

Income inequality in context:
& additional legal tools

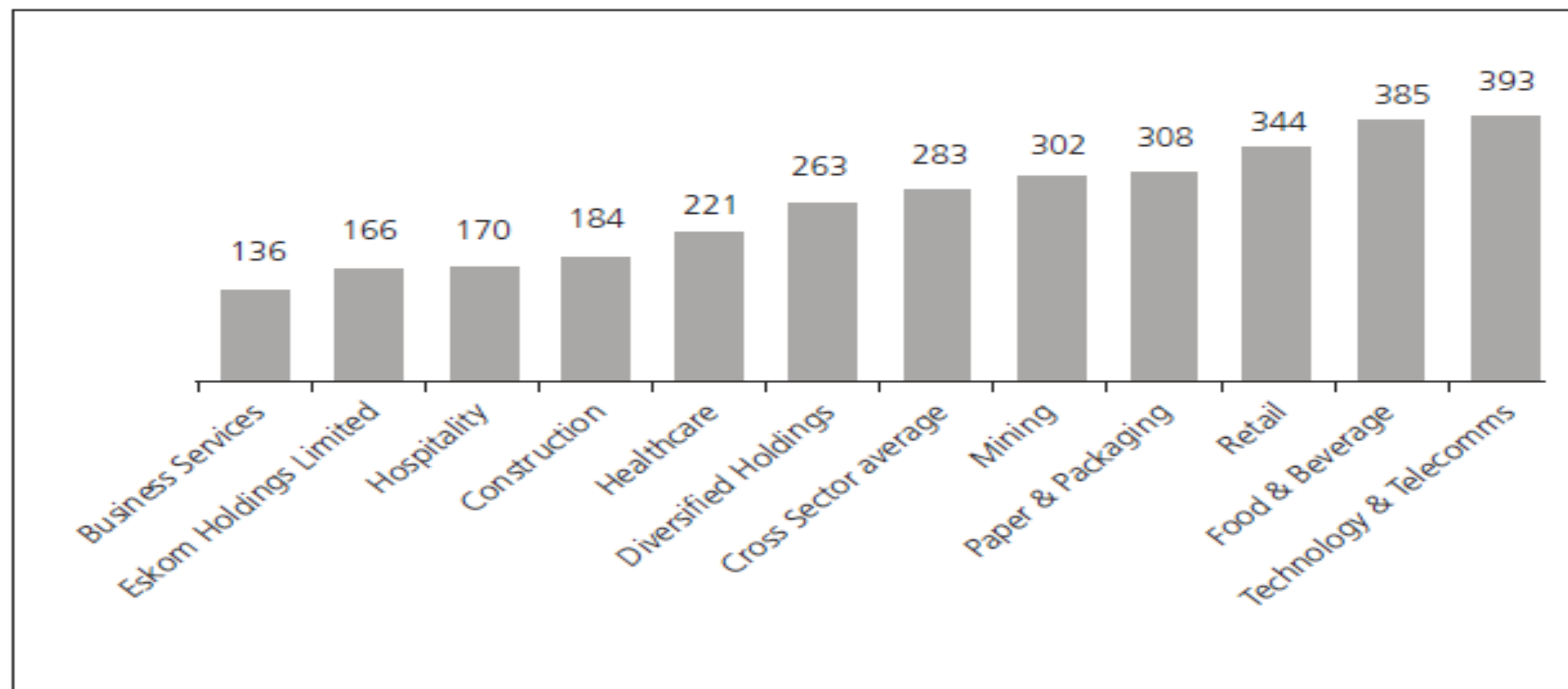
to

transform the wage structure

What does it mean to '*transform*' the '*wage structure*'?

