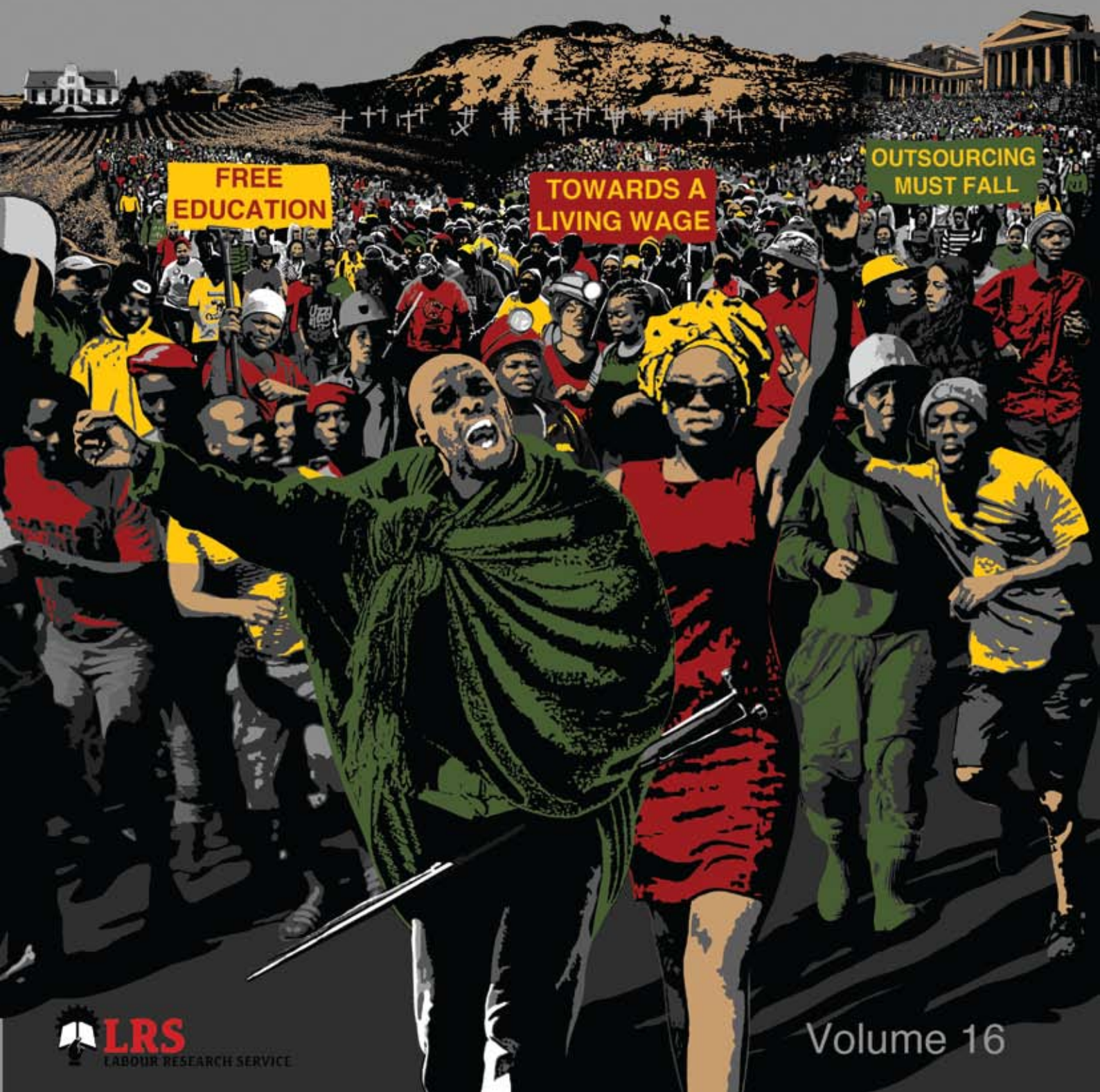


# Bargaining Indicators

2016







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A Collective Bargaining Omnibus

*Celebrating New Victories in the Labour Movement*

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IN LOVING MEMORY OF



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# INTRODUCTION

This issue of Bargaining Indicator is aptly titled, 'Celebrating New Victories in the Labour Movement'. The economic crisis of the 1970s and the advent of the neo-liberal architecture of production and concomitant changes in workplace organisation deepened the fragmentation of the workforce which ultimately weakened the workplace power of the trade union movement. Despite the overwhelming challenges confronted by the working class, a new trend of resistance to neo-liberal capitalism is unfolding in South Africa in which workers have won major victories which represents a frontal attack on neo-liberalism.

As the economic crisis deepened and capitalist competition intensified, the 1956 Labour Relations Act was amended in 1983 to allow for labour brokers – agencies that supply unskilled and skilled workers to industry – and by 1986 there was a steep decline in employment (Theron, Godfrey, and Lewis, 2005, 1). Steadily, the use of labour brokers and outsourcing became a common measure of cost cutting by industry which resulted in major struggles in the workplace.

However, the battle to reorganise the labour process in the 1970s to the 1980s and the subsequent amendments to the Labour Relations Act of 1995 in post-apartheid South Africa saw the legalisation of a two-tier labour market dividing the workforce between standard and non-standard forms of employment (ibid, 1). This change in legislation opened the door to a proliferation of sub-contracting, outsourcing and labour broking companies which, at the same time, created a crisis of representation of non-standard workers (Kenney and Webster 1998). The labour movement in particular was acutely aware of this problem and the weakening of its workplace power.

It was in 1997 that the Report of the September Commission on "The Future of the Unions" was tabled at COSATU's Congress. The Congress took place one year after the ANC changed its macro-economic strategy from the RDP to GEAR. The report argued that labour market flexibility, as a key characteristic of globalisation, generates increased differentiation and fragmentation of the organised working class. The results are an increase in non-standard forms of employment such as "a large mass of temporary, part-time, subcontracted, outsourced workers who are vulnerable and difficult to organise" (COSATU 1997). By 1999, COSATU took a bold decision and had called for a total ban on labour broking but without success. Since then the issue of representing and organising non-standard workers remained a sore point for organised labour. Despite the countless resolutions by trade unions to actively organise non-standard workers, the vast majority of workers, that is 69% or 8 million of the 11.7 million formal sector workers in South Africa are not directly covered by any form of collective bargaining. We should also consider that the majority of workers' incomes are being determined by the employer and only 31% or 3.6 million workers are covered by collective bargaining arrangements (Statistics South Africa 2014).

Eddie Cottle indicates that, due to the crisis of representation and the attack on their living standards, workers have begun to bypass both the trade union movement and the industrial system in order to give effect to their demands for higher wages and changes in their conditions of work. He examines the strike dynamics of the post office strike, the Marikana strike, the farmworkers' strike, the "Outsourcing Must Fall" movement as well as the NUMSA strike. Cottle argues that a new historical moment has arrived with a new trend of unprotected strikes, the increasing tendency for strikes to be of a long duration, self-representation of workers through workers' committees, the phenomena of worker-community alliances, including the student-worker-academic alliance. These are all indicators that a new level of consciousness has developed against the effects of neo-liberal capitalism. He further demonstrates that the strikes gave rise to structural effects which indicates that South Africa has indeed reached a turning point.

David Dickinson examines how casual workers ended labour broking in the South African Post Office (SAPO). Labour broking involves the placement of workers by a Temporary Employment Service (TES) in a client company. This triangular employment relationship became increasingly common and controversial in South Africa. Labour broking created a class of precarious workers that makes up a significant section of a working 'underclass' that provides cheap labour for South African companies. He outlines the history of the key organisation of casual workers that ended this system, the Mabarete, within the wider, often chaotic, process of 'worker committee' organisation in Gauteng. This history reveals the extent to which casual workers attempted to resolve their situation through the 'proper channels' but their experience showed them that the South African industrial relations system failed them. Eventually, they realised that they would have to bypass this system and would have to 'fight their own battles'.

Crispen Chinguno raises the question of the rupture of the post-apartheid workplace order through an enquiry into the 2012 Marikana strike. He describes how labour has been severely fragmented while employer control and flexibility on how work is organised has been enhanced. Central to these changes is the sustenance of a cheap labour regime which has been consistent from the onset of the mining industry in South Africa in the late nineteenth century. He explains the relationship between patterns of fragmentation and precariousness and the connection to strike violence and worker mobilisation. It illustrates the ambiguous nature of strike violence by showing how the workers attained and sustained 'solidarity and militancy' in the face of fragmentation and precariousness.

Jesse Wilderman analyses the Farm Worker Uprising that occurred in late 2012 into early 2013, when tens of thousands of farm workers and their allies across more than 25 towns around the Western Cape in South Africa engaged in a historic series of explosive and unexpected work stoppages and protests. She explains that despite the neo-liberal and paternalistic employment regimes on Western Cape farms, the shifting to become more "flexible"; farm owners, seeking to cut costs and avoid worker protections, were transforming the farm workforce away from permanent, on-farm labour to a more seasonal, off-farm and migrant labour force. Yet, she explains the contradictory effects of how the very shifts in creating a more vulnerable and transitory workforce outside of the historic paternalistic farms, made "vulnerable" seasonal workers the heart of the protests.

Thembi Lockett and Deliwe Mzobe explore the biggest university protest wave in South Africa since the end of apartheid in 1994. The protests began with a focus on the student fee increase for 2016, demands were soon expanded to include issues such as free education, the cancellation of student debt, the decolonisation of the curriculum, and the insourcing of all university workers. While the protests have been widely analysed as a student movement, from day one, low-paid and outsourced university workers have also been key actors. By the end of 2015, students and workers in at least eighteen tertiary institutions in different parts of South Africa had participated in protest action. In the end and in a dramatically short space of time major victories were achieved. Through this ethnographic study they provide illuminating experiences of workers at the neo-liberal university and their struggle to overcome outsourcing.

Nosipho Twala argues that maternity protection is a parental right that all working parents need to enjoy in strengthening the agenda for gender equality. She furthermore argues that there is a need for stand-alone maternity protection legislation that would ensure that all working parents are covered, including those in the informal sector, self-employed workers, migrant workers and sex workers. The vulnerability of certain categories of workers in the vulnerable sectors like domestic and farm workers, mine workers, hospitality sector workers, unregistered workers, and BCEA-excluded employees namely part-time, casual, temporary, contract workers, or categories of public service workers must also be addressed. Finally, she outlines why we need to advocate for the ratification of the maternity protection convention.

George Mthethwa provides a quantitative study of minimum wages in South Africa. He looks at the outcomes of collective bargaining trends in South Africa from 2011 to 2015. He examines the outcome of minimum wages negotiated in various bargaining councils and at plant level. He also includes an analysis of the minimum wages of sectoral determinations. The results show that minimum wages have stagnated and not increased by more than 2.6% over the period 2011 to 2015 in real terms.

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# Is South Africa at a Turning Point? <sup>1</sup>

By Eddie Cottle<sup>2</sup>

## INTRODUCTION

A strike is a 'social phenomenon of enormous complexity which, in its totality, is never susceptible to complete description, let alone complete explanation' (Gouldner 1954, 65). The complexity of the meaning and implications of strikes often come to the fore when offensive strikes force the attention of the state, capitalists and civil society. They lead to a varied level of interpretation of, not only how events unfolded, but also the impact they have made.

Strikes are a key manifestation of the class struggle over the distribution of national income (Hibbs 1978, 154) and reform of the labour relations system (Webster 2016, 4-6). When offensive strikes occur, they can generate an extraordinary amount of pressure on the social system which often leads to structural changes such as the reconfiguring of the industrial relations system, the economy or political system. These kinds of events are referred to as a 'turning point' (Alexander 2013; Legassick, 2012; Webster 2016).

This article adds to the view that Marikana is a turning point but deepens the analysis to include a broad overview of strike dynamics in the post-apartheid South Africa. In particular, the article explains the changing nature of strikes in the run up to Marikana and its aftermath to demonstrate the impact of strike dynamics on social structure and consciousness.

## STRIKES IN POST-APARTHEID SOUTH AFRICA

In the immediate post-apartheid period, the trend of increased frequency of strikes continued, with the highest number of strikes in South African history of 1 324 strikes taking place in 1998. However, between 2000 and 2009, the strike frequency averaged 71 per annum, which was even lower than during the 1960s (a period considered a political lull due to political repression) and largely defensive in character.

Despite the low frequency of strike action, the year 2007 marked the beginning of a new militancy. The 2007 strikes are largely attributed to the huge support of the offensive Public Service strike involving some 700,000 workers which was closely followed by the more successful wave of 26 offensive strikes mainly led by workers' committees at FIFA 2010 World Cup construction sites (Cottle 2011, 101).

While centralised bargaining and sectoral determinations continued to act as counter tendencies against strike frequency, the trend of an ever-increasing numbers of days lost due to industrial action accelerated. The 9,5 million days lost in 2007 more than doubled to 20,6

1. This chapter is based on extracts from, Cottle, E. Long Waves of Strikes in South Africa: 1900-2015. Forthcoming in Balashova O, Karatepe I & Namukasa A. 2016. *Where have all classes gone? Collective action and social struggles in a global context*. International Center for Development and Decent Work, Kassel University, Germany.
2. Eddie Cottle is a PhD candidate at the Institute for Social and Economic Research, Rhodes University, South Africa.

million in 2010. Most of the days lost were in the public sector, where some 1,3 million workers came out on another militant strike (Department of Labour, 2011, 8). What was significant about this strike was that the ANC, for the first time since the new dispensation came about, realised that it could not control its major alliance partner, COSATU, the trade union federation which led the labour movement (Ceruti 2010).

Further, there was an unprecedented increase in the share of unprotected (mainly wildcat) strikes from 44% in 2012, 52% in 2013, 48% in 2014 and 55% in 2015. Thus, the increase in the number of days lost and the percentage increase in unprotected strikes are important indicators of a change in the mood of the working class. The offensive wildcat strikes from December 2011 to April 2012 were led by workers' committees of post office workers against labour broking which, at the same time, exposed the lack of will on the part of the unions to take up the struggle of non-standard workers. These workers ended the system of labour broking in the post office, ensured permanent employment of 5000 workers and doubled the salaries of workers to R4,000 per month (€258) (Dickinson 2015, 12). The post office workers became the first group of workers in South African history to reverse the labour process<sup>3</sup> in full and win a 100% increase in wages.

Both the Marikana strike and the Western Cape farm workers' strike started in August 2012. Rock drillers initiated a wildcat strike at Lonmin, a platinum mine, in pursuit of a pay raise to R12,500 (€851) per month. The strike was led by an independent strike committee and the majority union, the NUM, actively opposed and sabotaged the strike, siding with Lonmin's management (Alexander 2013, 607-608). On 16 August 2012, a peaceful assembly of workers was forcefully broken up by a special paramilitary task team resulting in the brutal killing of 34 mine workers. This became known as the Marikana Massacre. While massacres of this kind ought to lead to defeat, the Marikana strikers carried on in "one of the most remarkable acts of courage in labour history" (ibid, 609). This strike secured only a partial victory, with a 14% increase in workers' wages.

The historic Western Cape farm workers' strike lasted from 27 August 2012 to 22 January 2013. The strike and associated community uprising spread to 25 rural towns and was led largely by seasonal workers coordinated by "locally-based organisations or vanguard groups" (Wilderman 2015, 8-13). The farm workers' strike was historic as it was the first strike wave in the post-apartheid period to unite workers and communities, and this forced the hand of government to announce a 52% increase in the daily minimum wage. In general, employment figures in the agricultural sector indicate a trend towards stabilisation of employment along with a significant shift from casual and seasonal to permanent employment (Plaas 2014). Both these factors are reversals of previous trends, marking the beginning to changes in the labour process brought about through the agency of farm workers against capital.

A year after the farm workers' strike, on 22 January 2014, the longest and most expensive strike in South African history broke out in the platinum industry organised around the demand of the Marikana living wage of R12,500 per month. This is a strong indicator that working class capacity to defend itself is being asserted and a change in consciousness is occurring. The 70,000 strong, five-month long platinum strike hit 40% of global production. The stoppage dragged the economy into contraction in the first quarter of 2014 and cost the companies almost R24bn in lost revenue. The final agreement between the Association of Mineworkers and Construction Union (AMCU) and the three platinum producers included a R1 000 per month salary or 20% increase for lower earners (Bell, *Fin24*, June 24, 2014).

3. The labour process refers to the organisation of work under capitalism. Key to understanding this social relationship is the re-organisation of work, the management, subordination and de-skilling of labour. The management objective is the removal of all worker control or autonomy, to be achieved through the specialised division and subdivision of tasks.

On 1 July 2014, just over a week after the platinum strike ended, the 220 000 workers of the National Union of Metalworkers of South Africa (NUMSA) downed tools, demanding a salary increase of 12%. The strike, lasting one month without pay, concluded with a 4% real wage increase. While labour brokers will not be banned as NUMSA had demanded, it was agreed that a number of regulatory instruments would be introduced, including the appointment of compliance officers to act on complaints of alleged abuse and non-compliance (Steyn, *M&G*, July 28, 2014).

The workers' strike wave gave impetus to the nationwide 2015 student "Fees Must Fall" protests at higher education institutions and later expanded by including the "Outsourcing Must Fall" campaign. In the absence of leadership from the National Education, Health and Allied Workers' Union (NEHAWU), workers were mainly being led by workers' committees which developed a call for an end to outsourcing at higher education institutions nationally. The combined actions by students-workers-academics ensured that almost all universities across South Africa agreed to end outsourcing on campuses and to employ workers on the same conditions as full-time workers, resulting in most wage increases secured being between 66% - 163%. This event was an expression of a new level of consciousness and unity with significant implications for the power relations at tertiary educational institutions and constitutes the third instance of a reversal of the labour process in the current period.

However, does the gradual increase in the number of offensive strikes starting in 2007, the occurrence of the Marikana Massacre and the farm workers' revolt of 2012, the five-month long platinum strike (the longest in South Africa's history) and the one-month long metalworkers' strike in 2014 indicate that a new wave of offensive strikes has begun? Or is the latter just a short-lived 'revival' upheaval on a depressive long wave of defensive strikes? A key question is: has South Africa reached a turning point?

There are several structural dimensions that are being affected. On the economic side, we have seen direct challenges and changes to the labour process and huge costs associated with strikes to the economy. On the industrial relations level, there is pressure by business and the formal opposition party, the Democratic Alliance, for changes in the law to undermine the right to strike (*News24*, 30 July 2014). Further, in January 2015, the Labour Relations Amendment Act (No.6 of 2014) took effect and ensures that vulnerable groups of employees, especially those employed through labour brokers, get adequate protection (Patel 2014). On the political level, a new opposition to the ANC, the Economic Freedom Fighters (EFF), was formed in 2013, and the more militant NUMSA was expelled from COSATU in 2015, setting the stage for the launch of an alternative, politically independent federation. Also, in the 2016 Municipal Elections, the support for the ANC as the manager of neo-liberalism in South Africa fell, indicating a loss of its hegemony.

While some have argued that the Marikana strike wave is not a turning point, they have limited their analysis to a formalistic view of the events as a specific 'labour dispute' gone wrong and cite the fact that the labour relations system remains intact (Friedman 2012; Bhorat and Oosthuizen 2012). Other mainstream economists instead focus on the irrationality of the actions in terms of losses of incomes to workers. Does the fact that Marikana workers lost 12% of their annual wages, that R10 billion in wages were lost in the 2014 Platinum strike, or that NUMSA workers only gained 4% in its one-month long strike, relegate the strike waves to defensive incidents?

