

# The South African labour market:

## A prolonged and worsening crisis

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South Africa's unemployment problem is well documented, and the current state of the country's labour-market institutions and regulatory environment is a major contributory factor. A rigid labour market, the ongoing crisis in collective bargaining, the widespread prevalence of the controversial practice of labour broking, problems with the determination and implementation of minimum wages, and policies that actually hamper – rather than aid – efforts to achieve higher rates of job creation are all to blame.

### CURRENT LABOUR MARKET CHALLENGES

The growing prevalence of strikes in key sectors of the economy, notably mining, threatens to stifle economic growth and much-needed investment.

In the period between 2007 and 2012, 41.9 million worker-days were lost to strike action, more than four-and-a-half times the number lost between 2001 and 2006.

The department of labour's annual industrial action report for 2012 states that workers lost R6.6 billion in wages as a result of strikes (up from R1.1 billion in 2011). As of the end of March 2014, the wage strike in the platinum mining sector had single-handedly cost workers some R4.4 billion in lost wages and employers some R10 billion in lost production. This cycle of value destruction is a fundamental obstacle to tackling poverty, inequality and joblessness in South Africa.

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labour: the current employment-to-population ratio is just 41.9 percent. This modest rate is primarily a product of the mismatch between the skills of the workforce and those demanded by industry. A large share of the country's workers does not possess the skills required to fill the hundreds of thousands of job openings for highly skilled workers across South Africa. The problem has been exacerbated by changes in the sectoral composition of employment, where a shift towards a more capital- and skill-intensive economy has meant that fewer and fewer new low-skilled jobs are becoming available. Inadequate vocational skills training and a poor quality education system have only worsened the skills deficit.

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Access to higher education, in particular, remains a problem. In its August 2013 proposal for undergraduate curriculum reform in South Africa, the Council on Higher Education reported that, despite significant improvement in access to higher education across all population groups, the growth is not sufficient to meet South Africa's human resource needs. The National Plan for Higher Education has set a 20 percent target participation rate in higher education.<sup>2</sup> Steady growth in the participation rate – from 15 percent in 2000 to 18 percent in 2010 – suggests that the target is likely to be met by 2015/16. The Department of Higher Education and Training's 2012 Green Paper revised the target rate to 23 percent by 2030, but this is still modest when compared with average participation rates in Latin America (34 percent) and Central Asia (31 percent), and well below the 40 to 50 percent rates that are common in developed nations.

A range of other factors hampers job creation efforts by discouraging the hiring of new workers. Certain aspects of labour legislation are highly restrictive by global standards. There are perceived rigidities in the regulations that govern the hiring and firing of workers and in arbitration processes. The growing abuse of Commission for Conciliation, Mediation and Arbitration (CCMA) processes relating to dismissal has slowed down the arbitration and dispute resolution system. Other

impediments – both real and perceived – include the lack of a clear probation period for new employees, limited recourse to dismissal for employees who do not meet expectations during the probationary period, and unduly onerous dismissal protection, particularly for executives and high-earning employees. These factors have encouraged many employers to opt for alternative, atypical forms of employment, such as employing workers through labour brokers.

To be sure, the practice of labour-broking is widespread in South Africa, and has been the source of considerable controversy. While this is an effective mechanism to assist workers to gain entry into the labour market, it also leaves them vulnerable to arbitrary or summary action, and undermines their ability to contest unfair labour practices or unfair dismissal. The national government's response to address these issues – which includes, in the recently introduced Labour Relations Amendment Act, the notion of "deemed employment" after a three-month period – is likely to add further cost and complexity to the system and invite legal contestation. That, in turn, is likely to adversely affect the number of jobs available, and to increase unemployment.

Apart from these issues, the crisis in collective bargaining is one of the most visible problems in the South African labour market. The dominance of centralised bargaining – which is at odds with the international movement towards decentralisation – favours large employers, institutionalises the power of trade unions, and results in greater incidence of fixed wages across sectors. Centralised bargaining does not adequately recognise differences across enterprises and stifles labour management relationships at the enterprise level. A body of empirical evidence suggests that centralised bargaining also restrains wage levels in certain sectors – with financially stronger employers required to pay only the modest wage increases that smaller enterprises can afford, while the weakest enterprises may be squeezed out if they cannot afford the increases that the majority are prepared to pay.

In addition, the practice of extending collective bargaining agreements across entire industries places small businesses and entrepreneurs at a disadvantage. The push by trade unions for industry-wide bargaining has also, as a *quid pro quo* demand by employers, resulted in the practice of setting actual wage increases rather than minimums at the industry level, which has meant that employers are accommodated at the lowest levels of affordability. Industry bargaining also precludes the option of a productivity-linked wage system that could address the problem of rising unit labour costs combined



with falling productivity, which threatens job creation and undermines the competitiveness of the South African economy.

Who is to blame for these problems? Major trade unions must accept responsibility for their failure to achieve real gains for workers through effective collective bargaining over the past decade. The Congress of South African Trade Unions (COSATU) has strongly promoted industry bargaining. For their part, employers have, until recently at least, also been content to leave bargaining to industry representatives, while paying little attention to workplace relations, to the detriment of meaningful engagement at the enterprise level. Consequently, industrial strikes and deadlock have become the norm rather than the exception. A key cause of instability in the labour market over the past few years has been the growing distance between trade union representatives and workers, as well as the absence of a meaningful social wage.