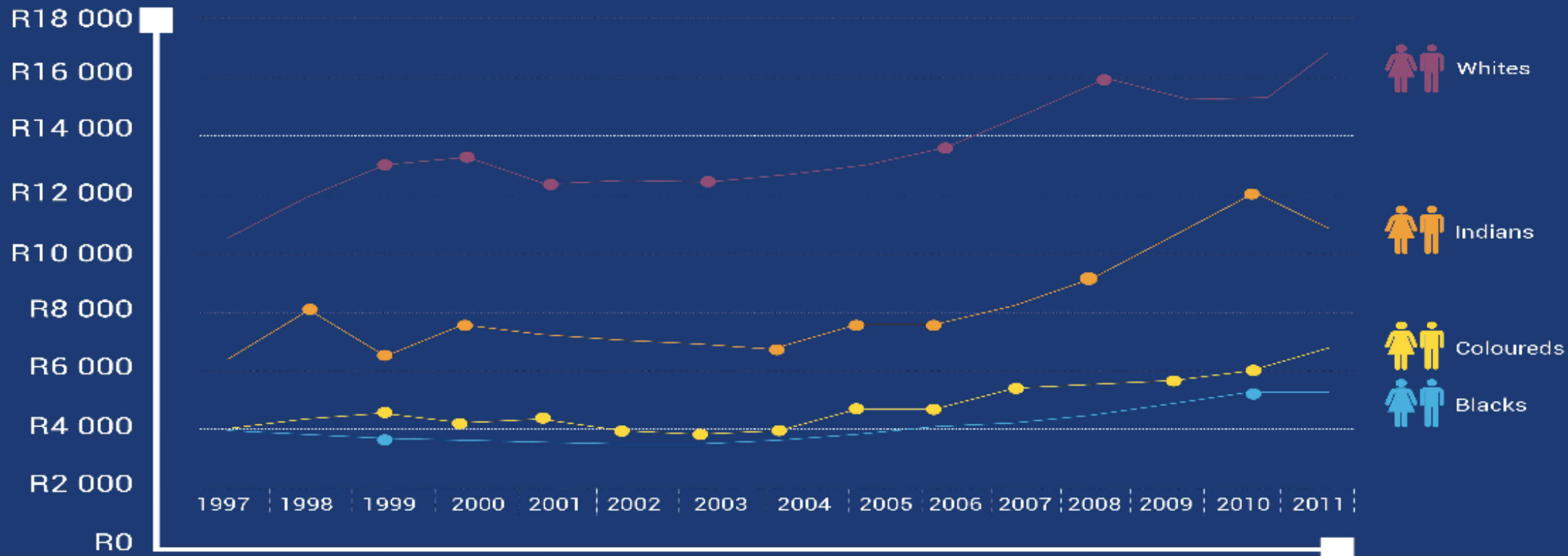
- 'Transform'
 - 'make a marked change in the form, nature, or appearance of.'
 - 'In an organizational context, a **process** of *profound and radical change* that orients an organization in a new direction and takes it to an entirely different level of effectiveness.' (Business Dictionary)
- 'Wage structure'
 - 'the levels or hierarchy of job and pay ranges. ... the interrelationship of the levels of pay for different types of employees.' [It may also mean 'the way the total wage of a worker or group of workers is composed' (basic, benefits, bonus etc)] (US Legal Definitions)
 - '... some firms have a wage structure that is very **compressed** —paying low- and high-wage workers very similar wages—while other firms have a very **dispersed** or high-variance structure of wages within the firm ... [why?] (NBER working paper)

Preliminary 2012 worker /CEO wage gap



(Source: LRS, *Bargaining Monitor*, Vol. 27(179), March 2013, p 15)

AVERAGE INCOME BY RACE GROUP



Source: PALMS (2015 rands)

Population Groups of the Economically Active Population

- 'Black people' : 89.6%
 - African : 76.2 %
 - Coloured : 10.6%
 - Indian : 2.8%
- White : 10.3%

HOWEVER (© CEE Annual Report 2015):