By focusing on the formalism of industrial relations and economic views, the above perspectives fail to comprehend the complexity of strike dynamics and the historical process of class struggle that is being unleashed. As Marx said regarding the dynamic of strikes:

In order to rightly appreciate the value of strikes and combinations, we must not allow ourselves to be blinded by the apparent insignificance of their economical results, but hold, above all things, in view their moral and political consequences (Marx, 1853).

## CONCLUSION

Unlike the 1973 strike wave, which saw a burst in the rate of strikes, days lost and number of workers involved, the post-Marikana wave has essentially only seen a dramatic increase in the number of days lost due to industrial action. The key differences in these two turning points are, firstly, that in the post-apartheid period the counter tendencies are much stronger and extensive within the industrial relations system, and, secondly, that the organised labour movement exerts a downward pressure on the intensification of class struggle. However, as social structures and class consciousness are directly related and influence each other, what we are witnessing is that an increasing share of unorganised and organised workers are bypassing trade unions and the industrial relations system, resulting in increased conflict.

In the long waves of the rise and decline of working class struggle, it is truly remarkable that it has taken South Africa's working class about two decades to see that a new model of accumulation – a neo-liberal democratic capitalist dispensation and its industrial relations system – is not in their interest.

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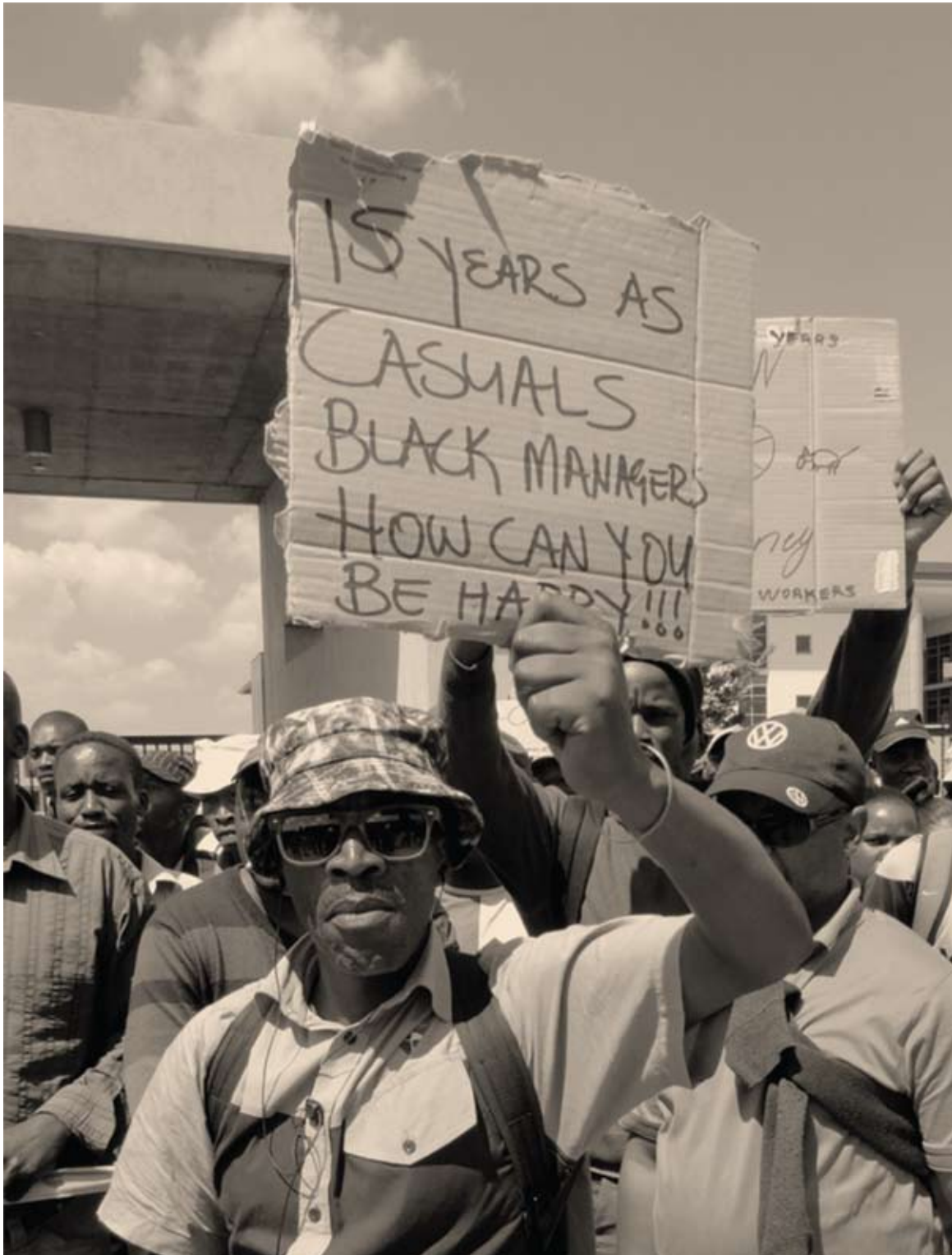
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# Fighting Their Own Battles

## The Mabarete and the End of Labour Broking in the South African Post Office

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## ACRONYMS

<b>AA:</b>	Entry level employment category created to accommodate previous Temporary Employment Service employees by SAPO
<b>ANC:</b>	African National Congress
<b>ANCYL:</b>	African National Congress Youth League
<b>APC:</b>	African Peoples' Congress
<b>BCEA:</b>	Basic Conditions of Employment Act
<b>BEE:</b>	Black Economic Empowerment
<b>CCMA:</b>	Commission for Conciliation, Mediation and Arbitration
<b>COSATU:</b>	Congress of South African Trade Unions
<b>COSAWU:</b>	Commercial Services and Allied Workers' Union
<b>CWAO:</b>	Casual Workers' Advice Office
<b>CWU:</b>	Communications Workers' Union
<b>DEPACU:</b>	Democratic Postal and Communications Union
<b>DSM:</b>	Democratic Socialist Movement
<b>IICUSA:</b>	The Influential Information and Communications Union of South Africa
<b>LEWUSA:</b>	Labour Equity General Workers' Union of South Africa
<b>LRA:</b>	Labour Relations Act
<b>MBA:</b>	Masters of Business Administration Degree
<b>NACAWU:</b>	National Communications and Allied Workers' Union
<b>PPTE:</b>	Permanent Part Time Employee of SAPO
<b>S32:</b>	Temporary Employee of SAPO (refers to the relevant S32 form)
<b>SACP:</b>	South African Communist Party
<b>SAGWUTI:</b>	South African General Workers' Union & Textile Industries
<b>SAPWU:</b>	South African Postal Workers' Union (became SAPAWU)
<b>SAPAWU:</b>	South African Postal and Allied Workers' Union
<b>SAPO:</b>	South African Post Office
<b>TAS:</b>	TAS Appointment and Management Services (a labour broking company)
<b>TES:</b>	Temporary Employment Service (labour broker)
<b>USO:</b>	Universal Service Obligation (provision and servicing of physical addresses nationally)
<b>VUT:</b>	Vaal University of Technology
<b>YCL:</b>	Young Communist League



## INTRODUCTION

This paper outlines how casual workers ended labour broking in the South African Post Office (SAPO). Labour broking involves the placement of workers by a Temporary Employment Service (TES) in a client company. This triangular employment relationship became increasingly common and controversial in South Africa. While there is a genuine need for agencies to provide workers on a short-term basis, the system has been used to by-pass labour legislation, notably through the construction of 'permanent-casuals' (employees on temporary contracts that are 'rolled over' year after year). Labour broking has created a class of precarious workers that makes up a significant section of a working 'underclass' that provides cheap labour for South African companies. There has been an extensive and contested debate over how this problem should be addressed.

Following the introduction of the 1995 LRA there was a massive increase in labour broking.<sup>1</sup> This has often been attributed to 'loopholes' in the legislation that business (and in this case, SAPO, a state owned enterprise) was able to exploit. This is true, but the loopholes were, in large part, introduced when regulations on labour brokers, previously included in the LRA of 1983, were dropped.<sup>2</sup> It is also true that the closing of these legal loopholes has been painfully slow. After much delay, new legislation aimed at curbing these abuses, has been enacted.

Whether this long-anticipated closure of the legal loopholes will bring an end to labour broking remains to be seen. The attractiveness of labour broking to management of private and public companies is in providing cheap and compliant labour. This suggests that a likely rear-guard defence of labour broking will take place on the ground. The limited capacity of the Department of Labour to enforce legislation is widely acknowledged. Unions' response to labour broking has been less than impressive. COSATU<sup>3</sup> and its affiliates have pursued a legislative response, even as they have complained about the Department of Labour's inability to enforce existing legislation.<sup>4</sup> Indeed, as illustrated in the case of CWU in this report, the response of unions to labour broking has often been deeply ambiguous; high-profile calls for its banning accompanied by accommodating the practice at grassroots level.

There has been limited research on how workers, with or without the help of established unions, have mobilised against labour broking.<sup>5</sup> Given the probable limitations of the legislative response now in place, this is an important area that needs to be better understood.

At its peak there were upwards of 8,000 labour broker employees working in SAPO earning a quarter of the salary of the organisation's permanent employees. Yet this army of second-class workers remained practically invisible. The history of the key organisation of casual workers that ended this system, the Mabarete, is outlined within the wider, often chaotic, process of 'worker committee' organisation in Gauteng. This history reveals the extent to which casual workers attempted to resolve their situation through the 'proper channels'. Their experience showed, again and again, that every component of the South African industrial relations system failed them. Eventually, they realised that they would have to 'fight their own battles'.

1. Benjamin and Department of Labour (2011), Brandt (2013) and Pike (2012).
2. Benjamin and Department of Labour (2011). Schroeder (2000) makes a more general argument that post 1994 labour legislation is, in fact, less worker friendly than early regimes.
3. And NACTU, see COSATU and NACTU (2012).
4. COSATU (2009).
5. See Rees (2011), Tomren (2012) and Von Holdt and Webster (2008).

## METHODOLOGY

This research project began in 2009 when friends of mine in Kattlehong found work in the Post Office. Only it turned out they were not working for the Post Office, but rather, in the Post Office as employees of labour brokers. Initially, I watched events through their eyes. I first expanded my contact with SAPO casual workers, beyond my group of township friends, when I attended a meeting of striking workers in July 2011. Thereafter, I sporadically attended a range of their activities. In November 2013, I requested permission to interview leaders of the organisation who had been central to the struggles to end labour broking in SAPO, the Mabarete.

Additionally, I spent extensive periods of time with the organisation during the course of two industrial disputes during 2014. As well as providing a wider range of perspectives on earlier strikes, participant observation gave me a better understanding of how the strategies and tactics, described in interviews, were carried out on the ground. I also conducted interviews with a number of individuals outside of the Mabarete organisation who could provide different perspectives on events. Another important source of information was the court papers filed with the string of strike interdicts applied for by SAPO in the Labour Court between 2009 and 2014.

Ethical permission for the research project was granted by the Wits Human Research Ethics Committee. I avoided explicit discussions in which interviewees might render themselves, or others, vulnerable to legal action.

## LABOUR BROKING IN THE SOUTH AFRICAN POST OFFICE

The post-apartheid government charged state-owned enterprises with a dual mandate: first, to roll out infrastructure that would support development goals, and second, to do this without burdening state finances with the need for subsidisation. The Post Office's key role in development was the establishment of 'points of service' (retail post office facilities) and the provision and servicing of physical addresses across the country, or Universal Service Obligation (USO).

The Post Office made extensive progress in fulfilling its USO, resulting in an expansion of its mail delivery workforce, *and* it turned around its finances from an approximate R1bn annual loss in the late 1990s to profits (excluding once-off income and government subsidy) from 2005 to 2010 of between R471m and R22m per annum. This was a considerable achievement, but it was short lived. The financial viability of the organisation had been achieved, in significant part, with unremitting emphasis on cutting costs. A major mechanism in which expenses were contained was the use of Temporary Employment Services (TES) or labour brokers. At its height the labour broking system was saving the Post Office approximately R380m a year in salaries. In addition its overall labour costs were reduced by not having to provide benefits such as pensions and medical aid contributions to casual workers.

In 2000, SAPO management imposed a moratorium on entry level positions in the organisation. That moratorium was not lifted for more than ten years and the use of casual workers, sourced from labour brokers became a permanent arrangement. The only real requirement imposed within SAPO when contracting for labour was that the TES be BEE compliant.

Unlike the normally understood triangular employment relationship in which a labour broker has a commercial contract with the client, the SAPO labour brokers supplied and billed for labour on a monthly basis, notwithstanding that they had long-term placements within mail delivery and elsewhere. There was no commercial contract beyond monthly invoices. In theory, the labour brokers kept to the minimum standards outlined in the BCEA (considerably lower than had been negotiated by CWU for permanent employees of SAPO).

The most visible difference between TES and SAPO employees was salaries. In rounded terms, by 2011 a permanent postal worker's salary was R8,000 a month, but a labour broker would be paid R4,000 a month to supply a worker, who would be paid R2,000. The Post Office saved R4,000 a month, the TES had R2,000 a month revenue per placed employee, the employee was forced to manage with what was left. The combined effect of savings on salaries, benefits and uniforms dramatically reduced SAPO's wage bill, even when the TES's monthly placement fees were paid. As one interviewee explained, 'It was three for the price of one!'

Attempts to organise unions were directly blocked. Workers were told to their faces that, if they joined a union, they would be fired. The nature of the employment relationship meant that a supervisor could have an employee dismissed by simply picking up the phone and asking the TES for a replacement worker. The multiplicity of labour brokers also made it harder for workers to organise: the multiple employers operating within single depots raised the bar to union organisation since negotiations would have to be held with each TES separately.

The widespread establishment of labour brokers within SAPO created two parallel workforces. One was relatively privileged and unionised, the other was precarious and without representation. SAPO's industrial relations environment was dominated by CWU between 1996 and 2012 as the only union recognised within the Post Office Mail Delivery business. Excluding the efforts of a handful of individuals, CWU made little effort to prevent the increasing use of labour brokers. Nor did it make any real attempt to organise casual workers either within SAPO or within their respective labour brokers.

It is clear that there was reliance on the part of the unions, including CWU, to wait for COSATU to deal with the issue of labour broking at a national level. Indeed, ironically, CWU officials played a prominent role in a number of high-profile campaigns and demonstrations against labour broking, while their union was doing next to nothing about it in their own backyard.

## The Communications Workers' Union and Labour Broking

Although CWU mounted no effective opposition to the introduction of labour brokers in the Post Office, it did promise, from 2005, to bring labour broking to an end. These repeated promises were eventually ridiculed by casual workers as '*Come September*' (approximately when negotiations were concluded). At this time, permanent employees would get a salary increase<sup>6</sup> and, despite all the promises, casual workers remained casual workers.

6. The above was to be implemented along with whatever increases in benefits were negotiated together with a payout from a profit sharing incentive scheme.

## CWU-SAPO agreements over the end of labour broking

The 2005/6 collective agreements between CWU and the Post Office outlined how there would be a redeployment process in which first permanent part time employees (PPTs), then fixed-term SAPO employees (S32s) and then casual workers would be deployed into permanent positions.

- The 2005/6 agreement set the deadline for completion of this process for 30 October 2005
- The 2006/7 agreement set the deadline as the end of December 2006
- The 2007/8 agreement set the deadline as 30 September 2007
- The 2008/9 agreement specified a 'fast tracking' of the process
- The 2009/10 agreement stated that the two sides would 'engage on the conversion of current employees whose primary employer/s are Labour Brokers...into permanent positions with specific focus on Mail Business Unit and using the criteria of two (2) years and longer continuous service in the same position'.
- In a report back to members in February 2010 on discussions for the 2010/11 agreement CWU's Gauteng Provincial Office stated that 'After CWU reiterated its position of the conversion of labour brokers' employees...SAPO also confirmed their commitment and urgency derived from the level of the Board to address the matter speedily'.
- The 2011/12 agreement repeated the same clause contained in the 2009/10 agreement almost verbatim: 'The parties agree to the conversion of current labour broker employees into permanent positions using the criteria of 2 years and longer...'

In 2009, CWU called a national strike in the Post Office which casual workers, particularly in Gauteng, enthusiastically joined, believing that their conversion to permanent positions was central to the strike. The strike ended messily when SAPO brought an interdict against CWU. For many casual workers the 2009 strike was a watershed; their faith in CWU was now exhausted. Some abandoned CWU completely; others maintained contact but kept their options open by 'double footing', building their own worker committees while continuing to attend CWU meetings as 'members not in good standing'.

### Organising Casual Workers

The organisation of casual workers within SAPO was a long and complex process. Gauteng Province was, unsurprisingly the centre of this process; the province employs a significant proportion of the organisation's employees who, given the province's urban geography, work and live in close proximity. Nevertheless, the establishment of what was initially called 'Casuals' Committees' or simply 'Workers' Committees,' beginning as early as 2005, took place through a highly fragmented, erratic and fluid process. Committees could be fractious, individual depots sometimes took their own contrary decisions, and it was not uncommon, especially in the early phases of organisation, for strike calls to be ignored or for strikes to collapse almost as soon as they had begun.

Casual workers made numerous attempts to resolve their problems within the South African constitutional framework. The number of organisations approached and strategies attempted is summarised in the box below.

## Organisations Approached and Strategies by SAPO Casual Workers in Gauteng

### **Attempts to get assistance from registered unions**

- CWU (From introduction of labour broking)
- SAGWATU (South African Gaming, Waitron and Admin Workers' Trade Union) (2009)
- LEWUSA (Labour Equity General Workers' Union of South Africa) (c2010)
- COSAWU (Commercial, Services and Allied Workers' Union) Linked to DSM (2010 - 2011)
- COSATU (2011 – 2012)
- SAPWU (South African Postal Workers' Union, later SAPAWU) (2012)

### **Attempt to register their own casual workers' union**

National Communications and Allied Workers' Union (NACAWU) was an initiative by the Vaal Committee. Registration was declined by the Department of Labour in 2011.

### **Attempts by unions to get recognition with labour brokers**

- SAGWATU (2009)
- COSAWU (2010 - 2011)
- MP Lepheane (CWU office bearer) in the Wits Region (2011)

### **Attempts to negotiate as workers' committees**

- Attempts to negotiate directly with the Post Office (from 2005)
- Attempts to negotiate with labour brokers, particularly TAS (2008 - 2010)

### **Protected Strikes**

- One unsuccessful protected strike took place in the Vaal area in early 2009 with the assistance of Vaal University of Technology (VUT) staff and students

### **Private legal assistance**

- The Vaal Committee engaged a private lawyer (2005)

### **Advice centres**

- The Germiston-based Casual Workers' Advice Office (CWAO) (2011 onwards)

### **South African Industrial Relations Institutions**

- Department of Labour/Minister, resulted in a Ministerial Enquiry in the Vaal in 2007
- CCMA (Various from 2009)
- Labour Court (2010 - 2011)

### **Political parties/organisations**

- African People's Convention (APC) (2009 and 2012)
- South African Communist Party (SACP) (Various attempts from 2009)
- Young Communist League (YCL) (2010)
- African National Congress (ANC) (2010)
- Democratic Socialist Movement (DSM) (2010 - 2011)
- African National Congress Youth League (ANCYL) (2011)

### **Media coverage**

- Lesedi FM (Vaal c2004)
- Vaal Weekly (2008)
- The Tembisan (2011)
- Soweto TV (2012)

### **Attempts to get official bodies to intervene/adjudicate**

- Department of Labour public hearings on labour broking 2009
- Gauteng Premier (2012)
- Minister of Communications (2012)
- The Public Protector (2012)

Attempts to enlist COSATU's help were perhaps the most frustrating. A march to COSATU House was organised without the knowledge of CWU in May 2011. The COSATU officials who they met were sympathetic, but did little other than outline the national campaign COSATU was leading to ban labour brokers and refer them back to CWU, along with advice to follow the 'proper channels'. In the words of one of the worker leaders, 'COSATU was USELESS in capital letters'.