Well-grounded concerns that employers have pursued high levels of profit for owners – which is shared with top managers at the expense of lower-paid workers – have also been a source of consternation for trade unions and workers alike.

Moreover, there has been poor leadership from government. The government's decision-making and labour market policies remain heavily influenced by the views of trade unions – particularly COSATU – and those of big business, to the detriment of medium-sized and small businesses. The minister of labour has floundered and the African National Congress has said different things to different stakeholders, attempting to please all, but doing little in practice to chart a way out of the crisis. The government has publicly committed to implementing the National Development Plan (which means, among other things, improving the social wage and growing jobs by cutting the cost and complexity of doing business), but has pushed through labour law amendments that will – according to its own policy impact assessment – have the opposite effect.

## PRIORITIES FOR CHANGE

This chaos clearly indicates the need for changes to be made. First, the abuse of temporary workers, in labour-broking arrangements and elsewhere, must be tackled. Even so, although the protection of vulnerable workers is non-negotiable, this must occur without unnecessarily increasing the cost and complexity of doing business or destroying jobs.

One way to balance these competing interests would have been for the law to hold the clients of labour brokers, together with the labour brokers, jointly and severally liable for dismissal. It is difficult to see how the highly complex notion of

deemed employment will provide more accessible protection to workers.

Second, there is a need to remove the obstacles to taking on employees that are currently encountered by businesses. The highly inflexible system for protection against unfair dismissal is a significant barrier to job creation, and carries enormous cost internally (for businesses and government) and externally (in administering the dispute resolution system). A sensible policy response would be to introduce a qualifying period for dismissal protection that would not affect those already in employment.

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For lower-paid workers, this might, for example, be six months. For higher-earning employees, a qualifying period of 12 or 24 months would be more appropriate. Additionally, there should be no protection (other than against discrimination and similar serious violations of employment standards) for top executives and high-income earners, provided that a prescribed notice payment is made. Changes of this kind would significantly increase flexibility in employment, encourage job creation, and free up much-needed resources that could be invested in the collective bargaining system.

Third, the collective bargaining system needs a radical overhaul to move away from the preoccupation with industry-level bargaining and re-introduce two-tier bargaining, at both the industry and plant level. The most effective way to restore meaningful plant-level bargaining would be to re-introduce a duty on employer and representative trade unions to bargain in good faith in appropriate bargaining units. Interest arbitration – in which a properly trained arbitrator or panel of arbitrators, typically with an independent arbitrator assisted by one assessor nominated by the employer and trade union, respectively decides on the final outcome of collective bargaining – should be strongly promoted as a means of resolving deadlocked disputes without loss of wages through strike action or corresponding harm to the enterprise.

The reintroduction of bargaining at the enterprise level has the potential to restore much-needed rationality and credibility to the collective bargaining system. It also gives workers a far





better opportunity to gain an equitable share of the value generated by the businesses in which they work. Moreover, a move towards two-tier bargaining, in which only minimum wage levels or a basic framework are set at industry level, and actual wage levels at plant level, would facilitate wage settlements that far better reflect the current economic realities in South Africa.

Finally, skills shortages within the labour force should be addressed as a matter of priority. This will require a rethink of the country's existing vocational training system. As a first step, the largely ineffective sector education and training authorities should be replaced by industry colleges focused on training artisans and other similar vocations, with greater emphasis placed on improving the link between existing vocational training programmes and actual opportunities in the workplace.

It is clear that the South African labour market is in the midst of a prolonged and worsening crisis. This is most evident within the existing collective bargaining system. That said, casting blame for the crisis – as both trade unions and business are wont to do – does little to identify a way out of it. It requires leadership, and it needs real change.

Dealing effectively with South Africa's massive unemployment problem and the harmful effects of frequent strikes on productivity and economic growth will require major structural reforms to the labour market and its institutions. Unless these are undertaken, it is unlikely that the South African economy will be able to generate the number of new jobs – especially unskilled jobs – required to address the unemployment problem and tackle poverty and inequality in the country.

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## NOTES

1. The authors are grateful to Chris Todd, labour lawyer and director at Bowman Gilfillan, for sharing some of the insights and thoughts contained in this article.
2. The participation rate is defined as the total enrolment (across all ages) expressed as a percentage of the 20- to 24-year-old age group in the population

## REFERENCES

- Coleman, N. 2012. "Towards new collective bargaining, wage and social protection strategies: Learning from the Brazilian experience", presented at the Conference on Strategies to Overcome Poverty and Inequality, UCT, 4 September.
- Department of Labour, Government of South Africa. 2012. Annual Industrial Action Report 2012. Pretoria: Department of Labour.
- Human Sciences Research Council. 2013. Presentation on the 2013 Medium Term Budget Policy Statement to the Standing Committee on Appropriations, 29 October.
- Statistics South Africa. 2013. Quarterly Labour Force Survey, Quarter 3, 2013 (Statistical Release P0211), 29 October.

