



THE ANNUAL REPORT ON BARGAINING

2008

“BARGAINING FOR A LIVING WAGE”

REPORT FOR COSATU’S CEC

26 February 2008

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INTRODUCTION

Collective bargaining lies at the heart of the Labour Relations Act (LRA, 66 of 1995) and is regarded as central to the defense and advancement of workers interests in their relationship with employers. Chapter three of the LRA makes extensive provision for protecting and advancing workers rights through a bundle of mechanisms including workplace organizational rights, collective agreements, bargaining councils (sector/area bargaining councils, public service bargaining councils, statutory councils) and ministerial determinations.

In the last decade or so, increasing sophistication in the work place brought about by globalisation, privatization, company restructuring and the drive to maximize profits by employers, has meant that strategies adopted by unions for collective bargaining have had to be re-adjusted accordingly. Trade unions have no option but to respond using well informed and advanced methods when negotiating for better terms of service for workers. As the National Labour and Economic Development Institute (NALEDI) argued a few years ago, unions,

“Have to develop more sophisticated arguments when entering bargaining rounds with employers. An important tool for unions entering bargaining rounds is access to reliable and up to date information. However, bargaining information is scare and often insufficient” (NALEDI, 2003).

Besides the sophistication in production processes at an economic, industrial and company level, the growth in atypical employment in the South African labour market has also posed a welter of new challenges to trade union capacity for collective bargaining. Fundamental to the question of improving union capacity to bargain collectively should be the acknowledgement that the changing nature of workplace relations has resulted in the weakening of centralised bargaining (Department of Labour, 2004).

For this reason, COSATU, during its historic 9th National Congress in September 2006, called for a strengthening of collective bargaining through a range of measures including the establishment of councils in more sectors, lowering the threshold required for representivity and subsidizing some of the work of bargaining councils such as dispute resolution services (COSATU, 2005: Resolution 3.9).

This is the second report to be produced by NALEDI (the first report was produced in February 2007) for COSATU's Central Executive Committee on trends in collective bargaining in South Africa. It aims to give the federation as well as its affiliates a deeper sense of the South African labour market and therefore the key issues that impact on and affect collective bargaining.

The report examines a wide range of issues relating to the labour market including economic growth, employment and unemployment, working conditions, industrial action and wages. It also looks at occupational health and safety, HIV/AIDS and the work of labour market institutions. Some of the key findings are as follows:

- Positive economic growth in the last few years has done little to reduce the rate of unemployment in South Africa. By March 2007 unemployment stood at 25.5% (4.3m) of the labour force¹ (using the official or narrow definition of unemployment) but when expanded to include discouraged work seekers (3.5m), the rate rises to 38.3% or 7.8 million unemployed people.
- Unemployment is structural, spatial and gendered. It is highest amongst black people (63.8%) and lowest amongst whites (4.3%). Among men, the rate of unemployment is 21.1% while for women, it is 30.8% Limpopo has the highest rate of unemployment among the provinces (32.4%) while the Western Cape (17.2%) and Gauteng (22.6%) have the lowest rates of unemployment
- Youth are the worst affected by unemployment. Almost 70% of the youth have no jobs with the age cohort 15-24 years being the hardest hit.
- The majority of workers have neither a provident fund nor medical aid cover. Almost half of all workers (44.5%) report having no UIF. Vulnerable sectors such as agriculture, construction, wholesale and retail and private households have the highest number of workers without UIF.
- Sectors such as mining, farming and construction experience very high rates of deaths and injuries. Between 2000 and 2007, a total of 1926 miners lost their lives while 34,814 were injured. In 2007, over 200 miners died in SA mines.
- Though 2006 had a total of 99 strikes, it had the highest number of working days lost (4.2m) since 1998 (3.8m). Official data for 2007 is still outstanding but there were major industrial actions such as the public sector strike.
- Strikes are increasingly becoming long drawn and violent. There is also evidence of increasing use of scab labour by employers.
- Wage settlements in 2007 reflect an average of approximately 7.5%. In 2006, the average settlement was 6.3%. However, in 2007, the average rate of inflation was 7.1% while in 2006, it was 4.6% and this means that in 2007, unions have settled for a very small margin above inflation.
- The average rate of increase of packages for company executives in 2007 was 14%.
- Unions are increasingly including HIV/AIDS issues in their collective agreements but implementation of HIV/AIDS programmes is far from effective.
- Labour market institutions (CCMA, Labour Court & Labour Appeal Court) face many challenges including the lack of a coherent jurisprudence while some decisions handed down especially by the Supreme Court of Appeal in labour disputes have undermined the rights of workers.
- Non-standard forms of unemployment (casualisation, externalization and informalisation) have been on the increase yet unions still have not developed creative strategies to organize atypical workers.

As readers will realise, this report has been titled “bargaining for a living wage” with the hope that it will strengthen COSATU, its affiliates and workers generally to sharpen their bargaining strategies and in the process advance the campaign for a living wage, quality jobs and an end to poverty and inequality in South Africa.

¹ The official total labour force is approximately 17 million workers.

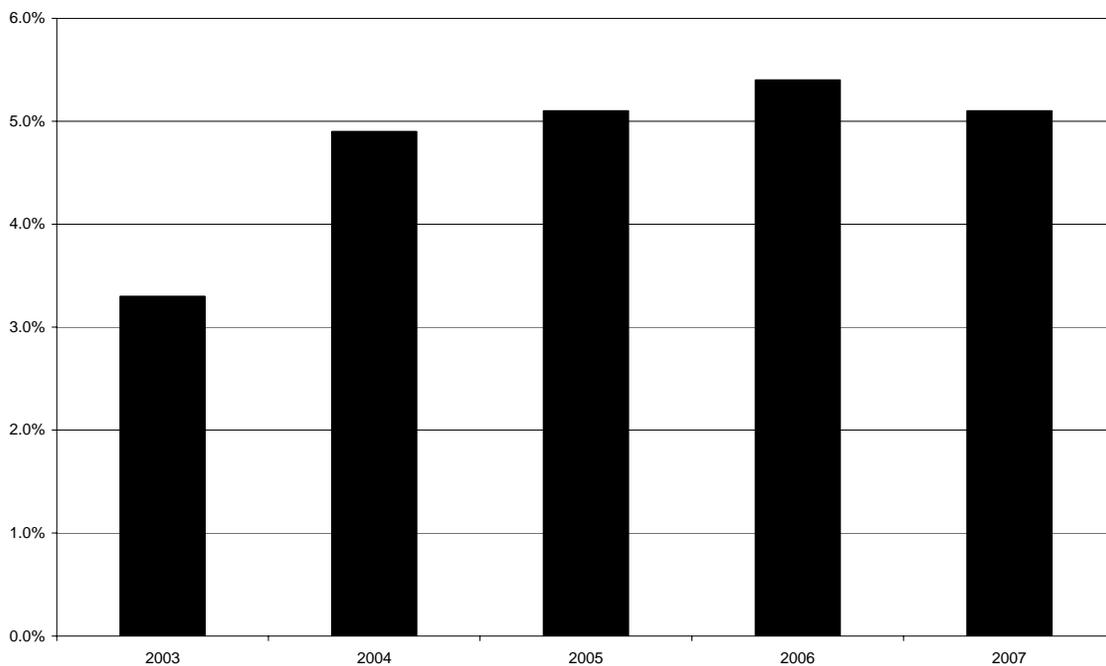
NALEDI remains indebted to the Friedrich Ebert Stiftung Foundation for its generous support of this work.

1. ECONOMIC OUTLOOK

Economic performance in 2008 was affected by a series of interest rate hikes; power outages and the global financial crisis resulting from the US sub-prime market crunch. There are signs that the economy may be slowing down and some economists are predicting a recession for the first quarter of 2008 (see chart 1 below). This includes a slump in consumer spending; poor manufacturing performance and rising consumer and producer prices.

Whether the economy will slump into a recession as a result of power crisis remains to be seen. Still, the growth momentum post 2000 remains fairly positive, higher than the 1994-2000 period but still below the 6% growth target. Real GDP growth averaged 4.8% between 2003 to 2007.

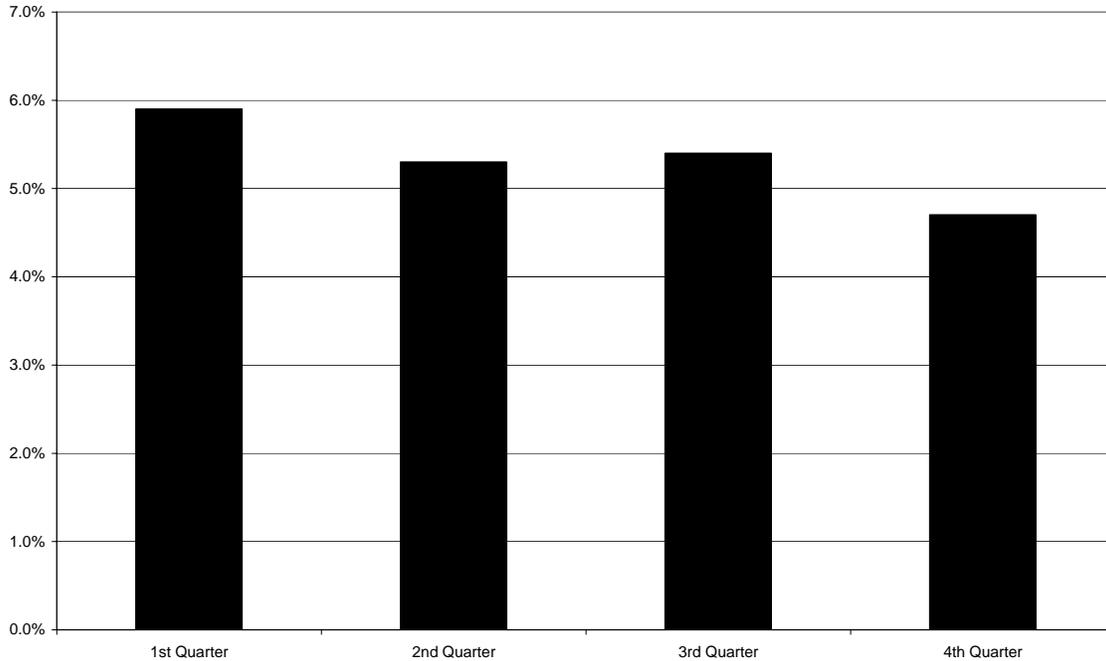
Figure 1: Gross Domestic Product at market prices



Source: calculated from Statistics South Africa, Gross Domestic Product 4th Quarter, Statistical Release PO441, www.statssa.gov.za

The downward trend in the GDP is pronounced when analysing quarter-by-quarter growth for 2007, which shows a marked slow down in economic activity in the last quarter of 2007 (charter 2).

Figure 2: Quarterly GDP for 2007 at market prices



Source: calculated from Statistics South Africa, *Gross Domestic Product 4th Quarter, Statistical Release PO441*, www.statssa.gov.za

Table 1 below shows the value added by industry during 2007, which confirms the general picture of an economy that is growing at a reduced pace. Virtually all sectors, bar construction and finance, experienced a slow down in value added. Manufacturing slumped from 6.1% in the first quarter of 2007 to 2.8% in the 4th Quarter of 2007. Mining also declined from a positive 1.2% to -4.1% at the end of the year. Trade, underlies declining consumer spending, and also suffered the same fate of decrease in value added. Construction, though relatively high faced a drop in value added from 19.3% during the first quarter to 16.8%. Finance realised a growth of value added from 7.3% in the first quarter to 9.3% at the end of the year.

Table 1: Percentage Change in the quarterly value added by industry, 2007

Sector	1st qr	2nd qr	3rd qr	4th qr
Agriculture	-1.1%	-0.3%	0.3%	3.6%
Mining	1.2%	-0.4%	0.8%	-4.1%
Manufacturing	6.1%	4.7%	2.1%	2.8%
Electricity	3.3%	3.0%	3.4%	2.9%
Construction	19.3%	18.7%	17.8%	16.8%
Trade	6.5%	5.6%	4.9%	3.4%
Transport	5.2%	5.4%	5.0%	5.3%
Finance	7.3%	6.9%	9.8%	9.3%
General Government	3.5%	3.3%	3.4%	3.3%
Personal Services	4.4%	4.9%	4.6%	2.4%

Source: calculated from Statistics South Africa, *Gross Domestic Product 4th Quarter, Statistical Release PO441*, www.statssa.gov.za

Table 2 shows the percentage change in demand by households for the first three quarters of 2007. The trend overall is a decline in demand by households from 7% to around 4% at the end of the year. Demand for durables dropped sharply in the 2nd quarter before rising to 8%. Semi-durables doubled between the first and second quarter but later dropped precipitously to 3.5% in the third quarter. Demand for non-durables remained fairly constant at around 5%, whereas services dropped in the last quarter after remaining constant for the first two quarters of 2007.

Table 2: Real final consumption expenditure by households

Components	1st qr	2nd qr	3qr
<i>Durable Goods</i>	9.5%	-15%	8%
<i>Semi-durable goods</i>	10.00%	22.00%	3.50%
<i>non-durable goods</i>	6.25%	4.00%	5.25%
<i>Services</i>	6.00%	6.00%	3.00%
Total	7.25%	5.00%	4.50%

Source: SARB, Quarterly Bulletin, December 2007

Investment growth was brisk in 2007 as gross fixed capital formation as a proportion of GDP, increased from 20% in the second quarter of 2007 to 21% in the third quarter. Private sector investment moderated from 13% in the second quarter of 2007 to 12.75% in the third quarter. The slackening investment by the private sector is attributable to decline in finance and manufacturing investment outlays. In comparison investment by public corporations increased from 14.5% in the second quarter of 2007 to 16.5% in the third quarter. This is due to increased investment by Transnet towards Coega, increase in rolling stock and improvements in rail infrastructure and airports. The general government also increased capital expenditure by 10.25%.

Fixed investment by type of assets shows a mixed picture. Capital expenditure on non-residential buildings outpaced that of residential buildings in the third quarter due to the impact of high interest rates which slowed down residential buildings. Commercial vehicle sales increased in the third quarter driven by demand in transport and storage, trade, construction and business services sectors.

On the trade front, South Africa continues to import more than it exports, adding to a current account deficit. South Africa's trade deficit widened from R31,4 billion in the second quarter to R52, 1 billion in the third quarter. The current-account deficit widened to R162 billion in the third quarter of 2007 or 8.1% of GDP.

Government's response to this economic climate has been to tighten monetary policy by increasing interest rates and to moderate the rate of growth of government spending, by planning for a surplus for the next three years. The economic climate is therefore quite challenging for workers and working class communities.

2. EMPLOYMENT

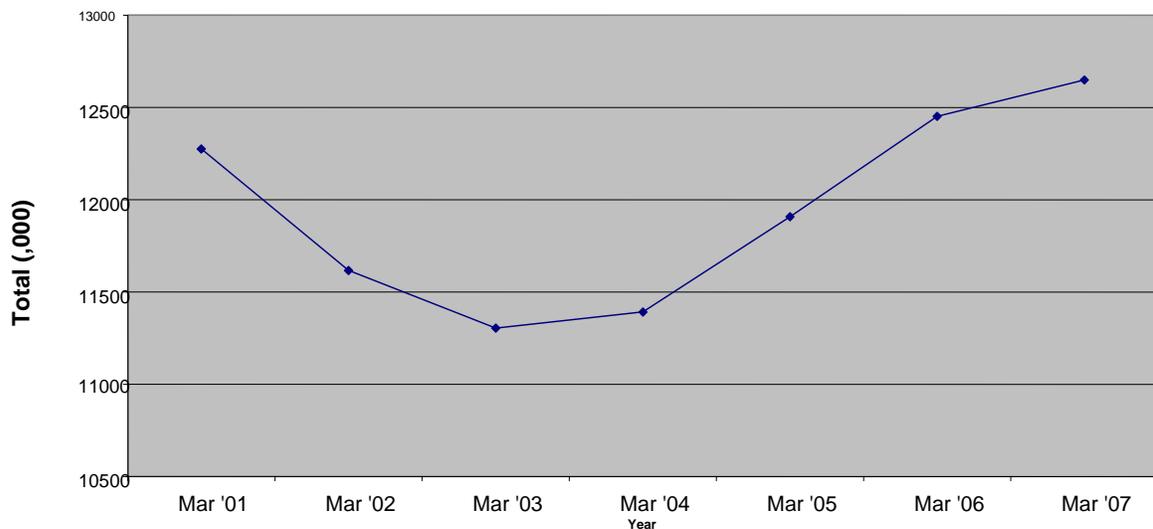
2.1. Employment trajectory

Employment creation follows closely on economic growth and as pointed out in section 1 above, the South African economy has recorded a steady positive growth between 2003 and 2007. However, despite this overall positive economic growth, the South African economy has failed to create sufficient jobs to make a significant dent on the country's exceedingly high rate of unemployment. Between 2001 and 2007, the economy created just over 1.3 million net new jobs largely in the tertiary sector and mainly in wholesale and retail, finance and community and personal services. The construction sector has also been an important source of job creation thanks to increased infrastructural spending by the state as well as private sector investment in the commercial and residential property trade.