Initial attempts to raise the issues of salaries, benefits, uniforms and other concerns with the Post Office were diverted to the labour brokers as the casual workers' employers. The response from labour brokers was that they were constrained by the terms of their contracts with SAPO. This established what was to become a familiar 'pillar to post' strategy in which responsibility for casuals' grievances was denied.

### *We are the Union Ourselves!*

Between June and August 2011 a series of unprotected strikes by casual workers erupted across Gauteng. The most significant of these originated in the Tembisa area. A worker committee linking six postal depots resolved to strike. This was not easy; on the first day only a handful of the 130 workers in the six depots joined the strike. It took a week to bring out the six depots. But with close to total cessation of postal deliveries in the Tembisa area, the strike spread rapidly across the East Rand, Vaal, and isolated depots on the West Rand. Empowered by their own success they adopted the slogan, 'We are the union ourselves!'

The strike, however, crumbled, without a single concession. Labour Court interdicts brought by the Post Office were key to this conclusion. Initially, SAPO cited the labour broking companies, since its contract with them for labour was not being honoured. When the labour brokers proved that their best efforts to recruit replacement workers were impossible because of intimidation, SAPO lawyers focused on the strikers.

When the strikers arrived at the Labour Court the Post Office's lawyer obtained the details of six strike leaders. These six now became the primary respondents for a second interdict. By the time they realised their mistake it was too late; they were facing jail for Contempt of Court. Their initial defiance, recorded verbatim in the second interdict by the Post Office's lawyers, now evaporated.

Although the strike ended in defeat, what the workers' committees had gained were valuable lessons. Three were prominent: the first was to stay away from the courts, in future the leadership would remain hidden; the second was a realisation that they needed to focus on the Post Office, and not the labour brokers, if they wanted to achieve their objectives, the third came from piloting a series of techniques and strategies to prevent mail delivery, particularly in the townships. In short, they now knew how to fight their own battles.

## THE MABARETE STRIKE

While there was a tacit agreement among the leaders of the casual workers that they should see out the Labour Court six-month suspended sentence before returning to the fray, the West Rand workers' committee jumped the gun commencing another unprotected strike in December 2011. The timing of the strike played into the rivalry between committees that had plagued the casuals' organisation since the very beginning. In the end a few hundred strikers, down at one point to just 294, a figure that has attained mythological status, remained out in a long, bitter and violent, but also creative strike which ended labour broking in the Post Office.

From the myriad strategies and campaigns that had been tested in previous years, the strikers distilled a programme which they pursued with determination. Their focus was on disrupting mail delivery across Gauteng. They were no longer interested in talking to the labour brokers. Rather, their aim was to push them aside and force the Post Office to take them on as permanent employees.

The only leaders with any visibility were protected by 'Chinese walls' within the strikers' structure that provided them with plausible deniability over actions that might take place on the ground. But overwhelmingly the strike leaders were simply invisible. SAPO tried to interdict this strike, but was now unable to pin down individuals; court interdicts were ignored and attempts by the Sheriff to serve summonses were met with denials that the individual lived at the address. The success of the previous interdict was put down to the evidence provided by physical damage done to Post Office property and in a macabre twist the strikers resolved that property would not be damaged, instead people would be the target of their actions.

On the ground, a process of trial and error created a flexible field structure in which a myriad of roles emerged around personal character, local knowledge, and street savvy. Codes of conduct were established, including secrecy to prevent advanced warning of activities that would reduce their effectiveness. Communication relied heavily on cell phones, including an 'office phone' that was rotated around the leadership and which provided a centralised point of communication without the number linked to any individual.<sup>7</sup> At some point the name Mabarete (The Berets) stuck. There are different accounts as to how this came about, but there is agreement that it was a reference to the then Minister of Police, Bheki Cele's paramilitary Tactical Response Team, nicknamed for their berets, that operated in the townships, meted out corporal punishment. Nobody had a problem in seeing a parallel between the two groups.

The impact of the strike was not based on the withdrawal of their labour, as industrial relations theory outlines, but on their proactive ability to disrupt the business of the Post Office. The prospect of success was not, however, immediately apparent. This strike failed to match the scale of the previous one when the majority of Gauteng casual workers were involved. As the strike dragged on, divisions hardened and, with the exception of a couple of East Rand depots that joined the strike long after it was underway, casual workers across Gauteng divided into two hostile camps.

7. Communication in later strikes had made extensive use of Whatapp groups in addition to cell phones.

## Mobilisation

The initial phase of mobilising involved persuading workers to join the strike. The primary concern in this regard was not in making a case for the strike. Rather, the major obstacle to joining a strike was casuals' vulnerability. In the absence of any effective industrial relations system, striking equaled absconding and absconders would be dismissed. Given this, joining a strike amounted to convincingly showing that you had no choice but to join.

The initiating of a strike by casual workers thus required 'mutual mobilisation' – one group of workers would arrive at the workplace of another group and ask them to join. Whether the strike was genuinely supported would only become apparent the next day. The initial step in such mobilisation was the trickiest. It was a Catch 22 situation; you needed a strike before you could have a strike. Even some of the best organised areas, such as Tembisa, struggled with this step and had to resort to ingenious ruses.

However, even with a group of workers on the march from depot to depot it was not automatic that their arrival would see the casuals there join the strike. It was more complicated than that. Mobilisation generally required coordinated internal and external activity. Casuals in the depot would already know that a group was coming. The internal activist would prepare their workmates. Joining was then only a formality; they were covered from charges of absconding. But they didn't have to join. If casuals were opposed to participating they could lock the depot gates and keep out of sight until the strikers moved on in frustration. And if such open defiance was seen as too risky, there was always the option of joining the strike for the day and then drifting back to work.

### *Ho Tsoma* (To Hunt): Preventing Delivery in the Townships

Mobilisation and re-mobilisation took place during December of 2011 and January 2012 with limited success: the majority of casuals remained at work. Drawing on lessons from the mid-2011 strike, the Mabarete now began to *tsoma* (hunt) in the townships. This involved groups of varying size patrolling townships to track down and confront anybody delivering mail. Such confrontations ranged, depending on the circumstances, from warnings, to forced stripping, to beatings. The key objective was to prevent mail delivery by making it a risky activity; *amagundwane* (scabs) were on notice that they risked humiliation or a hiding if they ventured out to deliver.

The successful implementation of this strategy multiplied the impact of a few hundred strikers. Through a combination of changing tactics, mobility and secrecy, it was all but impossible to know where the Mabarete were operating on any particular day, or if indeed, they were operating in several locations. Over large parts of Gauteng, deliveries stopped with non-strikers turning up for work, but unable to deliver mail.

The geographical reach of this action was limited by a number of factors. Striking casual workers were *tjonne* (broke) almost from the beginning of the strike and the only transport that they could access was the Metrorail system. For the most part this network links Gauteng townships, but even when it traverses CBDs or suburbs, these areas were, generally, avoided. Groups of African men moving around the township attract little attention, but in town and suburbs, alarm bells are soon ringing and police alerted.



## Home Visits

Even as the Mabarete were able to disrupt mail delivery, their message, primarily delivered through the punishment they meted out to *amagundwane*, was not getting through. The stark reality was that the Post Office put little value on its labour brokered staff; whether working, striking, or in ICU wards. SAPO's strategy appeared to be to ride out the problem.

The change of tactics from *ho tsoma* to home visits emerged over just three incidents. The first was spontaneous. A group of strikers were passing the Tembisa house where the mother of a labour broker lived. They made a phone call saying where they were and if she didn't drop her contract with the Post Office they would be back. The second target for a home visit was CWU. The visit to Clyde Mervin's house, the Chair of CWU's Gauteng Region at the time, who the strikers saw as complicit in labour broking, was then planned. Several hundred strikers made their way to his house. Mervin wasn't in, but members of his family were and they were traumatised by the experience.

The third home to be visited was that of the SAPO Wits Region mail manager, E. T. Mpai. Some strikers thought he may hold the key to what was by March 2012 a desperate situation. As with the visit to Mervin's house, family members were traumatised. The thinly disguised message was that they were hungry and would be coming back 'to eat'. By chance, a working postman was delivering in the complex that would normally have been seen as safe territory. The strikers left his bike on Mpai's gate and took the unfortunate man with them. The results were beyond their wildest expectations. They had not even reached the Metrorail station before a call, brokered via an intermediary, came through to the office phone; Mpai wanted to meet.

## Negotiations and Settlement

Mpai could no longer go along with the organisation's denial over labour broking; his family was now on the front line of an industrial war. He confronted senior management with the situation and it was agreed to talk to the Mabarete. The Mabarete were, however, despite their long campaign, unprepared for talks. The skills that had been honed over the course of their struggle were not those of negotiation.

The Mabarete turned to SAPWU, then still seeking recognition from SAPO. A SAPWU team worked with the leadership of the Mabarete and helped to shape their demand for permanent positions into a form that SAPO could take on board. The agreement was unwritten given that the negotiators faced the problem of provoking CWU, still the only recognised union in SAPO at the time, and that the agreement breached existing collective bargaining agreements. They had hoped to manage the process discretely and quietly but this hope quickly evaporated.

The first clause was that the Mabarete, all long since fired from employment by the labour brokers, would be employed directly on short term contracts by the Post Office. The S32 status<sup>8</sup> that they would be given would be paid at a rate equal to the fee labour brokers had been paid. This was, more or less, cost neutral for SAPO, but it meant an approximate doubling of the Mabarete's salary to some R4,000 a month. It was also agreed that the newly appointed S32s would be converted to permanent positions within three months.

The second clause, insisted upon by the Mabarete representatives, was that all labour brokers' employees would follow a similar process to that outlined for themselves in the first clause. The Post Office agreed, but argued that, because of its contractual obligations, it would have to give three months' notice to the labour brokers before those currently working for them could follow this path.

8. S32 was the SAPO form used for short-term contract employment. Historically, such positions were paid at the same cost-to-company basis as the equivalent permanent rate. The category was, however, re-invented to a degree with pay equivalent to what the labour brokers had been receiving.

The first clause proceeded largely as planned. The second clause, relating to the far larger group, perhaps 8,000 strong, of labour broker employees in the Post Office proved more problematic. Almost immediately after the Mabarete returned as S32 employees, many of those casuals who had remained at work launched their own strike with the initial demand that they all be employed as permanents immediately. The 'Second Strikers' adopted and developed the tactics pioneered by the Mabarete. However, they returned to work in early June with a (written) agreement essentially in line with that reached with the Mabarete. By July, four months after the Mabarete strike ended, all labour broker employees were converted to S32 employees of the Post Office.

Despite contestation over the details of the final negotiated settlement, the strike brought about an end to labour broking in the Post Office and achieved what the COSATU federation of some two million members and close links to the ruling party had failed to achieve after almost a decade of campaigning. It was, without doubt, heroic. But viewed from the perspective of a cornered *igundwane* (scab) it could be horrific. The strike needs to be placed within the context of the structural violence that the system of labour broking imposed upon thousands of Post Office employees and millions of workers across South Africa.

## Will the LRA Amendments Work?

The LRA Amendment Act of 2014 is the product of a decade of debate and is designed to, 'restrict the employment of more vulnerable, lower-paid workers by a temporary employment service to situations of genuine and relevant "temporary work"'.<sup>9</sup> The Act introduces a number of significant reforms to TES:

1. TES and client are jointly and severally liable for contraventions of employment laws
2. Employees are treated as the employees of the client if they work for a period in excess of three months (with permitted exceptions). Termination of employment to avoid this will be considered as unfair dismissal
3. After three months' employment there must be equal pay for equal value work.

Should these reforms be enforced, labour brokers would be reduced to assisting companies with short-term placements. The important question, however, is whether this legislation can and will be enforced. Enforcement of any labour regulation depends primarily on three agencies: companies regulating their own activity, inspection by the Department of Labour, and the watchdog function of trade unions.

The case of casual workers in SAPO, and experience elsewhere, makes for pessimism over the actual impact of these labour law amendments. The Post Office, a state owned entity, professes among its values that, 'we treat each other with respect, dignity, honesty and integrity' and that 'we recognise and reward individual contributions'.<sup>10</sup> Clearly, none of this actually meant anything; when it came to employment practices there was just a dirty secret. The Department of Labour failed the SAPO casual workers when approached, and it is common cause that the Department's inspectorate is inadequate and unable to enforce existing legislation. Finally, CWU, a COSATU affiliate, was at best slumbering while casual labour entered the Post Office. At worst, it was implicit in maintaining the two-tier labour system. There is little reason to see why these factors should be very different elsewhere.

Given this, it makes sense to outline the lessons that can be learnt from the Mabarete's experience and which other precarious workers could put into practice.

9. Memorandum of Objective on Labour Relations Amendment Bill, 2012: 30

10. SAPO's *Vision, Mission & Values Statement* (SAPO, 2013).

# STRATEGIES AND TACTICS FOR PRECARIOUS WORKERS

## Mobilising and Focusing Minds

For injustice to be challenged, individuals must share a collective understanding of what is wrong. Moreover, this anger must be focused. Without this little will change. Rather, dissatisfaction will take the individualised forms: grumbling, slander, sabotage, fraud and theft. Those employed by labour brokers within SAPO quickly understood that they were at the end of a raw deal, but it took almost a decade for this anger to be channelled in an effective way. Despite constant mantras over the South African Constitution and workers' rights, on the ground, an extraordinary degree of legitimacy has been given to labour brokers. This was reinforced by casuals' fear of losing their jobs should they step out of line. On the ground, at the rough end of employment relations, managers in mom 'n pop labour brokers simply made up the law to suit themselves and bluffed workers into compliance.

Sending workers from 'pillar to post' also bought the labour brokers time. Indeed it was the confusion over who really was responsible for the casuals' situation that long delayed their rebellion. This confusion was clearly stoked by individual managers, but the state institutions charged with providing a level industrial playing field; the Department of Labour, the CCMA and the Labour Court, effectively sat on their hands and did nothing. In the end, through a long process of trial and error, the workers' committees realised that they were wasting their time with the labour brokers, the established unions and the legal system: they needed to speak directly to the organisation that they worked within.

## Applying Pressure

Any conflict between precarious workers and the employer nexus, that is, the labour broker(s), client company and, most likely, established unions, is going to be asymmetric. Precarious workers, even when they have a focused strategy will be at a disadvantage. Within classical industrial relations theory, workers' key power resource is the withdrawal of their labour. The Mabarete withdrew their labour, but it was not this act that was their real power source. Rather, it was the way in which they were able to deny the Post Office its operational ability in large areas of Gauteng through the *application* of their labour. Later, they applied pressure differently, targeting, after some trial and error, Post Office management, threatening them with personal consequences. Consequences that the *ho tsoma* actions gave credibility.

## Protecting Unprotected Strikes

Despite strenuous efforts, it was all but impossible for casual workers in SAPO to mount a protected strike; the institutional and legal hurdles were too onerous. They came to see that unprotected strikes were a more realistic form of struggle, more likely to bring success. Nevertheless, they were mindful of their vulnerability, either to dismissal or imprisonment. Although it was not their initial intention, the Mabarete ended up honing a range of techniques to protect unprotected strikes; that is, ways in which to avoid the consequences of mounting a strike without a CCMA Certificate of Dispute. These techniques included:

- Mounting 'mutual mobilisation' in which workers in one operation bring out workers in another, geographically or otherwise distinct, operation. This allows workers to legitimately claim that they had no option but to join the strike.
- Focusing on key points of pressure, starting with, though not restricted to, preventing the operations of the company they work for (and not the labour broker employer).

- Understanding that the impact of their activity is not limited to the withdrawal of their labour, but the application of their labour in ways that apply pressure on their targeted company/companies
- Continuing with the principle of geographical separation of applying pressure which could lead to sanctions.
- Keeping leadership hidden from view to avoid victimisation and organisational 'decapitation'.
- Staying clear of legal processes.
- Establishing structures that allow leaders to plausibly deny involvement within any activity vulnerable to legal or other sanctions.
- Using communication mechanisms that prevented activities from being undermined by strike participants leaking information.

None of these techniques were entirely original. In different forms these tactics have long formed part of the repertoire of industrial action, protected and unprotected, in South Africa and elsewhere. The Mabarete case illustrates, however, how each group of workers needs to learn them for themselves, and for their own context, if they are to be successfully applied.

## Uniting Everybody Vs. Leading by Example

The logic of united action is a powerful one; the more people standing together, the greater their power. However, this is not an unqualified principle; the quest for unity can delay action, possibly indefinitely. Much time was wasted with changes in strategic direction, a problem compounded by the autonomy of different workers' committees. Indeed, in the end, unity among Post Office casual workers in Gauteng (never mind nationally) was never achieved. The high point of unity was the unsuccessful June/July 2011 strike, but even this did not fully include all the established workers' committees in Gauteng.

In the end, it was a vanguard group, the 294 members of the Mabarete, which brought about an end to labour broking in SAPO. Others then followed up on their success. This grouping represented a degree of unity between many, though not all, leaders of several workers' committees, but it involved only a fraction of the casual labour force. While unity should be strived for this should not be to the exclusion of other considerations. It may be necessary for sub-sets of precarious workers to fight their own battles and, in doing so, show others the way.

## To Unionise or Not to Unionise?

The casuals' committees attempted very hard to join a recognised union. With the exception of a handful of regional office bearers, CWU, the only recognised union in SAPO until 2012, effectively rebuffed them. SAPWU, established in 2009, showed no interest in the casual workers until March 2012. The workers' committee members joined various registered unions, but none were able to assist them. They even tried to set up their own union, but its registration was denied by the Department of Labour.

Their disenchantment with CWU, and other unions, was uneven. Eventually, however, all but a handful of leaders from the various workers' committees realised that they were on their own. What then emerged was a different form of organisation to a union. While this was out of necessity, it ended up providing an effective vehicle for the successful Mabarete strike. Its form was, like its membership, marginal. Meetings were held in liminal spaces; parking lots, waste ground, public parks and dusty township football fields. Finances were raised on an *ad hoc* basis with activists popping out contributions from their own pockets. Most importantly, however, this structure enabled the organisation to apply pressure and to protect unprotected strikes. These strategies and tactics were not possible for a registered union.

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# Marikana: fragmentation, precariousness, strike violence and solidarity

*By Crispen Chinguno*

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## INTRODUCTION

The new democratic dispensation in South Africa has been characterised by the proliferation of work fragmentation and precariousness. Labour has been severely fragmented while employer control and flexibility on how work is organised has been enhanced. Central to these changes is the sustenance of a cheap labour regime and flexibility. A cheap labour regime has been consistent from the onset of the mining industry in South Africa in the late nineteenth century.

This paper draws from the Marikana 2012 strike and gives a descriptive account of the patterns of fragmentation and precariousness and the connection to strike violence and worker mobilisation. It illustrates the ambiguous nature of strike violence by showing how the workers attained and sustained 'solidarity and militancy' in the face of fragmentation and precariousness.

The killing of 34 mineworkers at Marikana by the police service has brought to the fore the changing nature of employment in South Africa. Neoliberalism drives the global economy with the primary motive of maximising capital accumulation of surplus value for both domestic and foreign capital (Theron 2003, Harvey 2005). Although underpinning the driving forces of the exploitation regime in mining are global forces, the Marikana massacre has highlighted that the negative effects of neoliberalism are mostly felt at the local level.

