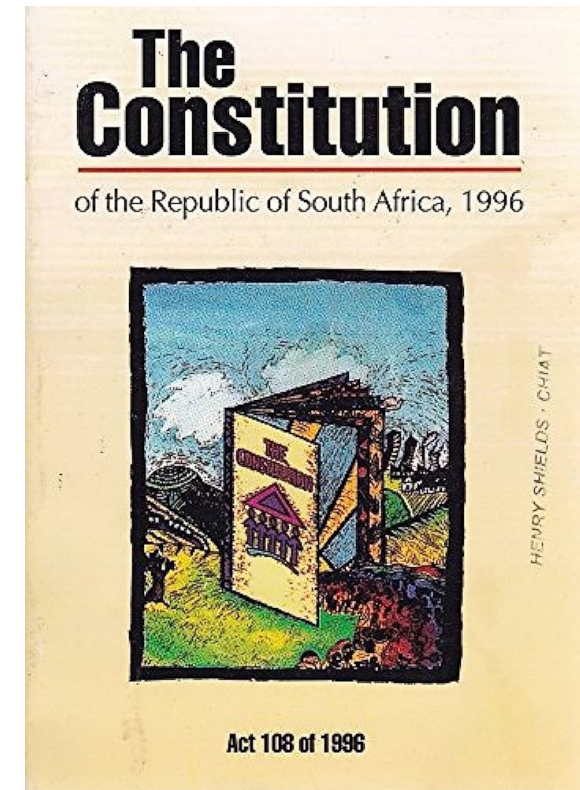
IRR opposes implementation of unconstitutional draft Regulations

Inconsistent with Section 9: ‘everyone is equal before the law and has the right to equal protection and benefit of the law’.

Inconsistent with Section 195:

- Sets out basic values and principles governing public administration
- Broad representation cannot trump other important needs.
- Balance of ability, objectivity and fairness and historical redress.

Public administration must be utmost professional



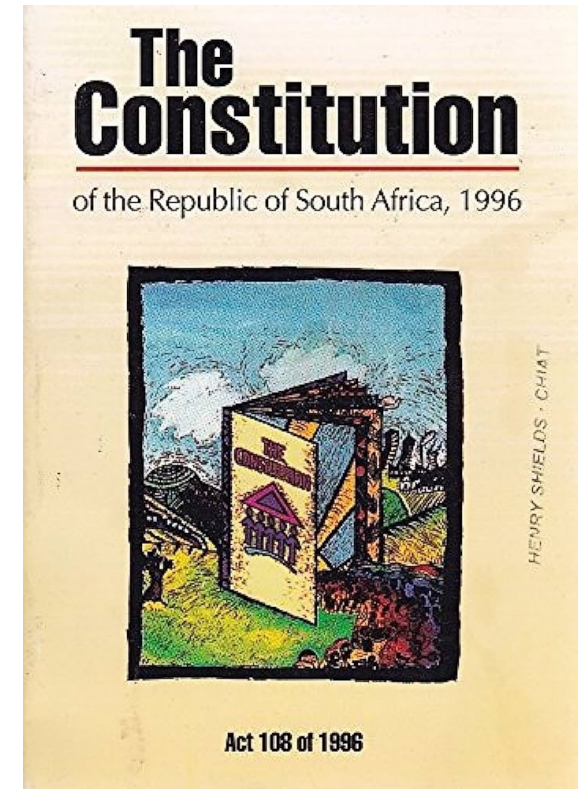
Unconstitutionality of the draft Regulations

Under the Amendment Act, read with the draft Regulations...

Non-compliant businesses will be barred from concluding agreements with all organs of state

Existing contracts could be cancelled for non-compliance

Statutory provisions are inconsistent with Section 217 of the Constitution



An urgent need to address South Africa's racial poverty and economic inequality

South Africa needs a new model of economic empowerment

Government failure to overcome key upward mobility barriers:

- Meagre economic growth (>1% of GDP)
- Public education system one of the world's worst

An urgent need to address South Africa's racial poverty and economic inequality

South Africa needs a new model of economic empowerment



An urgent need to address South Africa's racial poverty and economic inequality

South Africa needs a new model of economic empowerment

- **Pervasive family breakdown**
- **Electricity shortages and costs**
- **Limited and struggling small business sector**
- **Mistaken reliance on Affirmative Action**
- **Race-based employment equity and BEE policies failing intended beneficiaries**

‘Less intrusive means’ to promote upward mobility and provide redress

An alternative to more aggressive race-based policies: EED

Economic
Empowerment for the
Disadvantaged

‘Less intrusive means’ to promote upward mobility and provide redress

An alternative to more aggressive race-based policies: **EED**

A tax-funded **voucher system**

Available to means-tested South Africans earning below a certain amount to use in accessing education, healthcare and housing.



STOP NEW NATIONWIDE RACE QUOTAS



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