By March 2007 the South African labour market had slightly over 12.6 million workers out of a total labour force of 17 million people²(Stats SA, 2007a:ii). However, if one includes the 3.5 million discouraged work seekers, then the country's labour force rises to approximately 20.5 million people meaning that in reality only 60% of South Africa's labour active population is employed.

As a matter of fact, and as figure 3 below shows, the upturn in job creation has occurred in the four year period between 2003 and 2007. It is evident from table 3 that between 2001 and 2003, the labour market experienced a significant job loss of almost one million jobs (972,000) but this trend changed fundamentally between 2004 and 2006 when the economy created an average of 500,000 new jobs each year. In the year to March 2007 however, the economy created only 197,000 jobs largely in construction, finance and community and personal services.

Figure 3: Employment growth, 2001-2007



Source: LFS, March 2007: xxv

² Using the narrow definition of employment/unemployment which excludes discouraged work-seekers.

Table 3: Annual change in employment by industry: March 2001-March 2007 (thousand)

Industry	Mar 2001- Mar-02	Mar 2002- Mar-03	Mar 2003- Mar-04	Mar 2004- Mar-05	Mar 2005- Mar-06	Mar 2006- Mar-07	Net jobs created/lost Mar 01-Mar 07
Agriculture	162	-451	-30	-88	147	-243	-503
Mining and quarrying	-23	15	0	-132	-27	56	-111
Manufacturing	-21	-13	9	58	74	32	139
Utilities	-19	4	20	19	-22	-2	0
Construction	-61	13	68	154	51	102	327
Wholesale and retail	-734	9	28	294	347	-34	-90
Transport	-9	8	2	11	-38	21	-5
Finance	29	-1	32	71	53	126	310
Community and personnel services	-8	110	40	76	-52	127	293
Private households	46	7	-63	50	11	21	72
Unspecified/Other	-19	-14	-18	2	-1	-10	-60
Total	-658	-314	88	515	544	197	372

Source: LFS, March 2007: vi; own calculations

Agriculture, a primary sector which at one time provided huge numbers of jobs, albeit of poor quality, has had a continuous downturn in the six year period since 2001. Between 2001 and 2007 the sector lost over 500 000 net jobs almost half of which were lost between 2006 and 2007 alone. Similarly, mining and transport have been net losers of jobs. Interestingly, the wholesale and retail sector has, during this period, also lost around 90,000 jobs despite it being the largest creator of jobs in the economy. Between 2002 and 2005, the wholesale and retail trade created approximately 700 000 jobs, almost twice as many jobs as were created in the construction and financial sectors.

The formal sector excluding agriculture accounts by far for the largest share of employment in the country as shown in table 4 below. By March 2007, the LFS recorded that the formal non-agricultural sector employed slightly over 8.4 million workers out of a total labour force of 12.6 million. There is a slight variation between the LFS figures and those supplied by the Quarterly Employment Statistics- which only collects data on workers in the formal sector- which found that by June 2007 approximately 8.3 million people were employed in the formal non-agricultural business sector (Stats SA, 2007b: 4). The informal sector is also a significant employer and according to the LFS as shown by table two below, it makes up almost one fifth (17%) of all employment in the country.

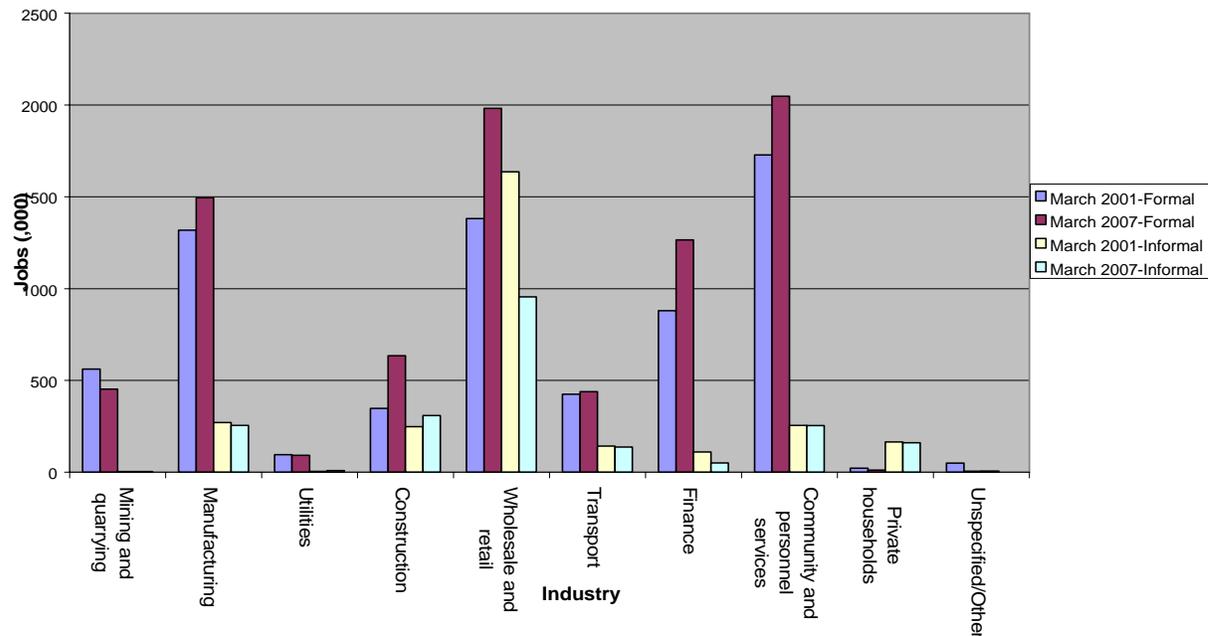
Table 4: Total formal and informal sector employment: 2001-2007 (thousand)

Sector	Mar '01	Mar '02	Mar '03	Mar '04	Mar '05	Mar '06	Mar '07
Formal (excluding agric)	6808	7097	7228	7483	7750	8059	8423
Informal (excluding agric)	2840	1824	1830	1766	2071	2190	2131
Unspecified sector	208	81	74	37	67	34	83
Domestic workers	843	877	884	847	850	850	936
Agriculture	1557	1739	1288	1258	1170	1318	1075
Total	12275	11617	11304	11392	11907	12451	12648

Source: LFS, March 2007: ix

Characteristic of developing economies, the tertiary sector has experienced the fastest growth and this has seen the wholesale and retail, and community and personal services employing the largest number of informal workers. Following on this trend are the construction and manufacturing sectors.

Figure 4: Formal and informal sectors by industry excluding agriculture: March 2001-March 2007



Source: Calculated from LFS, March 2007, p.x

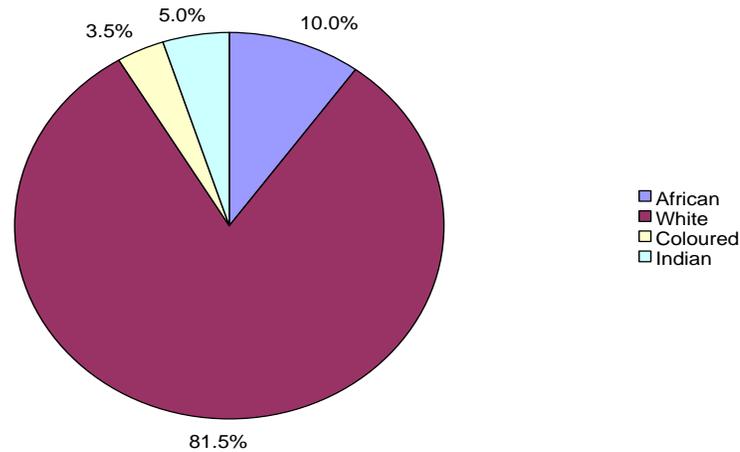
Figure 4 above shows changes in employment in the formal and informal sectors between 2001 and 2007. Wholesale and retail, manufacturing, construction, community and personal services had the highest number of informal jobs. By March 2007, 33% of all jobs in construction and wholesale and retail, 24% of all jobs in manufacturing and 11% of all jobs in the finance sector were informal. In contrast only a mere 0.6% of jobs in the mining sector were informal. Many of the new jobs created in the services sector are atypical or non-standard and largely short term, of poor quality and unsustainable (COSATU, 2006; Theron & Godfrey, 2007:2).

Apartheid constructed racial employment patterns largely predominate the South African labour market especially at top management positions.³ For instance while Black Africans make up the bulk of the labour force (8.9million) followed by Whites (2million), Coloureds (1.4 million) and Indians (0.4million) (Stats SA, 2007a: 14), by 2005, Whites, as shown in the pie chart below, occupied 81.5% of top management positions while Africans held a mere 10% (DOL, 2005a:10). Indians and Coloureds held

³ This is defined in the Labour Market Review (LMR) report (p9) published by the Department of Labour as those positions that “comprise relatively small groups of executives who control the organization and in whom the final authority and responsibility for the execution of the management process rests”. They include Boards of Directors, partners, chief executive officers, managing directors and others in similar positions of authority.

respectively 5% and 3.5% of such jobs. Senior management positions⁴ demonstrate similar trends with Whites occupying 77.9% of senior positions while Africans, Indians and Coloureds hold respectively 10.8%, 6.2% and 5.1% of this category of jobs (ibid).

Figure 5: Top management by population group



Source: DOL, Labour Market Review, 2005: 9

2.2. Women and employment

By 1995, approximately 3,7 million women were employed in various sectors of the South African economy but by 2005, this figure had risen to slightly over 5,2 million or 42.6% of the country's employed labour force (DOL, 2005b:2). The participation rate for women in the labour market has been significantly higher when compared with that of men and rose by at least 15.3% in the ten year period between 1995 and 2005 (ibid: 8).

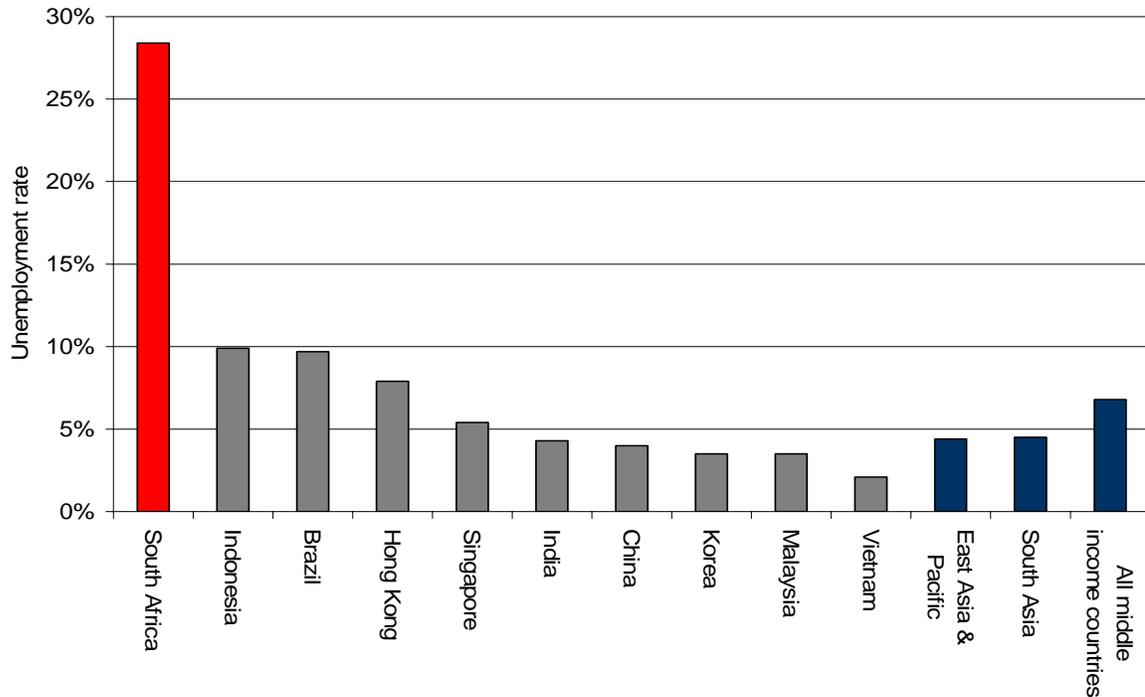
Interestingly, the highest rate of women participation in the labour force has occurred in the 45-54 years age group due to a multiplicity of 'push factors' including more women choosing to remain longer in the labour market, having no alternative but to stay in jobs, the need to continue to work or look for work as women become older, and the decline of female access to male income as a result of increased unemployment among males (ibid: 6 & 10 quoting Kingdon & Knight, 2005:5). The impact of HIV/AIDS which has led to an increase in female-headed households, and legislative changes have also been cited as factors leading to the greater participation of women in the labour market (ibid). Most women workers have been absorbed into the fast growing services sector as well as the informal trade.

⁴ Senior managers are defined in the LMR report as those individuals responsible for executing "the policies, plans and strategies determined by top management", P9.

3. UNEMPLOYMENT

Unemployment remains the Achilles heel of the South African economy. With official unemployment at 25,5%⁵ as at March 2007, South Africa is one of the very few upper middle income countries where officially, almost a quarter of its labour active population is unemployed. Compared with many countries sharing similar economic indicators, South Africa's rate of unemployment far outstrips that of many Asian and South American countries as shown in figure 6 below.

Figure 6: Comparative international unemployment rates (Asian and other middle income countries), early 2000s

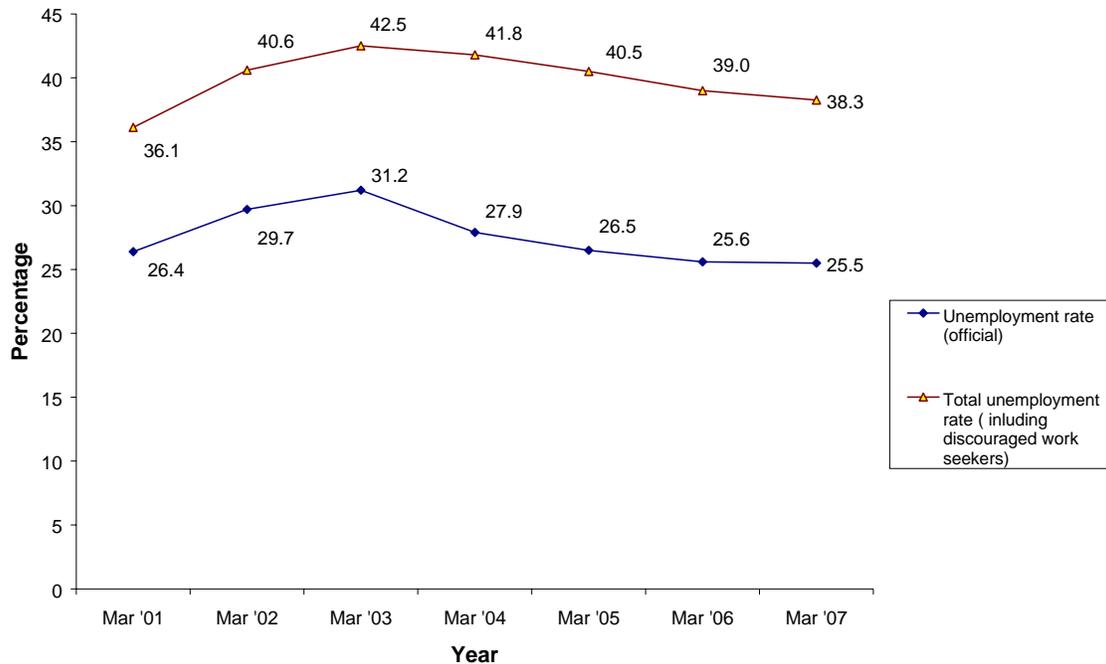


Source: World Bank. World Development Indicators, 2006

Figure 7 below shows that the rate of official unemployment has hardly declined by any significant measure since the 2002- 2003 period when it hovered around 30%, before reducing slightly to 25, 5% by 2007. Unofficially, South Africa's rate of unemployment has stood at well above the 40% mark and between 2003 and 2005 rose to over 41%. In essence, strong economic growth seems to have done little to reduce the true level of unemployment with the number of people without jobs remaining consistent at between seven and eight million.