The Marikana massacre unfolded almost 20 years after the democratic transition in South Africa and posed questions regarding the new dispensation. Important to note is that democracy and violence are interesting themes in South African history that manifest in numerous contexts. Democracy is associated with the broadening of political participation, as well as balancing political rights and promoting nonviolence in making claims (Tilly 2003). It has also brought about the establishment of third parties, for example, conciliation and arbitration panels to prevent violent resolution of disputes in labour relations. However, in South Africa, democracy is significantly characterised by the persistence of violence in claim making. Violence has remained an important phenomenon in the polity since the democratic transition. Violent outbursts often bring simmering social tensions to the fore.

In industrial relations theory, conflict and strike violence may be managed through institutionalisation. This assigns a key role to the development of institutions with the capacity to regulate and manage conflict (Korpi and Shalev, 1979). Strike violence during apartheid was initially explained by the lack of institutionalisation of industrial conflict for black workers.

Although black workers were later partially incorporated in the 1980s following the Wiehahn Commission recommendations, the nexus between political and workplace struggles undermined institutionalisation of industrial conflict (Von Holdt, 2010).

In the 1980s black people attained industrial citizenship but had no political citizenship. The South African constitution and labour relations regime adopted after the demise of apartheid guarantees both industrial and political citizenship. Nevertheless, violence in industrial conflict as at Marikana remains an important phenomenon. A 2012 survey by the Congress of South African Trade Unions (COSATU) shows that 60% of the workers interviewed believed the use of violence was a necessary strategy in strikes (NALEDI 2012). Von Holdt (2010) argues that institutionalisation of industrial conflict is tied to the broader political and socio-economic struggle which in South Africa remains highly contested and characterised by gross inequality.

## THE CONTEXT

Since the onset of the mining revolution in South Africa in the 1860s, the organisation of work has gone through changes mainly designed to minimise risk and maximise profits. The underlying principle that has remained consistent since then is the use of cheap black labour and the migrant labour system (Wolpe 1972) designed to maximise surplus value.

The changes in how mining work is organised since the democratic transition are linked to fragmentation and precariousness both at work and home. Fragmentation refers to the breaking down of activities into smaller segments. It serves many purposes but primarily enhances the control of workers. Mining capital has thus drifted from 'compounded to fragmented labour' (Bezuidenhout and Buhlungu 2010). It has shifted from permanent to third party employment as an ongoing exercise following the emergence of union hegemony and the democratic transition. This became more pronounced in later years following the demise of apartheid and the assertion of neoliberalism. Lifetime employment has severely declined as more jobs are now temporary and insecure.

In the platinum industry, for example, over one-third of workers are employed by third parties (Bezuidenhout and Buhlungu 2010). This works as a mode of control. For example, precariousness enhances employer control of the pace of production and overall discipline. It pushes the worker harder and instils discipline as there is always a threat of dismissal (Smith 1998). As a result, many of the new jobs reflect how work has been reorganised. However, in many cases, third party employees are closely controlled as direct employees and integrated into the principal mining operations. Although South African legislation has been appraised as progressive and labour friendly, in practice, employers are able to circumvent this and create a precarious context.

Fragmentation of work in the current neoliberal dispensation is always ongoing and shifting. This has implications for worker mobilisation and dispels the possibility of worker solidarity (Smith 1998). The third party workers are the least accessible to unions because of heightened job insecurity which undermines union mobilisation and organisation.

Platinum mining has the highest rate of third party employment in the mining sector. Over one-third of workers in the sector are employed through subcontractors and labour brokers (Bezuidenhout and Buhlungu 2010). This dramatically changed from the 1990s as neoliberalism asserted its hegemony. There are a number of reasons why platinum mining shifted to a more labour-flexible regime. The sector prior to the 1990s was small and the employers were not organised centrally. As a result, the use of cheap labour became an entrenched strategy, enhancing its competitive advantage.



The mining industry in South Africa has, from the onset, been dependent on migrant labour. The system developed initially as a response to the temporary nature of mining and lack of permanent settlement (Burawoy 1976). It was also designed to preserve an economic and political system based on the exploitation and repression of black workers (Wolpe 1972). This has nevertheless persisted with some continuities and discontinuities.

The compound and later on, the hostel system of accommodation, developed along with the migrant labour system in mining. Before the attainment of democracy, the majority of mineworkers lived in hostels where as many as 25 workers shared a single room. This emerged as a solution to housing problems and in order to control mineworkers. After 1982, the National Union of Mineworkers (NUM) was thus able to 'subvert employers' logic of control by turning the hostels into sites of mobilisation' (Bezuidenhout and Buhlungu 2008).

A significant number of low-skilled workers in platinum are migrants from Lesotho, the Eastern Cape, Mozambique, Swaziland and other areas. At Lonmin, for example, 82% of workers fall in this category (Lonmin 2012). Many have two families – one at their place of origin and another at their workplace, and are expected to support them from meagre salaries. Many workers have been forced to live precariously in informal settlements without running water, toilets, electricity and roads. Employers offer a living-out allowance (LOA) instead of providing accommodation. In the Rustenburg municipal area – the hub of the world's platinum mining production – only 42% of the population live in formal dwellings (Rustenburg Municipality, 2012).

## THE 2012 LONMIN STRIKE

Lonmin, the third largest producer of platinum in the world, employs 28,000 workers directly and another 10,000 through third parties (Lonmin 2012). Its mining operations are centred in Marikana, which accounts for over 80% of its output.

The 2012 Lonmin strike was part of a strike wave that started at Impala Platinum in January 2012. The Lonmin strike broke out after rock drill operators (RDOs<sup>1</sup>) embarked on a strike challenging management's decision to award an 18% retention allowance to mine blasters. This mobilisation spread across the platinum belt and beyond. The strikes had similarities in the claims, violence, repertoires and the actors. The RDOs, later joined by other unskilled workers, were uncompromising. They demanded a wage award of over 200% outside the collective bargaining system, and exhibited unprecedented levels of militancy.

The demands were presented by independent committees at the shaft level to the local management. From the onset, the RDOs rejected representation by the National Union of Mineworkers (NUM) which was then the majority and only recognised union at Lonmin. The RDOs claimed NUM was not accountable to its membership, corrupt, indifferent to their plight and compromised by management. They alleged corruption by shop stewards and union branch officials in issues such as company house allocation and recruitment, in which the union plays an important role (Chinguno 2013).

In most of the strikes there was an underground workers' committee responsible for meting out violence to dissenters. The committee would close off all the roads leading to the various work stations and assault anyone reporting for duty. Violence was thus a means of overcoming worker fragmentation and enforcing and maintaining 'solidarity'. Ironically, when the strike ended, third party workers paid the utmost price as Murray and Roberts, a leading Lonmin contractor, terminated 2000 contracts.

1. RDOs are underground workers who drill rocks using a jack hammer.

The platinum mining workforce is fragmented along lines of ethnicity, skill, settlement, gender and other factors. The lack of union cohesion, common interests and objectives made violence susceptible and undermined worker collective solidarity. The strikes were marked by violence and intimidation at different levels – i.e., intra and inter union, vertical and horizontal, and within the workforce and state (police). The violence often targeted scabs.

Fragmentation undermines worker mobilisation and collective solidarity in many dimensions. The changes in the mine settlement pattern play a role in worker fragmentation. Before the democratic transition, all mineworkers lived in company hostels and were not part of the nearby communities. This has since changed. The influx control legislation which restricted black workers' migration and mobility was disbanded in the 1980s and new settlement geography emerged. While a few of the mineworkers have remained in hostels, the majority live in local villages, own homes in high and low-density suburbs, or stay in family units and in informal settlements. A significant number of workers moved into informal settlements that sprouted across the mining belts to supplement their salaries through savings from the LOA. This is all linked to the cheap labour regime.

The mining communities are broadly divided into the traditional villages, which preceded platinum mining, and the new informal settlements that emerged following the democratic transition. Lonmin has three hostel complexes where the majority of its staff lived up 1994. After democracy, the new government, the ANC and COSATU resolved to phase out hostels, and they advanced the construction of family units to allow workers to live with their families. They argued the move was part of a strategy to destroy the apartheid legacy and restore the dignity of black workers. The Chamber of Mines and NUM brokered an agreement on a LOA for workers. This displaced the employer obligation to provide accommodation but was apparently adopted after limited consultation with the affected workers.

On the Rustenburg platinum belt there are over 38 informal settlements, and at least 37% of all dwellings are informal, compared to the national average of about 13%. Between 2001 and 2007, formal housing in Rustenburg decreased from 47 to 42%, reflecting growing fragmentation and precariousness of the workforce (Rustenburg Municipality, 2012).

The hostels are no longer central in the control of workers. Many of the third party workers are not entitled to a LOA and cannot afford decent accommodation. This has forced many into the informal settlements. Many of Lonmin's low-skilled workers live in the neighbouring Nkaneng informal settlement. Lonmin has 1798 houses, 544 family and 95 bachelor units in addition to three hostel complexes which accommodate unskilled and semi-skilled workers. It can thus only provide the recommended accommodation to 2342 workers – less than 10% of its 38,000 workforce (Lonmin 2010). At least 50% of the population living within a 15 km radius of its operations live in informal settlements with no basic services (Lonmin 2010). This new pattern reflects a new geography and new contours of class, citizenship, race, ethnicity and status that have emerged post-apartheid (Chinguno 2013).

This new geography has an important bearing on labour relations. An important feature of many of the informal settlements is the weakness or absence of local state structures. These have been, in some cases, substituted by informal structures that use vigilante-type violence to maintain order. This created a context for alternative systems to emerge. Many of them are 'no-go areas' for the South Africa Police Service. The absence of state structures or their retreat is not synonymous with the mining settlement but is quite widespread in South Africa (Monson 2011).

Although the demise of the hostels and the new spatial settlement geography may be a source of power and leverage for the workers as it reduces dependence on the employer and control, in reality this advantage has in most cases not been fully realised.

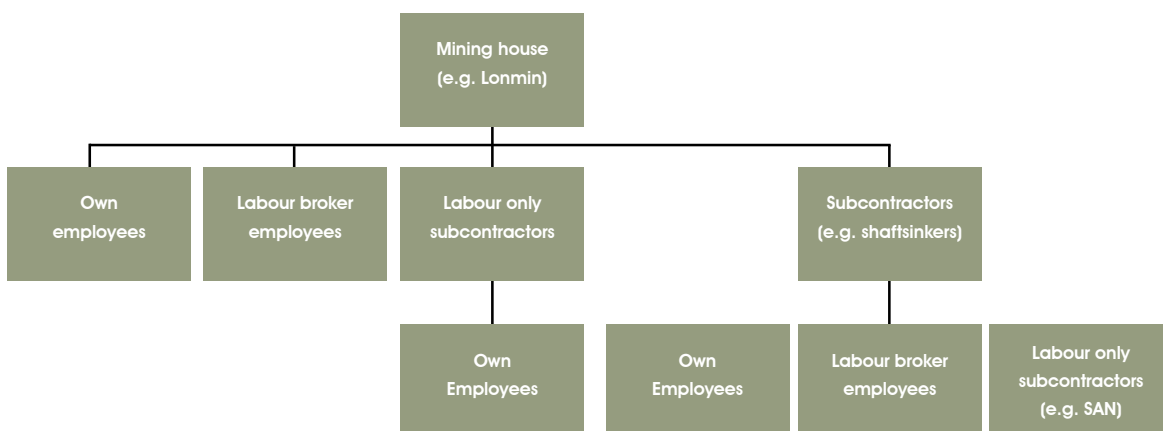
## FRAGMENTATION OF WORK ORGANISATION

Neoliberal globalisation, according to its proponents, is linked to profit maximisation through minimisation of risk: for example, the substitution of direct by triangular employment. The employment contract is thus substituted by a business contract. Its foundation, according to Harvey (2005), is tied to classical liberalism which purports to be linked to human dignity and individual freedom, viewed as central to civilisation. It is based on the assumption that individual freedom is guaranteed by free market and trade (Harvey 2005). Theron (2003) explores the changing nature of employment in South Africa and argues that the changes are driven by global economic changes shaped by ideology. There has been a proliferation of externalisation of work in the post-apartheid order as a response to enhance flexibility and changes in the global economy in line with the neoliberal doctrine.

Sandvik, an engineering company, has implemented a typical model of a flexible work arrangement. Its South African offices are in Jetpark, Johannesburg, but some of its workers are at Lonmin in Rustenburg. It also subcontracts other labour brokers such as SAN (see Figure 1). The workers are contractually employed by SAN but directly supervised by Sandvik. Figure 1 highlights the typical employment relations in platinum mining in South Africa. The subcontractors and the labour brokers in this case are closely integrated in the core operations. Lonmin is able to exercise direct control over workers, including in respect of occupational health and safety standards. Thus fragmentation of work may coexist with operational integration (Williams, Davis, and Chinguno 2013).

However, this severely undermines worker mobilisation and solidarity. A Sandvik worker who was interviewed lamented how it is difficult to be active in the unions. Sandvik is an engineering company which in this case is contracted in mining. It is ordinarily organised by an engineering union such as NUMSA. However, in Rustenburg, it is in a sector organised by NUM and the Association of Mineworkers and Construction Union (AMCU). This leaves workers in a quandary. As a result, many workers have opted not to be active in unions.

Figure 1: Typical work arrangement in platinum mining in South Africa.



During apartheid, most black workers were confined to the low-skilled job categories. The skills levels of black workers since apartheid have broadened. Black workers are now found in any level of the occupational hierarchy. In the past, they easily forged solidarity as low-skilled black workers. This formed a strong worker identity which has since dissipated and undermines worker mobilisation and solidarity.

## GENDER

Mining is dominated by men. This is explained by its demand for physical strength and endurance. In the past, legislation in South Africa barred women from underground mining. As part of the social transformation and promotion of gender equality, the government instituted legislation promoting women in mining. The Mining Charter (2002) instituted a minimum threshold for women in mining. It targeted 10% by 2009, which was then postponed to 2014. The introduction of women is a part of the internal transformation strategy. Lonmin attained 7.45% of women at a mine and 4.3% women in mining (Lonmin 2011). 'Women at a mine' are those working for the mining house in general, while 'women in mining' refers to those directly involved in the production process.

Over the past 10 years, more mining houses have integrated women in line with legislation. Lonmin (2009) highlights its support for the integration of women. It argues that the integration of women is part of its corporate social responsibility and claims that women are better and more reliable employees. This has brought a new gender dynamic. The majority of the women are usually recruited from local communities and are less likely to be migrants than the men. The introduction of women brings a new culture and struggles. Research by Benya (2013) argues that women bring new values, challenges and 'class' orientation.

In many cases they have no role models to learn from. Men, for example, have the experience of the role that unions played in the struggle against apartheid. They have the experience of the value of the union in defending workers' rights. Men are thus attached to victories of the past.

The women may have a different conception. They have no experience or attachment with the unions' past successes. Therefore, women may question the significance of a union in cases where there may be no tangible results. Men often perceive the union as an instrument that liberated them from the past repression and will normally ask no questions about its value. Women do not share a similar attachment. They do not live in hostels and a few reside in the informal settlements. They are thus not fully assimilated into the dominant mining culture and come with their own struggles such as sexual harassment.

At Marikana, women were initially barred from the kopje and were not directly active in the strike because of cultural values and beliefs. The introduction of women in mining may be viewed as a form of worker fragmentation which has brought in new repertoires and unanticipated challenges to union organising and mobilisation.

## ETHNICITY, LOCAL COMMUNITY AND WORKER FRAGMENTATION

The recruitment of mineworkers in the past was often tied to socio-economic and political factors and other prejudices (Moodie and Ndatshe 1994). Certain jobs were preserved for some ethnic groups. For example, underground work was preserved for Basotho, rock drilling for Xhosas and machine operation underground for Mozambicans. There are continuities and discontinuities in this practice. At Lonmin, for example, nearly all the RDOs and most underground workers are from the Eastern Cape and Lesotho, despite a new policy that gives preference to locals. There are almost no Batswana (the locals) working as RDOs. These divisions have an effect on worker solidarity and mobilisation.

In the hostels, workers were usually divided along ethnic lines and an Induna<sup>2</sup> appointed to oversee each group. As a form of control, migrants were separated in hostels on the basis of ethnicity. Continuity of this segmentation is reflected in the new informal settlements emerging across Rustenburg's platinum district. Sondela, Nkaneng, Ikemeleng and Number 8 and 9 informal settlements in Rustenburg are predominantly Xhosa, Sotho or Shangaan, while the adjoining communities are more mixed and dominated by Batswana. The workers are thus not only divided at the workplace but even where they live.

The Mining Charter obliges mines to uplift the living conditions in the neighbouring communities. However, the changes in the organisation of work from 'compounded to fragmented labour' have created two distinct communities, apparently with different privileges and claims. At Marikana the distinct communities are the traditional villages near the mines and the informal settlements which sprouted after the democratic transition. These communities sometimes have parallel local structures and organise and mobilise differently.

## ASSOCIATION OF MINeworkERS AND CONSTRUCTION UNION (AMCU)

The NUM had a recognition agreement at Lonmin. This guaranteed absolute rights and shut off competition from rival unions. The dramatic loss of the NUM's legitimacy which unfolded during the strike bankrolled the growth of AMCU, a breakaway union. AMCU's membership escalated from 23,000 in January 2012 to 150,000 by November 2012 (Chinguno 2013). In all the strikes, the dispute mutated into union rivalry and AMCU emerged as the new dominant union. It is important to note that when the dispute emerged it was initially not linked to union rivalry, but rather to what workers claimed were genuine shop-floor problems, yet later on it developed into such union rivalry as a manifestation.

AMCU rose from the ashes of NUM, which lost members from defections. It adopted a militant stance and its agenda was alleged to be driven from below. However, AMCU lacks a clear ideological perspective, which poses a challenge for the sustainability of its strategy and hegemony.

2. Traditionally an induna is a senior official appointed by the chief as an overseer of his subjects. The system was adopted in the hostels to maintain ethnic division and control of the workers by appointing a lead person from each ethnic group.

AMCU spread to all the major platinum mines and into gold and iron ore, and threatened the dominance of the NUM. In the past, the NUM emerged and spread its wings in a similar way. This suggests that union membership in these mines is somewhat precarious.

## CONCLUSION

The Marikana strike and massacre has brought to the fore the impact of the changing nature of employment in South Africa characterised by fragmentation and precariousness. It has shown how this undermines institutionalisation of industrial conflict and worker organisation, and that it is connected to strike violence. The chapter has shown the different forms and dimensions of fragmentation, i.e. work organisation, ethnicity, settlement patterns and gender. This separates workers, undermines union mobilisation and solidarity, and increases the propensity for violence.

Marikana highlights the ambiguous nature of strike violence. Strike violence may mean a lack of solidarity on the one hand, but conversely may be a means of forging workers' collective 'solidarity'. It highlights worker fragmentation but, at the same time, militancy and solidarity. The violence at Marikana underpinned rather than undermined worker collective solidarity.

## NOTES

1. A recognition agreement confers a bargaining mandate to a trade union at a workplace.

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# Farm Worker Uprising in the Western Cape From “Flexible Work” to “Moment of Madness”

By Jesse Wilderman

*“We outnumber the farmers eleven to one and they still hoard the economic power and still talk to us with disrespect. We could kill all the farmers in a weekend if we wanted to and this land will be fucked up — it could happen in one day. But until this strike we were never able to get all the farm workers and all of us to come out and fight back.”*

**Local Councilman and supporter of the farm workers' protests**

In late 2012 into early 2013, tens of thousands of farm workers and their allies across more than 25 towns around the Western Cape in South Africa engaged in a historic series of explosive and unexpected work stoppages and protests. There had not, in living memory, been a protest that reached this scale and intensity, even though grievances around low wages, inadequate housing, and unfair treatment have plagued farm workers for years. The perceived power of the farm owners coupled with a lack of large, formal organisation or trade unions among farm workers seemed to have stacked the deck against collective resistance.