5.2 ANALYSIS OF WORKFORCE PROFILE, WORKFORCE MOVEMENT AND SKILLS DEVELOPMENT ACCORDING TO OCCUPATIONAL LEVEL

5.2.1 WORKFORCE PROFILE AT THE TOP MANAGEMENT LEVEL

5.2.1.1 WORKFORCE PROFILE AT THE TOP MANAGEMENT LEVEL BY RACE, GENDER AND DISABILITY

Fig1: Workforce profile at the top management level by race

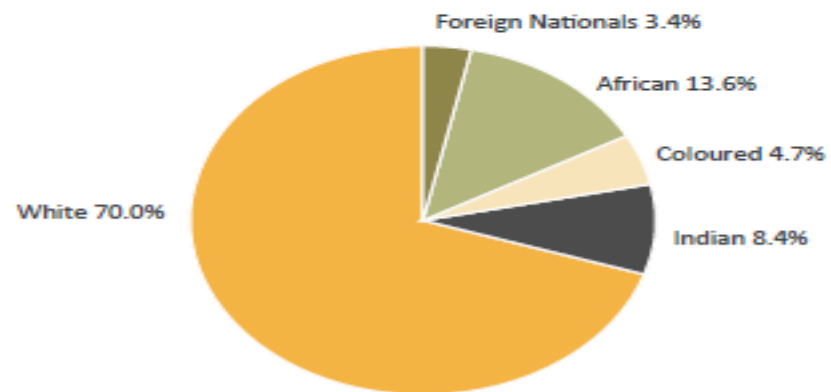
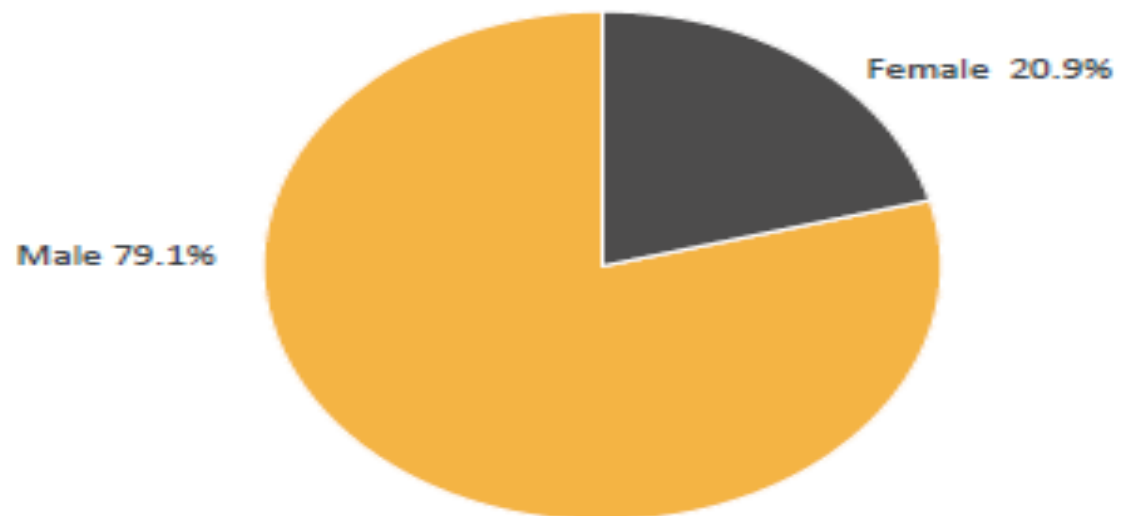