⁵ Using the narrow definition of unemployment which excludes discouraged work seekers. By March 2007, South Africa's labour force stood at approximately 17 million people.

Figure 7: Official and unofficial unemployment March, 2001-March 2007



Source: LFS, March 2007: xxv

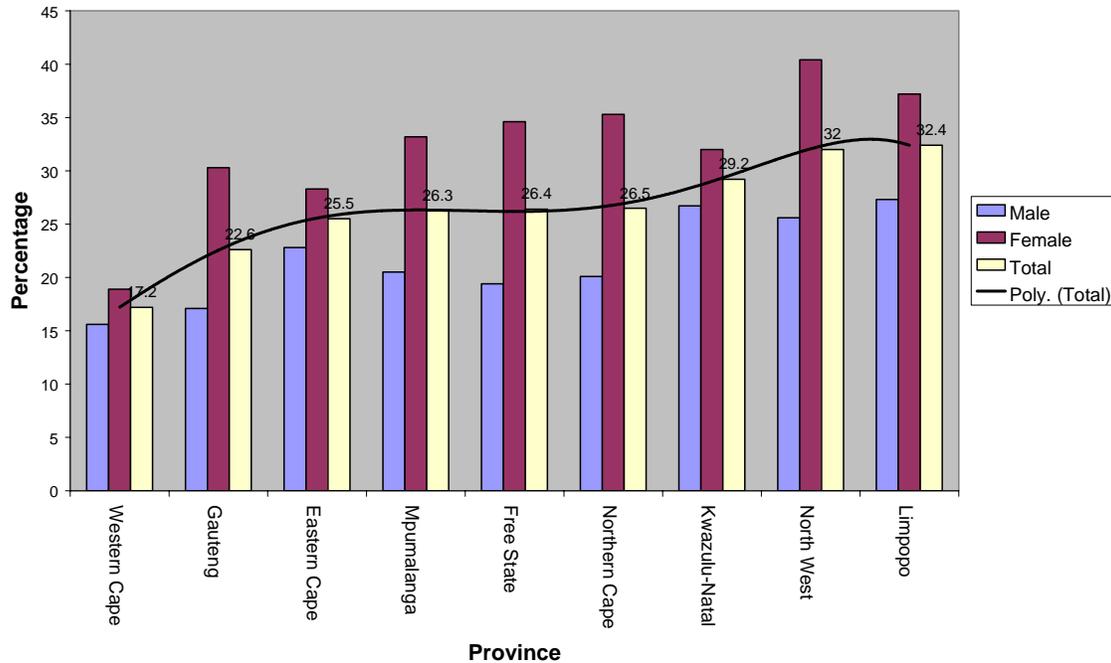
Not only is unemployment structural, it is also racial, spatial and gendered. Africans and African women in particular experience the highest rates of unemployment. While whites have only 4.1% and 4.6% male: female rates of unemployment respectively, Indians have three times that rate (11.3% and 17.9% respectively), Coloureds, approximately four times (16.9% and 22.9% respectively) and Africans over six times that rate (25% and 36.4% respectively) (Stats SA, 2007a: 7). In fact, the rate of unemployment amongst African women is almost ten times that of their white counterparts and by 2005 almost 4.7 million African women had no form of employment. Women also dominate the discouraged work-seekers category with almost every two out of three discouraged work seekers (61.5%) being women (ibid: xix).

Interestingly, while some analysts blame South Africa's high level of unemployment on skills shortages, the March 2007 LFS data show that there is a total of 196,000 unemployed graduates with degrees ranging from health and social sciences (17 000), to engineering (24,000), to physical and mathematical sciences (25,000) and business and commerce (66,000) (ibid:45). The presence of unemployed graduates in an economy suffering from a major deficiency of skilled labour may suggest dysfunctionality of the South African labour market where either the market has failed to absorb all those with appropriate skills, or otherwise employers have simply been reluctant to employ graduates who do not have the necessary experience.

Skewed apartheid spatial planning has left many rural areas of the country with exceedingly high levels of poverty and unemployment. Figure 8 below shows that Limpopo and the North West provinces have the highest rates of unemployment while the Western Cape followed by Gauteng have the lowest number of unemployed people. The latter two provinces have traditionally held the highest concentration of industries, businesses and employment opportunities. Differences in natural resource distribution

and extraction have also been cited as one of the reasons accounting for higher rates of unemployment in poorer provinces like the Eastern Cape and Limpopo (Guliwe, 2005:18).

Figure 8: Unemployment rate by province and gender



Source: LFS, March 2007:7

Youth⁶ make up approximately 37% of South Africa’s total population of 47.9 million (Stats SA, 2007c:4) but they are the worst affected by unemployment. Almost 70% of the youth have no jobs with unemployment being highest in the 15-24 years age cohort (Stats SA, 2007a: xvii). The latest statistics suggest that the highest rate of discouraged work seekers is also to be found amongst the youth who make up approximately 68.3% of the entire 3.5 million discouraged work seekers group. More than half of the discouraged work seekers are below 30 years old (ibid: xix).

A fundamental aspect of the South African labour market is that work seekers spend an inordinate period of time looking for work. (Altman, 2006:3) points out that between one-third and one-half of the strictly unemployed have been out of work for more than three years. Often, this brings with it a strong sense of discouragement and as Altman argues further, in the September 2005 LFS, a significant 56% of discouraged job seekers said there were no jobs in the area while ten percent of them had lost hope of ever finding work.

If government is to meet its target of halving unemployment by 2014, then the economy needs to create at least 600 000 new jobs per annum (Business Report, September 29 2007). However, even if that was possible,- which is a distinct challenge given that at its apex of job creation between 2004 and 2006 the economy was only able to create 500

⁶ Defined in the Labour Force Survey as those between 15 and 34 years of age.

000 jobs per annum, it would mean that using the current (March 2007) official figure of 4.3 million unemployed workers, there would still be about 2.2 million unemployed South Africans by 2014.

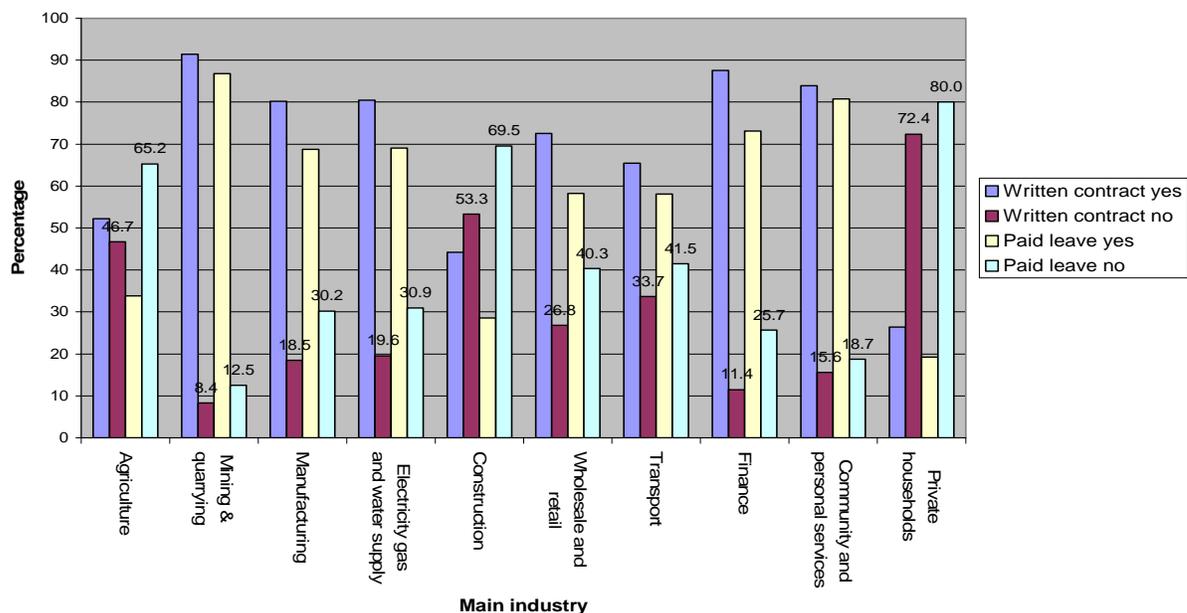
4. WORKING CONDITIONS

4.1. Written Contracts and paid leave

The Basic Conditions of Employment Act (75 of 1997) makes it mandatory for employers to provide workers covered by the Act with written particulars of employment (contract)⁷ paid annual leave⁸, paid sick leave⁹, paid maternity leave¹⁰, and paid family responsibility leave.¹¹ Approximately 30% of all workers have no written contract while about 40% report having no paid leave (Stats SA, 2007a: 34). There are sectoral variations with vulnerable sectors such as agriculture, construction and domestic households reporting higher percentages of workers (over 40%) without written contracts.

Similarly, these sectors, coupled with the rapidly growing services sector have the highest percentages of workers without paid leave. As the chart in figure 9 below shows, 80% of domestic workers have no paid leave, followed by construction (69.5%) and agriculture (65.2%). Slightly over 40% of workers in wholesale and retail enjoy no paid leave which is a slight drop from the same period in 2006 when around 41% of workers reported having no paid leave.

Figure 9: Paid leave and written contracts, March 2007



⁷ Section 28. This includes among others, the names of the employer and employee, place of work, wage and rate of payment, and the date of termination of employment if applicable.

⁸ Section 21. The employer is required to grant an employee full annual leave of 21 consecutive days on full pay for every year of work. Otherwise the leave is calculated on a pro-rata basis of either one day of annual leave for every 17 days of work, or one hour of annual leave for every 17 hours of work.

⁹ Section 22. Sick leave is calculated in a cycle of 36 months (3 years) and is approximately 30 days. However, in the first six months of employment, the employee is entitled to approximately 7 days of sick leave.

¹⁰ Section 25. Maternity leave is for a period of at least four consecutive months.

¹¹ Section 27. This only applies to an employee who has been working for an employer for more than four months, or who works for at least four days a week. Family responsibility leave should be at least three days.

4.2. Social security: Pension, UIF and medical aid

The Department of Labour is currently discussing a comprehensive social security plan for South Africa with a view to introducing significant reforms.¹² Currently, pension and provident fund contributions are not mandatory¹³ but all employers must make contributions on behalf of their workers to the Unemployment Insurance Fund (UIF). By March 2007, almost half of all workers (44.5%) reported having no UIF deductions while 69.3% said they did not have medical aid cover. Again, vulnerable sectors such as agriculture (62%), construction (61%), wholesale and retail (48.6%) and households (46.3%) had the highest number of workers without unemployment insurance protection.

According to the March 2007 LFS, the majority of workers enjoy no medical aid benefits. Only 30% of all workers report having any form of medical aid contribution while the majority of sectors- with the exception of community and personal services, mining and utilities-have over 60% of their workers without medical aid. In agriculture, only a mere 7% of workers have medical aid while approximately 99% of domestic workers have no form of medical cover at all.

Lack of social security for the majority of workers poses serious challenges for both workers and unions particularly given the direct correlation between the absence of social security protection and poor job quality. Sectors like agriculture, households, construction and wholesale and retail are the biggest employers of non-standard workers yet as discussed above; they have the highest numbers of workers without unemployment insurance cover. These are also some of the sectors with significantly high numbers of workers without medical aid protection meaning that in the event of sickness, injury, disability or death, workers or their dependants would have to rely on the public health system or on compensation under the Compensation for Occupation Injuries and Diseases Act (61 of 1997).

4.3. Occupational Health and Safety

Hazardous working conditions in mines and precarious transport conditions for farm workers have recently brought the question of work safety to the fore in relation to poor working conditions generally, and the lack of appropriate safety enforcement mechanisms by the Department of Labour. On 4 December 2007, over 250 000 workers from the mining union giant, the National Union of Mineworkers (NUM), downed tools to protest against rising deaths, mounting accidents and poor working conditions in South Africa's mines. In the eleven month period between January and November 2007, around 201 miners died in the mines, 100 more deaths than had been the case in 2006 (Shoba, 2007).

¹² Some of the key proposals include removing the means test in state funded social assistance grants, mandatory participation in the national social security system, additional mandatory participation in private occupational or individual retirement funds and supplementary voluntary savings. See National Treasury, Social Security and retirement reform: Second Discussion Paper, 2007.

¹³ Statistics SA does not collect consistently, information on pension and provident fund benefits in its biannual Labour Force Survey.

Government was prompted to order a safety audit of all mines after 3,200 miners at one of mining company Harmony Gold's mines were trapped underground for over 24 hours. The accident followed a spate of accidents or deaths in mines operated by the major South African mining companies including AngloGold Ashanti, Harmony, Goldfields, Impala Platinum and Anglo Platinum (Creamer Media's Mining Weekly, November 22 2007). On average, 16 miners were losing their lives every month in 2007 and according to the Department of Minerals and Energy's (DME) mine accident statistics, most fatalities occurred as a result of rock falls, machinery and equipment, transportation and the use of explosives (DME, 2007).

Between January 2000 and August 2007, a total of 1, 926 miners lost their lives while 34, 814 were injured, yet, as NUM pointed out, no employer has been prosecuted or charged for negligence (Esnor, 2007). According to an official in the DME, the audit ordered by President Thabo Mbeki would look at amongst other things, finding ways of tightening mining safety laws and reviewing existing legislation in the sector (ibid, Creamer Media's Mining Weekly).

Statistically, mine fatalities in South Africa are amongst the highest in the world. Lesiba Seshoka writes in NUM News that "The numbers of mineworkers who die in South Africa per month equals the number of workers who die in Australia per year" ((NUM News p.1) yet, government appears hamstrung and incapable of enforcing compliance with mining safety regulations.

NUM General Secretary Frans Baleni explains in the September/October 2007 edition of *NUM News* how a series of mining disasters in the late 1980's and early 1990's led to the formation of the Leon Commission on Mining Safety in 1995. However, the implementation of the Commission's recommendations was initially bogged down as mining companies and unions argued about the implementation process at mine level, and it took the death of 104 workers at the Vaal Reefs gold mine in May 1995 for government and mining bosses to move into action (COSATU, 1995). Subsequently a new Mine Health and Safety Bill was drafted and passed into law in 1996.

When slapped with fines for violating mining safety regulations, mining companies have been known to prefer legal action for fear that by paying, they will be seen to be admitting guilt and this could count against them in the future. (Mining Weekly, 2007) There are also allegations that monitors from the DOL and the DME collude with employers or the safety/health inspectors to falsify their findings and put the blame on workers for negligence. Consequently, unions and workers are unable to secure compensation for injuries from the companies.