Not only was the scale of this uprising historic, it also displayed a form of resistance outside the “paternalistic” discourse that characterised relationships between farm workers and farm owners; as Ewert and Du Toit (2005) explain about traditional farm worker resistance, “. . . they rely on the ‘weapons of the weak’, operating within the framework of the paternalistic moral universe itself, relying on individual appeals, consensual negotiations and the avoidance of the appearance of open conflict” . Yet this uprising was defined by open conflict, including the burning of vineyards, protest marches, and pitched battles with the police. Farm workers and their allies adopted an overt, confrontational, and adversarial approach in an apparent break from the traditional discourse.

If this were not puzzling enough, employment regimes on Western Cape farms, mirroring trends across the globe, were shifting to become more “flexible”; farm owners, seeking to cut costs and avoid worker protections, were transforming the farm workforce away from permanent, on-farm labour to a more seasonal, off-farm and migrant labour force. Popular discourse might suggest that these shifts create a more vulnerable and transitory workforce, making organising collective resistance even more difficult. Yet it was these “vulnerable” seasonal workers who were at the heart of the protests.

Given these trends and history, along with trade unions’ mostly failed attempts at organising farm workers on a large scale in South Africa, we must ask what made this moment of mass uprising possible?

## CHANGING WORKFORCE — BREAKING DOWN BARRIERS TO COLLECTIVE ACTION

Over the last twenty years, the agricultural sector in South Africa has reacted to increased costs and regulatory pressures — a loss of trade protections and subsidies, a more powerful and consolidated set of buyers with greater demands for higher quality and lower costs, and increased government protection for farm workers and farm-dwellers. In response, farm owners have transformed their workforces so that seasonal labourers often outnumber permanent workers; greater numbers of farm workers are living off farms, particularly in growing informal settlement communities on the hillsides of farming towns; and where permanent migrants make up a growing part of the workforce. In the town of De Doorns, at the epicentre of the uprising, estimates suggest that 80% of farm workers are seasonal labourers, and over 10 000 people — and this number is growing - live in informal settlements (interviews with Gouws, 2014; Visser, 2014).

While in some ways exacerbating income insecurity and worker vulnerability, this transformation of the workforce and changing spatial living arrangements are also breaking down some of the key mechanisms of social control and impediments to collective resistance — namely, paternalism and workers' isolation. The traditional paternalistic power relationship so dominant among permanent, on-farm labour on the Western Cape farms dictated that land owners were both providers for the farm "family", including farm workers, and the final authority over all those who lived on their land. Not only did this social formation create dependence on the farm owner for housing, transport, water and other basic necessities, but the relationship of hierarchy and domination was woven into the social construction of farm owner and farm worker identities (Ewert & Du Toit, 2005). This social construction, along with the isolation and lack of information that often comes with living on a farm, far from other groups of farm workers or the broader community, limited possibilities for farm worker collaboration and resistance.

Unlike the traditional permanent worker living on the farm, seasonal workers, particularly those who live off farms in settlement communities, are not considered by themselves or the farm owner as part of the farm "family"; their relationship with the farm owner is more transactional and temporary with a life experience that extends beyond the farm. As one farm worker explains, "many of these seasonal workers have come from other places, had other jobs, speak other languages so they know their rights and are less likely to worry about what the farmer thinks of them" (interview with Prins, 2013).

In addition, the transient nature of seasonal work, along with the concentration of large numbers of workers in settlement communities, is breaking down barriers to collaboration and sharing of grievances, while strengthening and broadening informal networks and relationships and this explains why the hub of activity and organisation for the protests tended to be the settlement communities. As explained by workers in one settlement community, the organisation of the strike there — from two daily meetings on the local rugby field, to nightly house-by-house communication, to the use of whistles to bring people out of their houses in the morning — was critically facilitated by the concentration of farm workers in one area (interviews with Witbooi, 2013; Marowmo, 2014; Jacobs, 2013). This living arrangement also made organising possible without the need for significant resources, as a key strike committee member from one settlement explained, "thousands of people were mobilised by just a few of us without speakers, money, cars — we had nothing . . . just using our voices and going around telling people" (interview with Yanda, 2013).

Thus, the transformation of the workforce to more seasonal, off-farm and migrant labour – while in many ways intensifying the grievances and precarity driven by poverty and unemployment – actually made organising and resistance more possible by creating new spatial living arrangements while weakening some of the key bindings of paternalistic social construction.

A farm owner summarised this effect by saying that “seasonality caused this ‘disaster’— all those new people sitting up there in those settlements — which just keep getting bigger and bigger - with nothing to do for much of the year” (interview with De Wet, 2014). According to him, the expansion of “seasonality” and “settlements” and “new people” demonstrated the breakdown of the old order — the renegotiation of the relationship between farm workers and farm owners, the shifting spatial arrangement of rural communities and the changing composition of the workforce.

## FROM MOMENT OF MADNESS TO ORGANISATION, POWER AND CHANGE

The story of this uprising thus shows that the drive by various forms of capital around the world to create a more “flexible” workforce can also provide new opportunities for organising and collective action. This collective resistance may take its own form and character, relying on stories, structures, and strategies that are less familiar and perhaps, less easily translated into traditional mass membership-based social movement organisations or trade unions, as Campbell explains, “. . . contemporary transformations in capitalist production shape and make possible *certain forms* of struggle” (cited in Hardt and Negri, 2001).

In this case, the changes brought on by the transformation of the workforce — along with a set of widely disseminated and unmediated stories of unfairness and resistance; cadres of coordinating units of seasoned activists and informal community networks; and a set of easily replicable tactics of strikes and disruptive street protests — created space for, not simply an organising campaign, but what could be described as a “moment of madness” (Tarrow, 1993). Here a sudden onset of collective action spread beyond the incremental planning capacity of organisers, where more volatile and experimental forms of resistance emerged, and where the unexpectedness of the uprising gave greater power and urgency to the cause. The question then for social movement organisations, particularly trade unions, is how to support and amplify this energy without seeking to control it. How do organisations continue to provide a supportive organisational context where new repertoires of resistance can be refined? How do organisations harness that energy so that the moment can be translated into strategic action that unites the broader community of the rural poor? How do we ensure that the gains are properly secured and institutionalised by organisation that can act *over time* to win and hold and then win again, making more than fleeting progress in shifting power and wealth to the rural poor?

The story of the uprising also highlights the distinction between *mobilising*, which is primarily about moving pre-existing structures and networks into collective action around specific issues, and *organising*, which is about building the individual and institutional leadership capacity to act. The distinction is important if we are to explore whether this uprising increased the capacity of farm workers to take further action in future.

The protests might suggest some approaches to further organising and action — community-based rather than farm-by-farm organising; services, membership, and organisation that speak to more seasonal and migrant worker identities; building struggle around a broad social base and broad issues of rural poverty and lack of voice; and an orientation towards collective problems and action rather than individual problems and legalistic action. Maybe most importantly, it is critical for established organisations to create the space for “organisational experimentation” and more “learning by doing” in terms of resistance among farm workers and the rural poor. This is to facilitate organisations’ ability to act so that, when moments of madness erupt, they will be better able to amplify and support the moment in such a manner that it builds leadership, networks and organisation for further action. These moments *can* create opportunities to challenge, not only material conditions on the farms, but the underlying power relationships holding back broader transformation. As one farm worker explains while reflecting on the uprising, “I will never forget the way people stood together — it was amazing —and we could see the power of togetherness, and I will never forget that we could see that the farmer, for once, was really afraid of us” (interview with Erumas, 2014).

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# #OutsourcingMustFall: The Role of Workers in the 2015 Protest Wave at South African Universities

*By Thembi Luckett and Deliwe Mzobe*

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## INTRODUCTION

On 14 October 2015, students at the University of the Witwatersrand (Wits) in Johannesburg launched a protest against the annual increase in student fees at the university. In the subsequent days and weeks, the protest spread to universities across the country, and came to be known as the #FeesMustFall (FMF) movement, which built on student movements that emerged earlier in the year, most notably the #RhodesMustFall movement. This was the biggest university protest wave in South Africa since the end of apartheid in 1994 and, some say, the most significant student protest since the 1976 Soweto riots. While the protests began with a focus on the student fee increase for 2016, demands were soon expanded to include issues such as free education, the cancellation of student debt, the decolonisation of the curriculum, and the insourcing of all university workers.

While the protests have been widely analysed as a student movement, low-paid and outsourced university workers have also been key actors. At Wits outsourced workers joined protesting students from the first day. By the end of 2015, students and workers in at least eighteen tertiary institutions in different parts of South Africa had participated in protest action. They put their bodies on the line, occupying university spaces and marching to the Johannesburg party headquarters of the ruling African National Congress, to the national Parliament in Cape Town, and to the Union Buildings in Pretoria which house the executive of the national government.

In a dramatically short space of time major victories were achieved. The ANC government agreed to no fee increase for 2016, and one by one university managements started to agree, in principle, to insource workers, meaning that all outsourced support staff would be directly employed by the university. This commitment was made by the University of Cape Town (UCT), Wits, the University of Johannesburg (UJ) and the University of Free State (UFS), among others. Protests and strikes have been continuing in 2016 for insourcing at other universities. This is arguably the biggest victory against the privatisation in the public sector in South Africa since 1994.

The struggle against outsourcing at universities started over fifteen years ago. In 1999, UCT implemented extensive retrenchments and outsourcing of all “support services”, such as cleaning, catering, maintenance and so on. UCT was the pioneer of outsourcing in South African higher education institutions. Wits and others were soon to follow. This was part of a global trend in the context of neo-liberalism. Cuts in public spending for tertiary educational institutions encouraged public–private partnerships and third-stream income, as well as a focus on productivity and competitiveness in both the public and private sectors, promoting the model of the “market university” (Adams, 2006; Bardill, 2008).



Photo credit: Leigh-Anne Naaido

With outsourcing, a significant portion of workers went from being university employees to being outsiders providing a service. This reinforced apartheid-like social and economic divisions, as the “skilled” administrators and academics who remained “core” university employees were mostly white and middle class, while the “unskilled” service workers, who were working class and almost all black, were redefined as “non-core”, despite the importance of the services they provide to the functioning of the university. In addition to such social division, outsourcing also had a negative material impact on workers. For example, when benefits are added to basic wages, UCT cleaning workers earned between R11 and R14 per hour before outsourcing, compared to R6 per hour after outsourcing. The boundaries of inclusion and exclusion drawn by this neo-liberal ideology are not as crude as they were under apartheid, but they serve a similar purpose – that of reproducing class and race inequalities. This resulted in the destruction of the university as a collective community and the erosion of a public sector based on the needs of the majority of people.

The process of outsourcing at South African universities was resisted by trade unions, workers and concerned members of the university community, albeit unevenly. However, nowhere was outsourcing prevented, and unions organising support staff were effectively smashed in the process. Since outsourcing was undertaken at most South African universities in the late 1990s and early 2000s, workers across universities now fall under different sectors, such as cleaning and security. Because of this, they have been in and out of different sectoral unions, and have faced difficulties in organising collectively (Grossman, 2009). In response to this fragmentation, there were efforts among workers, along with progressive students and staff, to build alternative organisations and structures to unite workers and to build solidarity for workers within the university community. These include the UCT Workers’ Forum, the Wits Workers’ Solidarity Committee and the UJ Persistent Solidarity Forum. Workers have waged many struggles over the years over issues such as dismissals, victimisation, racism and wages. Attempts were always made to connect immediate demands with the long-term demand of reversing outsourcing, with outsourced workers themselves taking the lead in these struggles (Grossman, 2009). While some gains were made on issues such as wages, freedom to organise and associate, and job security, few substantive gains on the issue of outsourcing at universities were won despite fifteen years of activism and organising – that is, until the #FeesMustFall protests of 2015.

The following is an interview with Deliwe Mzobe, a shop steward and leading worker activist at Wits, conducted by Thembi Lockett, a PhD Candidate and student activist at the same university. Both Deliwe and Thembi are active in the Wits Workers’ Solidarity Committee. The interview examines how the victory of insourcing was won after fifteen years, the power of unity between workers and students, and a vision of what a university could and should look like.

### *What is your experience of being an outsourced worker at Wits?*

I have been a cleaner at Wits since 2008. I was first a temporary worker and then a permanent worker at an outsourced company since 2012. It was very hard. We felt like outsiders because we could not access simple things like the different entrances at Wits. We were only allowed to access Wits through one entrance. We were only allowed to use certain toilets even though we cleaned all of them. We were not allowed to be seen – to sit in the shade, on the lawns and benches. We did not have access to computer and library facilities. We did not have access to Wits buses even if we needed to move from one side of campus to another. Some of it is still like this, but it is better. Most of all, the money was not good. It was literally nothing. You cannot survive on the wages we receive. I was not able to support my family. I had to choose between lunch and transport money for my daughter. As a result, one resorts to loans from the banks. Sometimes you find people who owe money to almost all the banks. And if you

cannot pay, you are blacklisted and have to go to the loan sharks. The loan sharks keep your ID document and your bank card and as soon as money comes in they take a lot of it. Some add 30 per cent, 40 per cent, and even 50 per cent. It just becomes a vicious cycle that you are trapped in.

### *Why did workers come out in support of the student protests against tuition fee increases from 14 October 2015?*

The workers look up to the students. They will do anything for the students. We had recently had the October 6 protest against outsourcing,<sup>1</sup> which was a success due to the students. The students supported us. It was a way of giving back. They give us support, we give them support. In the beginning the students did not include "End Outsourcing" in their demands, it was just a zero per cent fee increase, so we were giving back. The workers support the students because of the care and the love we get from the students. In some instances the students risked their degrees for us, for example the MJL case where students occupied the Vice Chancellor's office.<sup>2</sup> They put their degrees on the line fighting for the workers. The students do anything and they worry about the consequences later.

### *How did the demands change to include "End Outsourcing"?*

I think the students realised that it was not only about the tuition fee increase. Students realised that workers were there all the time with them and that there should be a gain for workers too. They said, "We can't allow this exploitation of our parents to go on. This outsourcing must end". It also became a struggle for free education. If you are an outsourced parent, how can you afford to send your children to university, even if there is no fee increase? It is impossible. So it becomes a cycle of poverty.

### *How do you feel about the FMF protests and the insourcing victory?*

I don't even have the words to express myself. All the workers still say how grateful they are to our students; I feel so much joy when I think about what the students did for us and I will do anything to support the students in return.

We were also lucky we did not experience the abuse and brutality from security that other workers did, like at UJ. The students at Wits protected us. They would say, "Our parents, you can come to work as normal and then we will come and get you [to join the protest]". So it would be the students' fault, not ours, when we did not work.

### *The struggle against outsourcing started fifteen years ago. What do you think was different about these protests? Why did we get a victory this time?*

It was because of the combined power of the students and workers. When the students united they opened the doors that were long shut. They forced ears that were deaf to listen to us. Previously they heard us but ignored us. The Wits Workers' Solidarity Committee has been saying "End Outsourcing" for years. The October 6 Movement<sup>3</sup> said this also. The October 6 Movement was different universities coming together. It was a starting point to ending outsourcing. Wits

1. This was a one-day protest against outsourcing organised by a group of students, workers and academics at Wits and UJ, and supported by other universities including UCT, UFS and Stellenbosch University.
2. MJL was an electrical subcontractor hired by Wits. MJL workers were not paid for months and the company violated core labour laws, failing to pay mandatory national unemployment insurance and tax contributions. Workers eventually lost their jobs without notice or any form of compensation. Students and workers occupied the Vice Chancellor's office in 2015 in protest against the abuse of MJL workers.
3. October 6 represents the coming together of campus-specific struggles into a national campaign for insourcing on campuses, as part of a long-term campaign for a decolonised public African university. It is an effort to unite workers, students and academics on all campuses to create principled and progressive universities as well as change in the society in which they work.



and UJ started the October 6 Movement but other universities participated so it was easier for a national campaign against outsourcing to develop in the student protests. When the mass of students put their stamp on top of it, it became a victory.

*We heard for years from management that insourcing is not possible, but then it changed. What lessons can we learn from this for existing and future workers' struggles?*

That everything is possible. Insourcing has been possible all along. It was just that management used it as a disguise, that there are no finances. But they waste money all the time on big salaries, parties and security. This is the money that can be used for the working class.

We learned that we have to join forces. When we are united we are strong. And we also have to have lots of meetings so we can have proper discussions about our struggles and how to come together to find common goals and solutions. We also took action. Shutting down the university made management listen in the first place.

My advice would be to be united and don't back down until you've won insourcing and all your demands. Don't go back to work even if they try to intimidate you; at the end it's impossible to fire all the workers. There mustn't be those ones who try to sneak back to work because they are scared of losing their jobs.

*What was the role of trade unions in the struggle and what should their role be?*

Trade unions have not been effective. They take our money every month but they do limited work. They are only concerned with CCMA<sup>4</sup> work. Unions had little to do with the victory at Wits. In some places they were an obstacle to the victory, like at UJ where they are close with management. The unions worry too much about the law. If you go on strike they want to stop you because you are not protected by the law but the students act now; they don't care what the law says. So I think that's how we can be successful in our struggles. The unions are too close to the government now. They are eating the money. We don't trust the current existing unions. We need a union that is powerful. Maybe it can be a union together with students. We need to look at all options when we are insourced.

*What is the way forward for insourcing at Wits now?*

We are waiting for the insourcing process but we can't relax until it actually happens. It is also very important to get a mandate. We can't just make our own decisions and assume that is what workers want. For example, we had to get a mandate to accept the R4 500 minimum wage offer.<sup>5</sup>

4. The Council for Commission, Mediation and Arbitration (CCMA) is an independent body established by South African law to mediate labour law disputes. For many vulnerable workers in South Africa, particularly in industries with no collective bargaining, it is the primary site for dispute resolution.
5. One of the initial agreements of the task team set up to implement insourcing at Wits is the establishment of a R4 500 (about \$275) monthly minimum wage for workers at the university.

### *What is the way forward for the struggle for free education?*

It is hard. As much as free education is necessary, the university needs funds. It has to come from government. The students need to put pressure on government. They need to strategise and unite at all the universities to say we are shutting down and then the government will listen. The students have exposed the ANC as a weak government who benefit themselves and I think that they are now in trouble. It is threatening the ANC rule.

### *What do you think a university should look like? What is your dream university?*

It is a place where we are free. Where all the workers and the students are free. I like what is happening now with all the struggles that have brought us together. It is not like before, when we just used to walk past each other. Now wherever I go, the students say "Mam Deliwe, our parent, how are you?" They are greeting us. It is whereby we know each other as the university community. We communicate. We get together, not only when we are protesting. We should be able to get together in a friendly and free way. So I think now we are on the way. We are not fully there yet because there are still those students and staff that are ignorant. We also want to be able to get an education, not just be staff or workers. We want to be able to do all things. We also need to be able to afford our expenses. We need a decent life with a living wage of about R20 000. The struggle is far from over but at least there is progress.