Fig 2: Workforce profile at the top management level by gender



5.2.2 WORKFORCE PROFILE AT THE SENIOR MANAGEMENT LEVEL

5.2.2.1 WORKFORCE PROFILE AT THE SENIOR MANAGEMENT LEVEL BY RACE, GENDER AND DISABILITY

Fig 4: Workforce profile at the senior management level by race

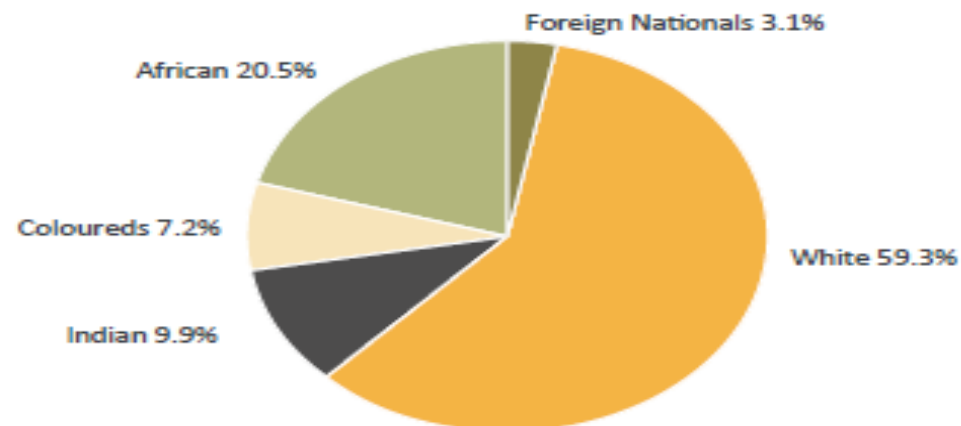
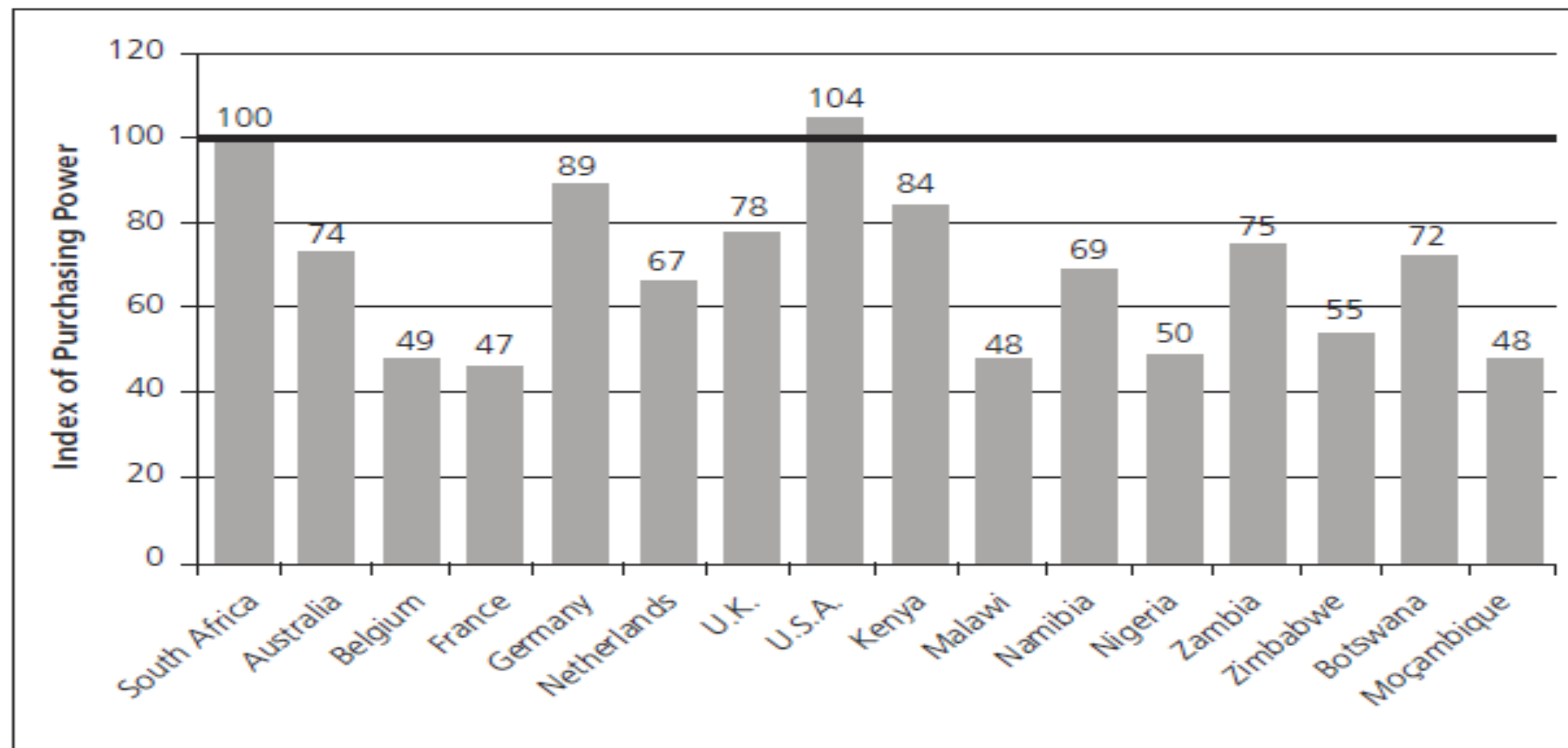