The farming sector has also become notorious for fatal accidents mainly due to farm workers being transported in often un-roadworthy trucks¹⁴. In a period of one week in November 2007, 16 workers were killed in two road accidents in the Western Cape. In November 2006, 19 farm workers were killed when a train ploughed into an open truck carrying workers to a farm outside Cape Town. Apparently, the truck had stalled in the middle of an un-gated railway crossing level.¹⁵ It would appear that the problem of bad

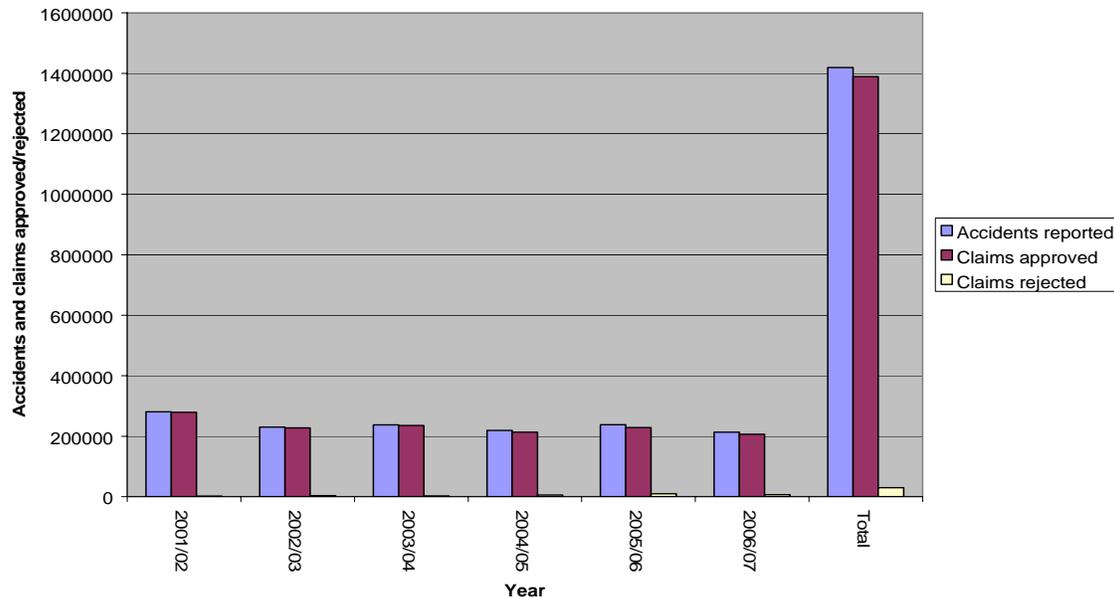
¹⁴ Popularly known as "bakkies".

¹⁵ "Cape Town train crash kills 19 farm workers". Available at <http://www.feedsfarm.com>. Accessed on 10 December 2007.

and dangerous road transport is a major aspect of the seasonal farming cycles in the Western Cape because farmers tend to rely on contractors to supply labourers or provide transport for workers to the farms (de Vries, 2007).

Between 2001 and 2007, slightly over 1.4 million work-related accidents were reported to the Compensation Fund. As shown in figure 10 below, approximately 98% of all claims were approved while only 2% were rejected (DOL, 2007:22). Between 2006 and 2007, the Compensation Fund paid a total of 868 076 claims amounting to approximately 2.1 billion Rand (ibid: 15).

Figure 10: Accidents reported and claims approved/rejected



Source: DOL, Compensation Fund Annual Report, 2007: 22

The main occupational diseases reported include Noise Induced Hearing Loss, pneumoconiosis, asthma, skin diseases, and diseases caused by chemical and biological agents. According to the Department of Labour, the construction industry, iron and steel, food and beverages as well as the agricultural sectors have the most occupational injuries and fatalities. (Tshivido, 2007) Furthermore, the boom in the construction sector ahead of the 2010 Soccer World Cup means workers may be exposed to higher risks as contractors rush to complete their projects on time. (ibid, Tshivido)

State monitoring of occupational health and safety is rather poor. At present, the DME has no specific policy unit or division within the Mine Health and Safety Inspectorate (MHSI), while the budget allocation to the Inspectorate is a mere five percent of the department's total annual budget. Occupational health, safety and a good working environment must be seen as collective bargaining issues and included in negotiations particularly in sectors such as mining, construction and chemical which are prone to injuries. Furthermore, workers need to be united and empowered in order to reduce incidences of risky and unhealthy working conditions.

Turning this objective into a reality should not be impossible as already; the Mine Health & Safety Act grants workers a number of rights in relation to occupational health and

safety. These include the right to representation, participation, information, education and training, and also the right to refuse to perform dangerous work. Successful safety and health management however will only be achieved by going beyond the requirements of legislation and adopting a proactive approach to safety. Presently, there are health and safety training programmes in place such as those designed by the Aggregate and Sand Producers Association of South Africa (ASPASA) and the National Safety Association of South Africa (Nosa).

Nico Pienaar, the director of ASPASA says that the association introduced its own 18001 Audit in 2006. This audit was developed to include the risk assessment and management of quarries, the safety, health and welfare of workers at the quarries, aspects of the working environment and matters relating to high-risk tasks. Pienaar adds that the new system has distinct features such as instant results, increasing awareness of legislation to members, measuring compliance, and promoting a positive culture towards health and safety in general. Similarly, NOSA has secured a six million Rand training contract from P T Freeport, a large copper and gold-mining company to conduct training at the company's copper mine in Indonesia.

4.4. Unions and employer organisations

There has been a slight increase in trade union membership since 2001. In a study conducted by the National Labour and Economic Development Institute (NALEDI) on behalf of the Congress of South African Trade Unions (COSATU) in 2006, it was suggested that between 2001 and 2005, general trade union membership increased by almost 10% from 2.8 million to 3 million, while union density hovered at around 36% (COSATU, 2006a:35). The study also found that women made up more than 30% of COSATU's membership (of 1.8 million members) while young people under the age of 35 years made up less than 15% of South Africa's union membership in total (ibid.).

According to the latest statistics, trade union membership stood at approximately 3.1 million members by March 2007, an increase of 125 000 new members compared with the same period in 2006. As table 5 below indicates, the public sector (community and personal services) has had the largest increase of union members taking an additional 60 thousand members in one year. Finance, mining and wholesale, and retail also recorded modest gains in union membership. It is notable that sectors like finance and construction which have grown rapidly in the last five year have had a significant increase in the number of workers who do not belong to unions.

Table 5: Changes in union membership 2006-2007

Main industry	Number yes in -2006 (,000)	Number Yes in 2007 (,000)	Change in yes (,000)	Number No - 2006 (,000)	Number No- 2007 (,000)	Change in no (,000)	Total workers 2006 (,000)	Total Workers 2007 (,000)
Agriculture	59	53	-6	610	592	-18	669	645
Mining & quarrying	294	332	38	99	119	20	393	451
Manufacturing	542	533	-9	931	957	26	1473	1490
Electricity gas and water supply	39	42	3	60	54	-6	99	96
Construction	72	73	1	595	683	88	667	756
Wholesale and retail	368	388	20	1450	1455	5	1818	1843

Transport	154	132	-22	303	318	15	457	450
Finance	270	308	38	747	852	105	1017	1160
Community and personal services	1109	1169	60	884	912	28	1993	2081
Private households	19	23	4	1058	1071	13	1077	1094
Total	2928	3053	125	6745	7016	271	9673	10069

Source: Calculated from LFS March 2006, and LFS March 2007

The declining numbers of union membership in certain sectors has been attributed to factors such as the increased use of non-standard workers, employer resistance to unionization, decline in pro-union activities among workers and declining union efforts to recruit new members (DOL, 2005a:11). In the COSATU survey, it was observed that union density in sectors such as construction, retail and finance have remained low due to “reported substantial levels of irregular employment” (COSATU, 2006:35). Employer organizations declined from 252 in 2000 to 225 in 2004 (DOL, 2005a:12) and by December 2007, this number had further reduced to 224 (DOL, 2007b).

While by 2004 there were 341 registered trade unions representing around 3.2 million workers (DOL, 2005a: 12), by 2007, the number of trade unions had declined to 280 and represented around 3.1 million workers (DOL, 2007c; Stats SA 2007a:37). The declining trend in both the number of trade unions and employer associations may be attributed to factors such as mergers, deregistration and non-functionality.

5. INDUSTRIAL ACTION

Despite attempts to portray 2007 as atypical given the fact that a number of wage agreements had to be renegotiated, strike data shows that strikes in fact are on the increase. Using the number of working days as a measurement, the Department of Labour (DoL) reported a 57.4% increase in strike activity between 2002 and 2006. A summary of recent strikes indicates that:

- Demands for higher wages remain the trigger for the majority of strike actions. In 2006, 92,7% of working days lost were due to pay disputes.
- Whereas the majority of strikes were of short duration, few became protracted and long. In 2006, the security workers strike lasted 96 days, Karan Beef -90 days, Shoprite – 69 days, Sun International – 56 days, contract cleaning – 49 days and Sasko – 22 days. The longest strike in 2006 involved workers at Kraft Foods and lasted 104 working days.
- Some strikes have a tendency to turn to violence. Although few in number, the strikes that become violent are those that are protracted; involve more than one union; take place in more than one workplace and where employers use replacement (“scab”) labour
- While the majority of strikes are procedural and in compliance with the Labour Relations Act (LRA) - 76,8% in 2003, 66,0% in 2004, 56,9% in 2005 and 60,1% in 2006 - there is nevertheless an increase in working days lost through unprocedural strikes and actions that are not union sanctioned.
- No less than a quarter of employers involved in industrial action used scab labour during strikes (27,2% in 2006; 50,0% in 2005; 45,0 % in 2004; and 36% in 2003’).
- Multi-union strikes such as the security guards one are becoming a feature of disputes (DoL 2004, 2005a and 2006)¹⁶.

The number of strikes and workdays lost dropped significantly between 1998 and 2000 before rising modestly in 2001. Table 6 below shows that between 1998 and 2002, the number of strikes dropped from 527 to 47, a difference of 480 or a 91% reduction. During the same period, the number of workdays lost decreased from approximately 3.8 million to only 616 000.

Since 2003 however, the number of strikes and work days lost have been on the increase and particularly between 2004 and 2005 when strikes increased by an extraordinary 108%. The slight decline in strikes witnessed between 2005 and 2006 was nevertheless accompanied by a huge increase in the number of work days lost, jumping from around 2.6 million in 2005 to over 4 million in 2006, the highest since 1998.

Table 6: Strikes and working days lost to strikes 1998-2006

Year	Number of strikes	% increase/ decrease on strikes yr/yr	Working days lost	% increase/ decrease on days lost yr/yr
1998	527		3833000	
1999	107	-79.7	2627000	-31.5
2000	80	-25.2	1670000	-36.4

¹⁶ This analysis is taken from a NALEDI Report for Ditsela Project Tsosetso (2008) “Trade union education in South Africa (1997-2007): A Contextual Analysis” written by Dinga Sikwebu.

2001	83	3.8	954000	-42.9
2002	47	-43.4	616000	-35.4
2003	62	31.9	920000	49.4
2004	49	-21.0	1286000	39.8
2005	102	108.2	2628000	104.4
2006	99	-2.9	4152563	58.0

Source: LRS, 2007 Bargaining Indicators, p.41; Department of Labour, Industrial Action 2007:17; own calculations

Four sectors; wholesale and retail, community and personal services, financial intermediation and manufacturing accounted for the overwhelming bulk (91.7%) of all working days lost to strikes in 2006 (DOL, 2006:18). As the Department of Labour argues, there appears to be a direct correlation between the high number of strikes and work hours lost, and the irregular nature of employment which has increasingly come to characterize the sectors mentioned above. The majority of strikes relate to disputes on wages though work restructuring and working conditions have also been cited as strike triggers.

The security workers, contract cleaners, Shoprite Checkers and Karan Beef strikes experienced very high levels of violence. While solidarity and worker militancy appear to have increased in recent years, there is also strong evidence of employer arrogance, intimidation and brutality against workers. State intimidation and harassment of workers also seems to have become a common response to the more militant strikes. During the security workers strike, scores of people were killed allegedly because they were strike breakers. While the South African Transport and Allied Workers Union (SATAWU) denied claims that its members were involved in these killings, it pointed out that employers were using agent provocateurs to disrupt its marches, cause public violence and lead to police intervention.

During the Karan Beef strike, two members of the South African Commercial, Catering and Allied Workers Union (SACCAWU) were killed, one purportedly by the police. The union also made allegations of racism and intimidation by company management and the local police (SACCAWU: 2007). In Kwazulu-Natal and Cape Town, police were accused of using lethal force and indiscriminate arrests against striking security workers wearing t-shirts bearing SATAWU's name. Furthermore, municipalities have from time to time been accused of using the apartheid era Regulation of Gatherings Act to prohibit marches and gatherings.

It is interesting to note that in the 2006 Industrial Action Report, the Department of Labour mentions the security guards, contract cleaners and Shoprite-Checkers workers as "the most disposed to resort to brute force to settle disputes" (DOL, 2006:4) but makes little mention of alleged employer and state harassment against strikers. The increasing nature of violence during strikes forced COSATU at its ninth national congress in September 2006 to adopt a resolution calling for an enquiry into police brutality, and an end to the use of private security agencies to terrorise striking workers (COSATU, 2006b: Resolution 3.10).

What is also evident is that employers are increasingly using scab labour to replace striking workers. In 2003, 36% of employers reported using scab labour during strikes

which rose to 45% and 50% respectively in 2004 and 2005 before dropping down to 27.2% in 2006 (DOL, 2006: 2). The Department argues that this could be the reason why employers are able to hold out for very long periods, as in the case of the Kraft Foods and the security workers strikes. Another significant trend is the locking out of striking employees by employers which has increased steadily from 6 in 2002 to 27 in 2006 (ibid).

An interesting development is the growing number of strikes amongst workers not traditionally engaged in industrial action. For example, there has been growth in industrial action amongst vulnerable workers, public sector workers and professional layers. Strikes have been conducted in sectors where employment is predominantly precarious in nature, such as retail, cleaning and security. Precariousness is not confined to those in the informal sector. About 29.7% of those in formal employment are either on fixed-term or temporary contracts and may be working as casual or seasonal workers. According to the March 2007 LFS, 69.3% of formal employment workers are not covered by medical aid schemes and 39.5% receive no paid leave.

COSATU’s 1997 September Commission recommended a decade ago, that for their own survival, unions have to adopt organising strategies that would draw non-core workers into the labour movement. The NALEDI State of COSATU report revealed, however that: “*COSATU affiliates have largely not been successful in organising non-core workers, apart from some modest progress in certain affiliates....*” (NALEDI 2006:14)

But in light of this lack of progress, it is comforting to note that non-core workers have been actively resisting the exploitative working conditions imposed upon them by capital. Since 2003, sectors that have relatively high non-core workers such as wholesale & retail trade, community services and transport make up some of the highest share of working days lost as a result of strike action as depicted in table 7 below.

Table 7: Top 5 sectors with the highest share of working days lost, 2003-2006¹⁷

	2006	2005	2004	2003
1	Financial intermediation	Mining	Mining	Mining
2	Wholesale & Retail Trade	Transport	Community services	Wholesale & Retail Trade
3	Community services	Community services	Manufacturing	Manufacturing
4	Manufacturing	Wholesale & Retail Trade	Transport	Construction
5	Transport	Manufacturing	Agriculture	Transport

Source: LFS March 2007.

Non-core workers constitute 33,7% of the total workforce in transport, storage and communication. They form 29,5% in wholesale & retail and 16,2% in community services.

¹⁷ This Table is taken from a NALEDI Report for Ditsela Project Tsosetso (2008) “Trade union education in South Africa (1997-2007): A Contextual Analysis” written by Dinga Sikwebu.

There are encouraging signs of deepening engagement by COSATU affiliates around the plight of more vulnerable workers. For example, SAMWU members employed by labour brokers in Tshwane went on an unprotected strike demanding to be employed directly by the municipality in September 2007. There has since been industrial action by SAMWU in other municipalities demanding permanent employment with increased wages and benefits for contract workers.

However, there is much work to be done amongst COSATU affiliates in advancing struggles around the wages and working conditions of vulnerable workers – in many cases their demands and grievances are not being taken forward by their unions. Another interesting development is that Fedusa-affiliated union members are finding themselves involved in industrial action, in some cases for the first time. In Transnet and South African Airways, and more recently in the public sector strike, many Fedusa members marched alongside their COSATU colleagues

This development is of interest from the point of view of its potential for deepening worker solidarity and cross-federation collaboration. It highlights the growing mobilisation of workers beyond what was once the traditional COSATU membership base, and further points to the opening of space for deepening non-racial working class struggles. These are important developments in potentially beginning to challenge the persistent divisions and fragmentation of the working class resulting from the racial character of occupational segmentation in the workplace.