*Treating human beings like human beings is too much for a university running like a business. Then the answer is clear – we must stop it running like a business. We must make it a place where people can work and learn and teach as human beings. Maybe this looks like a dream. It is true. It is a dream. But it is a dream we must turn into the truth of our lives (UCTW Forum and UCTW Support Committee, 2010).*

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# Labour Rights for Women Campaign - Lessons and Insights from the Struggle for Maternity Protection

*By Nosipho Twala*

This paper will share the lessons and insights from campaign team members, namely, national gender coordinators from the four participating federations (COSATU, FEDUSA, NACTU and CONSAWU) and workers from all nine provinces on maternity protection. It will look at both national and international law regulating protection, as well as the gaps, examine aspects of collective agreements. It will also investigate the exclusion of other working women, such as women located in the informal economy, from maternity rights. The issue of women combining work with family responsibilities is critical. The author Catherine Hein argues that maternity protection is a parental right that all working parents need to enjoy in strengthening our agenda for gender equality. The provinces are in agreement that we need stand-alone maternity protection legislation that would ensure that all working parents are covered, including those working in the informal sector. Lastly, we will look at why we need to advocate for the ratification of the Maternity Protection Convention.

For the Labour Rights for Women Campaign, maternity protection is a critical element in ensuring equal opportunity for both men and women in the world of work. When women have access to maternity protection, they are able to combine their productive and reproductive roles, enabling them to compete in the productive sphere on a more equal footing (Hein, 2010). If we look at Sustainable Development Goal No. 5, we will learn that the world has moved on. Gender equality is not only a fundamental human right, but the necessary foundation for a more peaceful, prosperous and sustainable world (UN Sustainable Development Goals 2030).

As a campaign, we have learnt that, perhaps we have been looking at this issue from a wrong angle because the reality on the ground (the workplace, community and collective agreements) does not support how we have approached the debate on maternity protection. Maternity protection is a human right and a gender issue. It is not a women's only issue but the whole of society needs to be concerned about this. The government has a responsibility to its citizens. When women give birth, they are actually giving a gift to the nation and the government must support both parents to nurture and raise the child. This is why the government must invest in maternity protection. We believe that, at a national level, workers' and employers' organisations could do more to encourage a shift away from employer-only liability schemes and set up social insurance or public fund to fund maternity protection.

The South African Constitution has a strong commitment to the eradication of discrimination and entrenchment of the value of human dignity, equality and non-sexism. The equality clause in Section 9 prohibits the state and private persons from direct or indirect discrimination against anyone of the listed grounds, including pregnancy. The Constitution also entrenches socio-economic rights, including the right to access healthcare, social security, reproductive health and social assistance.

Other legislation has been enacted to give effect to the constitutional rights and principles like the Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA) (Act No 4 of 2000) which also prohibits unfair discrimination directly or indirectly. The Employment Equity Act (EEA) (Act No 55 of 1998) is furthermore in place to advance equity by promoting equal opportunity and fair treatment in employment. It covers all employers, workers, job seekers but excludes the National Defence Force, National Intelligence Agency and the South African Secret Service. The EEA goes beyond the listed grounds prohibited in the Constitution, that is, it goes beyond family responsibility, political opinion and HIV status to include conscience, belief, birth or discrimination on any other arbitrary basis.

While South Africa has put in place progressive and expansive law dealing with equality in the workplace, the government's approach to maternity protection is not equally expansive. Women workers do not have resources to exercise their legislatively granted maternity protection rights. The Labour Relations Act (LRA) (Act No 66 of 1995) gives effect to constitutional prohibitions against discrimination but is silent on the question of maternity benefits and provisions governing these benefits. These benefits are to be found in the Basic Conditions of Employment Act (BCEA) (Act No 75 of 1997).

The BCEA guarantees the right to four consecutive months of maternity leave. Although this leave is unpaid, the BCEA makes reference to the Unemployment Insurance Act (UIA) (Act No 63 of 2001), which provides benefits to registered contributors to the fund. Consequently, it is through the UIA that maternity benefits are obtained. UIA excludes workers working less than 24 hours a month, public servants, foreign nationals working on contract, learnerships, workers who get a monthly state pension, workers who only earn commission and workers in the informal economy. The amount of benefit also depends on the credits that have built up in the fund. The difficulties in practice are many since the UIA benefit, usable for maternity leave, depends on the employer registering the employee and the credits available in the fund (UIA Act 63 of 2000).

The last ten years have seen a big shift in how the informal economy is conceptualised from a "traditional economy that will wither away and die with modern, industrial growth" to an integrated part of the economy, which is "expanding with modern, industrial growth" and here to stay (Eddie Webster and Asanda Benya – making visible the invisible). According to the Quarterly Labour Force Survey, in the first quarter of 2012 there were 2.1 million people in South Africa active in the informal economy (excluding the agricultural sector), compared to 9.5 million in the non-agricultural formal sector. Approximately 60% are female and exist without any social protection (Quarterly Labour Force Survey, 4th Quarter of 2012).

Ziona Tanzer (2014) argues that maternity protection represents an important moment in the construction and renegotiation of gender. It is the place where governments' commitment to equality are crucially tested and their conceptions of equality becomes pivotal; it brings to the fore the ways in which equality of opportunity or formal equality approaches are insufficient and obscure the ways in which men and women are situated differently. Is it substantive equality or different treatment that is called for? Yet it also forces us to confront the point at which this different treatment crosses a fine line to become a form of counter-productive entrenched stereotype (Ibid).

Maternity protection demands that we question the nature of our institutions and the ways in which they are not neutral, but gendered and call out for transformation.

The two core international laws regulating maternity protection are The Maternity Protection Convention (2000) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)(1979). Tanzer goes on to argue that “while both seek to regulate maternity protection, they differ in their application and conception of equality”. The Maternity Protection Convention allows women to abstain from the workplace for a limited period and return to the unaltered workforce. This approach does not set out to transform the world of work, but rather seeks to accommodate women within the existing structures of work (Tanzer, 2014).

CEDAW, on the other hand, has a goal of fostering a conception of child-rearing as a joint responsibility of men and women. If taken to its logical conclusion, it would require a more radical restructuring of the workforce to reflect an egalitarian view on parenting and non-instrumental view of caregiving. This is the view that is shared by the LRW campaign.

CEDAW adopts a broad application which applies to both women and men. Its focus extends to issues of structural discrimination beyond the workplace but affecting the workplace such as dealing with stereotypes that see both women and men and not only women as caregivers of children. This discrimination approach comes at a cost as it is a considerably less robust approach to maternity protection and benefits.

While the Maternity Protection Convention addresses the lack of income during maternity leave so that a woman can maintain herself and her child, medical benefits, non-discrimination, employment protection and breastfeeding at the workplace are also included. All these measures address only the women and make having children a mother’s matter and places no responsibility on fathers or partners. This does not help transform the workplace and it also excludes women in the informal sector although it makes reference to atypical forms of dependent work.

From as early as the Decisions For Life, young women in the services sector argued that pushing for parental rights and childcare facilities in the workplace will set the agenda for a broader gender equality debate in the union (Nyman, 2000). This is because maternity continues to be a source of discrimination in employment and in access to employment. Pregnant women continue to lose their jobs, even those covered by protective legislation. The parental rights approach would also fundamentally change the way in which men and women regard their roles in society. This would furthermore do away with the perception that only men are breadwinners and therefore, should not be involved in house work and child care and that women are child bearers and housework slaves (Lacom, 1991).

Patricia Nyman (2000) the National Gender Coordinator of SACCAWU also argues that shifting emphasis from maternity to comprehensive parental rights agreements and not women’s rights only would lead to a denial of parental rights for working fathers. She says that a narrow maternity agreement entrenches the perception that women are the only carers of children. A ground-breaking and comprehensive parental rights agreement was concluded with Pick n Pay in 1988 and with Makro in 2012. “It is therefore important to remember that workers are parents too”.

A proposed amendment to labour legislation drafted in line with the African Christian Democratic Party (ACDP) policy on family values focusing on parental leave and also providing for adoption and surrogacy leave, is proposed to ensure harmony with current legislation and to ensure the provisions contained in the Bill will have constitutional muster. It was drafted as a result of appeals made to the ACDP by fathers who felt strongly that provision should be made in law for "paternity leave". Fathers play an important role in the upbringing of their children. The ACDP is of the opinion that, such a provision, would facilitate early bonding between fathers and their children and that stronger and healthier families, would be one of the many potential benefits for society as a whole.

There is no explicit entitlement to paternity leave under the LRA and in the BCEA a father can use family responsibility leave for this purpose. It is true that there are biological and health reasons why maternity protection is taken by women not men but, in the same breath, if we see parenthood as a joint responsibility of men and women, it is imperative to have fathers involved in childcare from the beginning.

One of the insights gained from the campaign is the importance of creating enabling laws, which will challenge the norm that men cannot be caregivers. We seek to ultimately influence the creation of a new culture. Three days is not adequate for fathers to spend with their new born children, if we want to alter social attitudes.

The role of women in procreation should not be the basis for discrimination. The upbringing of children requires the sharing of responsibility between men and women and society as a whole. The sex based segregation of reproduction and child-rearing roles are a social construct rather than the innate and immutable role of women. Maternity should be seen as a social function requiring that men be educated about sharing the reproductive role with women.

As a campaign we have learnt that, if we introduce maternity protection as a developmental and parental rights issue affecting all working parents (same sex partners, adoptive parents, surrogate and heterosexual parents), buy-in becomes easier as everyone can locate themselves in the debate. This has assisted us in strengthening our struggle for fair and equitable parental rights. This is also in line with our campaign team focusing on strengthening our bargaining agenda for gender equality.

The campaign is advocating for UIF to be delinked from a maternity fund as this disadvantages women. Women start withdrawing from the fund long before they actually become unemployed. There is also a call for employers or HR departments to assist women with their claims as this process can sometimes be long and complicated. The Department of Labour needs to allow women to apply at least a month before the baby is born. Currently you can only apply after receiving an unbridged birth certificate (UIA 63 of 2001).

In South Africa we do not have stand-alone maternity protection legislation. Even though our legislation refers to four consecutive months of maternity leave, it is not paid. We need maternity protection legislation that will include the following elements: Job Security • Parental leave – maternity and paternity • Social security • Right to return to work • Antenatal and post-natal care • Breastfeeding provisions • Childcare • Health and safety • Career break • Adoption leave • Assistance to deal with stillbirths, miscarriages and abortions.

All women workers should have access to maternity protection benefits, including self-employed workers, those in the informal economy, migrant workers and sex workers. The vulnerability of certain categories of workers in the vulnerable sector like domestic and farm workers, mine workers, hospitality sector workers, unregistered workers, and BCEA-excluded employees namely part-time, casual, temporary, contract workers, or categories of public service workers

must also be addressed. As a campaign we believe there should be no such exclusions. We should have one piece of legislation that will cover all working women regardless of which sector one is working in.

Provinces are unanimous that maternity protection should be paid and should be extended to six months. This is in line with the Department of Health's call to exclusively breastfeed for six months. But this should not stop beneficiaries who want to return to work before six months to exercise their discretion. However, a woman cannot return to work earlier than six weeks after the birth of a child. As this may not necessarily balance with one's career progression, the legislation proposed must also be flexible enough to allow the other parent to take over maternity leave in an event where the other parent cannot continue with the maternity leave for whatever reason.

Returning to work while still breastfeeding is a critical challenge for mothers and it is one of the main reasons that working women stop breastfeeding. For many women, the lack of workplace support for breastfeeding makes working incompatible with breastfeeding. The ability to continue breastfeeding on return to work is another element of maternity protection. The Convention reaffirms a woman's right to breastfeeding breaks during working hours, and also provides that this time may be given as a reduction in working hours.

In the Convention the term "breastfeeding" is used to make clear that the break or reduction in working time is provided for the purpose of feeding the baby at the breast or expressing breastmilk for later use. It does not include bottle-feeding or simply caring for the child which is an activity which someone other than the mother might perform. Breastfeeding breaks (or the reduction in hours) are to be counted as working time and paid as such.

Childcare has also emerged as an important issue. As the face of the workplace changes, many more women are in full-time employment. Many more women also work in the informal sector. And many more women are developing their own career paths. In South Africa especially, many more women are also becoming the primary wage earners in their families, and many are also single parents. This means that changes in childcare policy and practice in the workplace are necessary. If parents, especially women, are to be productive members of the workforce whose contribution is taken seriously, they need a functioning system of childcare in the workplace to adequately support them.

Our collective agreements are weak when it comes to advancing gender equality and improving conditions of working women in the workplace. One of the strategies identified to strengthen our collective bargaining is to encourage women to locate themselves within collective bargaining by actively participating in bargaining forums and also being available to be nominated to become negotiators.

The ratification of Convention 183 needs to be seen against the backdrop of the African context. Africa has high maternal and infant mortality and morbidity which are exacerbated by HIV/AIDS (COSATU maternity protection position paper, 2016). Poverty and social vulnerability are widespread due to a loss of income related to maternity as well as health risks. Child malnutrition is also critical (COSATU position paper on maternity protection, 2016). Convention 183 is one of the oldest conventions yet only three countries have ratified it (Mwila Chigaga – ILO Gender specialist: regional maternity protection workshop, 2015). The majority of our leaders do not see this issue as a priority and there is no political will to ratify it. If we do not lobby for ratification, it will take us another hundred years to extend social protection to all working women.

Our government is a signatory to CEDAW yet we are seeing a manifestation of discrimination. As trade unions we are looking to employers to contribute to maternity protection. Is this feasible if the formal economy is less than 20%? Who is the employer when the majority of the women are working in the informal economy? Indeed, we have been looking at this issue from a wrong angle because the reality on the ground does not support how we have been approaching the debate on maternity protection. Maternity protection is a human right, women's right and a societal issue. Governments have a responsibility to their citizens and maternity protection is one of them. When women are giving birth, they are actually giving a gift to the nation.

If we want to have comprehensive maternity protection where all working parents benefit, we need to use both national and international legislation as it will strengthen our call for gender equality.

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# COLLECTIVE BARGAINING IN SOUTH AFRICA, 2011- 2015

*By George Mthethwa*

## INTRODUCTION

Collective bargaining is usually a process that is entered into by two willing parties; workers are represented by their trade unions, on the one hand, and the bosses and their representatives on the other. Collective bargaining can take place at centralised level (through a bargaining council), company level or decentralised level (plant level). The main objective of collective bargaining between employers and trade unions is to negotiate and conclude agreements that cover nominal minimum wages and working conditions.

Sectoral determinations regulate the terms or conditions of employment for vulnerable employees in sectors where workers 'are likely to be exploited, or where worker organisations and trade unions are absent' (DPRU, 2010:15). The Employment Conditions Commission convenes public hearings in order to gather proposals from both employers and employees and then makes recommendations to the Minister of Labour. Once the Minister approves the recommendations, they are published in the Government Gazette as new wage rates or sectoral determinations (Basic Conditions of Employment Act, Act No. 75 of 1997 Section 51/62).

The purpose of this chapter is to look at the outcomes of collective bargaining in South Africa from 2011 to 2015. Labour Research Service reviewed collective agreements for the period 2011- 2015. Due to consideration of space Table 1 below only shows the 719 collective agreements collected in 2011 and 619 collective agreements in 2015 which were negotiated at various bargaining councils as well as at a decentralised level with an estimated coverage of 2 661 938 workers in 2011 and 2 757 450 workers in 2015. LRS also examined 9 sectoral determinations that cover an estimated 4 248 001 unorganised workers through legislated nominal minimum wages (LRS, 2015). LRS visited union offices, together with the use of email, telephone and fax correspondence in order to communicate with trade union representatives in collecting these documents.

**Wage category:** the category of worker used is generally located at the minimum entry level wage or the lowest wage level within the bargaining unit.

Table 1: Sample Size (Workers Covered by CBA) 2011 & 2015

Standard Industrial Classification Major Division (SIC)	Number of Wage Agreements 2011	Estimated number of workers covered 2011	Number of Wage Agreements 2015	Estimated number of workers covered 2015
Agriculture...	31	5 277	20	6 643
Community...	15	1 431 060	24	1 530 900
Construction	16	131 119	11	90 318
Electricity...	2	38 250	16	43 874
Financial...	70	102 797	52	49 633
Manufacturing	345	344 154	179	475 065
Mining...	80	173 039	62	139 586
Transport...	24	146 710	12	131 315
Wholesale...	135	289 532	243	198 344
<b>Total</b>	<b>719</b>	<b>2 661 938</b>	<b>619</b>	<b>2 575 450</b>

Source: Labour Research Service (Actual Wage Rates Database), 2016

The process of analysing collective bargaining agreements however faced some challenges due to the fact that there was uneven cooperation from regional offices in submitting the agreements to the LRS office. Some collective bargaining agreements also lacked pertinent information and therefore could not be included in this analysis.

LRS calculates median wages as they are better able to deal with outliers in the sample and thus provide the central location of the data. It is important to note that Statistics South Africa only provides average inflation rates. LRS uses the nominal median percentage wage increase and the average inflation rate to calculate real wage increases. Despite this limitation the results are fairly accurate.

Section one of this chapter examines nominal median minimum wages as captured in collective bargaining agreements negotiated in various bargaining councils and as well as through plant level negotiations and adjusts these nominal median minimum wages by taking the average inflation rate into account to determine the real median minimum wages. The overall aim of the chapter is to develop an understanding of nominal wages, real wages and inflation, in an endeavour to assist negotiators in future bargaining rounds.

Section two of this chapter looks at the sectoral determination of nominal minimum wages that are legislated by the Minister of Labour. It looks at nominal minimum wages and real minimum wages by different sectoral determinations and adjusts these, taking the average inflation rate into account to determine the real minimum wages.

## Summary of wage outcomes achieved through collective bargaining agreements

In this chapter, the term inflation means a sustained increase in the general level of prices for goods and services. It is measured as an annual percentage increase.

The annual inflation rate as measured by Statistics South Africa's Consumer Price Index averaged 5% in 2011, and declined to 4.6% in 2015.

The lowest nominal median minimum wages was achieved in the agriculture industry at R1 836 per month in 2011. It increased to R2 607 per month in the 2015.

The highest nominal median minimum wages was found in the electricity, gas & steam industry at R5 085 per month in 2011 and R7 794 in 2015.

### *Wage outcome of Sectoral Determination*

The lowest minimum wage in the sectoral determination was found in the domestic workers (who works 27 ordinary hours per week or less) area B at R974 in 2011 and increased to R1 412 in 2015.

The highest minimum wage in the sectoral determination was found in the private security area 1 at R2 411 in 2011 and which increased to R3 482 in 2015.

### *Different levels of nominal median minimum wages 2011- 2015*

The sectoral determination level recorded the lowest nominal median minimum wages of R1 942 in 2011 which increased to R2 684 in 2015. The bargaining council nominal median minimum wage was R2 674 in 2011 and increased to R3 553 in 2015. The plant level nominal median minimum wage was R3 369 in 2011 and increased to R3 610 in 2015.

## DEFINITIONS AND TERMS

**Plant Level Agreements:** These are agreements that are concluded between a single employer and one or more trade union. Bilateral agreements include large national companies with many plants or branches as well as small employers with only a single outlet.

**Bargaining Council:** These agreements are concluded between associations of employers and one or more trade union.

**Sectoral Determination:** These are agreements covering workers in designated/ specific industries.

**Cash Wage or Nominal Wage:** This is the amount of money that the employer pays the workers, for example, if a worker earns R3, 500 per month then that is the worker's cash wage.

**Real Wages:** This refers to the value of the wage in terms of what it can buy, that is, the purchasing power of the wage. It is called a real wage because it has taken the effects of rising prices (inflation) on workers' wages into account.

**Median Wage:** A median wage is the boundary between what the highest 50% of workers are paid and what the lowest 50% of wage earners are paid. Thus, if the median wage in South Africa is R3, 033, this means that 50% of workers are earning above the median wage and 50% are paid below it.

