



# 5<sup>TH</sup> ANNUAL Nelson Mandela Human Rights Lecture

## INVITATION

The Centre for Human Rights, Faculty of Law, University of Pretoria in collaboration with the Geneva Human Rights Platform in Geneva Switzerland cordially invite you to the 5<sup>th</sup> annual Nelson Mandela Human Rights Lecture, which forms part of the Nelson Mandela World Human Rights Moot Court Competition.

The theme for the Lecture is:

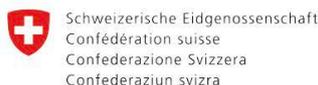
*The Intersecting Role of Gender and Race in Affirmative Action Processes.*

**Wednesday 17 July 2024**  
**Auditorium A2 Maison de la paix, Chemin Eugène-Rigot 2 in the Petal 2**  
**Geneva Switzerland**  
**18:00 – 20:00**

[CLICK HERE TO RSVP](#)

*RSVP before Monday 15 July 2024.*

*Please note: This event is hosted in Geneva, Switzerland, participants are responsible for the arrangement and payment of their own travel and accommodation.*



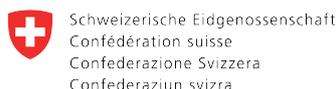
# CONCEPT NOTE

'Affirmative action', at the national level, can be traced back to the United States of America in the 1960s and has been included and elaborated upon in the form of 'special measures' at the United Nations level in the texts and jurisprudence of the UN Convention for the Elimination of All Forms of Racial Discrimination (ICERD) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). These measures were introduced as tools to foster equality where there are apparent disparities typically based on race and gender, and more specifically, the prevalence of systematic racism and pervasive patterns of patriarchy.

However, the utility and fairness of affirmative action have been a subject of critique. Affirmative action can undermine meritocracy by elevating factors such as race and gender above qualifications and merit. Consequently, the continued use of affirmative action practices fosters ill sentiments such as stigmatisation and resentment of members of groups that are earmarked to benefit. While hiring processes do not always overlook merit, the perpetuation of affirmative action gives the impression that the system is flawed and potentially prioritises race or gender at the expense of merit.

Despite these critiques, affirmative action has generally been implemented in varying contexts across the world by states such as Brazil, Colombia, India, Malaysia, South Africa and the United States of America. Proponents of affirmative action argue that it mitigates past injustices and the current prevailing indirect discrimination largely rooted in race and gender as it creates a platform for previously disadvantaged people to benefit in modern societies. Affirmative action potentially allows the marginalised and historically disadvantaged members of society to have access to opportunities they are unlikely to have owing to their background or circumstances attributable to injustices suffered in their past.

Evidence suggests that the use of affirmative action has enjoyed great success in fostering diversity, particularly in the education and employment sectors, and in increasing political participation (particularly of women). It has however been extended to other spheres. In South Africa, for example, affirmative action has been used to transform the economic sector with policies such as Black Economic Empowerment (BEE) aimed at increasing the participation and involvement of races previously excluded by apartheid policies.



# CONCEPT NOTE

The intersection of gender and race in affirmative action aims to address the longstanding systematic exclusion, discrimination and segregation of people based on their race and gender. In the context of the global history of exclusion and segregation of black and other races of colour and women, affirmative action is a tool for balancing out the systematic inequalities created in the past and those that persist in the current context.

While it is conceded that the drawbacks and benefits of affirmative action will always be contextual, with no definitive outlook as to the long term utility of the practice, there is an arguable sentiment that affirmative action practices have run their course.

In the international sphere, affirmative action has been earmarked in the developing notion towards questions regarding the true meaning of equality. Equality, particularly substantive equality, was first adopted as a tool to abolish discrimination and create equality of opportunity. The issue in this regard is that affirmative action processes, justifications and outcomes must be linked to true equality. It is therefore sometimes argued that the focus should not be on affirmative action, but instead on (substantive) equality.

The panellist will address some of the matter noted below:

- Is the utility of affirmative action processes now obsolete?
- If not, for how long should the processes be allowed to continue before their implementation becomes inherently unjustified?
- What issues impacting affirmative action arise when race and gender intersect?

The aim of the Lecture is to:

- bring together experts, to draw from their experience and critically engage on the emerging sentiments and trends around affirmative action, in national systems, globally, and within the UN human rights framework, and gain new insights on ways to take the debates on this topic further in a constructive manner.