Official data for industrial action in 2007 is still outstanding although workers in various sectors downed tools in demand for better wages or an improvement in working conditions. The quarterly economic review conducted by the Reserve Bank states that in the first six months of 2007, the number of ‘man’ (work) days lost to strike action was already 11, 5 million a figure largely exceeding the previous highest ever figure of 9,0 million work days lost in the whole of 1987 (SARB, 2007:14).

The most significant industrial action in 2007 however was the June strike by over 700 000 public servants. Seventeen unions from across the labour spectrum held on for 28 days demanding a 12% salary wage increase and major changes to job grading, job notches and performance appraisal systems, among others. Eventually, both the state and unions settled for a 7.5% wage increase as well as a special Occupational Specific Dispensation for various occupations including teachers, nurses, doctors and members of the legal profession. A distinguishing feature of the public service strike is what is broadly accepted as the high degree of unity shown by unions, both those independent as well as those affiliated to the different labour federations.

A keen observer of labour market trends in South Africa has commented that this unity was integral because not only did it rattle government and enable strikers to hold on for far longer than expected, but it was also militant “in the face of often intimidatory tactics”- such as the use of force by police to break pickets, the use of soldiers and medical corps to replace striking doctors and nurses in public hospitals and the issuing of hundreds of dismissal letters to nurses- by the state (Bell, 2007:19-20).

The public sector strike was of interest not only because of the militancy and resoluteness of the workers, which appeared to surprise even their leadership, but also because this

sector and its workers were not viewed as able to sustain a strike at such a scale and for that length of time. The strike revealed both organisational vibrancy and weaknesses, as can be expected from action of such magnitude. Nevertheless, the public sector unions will need to actively address these and draw from the lessons of this historic strike.

It is important to analyse the levels of working class consciousness that have been developed through the strikes, and whether unions are adequately harnessing the working class anger manifesting in strike action and protests. This has been termed the '*gatvol factor*', referring to increasing anger amongst workers resulting from growing impoverishment, unemployment and declining real wages, and the growing class conflict within the ANC (with certain ANC leaders becoming owners and managers in the very companies that have been on strike).

The deeper question therefore is, to what extent are unions able to mobilise workers to engage in radical struggles to challenge capitalism and to build working class confidence? A further challenge is the ability of unions to communicate and mobilise effectively within working class communities, and to articulate the transformational agenda of strikes in order to deepen working class solidarity.

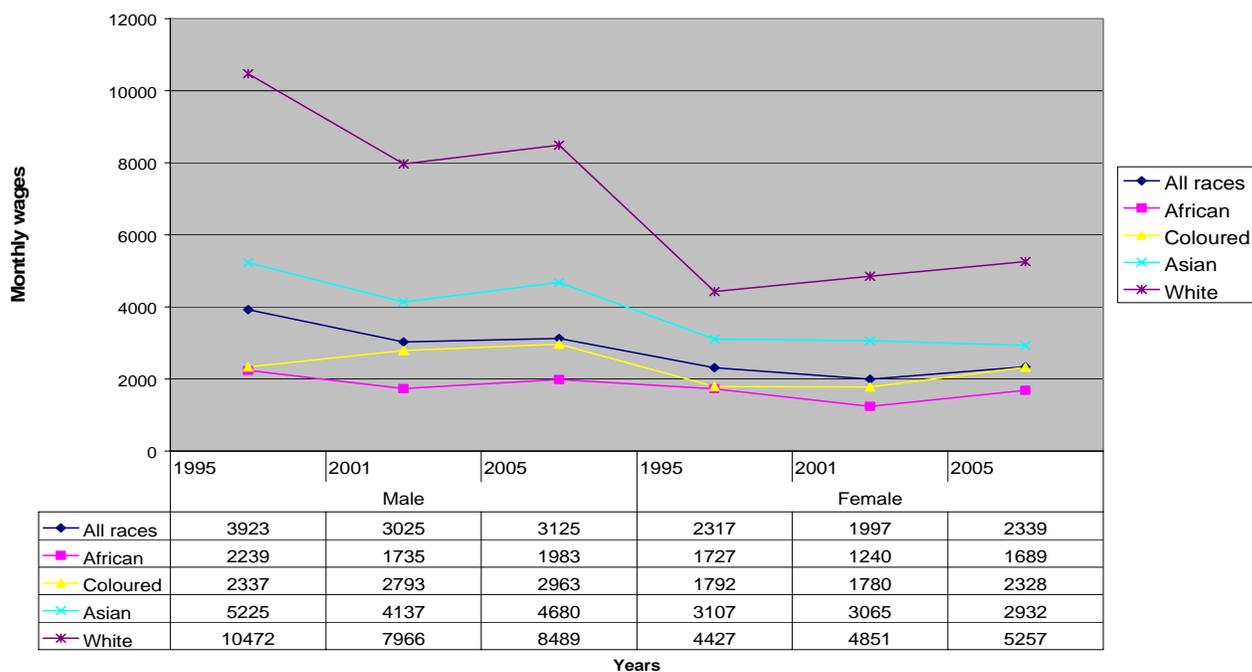
6. WAGES AND WAGE SETTLEMENTS

6.1. Wage trends

Since 1995, real wages have remained fairly moderate (Burger & Yu, 2006:2) and between 2000 and 2005, average monthly earnings have remained constant between R2000 and R3000. Chart 11 below shows that White male workers earn on average the highest wages followed by white female workers. African women earn the lowest wages, which declined slightly between 1995 and 2005. As Burger and Yu observe, women experienced a sharper fall in their earnings especially between 1995 and 1998 so that by 2005, their earnings were slightly below the 1995 level (ibid: 7).

The wages of Coloured men have increased slightly in the ten year period under review while those of Coloured women show the greatest increase. Both Indian men and women have recorded declining wages of R545 and R175 respectively.

Figure 11: Real mean earnings, 1995-2005



Source: Chart derived from DOL, Women in the SA Labour Market, 2005: 21 & 23

The June 2007 Quarterly Employment Statistics published by Statistics South Africa suggests that the utilities sector (electricity, gas and water supply) pays on average the highest monthly wages while the construction sector pays the lowest. Table 8 below shows that using the 2006 frame, a construction worker earns an estimated R5,625 per month including bonuses while a worker in the utilities sector earns approximately R14,600. The exclusion of bonuses however has a significant impact on the wages with a construction worker's average monthly salary decreasing by 11.5% to R4,985 while that of a worker in the utilities sector decreases by the smaller margin of 7.5% to R13,527.

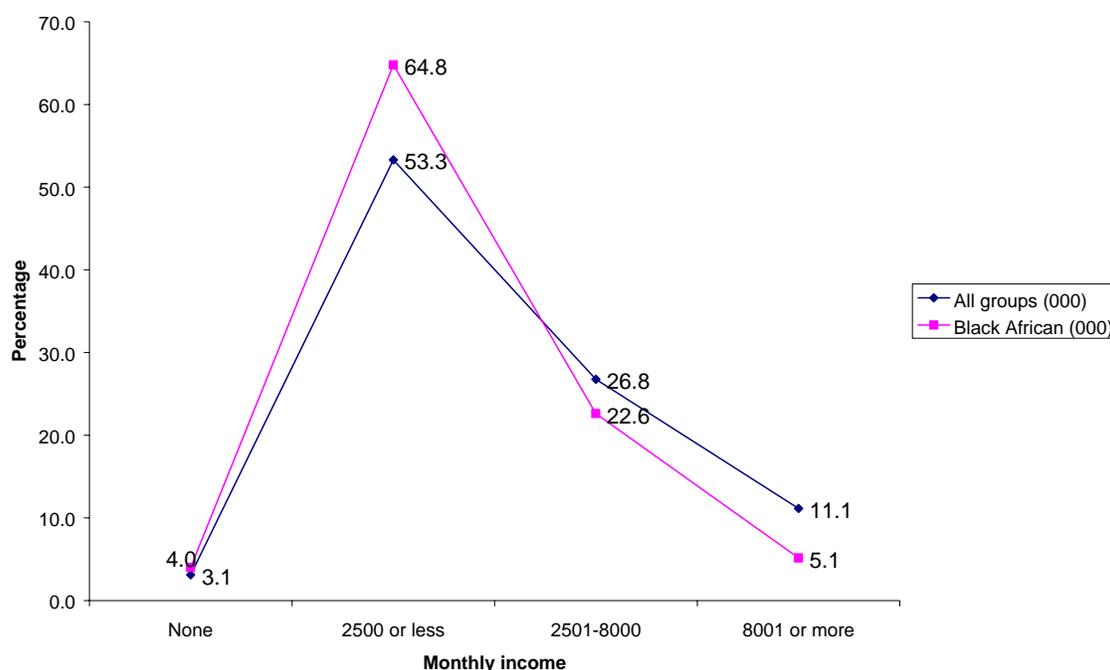
Table 8: Estimated average monthly earnings in all formal non-agricultural industries at current prices

Industry	Average monthly earnings (May 2005) (Rand)-2004 frame	Average monthly earnings (May 2006) (Rand)-2004 frame	Average monthly earnings (May 2007) (Rand)-2006 frame	Average monthly earnings (May 2007) (Rand)-2006 frame-excluding bonuses	Change
Mining and quarrying	6450	6915	7355		
Manufacturing	6250	6707	7239	6705	534
Electricity gas and water supply	13629	13924	14618	13527	1091
Construction	4238	4724	5625	4985	640
Wholesale and retail	4641	4954	5573	5358	215
Transport	10046	11453	11177	10195	982
Finance	7200	7549	9741	9401	340
Community and personal services	8269	8774	9449	9152	297

Source: QES, June 2007; own calculations

Contrasted with the LFS however, the scenario changes markedly. As figure 12 below shows; 3.1% of all workers (394, 000) report having no income at all while 53% report earning R2500 or less per month. Only 11% of workers report earning more than R8000 per month. Significantly, 4% of all African workers report having no income at all and it is noteworthy that this percentage makes up 90% of all workers earning no income. The majority of African workers (64,8%) earn R2500 or less per month while only a marginal 5.1% earn more than R8000 per month.

Figure 12: Monthly income



Source: LFS, March 2007 pp.21 & 23; own calculations

For a country with a large pool of low skilled workers, it is not surprising that wage differentials in South Africa follow closely on skills levels meaning that the higher the skills required for a particular job, the higher the wages paid. Approximately 80% of those earning more than R8000 per month are legislators, senior officials, managers, professionals, technical or associate professionals and clerks, while only 11 percent of the same category of workers earns R2500 or less per month. In contrast, elementary occupations and domestic workers make up about 47% of all those earning R2500 or less per month (Stats SA, 2007a:25).

Hlekiso and Mahlo (2006:11) emphasise the connection between wages and skills and argue that occupations that require higher skills ordinarily attract higher median wages. They also point out that wage inequality within African workers is higher compared with that of Whites and this may be due to more Africans being concentrated in lower paying jobs (ibid:12). Similarly, economist Mike Schussler has suggested that the current huge wage gap in South Africa can be attributed to the country's skills crisis. He says earnings disparities follow 'the law of supply and demand' and that in comparison with developed countries where the salary difference between degreed and non-degreed workers is 64%, in South Africa the gap is 1,100%. (Blaine, 2007).

6.2. Wage settlements

A limited number of wage settlements analysed by NALEDI from the private sector (communications, finance, wholesale and retail, and manufacturing) as well as the public sector suggests that in 2007, employers and unions on average settled at around 7.5% wage increase.¹⁸ While this settlement may look significant, the fact that the average annualised rate of inflation for 2007 was 7.1% (Stats SA: 2007) (see the next section) means that on average, workers have only settled at a mere 0.4% above inflation, much lower than they did in 2006 when increases on average ranged between 1% -1.5% above inflation.

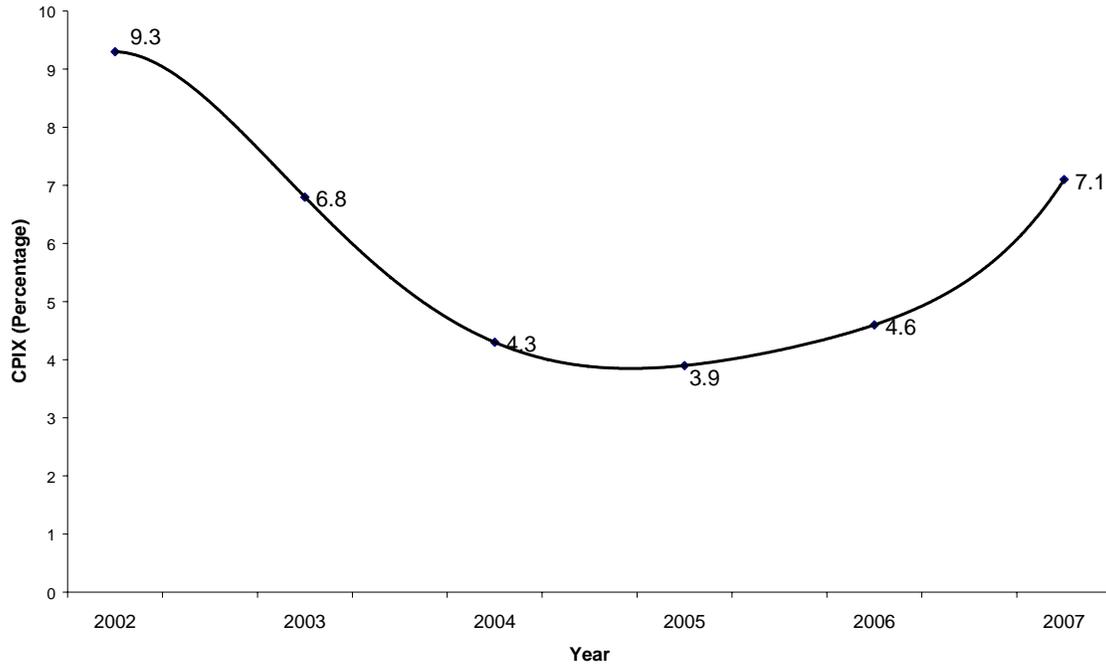
6.3. Inflation and wage increases

In the three year period between 2004 and 2006, the Consumer Price Index¹⁹ remained consistently at below 5% per annum however; this changed in 2007 when inflation rose rapidly as shown in figure 13 below. Inflation began to rise consistently from 2005 and throughout 2006 before breaching the upper 6% upper limit level set by the Reserve Bank for the first time in April 2007. The average rate of inflation for 2007 was 7.1%, a significant 2,5% points higher than the same period in 2006, and over 3% higher in comparison with 2005.

¹⁸ For instance, the communication sector had an average settlement of 7.4%, finance 7.3% and manufacturing 8%. The public sector settled for 7.5% at the conclusion of its 2007 strike.

¹⁹ CPIX excludes interest rates on mortgage bonds. It is also the official index for calculating the rate of inflation in South Africa.

Figure 13: Inflation trends, 2002-2007



Source: Statistics SA, Consumer Price Index (CPI) Headline, Dec 2002-Dec 2006. The Consumer Price Index excluding interest rates on mortgage bonds (CPIX) and the annual inflation rate on a monthly basis for the historical metropolitan and other urban areas

Inflation is triggered by a number of factors including the escalating price of international crude oil and the higher costs of food production. Those who are worst affected by rising inflation are the poor because they spend the bulk of their household income on basic necessities such as food, transport, education and medical care. In a bid to control inflation, the Reserve Bank has resorted to increasing the rate at which banks borrow money and banks in turn, have continuously transferred these higher costs to consumers.

Table 9 below demonstrates that on average, low expenditure groups experience higher rates of inflation in comparison with those in the middle to high income brackets.