Fig 5: Workforce profile at the senior management level by gender

Fig 5: Workforce profile at the senior management level by gender

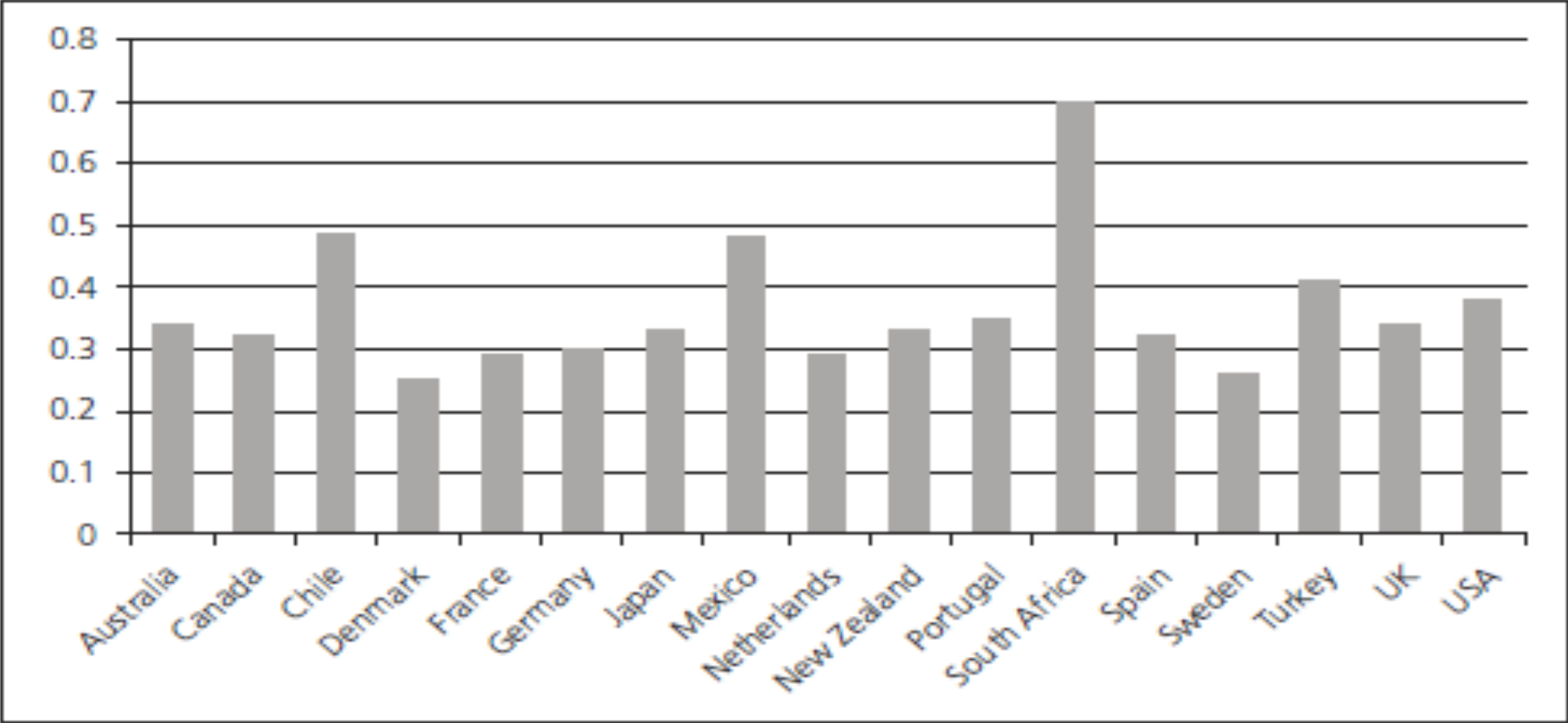


Relative wealth – How South African executives rank globally



(Source: PE Corporate Services)

Gini-coefficient: 2012 OECD country comparison (OECD average 0.31)



Transforming the wage structure is a social, an economic and a legal imperative

- Why is it an *economic* imperative?
- Why is it a *social* imperative?
- Why is it a *legal* imperative?
- ‘Supply & demand’ (in a context of high unemployment) appears to be a significant determinant of our wage structures
 - Is this a problem?
 - Is there an alternative?
 - What does the law say?

‘[b]lack people were prevented from becoming owners of property or even residing in areas classified as ‘white’, which constituted nearly 90% of the landmass of South Africa; senior jobs and access to established schools and universities were denied to them; civic amenities, including transport systems, public parks, libraries and many shops were also closed to black people. Instead, separate and inferior facilities were provided. The deep scars of this appalling programme are still visible in our society. It is in the light of that history and the enduring legacy that it bequeathed that the equality clause needs to be interpreted.’