**Consumer Price Index** measures the change over time in the general price level of goods and services that households buy for the purpose of sustaining themselves (consumption). The Consumer Price Index (CPI) is used to measure the price level in the economy and is published by Statistics South Africa on a monthly basis. Putting it simply, it is a weighted average of the price of goods and services that households purchase.

**Minimum Wage:** This is the lowest wage permitted by law or a negotiated collective agreement

**NBCCI:** National Bargaining Council for the Chemical Industry

**FMCG:** Fast Moving Consumer Goods

**SALGA:** South African Local Government Association

**PSCBC:** Public Sector Coordinating Bargaining Council

**SARPBC:** South African Road Passenger Bargaining Council

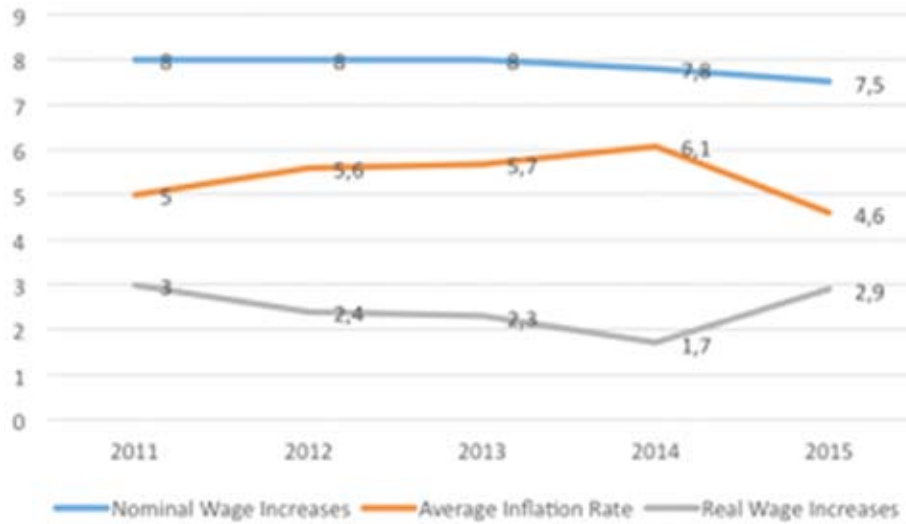
**MEIBC:** Metal and Engineering Industry Bargaining Council

**MIBCO:** Motor Industry Bargaining Council

**NBCRFLLI:** National Bargaining Council Road Freight Logistical Industry

Figure 1 shows that the nominal median wage percentage increase was 8% from 2011 to 2015. If we take into account the average inflation rate of 5.4%, workers gained a real percentage increase of 2.6% for the period of 2011 to 2015. Thus, with a real increase of 2.6%, we can conclude that minimum wages have stagnated over the period of 2011 to 2015.

Figure 1: Nominal Median Wage Increase, Average Inflation Rate and Real Wage Increase by Industries 2015



Source: Labour Research Service (Actual Wage Rates Database), Statistics South Africa, 2016

Figure 2 shows that nominal median minimum wages in all industries increased from R3 149 in 2011 to R3 570 in 2015. Nominal median minimum wages have thus increased by R421 (13%) or R84 per year over a five year period. Real median minimum wages increased from R2 994 in 2011 to R3 407 in 2015. Thus, the real median minimum wage increased by R413 (13%) or R83 per year over a five year period.

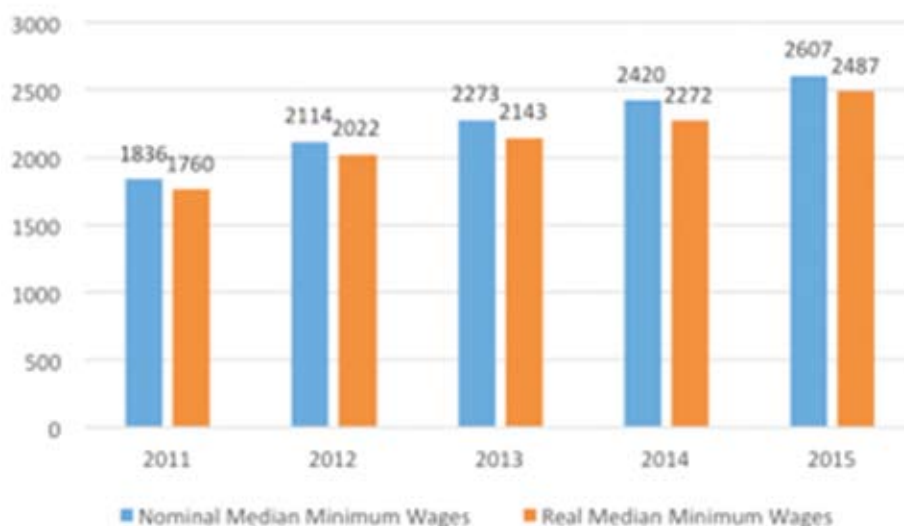
Figure 2: Median Nominal Minimum Wages and Real Median Minimum Wages by Industries, 2011- 2015



Source: Labour Research Service (Actual Wage Rates Database), 2016

Figure 3 shows that nominal median minimum wages in the agriculture, hunting, forestry and fishing industry increased from R1 836 in 2011 to R2 607 in 2015. Nominal median minimum wages have thus increased by R771 (42%) or R155 per year over a five year period. Real median minimum wages increased from R1 760 in 2011 to R2 487 in 2015. Thus, the real median minimum wage increased by R727 (41%) or R145 per year over a five year period.

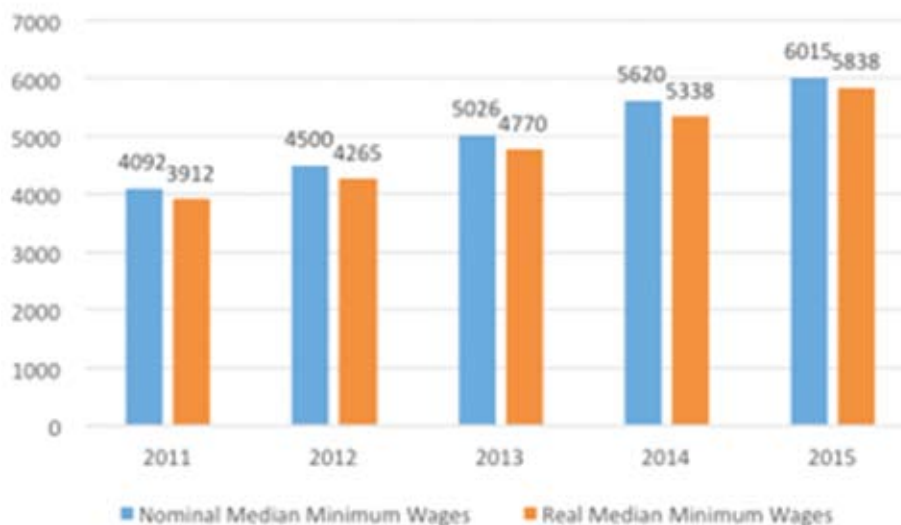
Figure 3: Agriculture, Hunting, Forestry & Fishing Median Nominal Wages and Real Median Minimum Wages 2011- 2015



Source: Labour Research Service (Actual Wage Rates Database), 2016

Figure 4 shows that nominal median minimum wages in community, social and personal services increased from R4 092 in 2011 to R6 015 in 2015. Nominal median minimum wages have thus increased by R1 923 (47%) or R384 per year over a five year period. Real median minimum wages increased from R3 912 in 2011 to R5 838 in 2015. Thus, the real median minimum wage increased by R1 946 (50%) or R390 per year over a five year period.

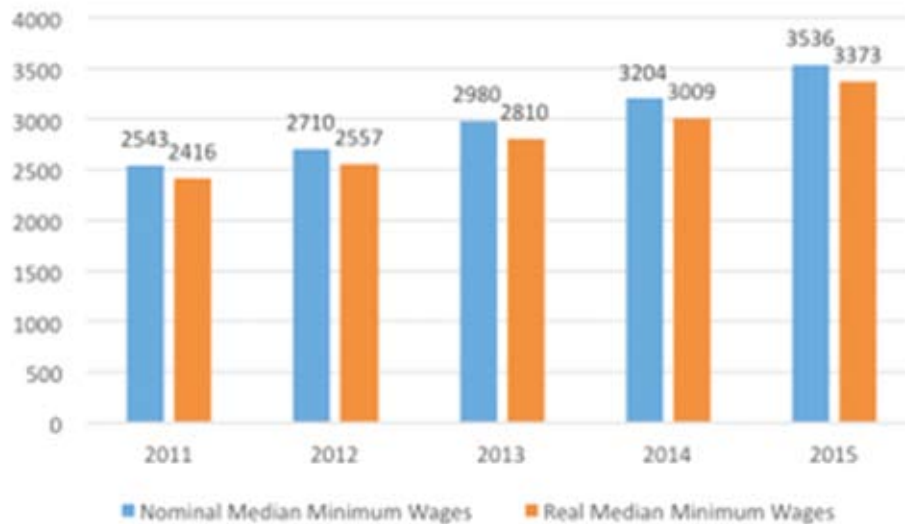
Figure 4: Community, Social & Personal Services' Median Nominal Minimum Wages and Real Median Minimum Wages, 2011- 2015



Source: Labour Research Service (Actual Wage Rates Database), 2016

Figure 5 shows that nominal median minimum wages in construction increased from R2 543 in 2011 to R3 536 in 2015. Nominal median minimum wages have thus increased by R993 (40%) or R199 per year over a five year period. Real median minimum wages increased from R2 416 in 2011 to R3 373 in 2015. Thus, the real median minimum wage increased by R957 (40%) or R191 per year over a five year period.

Figure 5: Construction Median Nominal Minimum Wages and Real Median Wages, 2011-2015



Source: Labour Research Service (Actual Wage Rates Database), 2016

Figure 6 shows that median nominal minimum wages in electricity, gas and steam increased from R5 085 in 2011 to R7 794 in 2015. Median nominal minimum wages have thus increased by R2 709 (53%) or R542 per year over a five year period. Real median minimum wages increased from R4 831 in 2011 to R7 449 in 2015. Thus, the real median minimum wage increased by R2 618 (54%) or R524 per year over a five year period.

Figure 6: Electricity, Gas & Steam Median Nominal Minimum Wages and Real Median Minimum Wages, 2011- 2015



Source: Labour Research Service (Actual Wage Rates Database), 2016

Figure 7 shows that median nominal minimum wages in finance, insurance, real estate and business services increased from R2 646 in 2011 to R3 250 in 2015. Median nominal minimum wages have thus increased by R604 (22%) or R121 per year over a five year period. Real median minimum wages increased from R2 525 in 2011 to R3 120 in 2015. Thus, the real median minimum wage increased by R595 (23%) or R119 per year over a five year period.

**Figure 7: Finance, Insurance, Real Estate & Business Services' Nominal Median Wages and Real Median Wages, 2011- 2015**



Source: Labour Research Service (Actual Wage Rates Database), 2016

Figure 8 shows that median nominal minimum wages in manufacturing increased from R3 073 in 2011 to R3 957 in 2015. Median nominal minimum wages have thus increased by R884 (28%) or R177 per year over a five year period. Real median minimum wages increased from R2 907 in 2011 to R3 776 in 2015. Thus, the real median minimum wage increased by R869 (29%) or R174 a year over a five year period.

**Figure 8: Manufacturing Nominal Median Minimum Wages and Real Median Minimum Wages, 2011- 2015**



Source: Labour Research Service (Actual Wage Rates Database), 2016



Figure 9 shows that median nominal minimum wages in mining and quarrying increased from R4 311 in 2011 to R6 202 in 2015. Median nominal minimum wages have thus increased by R1 891 (43%) or R378 per year over a five year period. Real median minimum wages increased from R4 095 in 2011 to R5 917 in 2015. Thus, the real median minimum wage increased by R1 822 (44%) or R364 per year over a five year period.

Figure 9: Mining and Quarrying Nominal Median Minimum Wages and Real Median Minimum Wages 2011- 2015



Source: Labour Research Service (Actual Wage Rates Database), 2016

Figure 10 shows how median nominal minimum wages in transport, storage and communication increased from R3 732 in 2011 to R5 346 in 2015. Median nominal minimum wages have thus increased by R1 614 (43%) or R323 per year over a five year period. Real median minimum wages increased from R3 545 in 2011 to R5 129 in 2015. Thus, the real median minimum wage increased by R1 584 (44%) or R317 per year over a five year period.

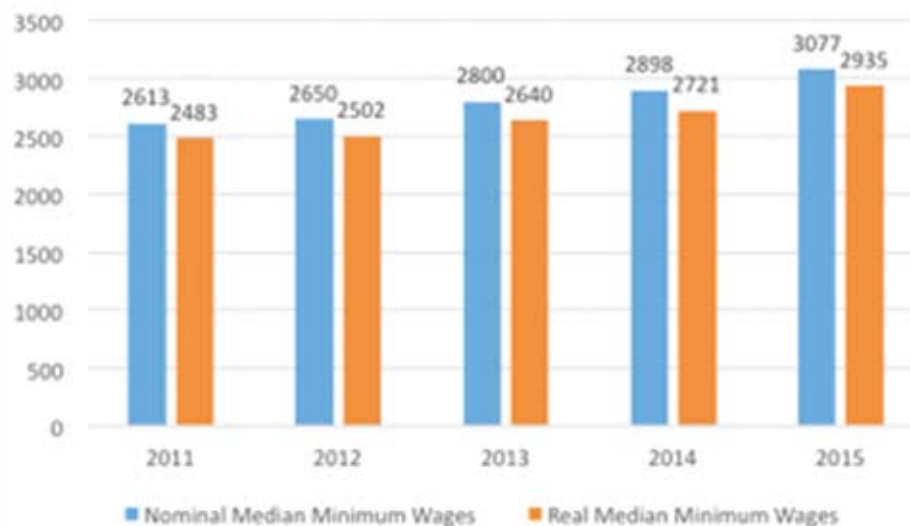
Figure 10: Transport, Storage & Communication Nominal Median Minimum Wages and Real Median Minimum Wages, 2011- 2015



Source: Labour Research Service (Actual Wage Rates Database), 2016

Figure 11 shows how median nominal minimum wages in the wholesale and retail trade, hotels and restaurants increased from R2 613 in 2011 to R3 077 in 2015. Median nominal minimum wages have thus increased by R464 (18%) or R93 per year over a five year period. Real median minimum wages increased from R2 483 in 2011 to R2 935 in 2015. Thus, the real median minimum wage increased by R452 (18%) or R90 per over a five year period.

**Figure 11: Wholesale and Retail Trade, Hotels and Restaurants' Nominal Median Minimum Wages and Real Median Minimum Wages, 2011- 2015**



Source: Labour Research Service (Actual Wage Rates Database), 2016

Figure 12 shows how median nominal minimum wages by bargaining councils increased from R2 674 in 2011 to R3 553 in 2015. Median nominal minimum wages have thus increased by R879 (32%) or R176 per year over a five year period. Real median minimum wages increased from R2 540 in 2011 to R3 390 in 2015. Thus, the real median minimum wage increased by R850 (33%) or R170 per year over a five year period.

**Figure 12: Bargaining Council Collective Agreements Nominal Median Minimum Wage and Real Median Minimum Wage, 2011- 2015**



Source: Labour Research Service (Actual Wage Rates Database), 2016

Figure 13 shows that median nominal minimum wages through decentralised (plant level) collective agreements increased from R3 369 in 2011 to R3 610 in 2015. Median nominal minimum wage have thus increased by R241 (7.1%) or R48 per year over a five year period. Real median minimum wages increased from R3 201 in 2011 to R3 443 in 2015. Thus, the real median minimum wage increased by R242 (7.5%) or R48 per year over a five year period.

Figure 13: Decentralised Collective Agreements, Median Nominal Minimum Wages and Real Median Minimum Wages, 2011- 2015

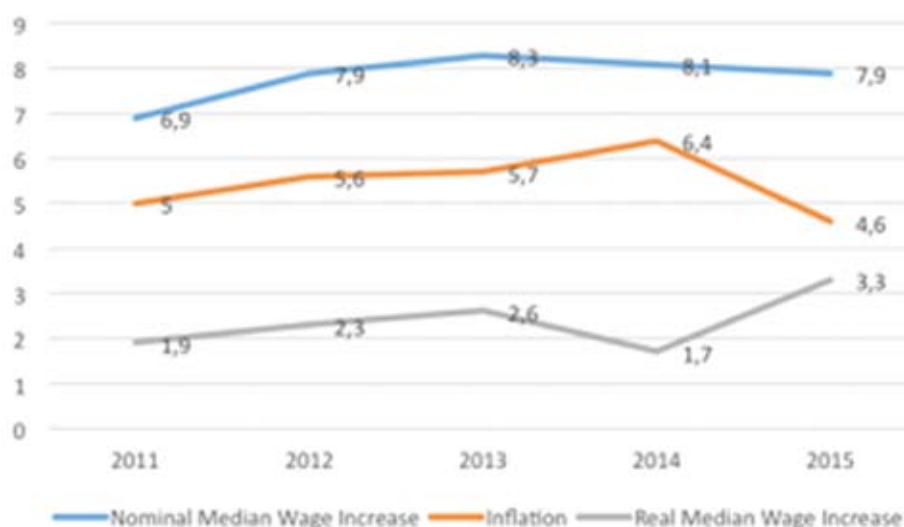


Source: Labour Research Service (Actual Wage Rates Database), 2016

## SECTION TWO

### SECTORAL DETERMINATION MINIMUM WAGES, 2011- 2015

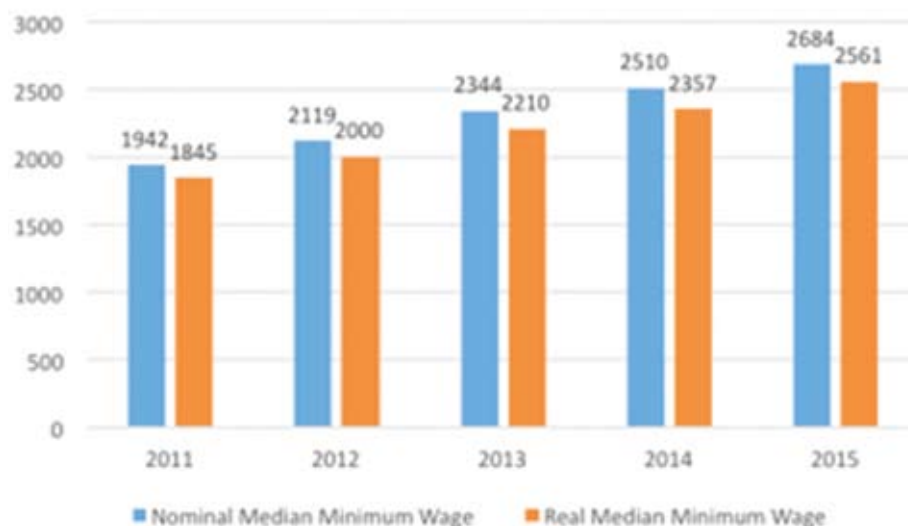
Figure 14 shows that the nominal median wage percentage increase was 7.9% from 2011 to 2015. If we take into account the average inflation rate of 5.5%, workers gained a real percentage increase of 2.4% for the period of 2011 to 2015. Thus, with a real increase of 2.4%, we can conclude that minimum wages have stagnated over the period of 2011 to 2015.



Source: Labour Research Service (Actual Wage Rates Database), Statistics South Africa, 2016

Figure 15 shows that median nominal minimum wages for all sectoral determinations increased from R1 942 in 2011 to R2 684 in 2015. Median nominal minimum wages have thus increased by R742 (38%) or R148 per year over a five year period. Real median minimum wages increased from R1 845 in 2011 to R2 561 in 2015. Thus, the real median minimum wage increased by R716 (38%) or R143 per year over the five year period.