Table 9: Year on year increase in the cost of food: Sep 2005-Sep 2007

Item		Percentage annual increase Sep 2005-Sep 2006	Percentage annual increase Sep 2006-Sep 2007
CPIX: All items		+5,1	+7,4
Expenditure groups:	Very low	+6,5	+10,4
	Low	+6,0	+9,8
	Middle	+5,7	+8,9
	High	+5,1	+7,7
	Very high	+4,9	+7,0
Food		+7,9	+12,0
Grain products		+4,7	+17,0
Meat		+17,2	+7,5
Fish and other sea food		+13,7	+7,7

Milk, cheese and eggs	+2,4	+19,4
Fats and oils	+4,7	+19,5
Fruits and nuts	+4,9	+9,7
Vegetables	+6,5	+21,5
Sugar	+7,7	+9,6
Coffee, tea and cocoa	+2,8	+6,9
Other	+2,1	+6,5

Source: Statistics SA, Consumer Price Index (CPI)-Headline, Sep 2006, Consumer Price Index (CPI) September 2007

Importantly, people in the very low to low expenditure groups spend the bulk of their household income on necessities such as food, transport, medical care and education among others, meaning that when compared with those in the middle-higher income groups, the higher rates of food inflation and other basic necessities affects them much more disproportionately.

Table 9 above demonstrates that the average rise in food inflation of 7,9% and 12,0% respectively for 2006 and 2007 was much higher than the average CPIX of 5,1% and 7,4% respectively in the same period. The September 2006 to 2007 season records a phenomenal rise in the cost of basic foods such as grain products (mealie meal and bread), meat, milk, cooking oil and vegetables which rose by a massive 17,0%, 19,4%, 19,5% and 21,5% respectively. As argued before, most of the inflation in this period has been driven primarily by two items; international oil prices and local food prices. The Reserve Bank points out that if food prices are excluded from the index, inflation in the period to July 2007 would reduce by a full percentage point to only 5,1% (SARB, 2007:18).

With the majority of workers earning less than R2500 per month, increasing inflation and very high food prices, it is safe to suggest that in the last two years, wages have not kept pace with inflation. Consequently, the purchasing power of the majority of workers has continuously been eroded. Recently, there has been a heated political debate about poverty in South Africa with contestation on whether poverty has increased or decreased, and whether the number of poor people has risen or declined. Poverty data released by the South African Institute of Race Relations (SAIRR) in November 2007 suggested that the number of 'poverty-stricken South Africans' living on less than 1\$ a day had more than doubled from 1.9 million in 1996 to 4.2 million in 2005 (Cronje, 2007).

In the process of defending and contesting these findings, the SAIRR, government officials²⁰ and economists²¹ have attacked and counter-attacked one another.²² What is certain however is that in spite of over a million jobs being created between 2003 and 2007, and despite the rapid expansion of state social grants which has had a net positive impact on household poverty, unemployment remains extremely high and poverty is

²⁰ President Mbeki in his weekly online column "ANC Today" of 16 November 2007 called SAIRR's claims 'a canard' and said the institute ignored important official data which showed that actually; the number of absolutely poor South Africans had declined. Others who criticized the SAIRR findings were Head of Policy in the Presidency Joel Netshitenze and Director-General in the Presidency Frank Chikane.

²¹ They included Haroon Borhat, Miriam Altman and Ken Owen.

²² Altman attacked SAIRR for relying on faulty data (Poverty Shock! Never mind the facts' Mail and Guardian, 23-29 November 2007, p.35) and was in turn attacked by Tim Bester ('The pitfalls of poverty measures', Business Day, Wednesday, November 29 2007; accessed from www.bday.co.za on 6 November 2007) for also relying on other faulty data to discredit SAIRR

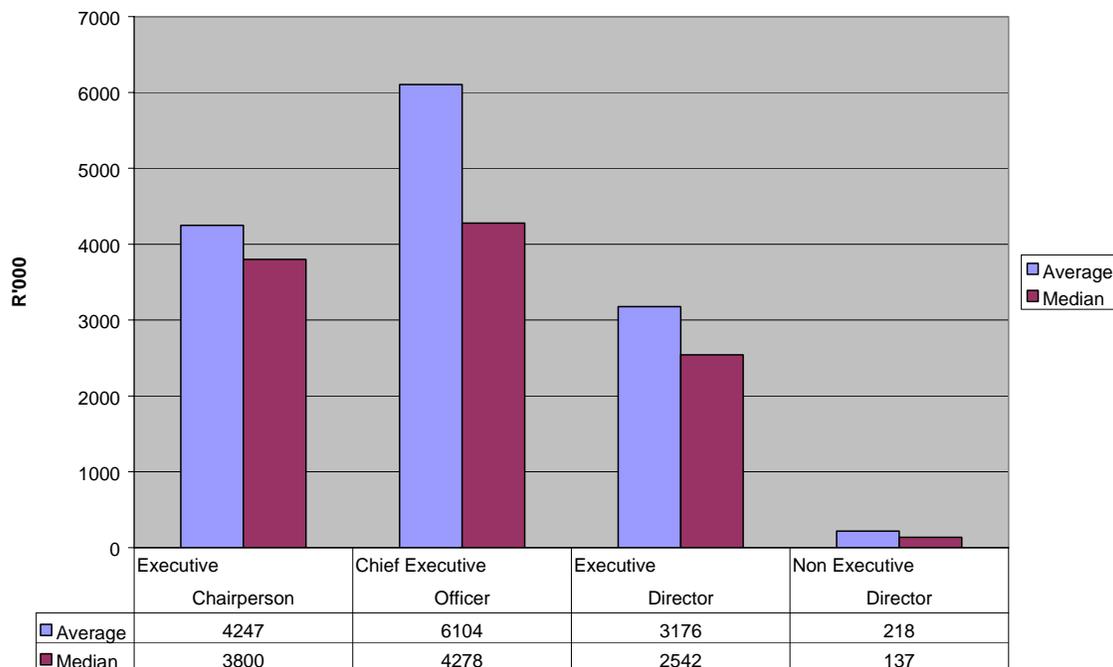
widespread in South Africa. A report published by the United Nations Development Programme in 2003 suggested that while the number of poor people in South Africa had increased by 8.4% from 20.2 million to 21.9 million between 1995 and 2002, the number of people living in extreme poverty (on less than 1\$ a day) had risen by 9.4% from 3.7 million people in 1995 to 4.7 million in 2002 (UNDP, 2003: 41-42).

7. EXECUTIVE PAY²³

Remuneration for company executives has been rising considerably in the post 2000 period and studies show that between 2005 and 2006 alone, executive pay rose by as much as 34%. Research conducted by independent analysts, labour research institutions and trade unions indicate that executives in South Africa enjoy a disproportionately high level of earnings in comparison with ordinary workers. In certain cases, executives have been awarded hefty salaries, bonuses and share options at the same time as their companies' performance has been on a downward trend.

The chart below by research group Mabili shows that the average remuneration for a chief executive officer in 2007 was approximately R6 million while that of an executive chairperson was around R4,2 million. Executive directors earned an average of R3.2 million while non-executive directors earned slightly over R200, 000 in the year. The report goes on to argue that in 2007, the packages of chief executive officers increased by an average of 14% from R5.3 million in 2006 to R6.1million in 2007. That of executive directors grew by 10% from R2.9 to R3.3 million (Mabili, 2007:11).

Figure 14: Director's remuneration 2007 (All industries)



Source: Mabili, Directors' Remuneration Report, 2007:11

Independent labour research group, the Labour Research Service (LRS), has analysed a sample of 238 packages for executive directors and 55 packages of CEOs and concluded that in 2006, CEOs earned an average of R8,2 million, executive directors R4,6 million, and non-executive directors slightly over R300 000 (LRS, 2007:101-102). In the same year, remuneration for CEOs, executive directors and non-executive directors increased by an average of 14%, 17% and 6% respectively (ibid:101). The 55 executive directors in

²³ By executive is meant directors and those in executive management positions such as Chief Executive Officers, Chief Finance Officers, executive directors etc.

the sample earned an incredible R448.7 million leading the LRS to conclude that it would take an ordinary worker 273 years to earn what the average CEO earns in one year (ibid:102).

In 2006, business journalists Ann Crotty and Renee Bonorchis analysed the packages paid to CEOs of 50 top JSE listed companies and concluded that the average remuneration for a CEO in 2005 was approximately R15,7 million while in the retail sector, the average remuneration was R35 million. Using the comparative figure of R22,000 as the minimum annual wage for workers in the retail sector, the two authors concluded that in 2005, the overall wage gap between executives and workers was 711:1. Within the retail sector, the gap was 1500:1 (Crotty & Bonorchis, 2006:126-127).

State owned enterprises such as Telkom, Eskom, and Transnet have upped directors' packages considerably with their company CEOs earning R5,6m, R5,2m and R6,9m respectively in 2006 (ibid, Mabili:164, 221 & 228). Managers of the biggest metropolitan councils such as Johannesburg, Ekurhuleni, Ethekewini and Cape Town earn an average of R1 million per year.²⁴

Table 10 below presents a comparison of workers' wages with the packages paid to company executives (excluding gains on share options) in four sectors in 2006. It shows that the lowest gap in remuneration between directors and workers was in the construction sector where executives were earning at least 186 times more than the average workers. The remuneration gap between CEOs and workers in the retail sector was an exceptional 942.

Table 10: Comparative remuneration for executive officers and workers in the private sector (2005)

Sector	Average pay for a Chief Executive Officer (R)	Average minimum wage for workers (R)	Difference	Average pay for an Executive Director (R)	Average minimum wage for workers (R)	Difference
Construction	3,8m	15,600	x244	2,9m	15,600	x186
Food and beverage	6,2m	27,900	x222	3,9m	27,900	x140
Mining	11,6m	27,600	x420	7,8m	27,600	x283
Retail	17,9	19,000	x942	6,9m	19,000	x363

Source: Compiled from the LRS: Bargaining Monitor, Sep 2006: 14 -15

Rather than shrink, it is quite clear that the wage gap between employers and employees is expanding. It needs to be noted further that while most unions settled for an average wage increase of approximately 6,3% in their 2006/7 collective agreements, and approximately 7% in 2007/8, company executives received basic wage increases of between 10% and 14%. It highly likely that this trend will continue in the 2008-2009 season.

²⁴ Information obtained from the Annual Reports of the three city councils. Available at www.joburg.org.za, www.ethekwini.org.za and www.capetown.gov.za

8. HIV/AIDS & COLLECTIVE BARGAINING

8.1. Background

HIV/AIDS is becoming an ever growing problem in Sub-Saharan Africa. In South Africa, approximately 5.3 million out of 45 million people are said to be infected by the HI Virus.²⁵ The AIDS epidemic in the country costs gold miners the equivalent of 7,5% of their payroll due to costs related to hospital care and training for replacing sick or deceased workers. Evidence on the macroeconomic impact of HIV/AIDS in South Africa is highly contested but some econometric studies have suggested that the pandemic will only have a relatively modest impact, yet others, such as a recent World Bank report, have argued that in the absence of significant interventions, there will be a total collapse of the economy.²⁶

However, given the long-term nature of the epidemic, it is likely that increased levels of morbidity and mortality will be felt earlier at the micro and meso levels (individual, household, company and sector), before the cumulative effect becomes apparent and feeds through to the macro-economy. While the impact of HIV/AIDS in South Africa has been explored at different levels, what is yet to be examined are the structural and organisational impacts of the disease especially at an industry and company level.

8.2. Factoring HIV/AIDS in the bargaining process

Bargaining around HIV/AIDS issues is relatively recent. In the late 1990s a few trade unions began to negotiate with employers around issues of HIV/AIDS but there is still a general absence of HIV/AIDS policy in many industries. The last five years have however seen a majority of bargaining councils begin to include HIV/AIDS in their collective agreements.

As HIV/AIDS has a varied impact on the different sectors, union response has, predictably, also been mixed. Major initiatives have been undertaken in sectors such as mining, education and transport which are the worst affected by the disease, but only a few of them have been successful in implementing effective HIV/AIDS programmes.

8.3. Union response to HIV/AIDS²⁷

8.3.1. National Union of Mine Workers

The National Union of Mine Workers (NUM) has achieved major strides in bargaining around HIV/AIDS. NUM achieved a significant victory when mining giant De Beers agreed to implement a comprehensive HIV/AIDS Programme which among other things includes the rolling out of anti-retrovirals to workers and their spouses. In addition, NUM has signed an agreement with AngloGold Ashanti as well as with Harmony and Kumba

²⁵ ABT Associates, Inc., 2000, Demographic impacts of HIV/AIDS in South Africa. Sandton.

²⁶ Ibid

²⁷ This information is based on a study conducted by NALEDI in 2005 and the situation may in all likelihood have changed by now. It is presented here merely to give indicators on how unions and employers have responded to the problem of HIV/AIDS at the workplace.

Resources on the implementation of HIV/AIDS measures. At the time of compiling this information in 2006, NUM was still negotiating a comprehensive health care policy with Gold Fields.

All in all, NUM continues to encounter problems in reaching consensus with certain companies on the implementation of the union's HIV/AIDS prevention and treatment programme. NUM says Eskom has been reluctant to implement this programme as do a number of companies in the building and manufacturing sector.

8.3.2 Communications Workers Union (CWU)

CWU has engaged the Post office on the HIV/AIDS problem over a period of time. Consequently, the Post Office began providing anti retroviral drugs to its workers but the union states that the Post Office did so without consultation, and workers complained about the harsh and unacceptable manner in which this programme was being administered.²⁸

Subsequently, the union intervened and a joint strategy was developed between it and the Post Office. In addition, CWU and Telkom entered into discussions in 2005 and agreed to consider the following in relation to the disease:

- Education and communication (access to information),
- Policy Audit/ evaluation,
- Total employee wellness as a business imperative,
- HIV/AIDS business impact evaluation,
- Ownership/ accountability of employee wellbeing,
- Integrated wellbeing including an Employee Assistance Program (EAP),
- Capacity building (resources and mandate),
- Monitoring and evaluation; and,
- Gender Issues in the HIV/AIDS context (sexual harassment, subordination of women, employment equity consideration etc).²⁹

8.3.3. South African Transport and Allied Workers Union (SATAWU)

The transport sector is one of the most affected by HIV/AIDS and SATAWU has been engaged with employers within the Road Freight Industry for a while over the epidemic.³⁰ By 2005, five trade unions: African Mines and Allied Workers Union, Motor Transport Workers Union, Professional Transport Workers Union of South Africa and SATAWU, had already placed the issue of HIV/AIDS firmly on the agenda of the National Road Freight Bargaining Council (NRFBC). The Council has formed clinics for workers within the transport industry near key national transport points.

SATAWU's agreement with the Road Freight industry was signed in 1999 and became effective in 2000. This achievement was a result of a multi-faceted intervention by the

²⁸ Interview with Johny Ndlovu, 20/10/2005

²⁹ Wellness Indaba for Telkom and CWU, St Georges Hotel, 14 October, 2005

³⁰ Interview with Qondile Dube and Abner (SATAWU)

Department of Transport, the private sector and non-profit organisations. The National Transport Sector Strategy was developed by the Transport Co-ordinating Committee aimed at enhancing and consolidating effective interventions through partnerships in government, non-profit organisations and private enterprises.³¹

In its implementation plan, NRFBC has provided mobile clinics to serve people in critical provinces (especially the coastal areas) with voluntary counselling and testing, food parcels, condom distribution and the treatment of Sexually Transmitted Infections (STI's). These services are also accessible to adjacent local communities. Furthermore, the Council has established six roadside clinics on major truck routes around the country in the following areas: near Beaufort West in the Western Cape, Harrismith on the way to Durban, Beitbridge on the border between South Africa and Zimbabwe, Ventersberg in the Free State, Tugela Toll Plaza in KwaZulu Natal and Port Elizabeth.³²

SATAWU also pressed Transnet to implement a HIV/AIDS Social Plan which encourages people to undergo voluntary counselling, and also provide treatment. Transnet has subsequently set up the Group's Lifestyle Management Programmes which cover both employees who are medically insured and those who are not, and provides a strategic response to managing the potential consequences of HIV/AIDS within the company, its business units and subsidiaries.³³ Transnet's Programme also provides medication to prevent mother-to-child transmission of the HI Virus, besides providing antiretroviral treatment for both workers and their dependants.