Brink v Kitshoff NO [1996] ZACC 9, para 40.

Section 9 Equality

1. Everyone is equal before the law and has the right to equal protection and benefit of the law.
2. Equality includes the full and equal enjoyment of all rights and freedoms. **To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.**
3. **The state may not unfairly discriminate** directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.
4. **No person may unfairly discriminate** directly or indirectly ...
5. Discrimination on one or more of the grounds listed in subsection (3) is unfair unless it is established that the discrimination is fair.

A measure designed to transform wage structures

- Section 27 of the Employment Equity Act
- Introduced after a rigorous legislative process
 - Report of the Presidential Commission to Investigate Labour Market Policy (June 1996) in discussing affirmative action measures
 - “The Commission is mindful that discrimination in remuneration persists and needs to be addressed in ways that are both conceptually and practically demanding. When, for example, are wage differentials justified between different categories of workers, what is the legitimate extent of these differentials, and what are the best methods for identifying and rectifying inequitable differentials?”

- (1) Every designated employer ... must submit a statement... to the Employment Conditions Commission ... on the remuneration and benefits received in each occupational level of that employer's workforce.
- (2) Where disproportionate income differentials or unfair discrimination ... are reflected in the statement ... a designated employer must take measures to progressively reduce such differentials subject to ... guidance ... by the Minister
- (3) The measures referred to in subsection (2) may include-
 - (a) collective bargaining;
 - (b) compliance with sectoral determinations made by the Minister ...;
 - (c) applying the norms and benchmarks set by the ECC;
 - (d) relevant measures contained in skills development legislation;
 - (e) other measures that are appropriate in the circumstances.
- (4) The Employment Conditions Commission must research and investigate norms and benchmarks for proportionate income differentials and advise the Minister on appropriate measures for reducing disproportional differentials.
- (5) ...
- (6) Parties to a collective bargaining process may request the information contained in the statement

Legal obstacles that impede wage structure compression

- South Africa's company structures and composition of boards / corporate governance deficits
 - The regulatory framework does not mandate robust discussions on pay policies and an inclusive approach to the say on pay
- Taxation thresholds do not discourage excessive remuneration levels at the top end of the wage structure

Social / Business Culture Obstacles to achieving compression

- Fixation on adversarial forms of collective bargaining and a suspicion of more collaborative styles of engagement
 - WEF ratings
 - Lack of take up on the LRAs Workplace Forums
- Leadership deficits
 - "Am I getting paid on a fair basis for what I'm having to deal with in this company? Must I run this company and deal with all this nonsense for nothing? I'm at work. I'm not on strike. I'm not demanding to be paid what I'm not worth"
 - Chris Griffith (CEO Amplats) (paid R17.6 mill (R6.7 mill basic))



Alternative styles of leadership & governance

Small firm joins dots for a moral code

23 Nov 2015 | Francois du Plessis and Anton Verwey

What is the contribution a small business can make when it chooses to be a good corporate citizen of SA, ask Francois du Plessis and Anton Verwey

AS A really small South African company, we have decided over the past four years to adopt specific business practices based on a clearly articulated set of principles and values.

These are, among others:

- We exist to add value to every individual or company we engage with.
- We will conduct business with the utmost integrity and respect for the laws of the country, not only in letter, but also in spirit.
- Although we are a business and we wish to be profitable, profit is not our reason for existence.

Since creating our company, there has, in our view (and that of many of our clients, partners and associates), been a fairly rapid decline in the fabric of our society and country.

There is, it seems, total disregard for lawfulness and decency.

InavitiQ has contributed to employment and compressed wage structures

“Full-time employment in our company has grown by 400%, in line with revenue growth of almost 500%. Through choosing to work with small and medium-sized companies as providers, we also contribute to job creation.

The ratio of highest-to lowest-paid person is under seven, effectively meaning that nobody is paid a very low wage and nobody is paid an excessive salary either.”

To conclude:

- Transforming the wage structure is a social and economic imperative
- BUT
- Transforming the wage structure should not undermine sustainability

- The NMW is one tool in the 'legislative toolbox' to transform the wage structure