8.3.4 Southern African Clothing and Textile Workers Union (SACTWU)

SACTWU has over the past four years engaged employers through the bargaining council (National Textile Bargaining Council) to intervene in the HIV/AIDS issue. However, the union says employers within the clothing industry are reluctant to commit themselves and provide treatment for workers. With limited support from donors and employers, SACTWU has put in place various HIV/AIDS programmes including training for workers and shopstewards, and voluntary counselling and testing. There has been no roll-out of antiretroviral treatment.³⁴

8.3.5 South African Democratic Teachers Union (SADTU)

The education sector is also one of the worst affected by HIV/AIDS and by 2004; SADTU had already embarked on the implementation of a HIV/AIDS programme. According to the union, discussions have been on-going with the Department of Education for the provision of antiretrovirals but nothing much has been achieved.³⁵ One of the major difficulties in this regard is the insistence by the Department that provision of anti-retrovirals to teachers can only be made as part of government's national HIV/AIDS plan for all South Africans.³⁶

³¹ Transport Sector Strategic AIDS PLAN, November 2001.

³² Interview with Ngoako Bope, National Bargaining Council, 4/11/2005.

³³ Transnet's, Annual Report 2005.

³⁴ Interview with Jonas, SACTU, 4/11/2005.

³⁵ Interview with Fikile Hugo, SADTU, 21/10/2005.

³⁶ SABC News interview with SADTU President Willie Madisha, 4/10/2005.

There is no specific HIV/AIDS programme targeting teachers in South Africa³⁷ but SADTU was scheduled to establish a medical aid scheme in January 2006 to target those teachers who cannot afford the highly exorbitant commercial medical aid schemes. According to SADTU, about 280 000 teachers are not covered by any medical aid scheme.³⁸ SADTU's proposed scheme would in addition to providing the normal health cover, also provide treatment for more than 1000 teachers in each province.³⁹

8.3.6 South African Commercial, Catering and Allied Workers Union (SACCAWU)

The issue of HIV/AIDS within retail workplaces was started in 1997 as an initiative of some employers in the sector. SACCAWU has concluded a number of agreements with retailers such as Pick 'n Pay (which covers half of the cost of anti retroviral treatment for infected workers),⁴⁰ Shoprite Checkers and Ellerines.⁴¹ These agreements deal with prevention, treatment and care, the development of a trustee fund for infected workers and voluntary counselling and testing. Rolling out of anti-retrovirals has also been negotiated. In addition, SACCAWU has negotiated with its medical aid scheme for benefits to be extended to HIV/AIDS positive workers and their families.

Below, we summarise some of the responses made by unions and employers to the HIV/AIDS challenge.

Table 11: Summary of achievements, commitments and failures (Unions and Employers)

Union	Employer	Achievements	Commitment	Output
NUM	(i) Anglo Gold Ashante	Agreement	Lack of cooperation	Successful
	(ii) Harmony Gold	Agreement (2002)	Not clear	Not Clear
	(iii) Kumba Resources	Agreement (2003)	No national meetings.	Unsuccessful.
	(iv) De Beers	Agreement	Implementation of HIV/AIDS Programmes	Successful

³⁷ City Press, Government's Response, 11 September 2005.

³⁸ Interview with Fikile Hugo, SADTU, 21/10/2005.

³⁹ Interview with Dr Mbhense (SADTU's National HIV/AIDS Coordinator), 20/10/2005.

⁴⁰ Interview with Xoli Takali, (SACCAWU) 18/11/2005.

⁴¹ Interview with Patricia Nyman, SACCAWU, 14/11/2005.

	(v) Escom	No agreement	Nothing	Unsuccessful
	(vi) Gold Fields	Agreement (2001)	Negotiating a comprehensive health care	Successful
SATAWU -Motor Transport Workers Union -African Mines Allied Workers Union -Professional Transport Workers Union of SA and TAWU.	(i) Road Freight Industry	Agreement (1999)	Implementation in 2000	Successful
	(ii) Transnet	Agreement	Social Plan (Scheme)	Successful
	(iii) Spoornet	Agreement (2003)	Implementation	Successful
SADTU	(i) Department of Education	No Agreement	No commitment	Unsuccessful but the union has put its HIV/AIDS Program in place
CWU	(i) Post Office	About to finalise agreement	Work together	Successful (Treatment provided)
NEHAWU	(i) Government Departments	Engage in negotiations	Currently negotiating HIV infection insurance	Unsuccessful but they have implemented a Wellness Programme
POPCRU	(i) Safety and Security &	Agreement	HIV/AIDS Policy	--

	Correctional Services		implementation	
FAWU	(i) Agriculture, Commerical Farmers etc.	Agreements	Implementation of HIV/AIDS Programme	
SACTU	(i) Clothing Industry	No agreement	No commitment from the industry	Unsuccessful but union program has been a great success
CEPPWAWU		No Agreement	Not yet engaged	Unsuccessful but union programme has been a great success
SADNU	Hospitals	No agreement	Want to conduct a research on the hospital sector and produce a film documentary	Unsuccessful but still working on their HIV/AIDS programs
SACCAWU	Retailers	Agreements with Shoprite Checkers and Pick 'n Pay.	Committed to implement HIV/AIDS program	Successful

Table 12: Summary of the Bargaining Councils HIV/AIDS Intervention programmes

Bargaining Council	Agreements	Developments
Building Industry	HIV/AIDS not on the agenda	Nothing
Diamond Cutting Industry (National)	Agreements	Implementing HIV/AIDS programmes like Counselling ⁴² but treatment is

⁴² Interview with Maria Hendriks, Diamond Cutting Industry, 14/11/2005.

		based on worker's medical aid schemes
Electrical (National)	HIV/AIDS treatment provision	Negotiating the Implementation of HIV/AIDS
Hairdressing and Cosmetology Services (Semi-National)	No agreement	Still working on the HIV/AIDS Policy ⁴³
Laundry, Cleaning and Dyeing Industry	Each sector has concluded some agreements ⁴⁴	Depends on each sector
Metal and engineering Bargaining Council	No agreement	Working towards establishing HIV/AIDS Policy
Transnet	Implementation of HIV/AIDS Programs	Rolling out the treatment to employees and their dependants
Education Labour Relations Council	No agreement	Working on the implementation of HIV/AIDS programmes
National Textile Bargaining Council	No agreement but HIV/AIDS features on the agenda	Companies have their own HIV/AIDS Programs
South African Cotton Textile processing and Manufacturing	Employers pay certain amount for HIV/AIDS ⁴⁵	Treatment is offered but not antiretrovirals
Road Freight Industry	Yes	Treatment, prevention support etc

8.4. Bargaining Councils and HIV/AIDS

Most of the Bargaining Councils are still developing their HIV/AIDS policies. Where this is already happening, the inclusion of HIV/AIDS in the bargaining agenda has been as a result of pressure exerted by unions as in the case of the National Textile Bargaining Council, and the South African Cotton Textile Processing and Manufacturing Bargaining Council.⁴⁶ However, some council, such as the Building Industry Bargaining Council have not responded in any significant way to the HIV/AIDS problem despite this sector being one of the most affected. According to the Council HIV/AIDS is not a priority.⁴⁷

⁴³ Interview with Julian Wood, Hairdressing and Cosmetology Services

⁴⁴ Interview with JJ Daniels, Laundry, Cleaning & Dyeing Industry

⁴⁵ Interview with Benett Nkabinde, South African Cotton Textile Processing and Manufacturing, 4/11/2005

⁴⁶ Interview with JJ Daniels, National Textile Bargaining Council, 4/11/2005

⁴⁷ Interview with Mr Versker, Building Industry (Port Elizabeth), 4/11/2005

8.5. The road ahead

A number of unions, bargaining councils and companies have made important strides in a bid to respond to the challenges thrown by HIV/AIDS at the workplace. These include unions such as NUM and SATAWU, employers such as Transnet and Pick N Pay, and bargaining councils such as the Road Freight Bargaining Council. However, the lack of HIV/AIDS policies in some of the unions, and the absence of debates from a number of bargaining councils is symbolic of the lack of commitment in tackling the epidemic at the workplace.

It is critical for unions to prioritise HIV/AIDS in their negotiations with employers, and both unions and bargaining councils must lobby government in order to ensure the effective implementation of the recently adopted (2006) Comprehensive HIV and AIDS Care, Management and Treatment Plan for South Africa. Furthermore, there is a need to strengthen bargaining councils so that they do not only deal with issues of HIV/AIDS during bargaining rounds, but so that they can also be able to monitor and enforce the implementation of agreements relating to HIV/AIDS. This means that there is a need for a comprehensive approach within the bargaining councils to enforce compliance.

9. EMPLOYER STRATEGIES IN COLLECTIVE BARGAINING

Parameters reflecting the class interests of capital, including their language, obviously favour the bosses. The Consumer Price Index (CPIX- minus interest on mortgage bonds) as a measure of change in the real value of money does not measure changes in either the real basket of goods and services that workers survive on, nor does it indicate in any way what workers and their families need.

Bargaining processes involving workers themselves -for instance garage workers writing down in detail what their monthly expenses are and from these generating demands related to their *needs*- are far more important than clever arguments on inflationary trends. Employer strategy at one level always entails using a language and framework that accepts capital and its role or importance and thus practically and ideologically strengthening a turn away from the rank and file, as well as from worker unity (e.g. employers are hence presented as social partners not class enemies, and workers are asked to make “realistic” demands i.e. demands that capital can accommodate)

There are a range of social constructs justifying how capital ‘rewards’ labour and one of this is the question of skills. One needs only look at the 2007 public sector settlement which better rewards nurses, doctors, teachers and judicial officers in Occupational Specific Dispensations in comparison with other categories of workers. An argument is made that there is a shortage of certain “skills” or that certain are more important and therefore workers with such skills should earn higher than those without. It is ironic that settlements based on working class unity in struggle are constructed on the basis of some kind of division (or reinforcing of existing divisions) in this case the skill’s line.

On the other hand there is evidence of increased practice by employers, of finding ways to reward, more ‘skilled’ workers through for example bonuses or higher wages that occur independent of the outcome of wage bargaining. Managers and top earners are generally excluded from a collective bargain but they have continued to reward themselves with exorbitant salaries, bonuses and share options.

The problem therefore is not one of merely there being an ‘apartheid wage gap’ - in itself a concept concealing the role of capital under apartheid- but also of the widening gap between workers, who sell their labour, and owners of means of production, who use that labour to make profit. It effectively marks the power difference between workers and employers not just at the workplace, but also in relation to influencing government on matters concerning labour.

Employers in a number of sectors continue successfully to achieve multi-year agreements. In the words of the Steel and Engineering Industries Federation of South Africa (SEIFSA) commenting on the metal and engineering 3-year agreement:

“This is the first time in SEIFSA’s long history that we have been able to secure a fixed term agreement of such duration. [It] may well now become the norm in our industry...(the agreement) guarantees industrial stability and legal protection against any form of strike action related to wages and conditions of employment from now until 30 June 2010...a remarkable achievement.”

SEIFSA's agreement precludes any further plant bargaining on wages and conditions of service. Inevitably, such agreements, whilst setting minimums, may well act to discipline workers on the ground and limit them from making gains at the plant level or locally. It may also constrain the ability of workers to reassert themselves the following year.

Employers (without much union pressure) seem to be successfully slowing any changes to the regulation, coverage and gains for 'atypical' workers and this remains a huge challenge for unions. There are (or at least were for a time) exclusive negotiations focusing on 'atypical' workers in the Nedlac Labour Market Chamber, however, this matter has since fallen off the table and there has been no attempt to use the problem of atypical work as a focus for a campaign by unions.

The right to strike is protected by both the constitution and legislation. However, the Labour Relations Act (LRA, 66 of 1995) limits this right and the state in addition often comes on the side of employers when workers exercise their right to withhold labour. In the LRA, the right to strike is conditional and in certain cases limited. For instance workers engaged in 'essential services' (e.g. electricity workers and doctors) have no right to strike while other so called 'ordinary workers' may not engage in strikes in support of secondary issues unless they go through an elaborate court process. Furthermore, the state's response during strikes (e.g. police attacks, the army medical corps deployed as scabs, court interdicts etc) demonstrates that its (state) concern is more about protecting the interests of employers than the rights of workers.

Accumulated anger and united strike action in some places (especially the public sector in 2007) have lead to an increase in wage settlements and encouraged bosses in the private sector to also settle at higher levels. Where it can, capital will and is passing these costs on to workers through price increases, casualisation, labour broking and other means such as retrenchments and dismissals.

This emphasises the importance of building and linking struggles, and also of constructing and joining demands to reflect and counter such responses, rather than the fragmentation currently prevalent within and between industries, negotiations, workplaces and communities. The slogan of one 'union one industry' does not deal with the changing workplace of casualisation, outsourcing and privatisation. One union one industry is not uniting or facilitating unity in the workplace. Workers need to respond to the challenge of an ever restructuring work place with the strategy of 'one union one workplace.'

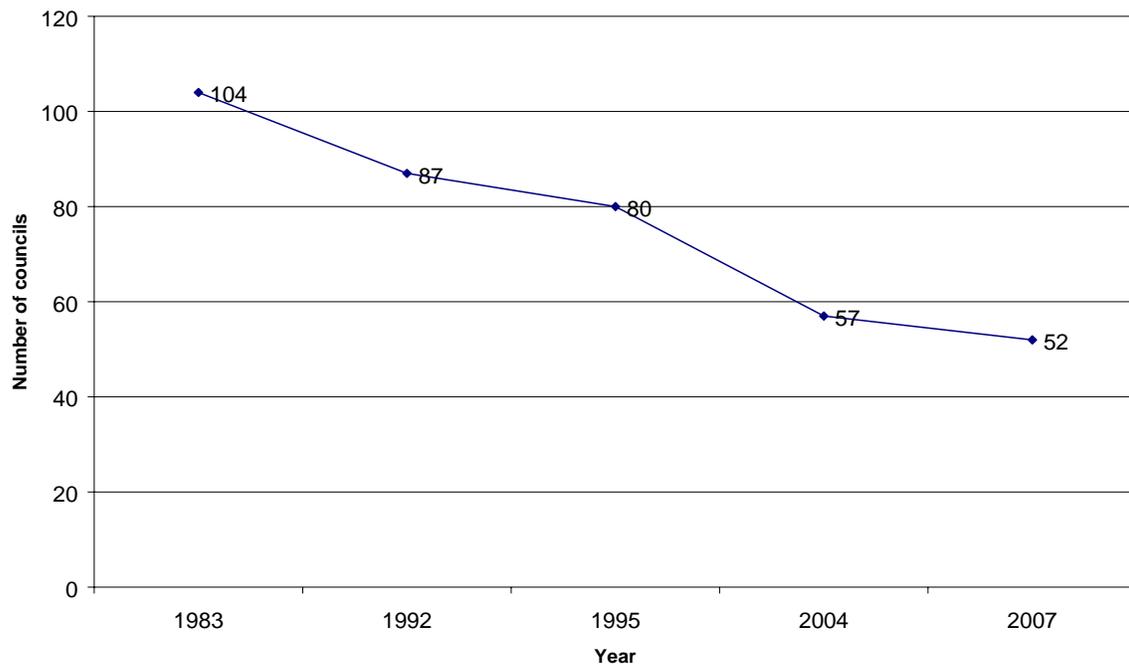
10. LABOUR MARKET INSTITUTIONS: BARGAINING COUNCILS, CCMA & THE LABOUR COURT

10.1. Bargaining Councils

One of the central features of South African industrial relations is the voluntary collective bargaining system between employers and employees. Collective bargaining is one of the key instruments central to the defense and advancement of workers interests. Chapter three of the LRA makes extensive provision for advancing workers interests through a bundle of mechanisms such as collective agreements, bargaining councils (sector/area bargaining councils, public service bargaining councils and statutory councils) and ministerial sectoral determinations.⁴⁸

Bargaining Councils have been on the decline since the early 1980s and as shown by figure 15 below, between 1983 and 2007, they dropped by 50% from 104 to 52. Currently, there are 41 functional bargaining councils in the private sector and six in the public sector.⁴⁹ Some of the reasons cited for the decline of bargaining councils include mergers of regional and sub-sectoral councils, non-functionality (Godfrey, Maree & Theron, 2005:81) and rising non-standard work (casualisation⁵⁰, externalisation⁵¹ and informalisation⁵²) which leads to a lowering of union representivity at the work place

Figure 15: Bargaining Councils 1983-2007



⁴⁸ Sectoral Determinations are made by the Minister of Labour to cover workers in vulnerable sectors such as farming, domestic households, contract cleaning and the public taxi industry. These sectors also have low levels of unionisation.

⁴⁹ Five of the bargaining councils are non-functional.

⁵⁰ This is where employment is not permanent or is not full-time.

⁵¹ In this case, an employment contract is replaced with a commercial contract and the 'employee' becomes an independent contractor

⁵² This refers to employment in a company or firm that is not registered (e.g. with the Department of Trade and Industry or for VAT, or COIDA, or UIF).

Source: DOL, www.labour.gov.za accessed on 8 December 2007

While the number of bargaining councils has declined, the number of workers covered has not changed meaning that centralized bargaining is being strengthened. (Godfrey, 2007: 27).⁵³ In total however, bargaining councils cover only a quarter of the 9,5 million employees who fall under the Labour Relations Act and the Basic Conditions of Employment Act (Godfrey, Maree & Theron, 2005:4).

Bargaining councils face a variety of challenges including declining union membership due to growing levels of atypical employment, resistance by employers to joining and participating in the activities of councils, poor financial and administrative support from the Department of Labour and limited powers to regulate the activities of labour brokers and other forms of atypical employment (Dicks, 2007).

A number of reforms to the collective bargaining system have been suggested such as the introduction of sectoral level bargaining and the extension of collective agreements based on the government's labour market policy rather than the current case where agreements are extended automatically if the parties are representative (Cheadle, 2005: 27-28). The automatic extension nature of agreements has sparked controversy and resistance by employers.

Once touted as the bedrock to peaceful labour relations in the post apartheid South African labour market, it is obvious that bargaining councils have not been as successful as initially envisaged. The fact also that collective bargaining is voluntary rather than compulsory also means employers may have not been persuaded about the necessity of strengthening the collective bargaining system in order to foster industrial harmony.

10.2. Commission for Conciliation, Mediation and Arbitration

The Commission for Conciliation, Mediation and Arbitration (CCMA) was established approximately twelve years ago under as an expedient and quick labour dispute resolution mechanism. During this period of existence, the CCMA's caseload has grown exponentially with estimates that presently, the Commission handles an average of 600 referrals per day or 10,000 cases per month. Since its inception, the CCMA has handled more than 1.3 million cases (ibid, Dicks⁵⁴).

Statistics published in the Tokiso Dispute Resolution Review, 2007 show that approximately 88% of all disputes relate to unfair dismissals of which two-thirds are about misconduct (Terblanche, 2007). Unfair labour practices, collective bargaining, severance pay and 'other matters' make up the remainder of disputes referred to the Commission.⁵⁵

⁵³ Citing Du Toit et al, 2006: 44. 2006. Labour Relations Law, A Comprehensive Guide, LexisNexis Butterworths, Durban.

⁵⁴ As shown in figure 14 above, Paul Benjamin & Carola Gruen, analysed the CCMA data base which showed that by 2005, the Commission had handled a total of 832,950 cases. With an average of 120,000 cases per year, it is reasonable to conclude that by 2007, the commission would have handled around 1.5 million cases.

⁵⁵ According to the Tokiso Report, only a mere 3% of disputes relate to poor performance by employees (Barrie Terblanche, Mail and Guardian article).

Some of the interesting phenomenon observed is that as opposed to previous years where over 50% of all arbitration awards were in favour of employees, currently, approximately 60% of the awards are in favour of employers. However, there has been a huge increase in the number of employers ignoring CCMA awards (10,026, an increase of 18% from the previous year) thus forcing employees to resort to the courts for enforcement (ibid).

Various reforms to the CCMA are currently being discussed among researchers and labour law experts in order to improve the work of the Commission. These include introducing a financial threshold so that those who fall above the threshold (e.g. senior managers) are disqualified from making use of the CCMA's dispute resolution procedures. There have also been suggestions that the excessive formalism which has crept into the CCMA arbitration procedures should be removed, that the participation of labour consultants in dispute hearings should be regulated, and that some of the dispute resolution work should be remitted to alternative forums such as bargaining councils and private dispute resolution services (Roskam, 2007; van Niekerk, 2007).

10.3 The Labour Court

The Labour Court is a specialist tribunal for handling labour disputes. It is established under section 151 of the LRA with jurisdiction equal to that of the High Court, but as opposed to the High Court, its judges are appointed for a fixed term of office. Since the labour court has exclusive jurisdiction⁵⁶ in all labour related disputes, any application for a review of the decision of the CCMA must be made to this Court. Currently, there are proposals contained in the Superior Courts Bill (currently before Parliament) that the Labour Court and the Labour Appeal Court⁵⁷ should be abolished and their functions integrated into the High Court and the Supreme Court of Appeal respectively.

While the two courts have been instrumental in developing South Africa's labour jurisprudence pre⁵⁸ and post 1994, they have also been dogged by controversy including assertions that they have from time to time made conflicting and confusion decisions on labour matters. For the labour court especially, it is, as Anton Roskam says⁵⁹ viewed as "a career dead-end", judgments are delayed excessively and its judges they are seen as having a lower status in comparison with High Court Judges (Roskam, 2007:35). Suggestions have been made however that at least the Labour Court should be retained but its judges should made permanent and the rules of procedure for the court should be reviewed in order to hasten the process of adjudicating labour disputes (van Niekerk, 2007:47).

The bid to abolish these two courts is unlikely to curry favour with labour which feels that South Africa's labour dispensation is better served by specialist labour tribunals rather than ordinary courts. This is because time and again, the High Court and the Supreme Court of Appeal have, in their adjudication of labour related matters, demonstrated a great degree of devotion to the common law and contract law sometimes

⁵⁶ This has been affirmed in the recent Constitutional Court Case of **Chirwa v Transnet and others** [2007] ZACC 23.

⁵⁷ Established under section 167 of the LRA.

⁵⁸ The Labour Court was in existence prior to 1994.

⁵⁹ Quoting Paul Benjamin.

negating the healthy body of labour jurisprudence developed in the last decade and a half.⁶⁰

⁶⁰ The Supreme Court of Appeal has been notable for making judgments with far reaching consequences on labour relations in the country. These include cases such as **NUM & Others v Fry's Metals (Pty) Ltd** 2005, ZASCA 39, where the court ruled that an employer could terminate the services of employees who refused to accept a change in working conditions. In **Rustenburg Platinum Mines Ltd v CCMA** 2007, (1) SA 576 (SCA), the court had argued that in matters of unfair dismissal, commissioners of the CCMA must show a measure of deference to the employer's decision because the discretion to dismiss lies primarily with the employer. This judgment was overturned by the Constitutional Court.

11. CONCLUSION

Globally, labour markets continue to undergo complex processes of continuity and change, and the South African labour market is no exception. Since the mid 1990s, the South African labour market has been reshaped to conform to the demands of a modern developing economy, while at the same time responding to the needs of what government characterizes as a “developmental state”.

Much of the hostile and adversarial relations which defined the apartheid labour market have given way to multi-lateral labour institutions and consensus mechanisms for the pursuit of “economic development, social justice, labour peace and the democratization of the work place”. Yet, fourteen years after the formal dismantling of apartheid, the South African labour market remains a highly contested terrain.

Many sectors of the economy experience scarce and critical skills shortages given many years of apartheid’s direct denial of black people from acquiring skills to enable them participate in the economy. Consequently, South Africa has been left with a huge pool of low skills and as production processes change in tune with technological developments, those previously excluded from the labour market by apartheid’s racial policies now find themselves excluded by the dictates of market efficiency. The “skills crisis” and huge remuneration for executives have led to a widening of the wage gap.

The slow pace of job creation has seen official unemployment increase by more than 10% from 1994 to stand at 25,5% in 2007, poverty has deepened and inequality as measured by the Gini co-efficient is on the rise. Though the rate of women participation in the economy has improved, the majority of those who are unemployed are women, and in comparison with men, women earn on average lower wages. African women are predominant in the informal sector as well as in poor, low-wage, non-standard jobs.

Perhaps the distinctive feature of the South African labour market fourteen years into its transition is the growth of atypical forms of work inside the formal economy and also the extensive growth of the informal economy. As South Africa charts its course half-way through the 2014 target for halving unemployment and poverty, it is highly unlikely that at the current pace of economic growth and job creation, the country will be anywhere closer to achieving that objective.

In this climate, the need for better collective bargaining strategies cannot be over-emphasised. The increasing number of unemployed people, the rise in atypical forms of employment (hence reducing the number of unionized workers) and the decline in bargaining councils all mean that the ability and strength of workers to bargain for a living wage has come under severe pressure. Rolling back these setbacks is a challenge that requires unions to mobilise more creatively and more actively particularly where they have been spectacularly absent, that is amongst atypical workers.

REFERENCES

1. Altman, M. (2006). Setting targets for unemployment reduction and employment creation. Pretoria: HSRC.
2. Baleni, F. (2007). A Silent Crime in the Mines. *NUM News* September/ October, 2007.
3. Bell, T. (2007). Key lessons from public sector strike. *Amandla!* Pilot issue #2, October 2007. Cape Town, Amandla Publishers.
4. Benjamin, P., & Gruen, C. 2005. The Regulatory efficiency of the CCMA: A statistical analysis. Paper prepared for the Department of Labour.
5. Blaine, S. (2007, December 7). Wage gap due to skills crisis. *Business Day*:p.4.
6. Burger, R. & Yu, D. (2006). Wage trends in post-apartheid South Africa: Constructing an earnings series from household survey data. *South African Reserve Bank, Labour Market Frontiers*, October, 2006, Number 8. Pretoria.
7. Cheadle, H. (2005). Regulated flexibility and small business: Revisiting the LRA and the BCEA. DPRU Working paper. Cape Town.
8. *Creamer Media's Mining Weekly*. (2007, November 22). SA mine safety audit starts in December.
9. COSATU. (1995). Safety is a Daily Concern. Available at (<http://www.cosatu.org.za/shop/ss0406-20.html>). Accessed on 14 February 2008.
10. COSATU. (2006). The state of COSATU, Phase One Report. Johannesburg.
11. COSATU, (2006). Press statement on employment statistics.28 September, 2006. Johannesburg.
12. Cronje, F. (2007). Challenging the poverty consensus. South African Institute of Race Relations. Available at <http://www.sairr.org.za/wsc/>. Accessed on 7 November 2007.
13. Crotty, A. & Bonorchis, R. (2006). Executive Pay in South Africa: Who Gets What and Why. Johannesburg.
14. De Vries, L. (2007, November 12). Road accidents raise questions on farm safety. *Independent Online Limited*.
15. Department of Labour. (2004). Changing nature of work and 'atypical' forms of employment in South Africa.
16. Department of Labour. (2005). Labour Market Review, 2005. Pretoria.
17. Department of Labour. (2005). Women in the South African Labour Market 1995-2005. Pretoria.
18. Department of Labour. (2006). Industrial Action Annual Report, 2006. Pretoria.
19. Department of Labour. (2007). Compensation Fund, Annual Report 2007. Pretoria.
20. Department of Labour. (2007). Collective Bargaining Councils in South Africa. Available at www.labour.gov.za. Accessed on 6 December 2007.
21. Department of Labour. (2007). Employer organizations in South Africa. Available at www.labour.gov.za. Accessed on 6 December 2007.
22. Department of Labour. (2007). Trade unions in South Africa. Available at www.labour.gov.za. Accessed on 6 December 2007.
23. Department of Minerals and Energy. 2007. Mine accident statistics. Available at http://www.dme.gov.za/mhs/accident_stats.stm.
24. Dicks, R. (2007). Labour market institutions: Is it time for reform? Paper delivered at NALEDI's collective bargaining workshop, 17 May 2007. Johannesburg.

25. Elsley, T. (2007). Outcomes of collective bargaining in South Africa: the quality of low wage employment in the formal economy in South Africa. *Bargaining Indicators, 2007: a collective bargaining omnibus*, vol. 11. Cape Town: Labour Research Service.
26. Engineering News. (2007). R6m Contract; Health & Safety Call Centre Launched. Available at www.engineeringnews.co.za. Accessed on 14 February 2008.
27. Esnor, L. (2007, November 15). NUM wants tougher penalties for mine deaths. *Business Day*. Available at www.bday.co.za, accessed on 7 November 2007.
28. Godfrey, S., Maree, J. & Theron, J. (2005). Conditions of employment and small business: coverage, compliance and exemptions. Labour and Enterprise Project, University of Cape Town.
29. Godfrey, S. (2007). Collective bargaining update: forms of collective bargaining in South Africa and prospects. *Bargaining Indicators 2007: A collective bargaining omnibus*, vol. 11. Cape Town: Labour Research Service.
30. Guliwe, T. (2005). Exploring the state of youth unemployment in South Africa: A Disaster in the making. Johannesburg: NALEDI.
31. Hazelhurst, E. (2007, September 27). Jobs growth finally hits stride. *Business Day, Business Report*.
32. Hlekiso, T. & Mahlo, N. (2006). Wage trends and inequality in South Africa: A comparative analysis. *South African Reserve Bank, Labour Market Frontiers, Labour Market Frontiers*, October, 2006, Number 8. Pretoria.
33. Kane-Berman, J. (2007). Analysing the poverty of the president's attack. South African Institute of Race Relations. Available at www.sairr.org.za. Accessed on 7 November 2007.
34. Mabili. (2007). Directors' Remuneration Report, 2007. Johannesburg
35. Mining Weekly (2007). New Audit to Improve Quarry Safety www.miningweekly.co.za. Accessed on 14 February 2008.
36. NALEDI (2003). Funding proposal for a collective bargaining data base.
37. Patel, S. (2007). Directors' fees report 2007; a view from the top. *Bargaining Indicators 2007: A collective bargaining omnibus*, vol. 11. Cape Town: LRS
38. Roskam, A. (2007). An exploratory look into labour market regulation. DPRU Working paper. University of Cape Town.
39. SEIFSA (2008). Explanatory circular regarding the new main agreement. Available at http://www.seifsa.co.za/all_downloads/Explanatory%20Circular%202007.pdf. Accessed on 1 February 2008.
40. Seshoka, L. (2007). Delivery on safety is critical. *NUM News* September/October, 2007.
41. Shoba, S. (2007, December 5). Mining counts cost of safety march. *Business Day*, p.2.
42. Solidarity. (2006). Remuneration of Chief Executive Officers: An overview of JSE listed companies. Johannesburg.
43. South African Commercial, Catering and Allied Workers Union. (2007). Media statement on the Karan Beef strike. 2 November 2006.
44. South African Reserve Bank. (2007). Quarterly Bulletin, September 2007, Number 245. Pretoria.
45. Statistics South Africa. (2007). Labour Force Survey, March 2007. Pretoria

46. Statistics South Africa. (2007). Quarterly Employment Statistics, June 2007. Pretoria.
47. Statistics South Africa. (2007). Mid Year Population Estimates, June 2007. Pretoria.
48. Theron, J. & Godfrey, S. (2007). The shift to services and triangular employment: Implications for labour regulation. (Unpublished paper).
49. Terblanche, B. (2007 Dec 7-13). Resolving a nation. *Mail and Guardian*, p.5.
50. Tshividzo, E. (2007) Building Sector Must Allow Labour Inspections. Available at www.buanews.gov.za, accessed on 11 February 2008.
51. UNDP. 2003. South Africa Human Development Report 2003: The challenge of sustainable development in South Africa: Unlocking people's creativity. New York: Oxford University Press.
52. Van Niekerk, A. (2007). Regulating flexibility and small business: Revisiting the LRA and the BCEA: A response to Halton Cheadle's concept paper. DPRU Working paper. University of Cape Town.
53. World Bank. (2006). World Development Indicators. Washington DC: World Bank.