Figure 15 Median Nominal Minimum Wages and Real Median Minimum Wages by Sectoral Determinations: 2011- 2015



Source: Labour Research Service (Actual Wage Rates Database), 2016

Figure 16 shows how nominal minimum wages for the farm workers' sectoral determinations increased from R1 376 in 2011 to R2 607 in 2015. Median nominal minimum wages have thus increased by R1 231 (89%) or R246 per year over a five year period. Real median minimum wages increased from R1 307 in 2011 to R2 487 in 2015. Thus, the real median minimum wage increased by R1 180 (90%) or R236 per year over the five year period.

Figure 16: Farm Workers' Minimum Wages and Real Minimum Wages, 2011- 2015



Source: Labour Research Service (Actual Wage Rates Database), 2016

Figure 17 shows how nominal minimum wages for the forestry workers' sectoral determinations increased from R1 276 in 2011 to R2 607 in 2015. Nominal minimum wages have thus increased by R1 331 (104%) or R266 per year over a five year period. Real median minimum wages increased from R1 212 in 2011 to R2 487 in 2015. Thus, the real median minimum wage increased by R1 275 (105%) or R255 per year over the five year period.

Figure 17: Forestry Nominal Minimum Wages and Real Minimum Wages, 2011- 2015



Source: Labour Research Service (Actual Wage Rates Database), 2016

Figure 18 shows that nominal minimum wages in taxi workers' sectoral determinations increased from R1 726 in 2011 to R2 413 in 2015. Nominal minimum wages have thus increased by R687 (40%) or R137 per year over a five year period. Real median minimum wages increased from R1 640 in 2011 to R2 302 in 2015. Thus, the real median minimum wage increased by R662 (40%) or R132 per year over a five year period.

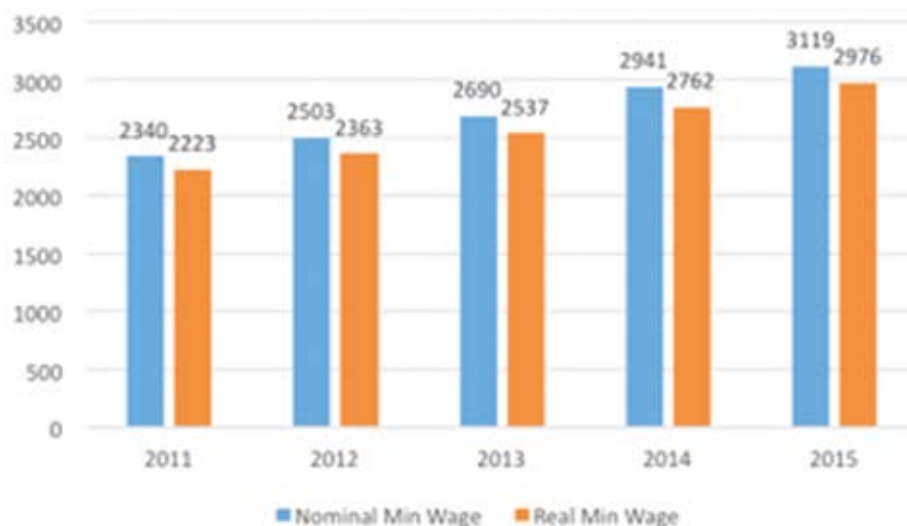
Figure 18: Taxi Nominal Minimum Wages and Real Minimum Wages, 2011- 2015



Source: Labour Research Service (Actual Wage Rates Database), 2016

Figure 19 shows that nominal minimum wages for contract cleaning area (a) sectoral determinations increased from R2 340 in 2011 to R3 119 in 2015. Nominal minimum wages have thus increased by R779 (33%) or R156 per year over a five year period. Real median minimum wages increased from R2 223 in 2011 to R2 976 in 2015. Thus, the real median minimum wage increased by R753 (33%) or R151 over a five year period.

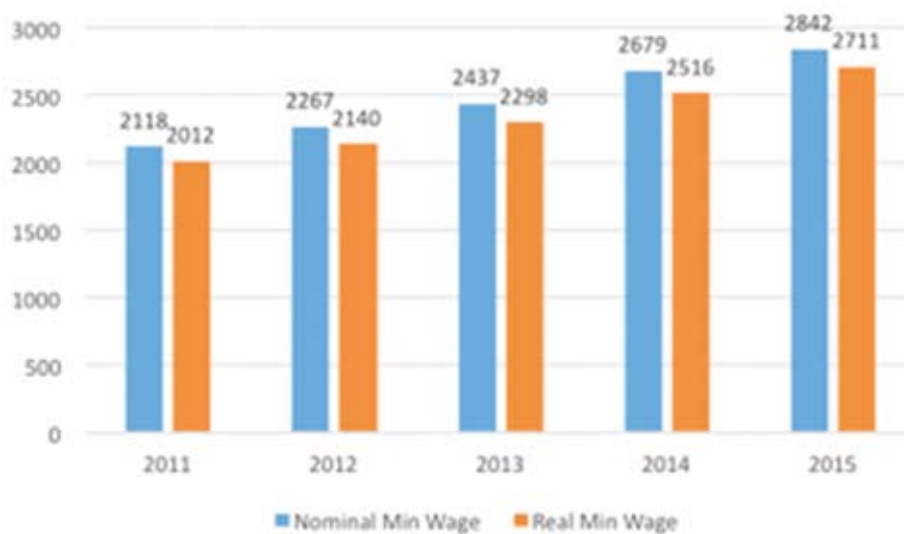
Figure 19: Contract Cleaning Area A Nominal Minimum Wages and Real Minimum Wages, 2011- 2015



Source: Labour Research Service (Actual Wage Rates Database), 2016

Figure 20 shows that nominal minimum wages for contract cleaning area (c) in sectoral determinations increased from R2 118 in 2011 to R2 842 in 2015. Nominal minimum wages have thus increased by R724 (34%) or R145 per year over a five year period. Real median minimum wages increased from R2 012 in 2011 to R2 711 in 2015. Thus, the real median minimum wage increased by R699 (34%) or R140 per year over a five year period.

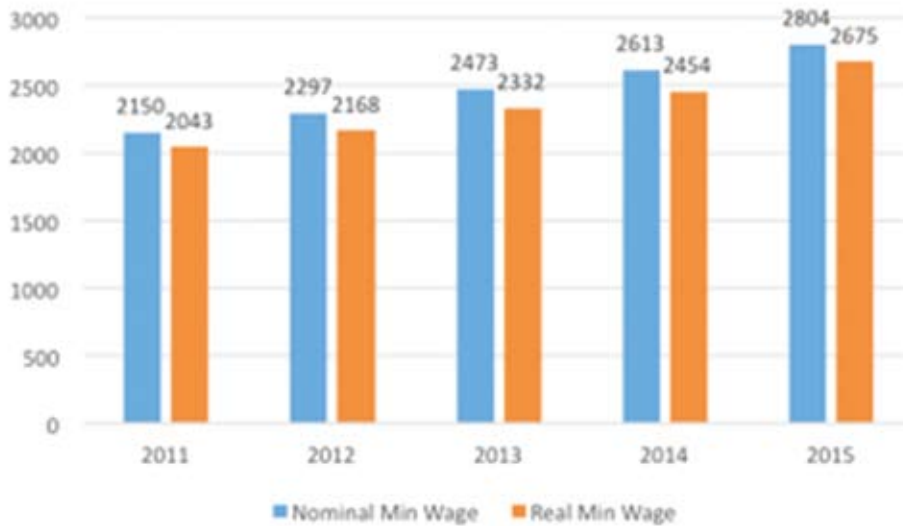
Figure 20: Contract Cleaning Area C Nominal Minimum Wage and Real Minimum Wages, 2011- 2015



Source: Labour Research Service (Actual Wage Rates Database), 2016

Figure 21 shows that nominal minimum wages for wholesale and retail trade area (a) sectoral determinations increased from R2 150 in 2011 to R2 804 in 2015. Nominal minimum wages have thus increased by R654 (30%) or R131 per year over a five year period. Real median minimum wages increased from R2 043 in 2011 to R2 675 in 2015. Thus, the real median minimum wage increased by R632 (31%) or R126 per year over a five year period.

Figure 21: Wholesale & Retail Trade Area A Nominal Minimum Wage and Real Minimum Wage, 2011- 2015



Source: Labour Research Service (Actual Wage Rates Database), 2016

Figure 22 shows that nominal minimum wages for wholesale and retail trade area (b) sectoral determinations increased from R1 884 in 2011 to R2 514 in 2015. Nominal minimum wages have thus increased by R630 (33%) or R126 per year over a five year period. Real median minimum wages increased from R1 790 in 2011 to R2 398 in 2015. Thus, the real median minimum wage increased by R608 (34%) or R122 per year over a five year period.

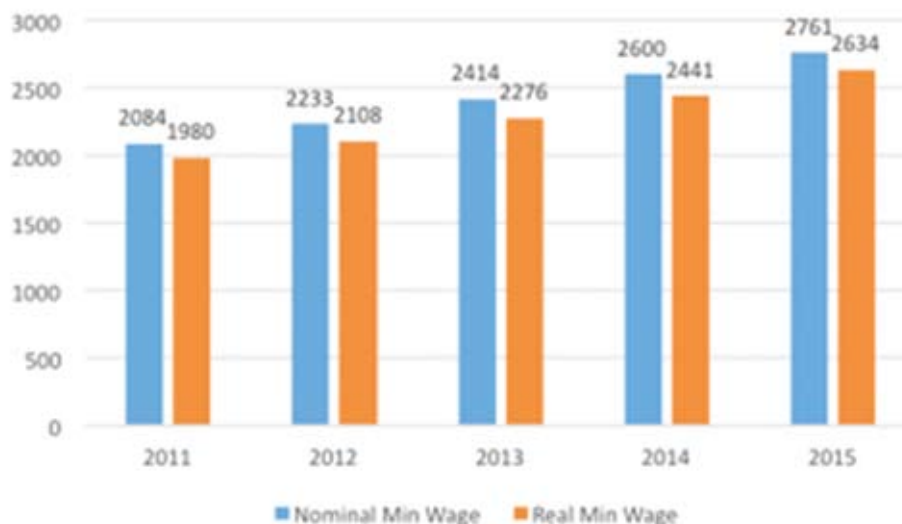
Figure 22: Wholesale & Retail Trade Area B Nominal Minimum Wages and Real Minimum Wages, 2011- 2015



Source: Labour Research Service (Actual Wage Rates Database), 2016

Figure 23 shows that nominal minimum wages for hospitality sectoral determinations (less than 10 employees) increased from R2 084 in 2011 to R2 761 in 2015. Nominal minimum wages have thus increased by R677 (32%) or R135 per year over a five year period. Real median minimum wages increased from R1 980 in 2011 to R2 634 in 2015. Thus, the real median minimum wage increased by R654 (33%) or R131 per year over a five year period.

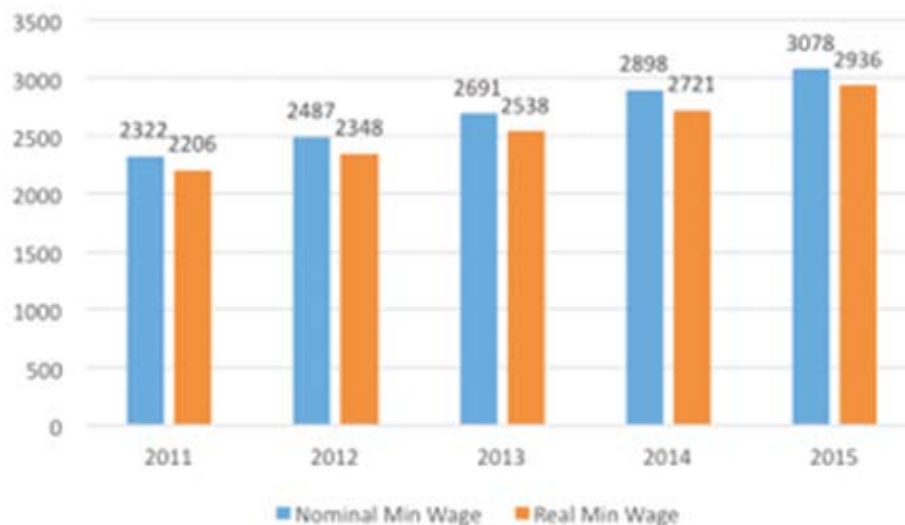
Figure 23: Hospitality Sectoral Determination (Less than 10 Employees) Nominal Minimum Wages and Real Minimum Wages, 2011- 2015



Source: Labour Research Service (Actual Wage Rates Database), 2016

Figure 24 shows that nominal minimum wages for hospitality sectoral determinations (more than 10 employees) increased from R2 322 in 2011 to R3 078 in 2015. Nominal minimum wages have thus increased by R756 (33%) or R151 per year over a five year period. Real median minimum wages increased from R2 206 in 2011 to R2 936 in 2015. Thus, the real median minimum wage increased by R730 (33%) or R146 per year over a five year period.

Figure 24: Hospitality Sectoral Determination (More than 10 Employees) Nominal Minimum Wages and Real Minimum Wages, 2011- 2015

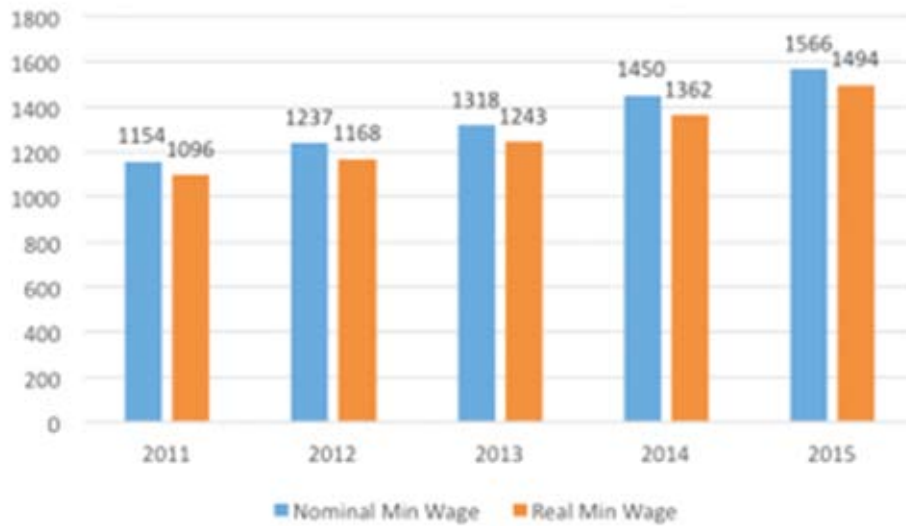


Source: Labour Research Service (Actual Wage Rates Database), 2016



Figure 25 shows that nominal minimum wages for domestic workers contained in the sectoral determinations area (a) (who works 27 ordinary hours per week or less) increased from R1 154 in 2011 to R1 566 in 2015. Nominal minimum wages have thus increased by R412 (35%) or R82 per year over a five year period. Real median minimum wages increased from R1 096 in 2011 to R1 494 in 2015. Thus, the real median minimum wage increased by R398 (36%) or R80 per year over a five year period.

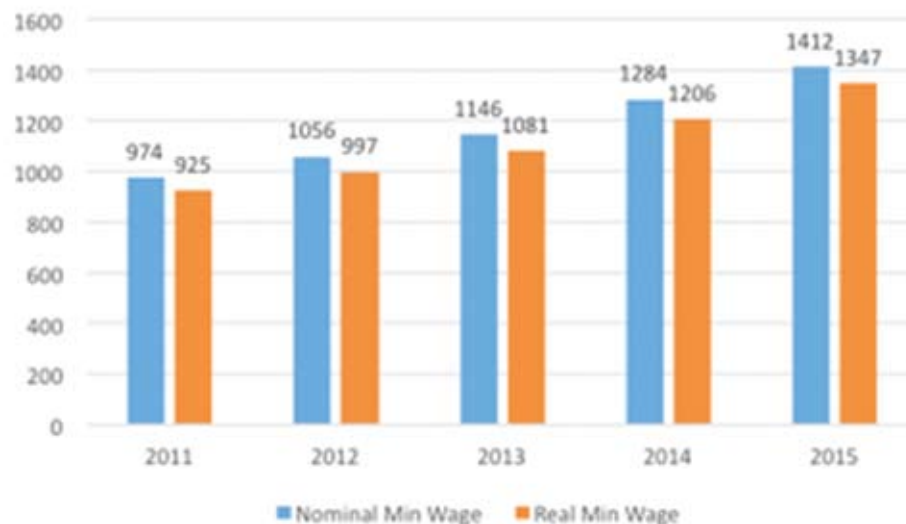
**Figure 25: Domestic Worker (who work 27 ordinary hours per week or less) Area A Nominal Minimum Wages and Real Minimum Wages, 2011 - 2015**



Source: Labour Research Service (Actual Wage Rates Database), 2016

Figure 26 shows that nominal minimum wages for domestic workers contained in sectoral determinations area (b) (who works 27 ordinary hours per week or less) increased from R974 in 2011 to R1 412 in 2015. Nominal minimum wages have thus increased by R438 (45%) or R88 per year over a five year period. Real minimum wages increased from R925 in 2011 to R1 347 in 2015. Thus, the real minimum wage increased by R422 (46%) or R84 per year over a five year period.

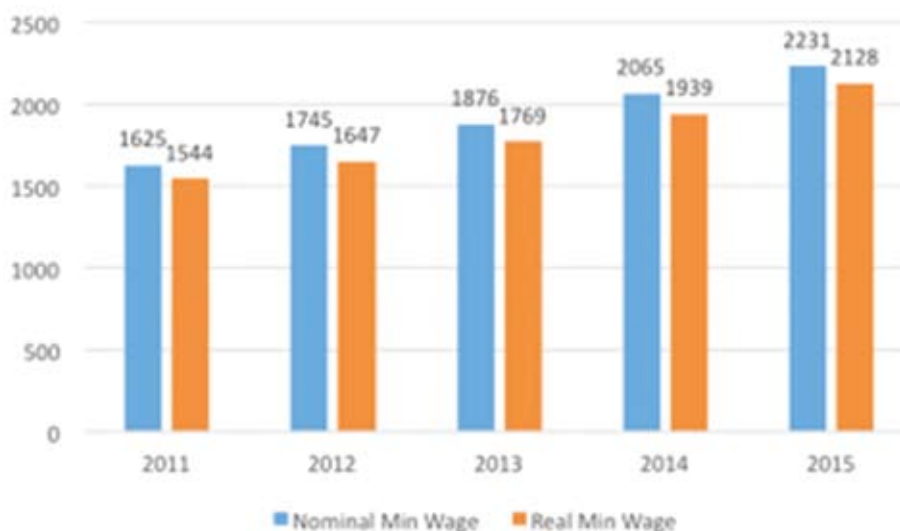
**Figure 26: Domestic Worker (who work 27 ordinary hours per week or less) Area B Nominal Minimum Wages and Real Minimum Wages, 2011 - 2015**



Source: Labour Research Service (Actual Wage Rates Database), 2016

Figure 27 shows that nominal minimum wages for domestic workers contained in the sectoral determinations area (a) (who works more than 27 ordinary hours per week) increased from R1 625 in 2011 to R2 231 in 2015. Nominal minimum wages have thus increased by R606 (37%) or R121 per year over a five year period. Real minimum wages increased from R1 544 in 2011 to R2 128 in 2015. Thus, the real minimum wage increased by R584 (38%) or R117 per year over a five year period.

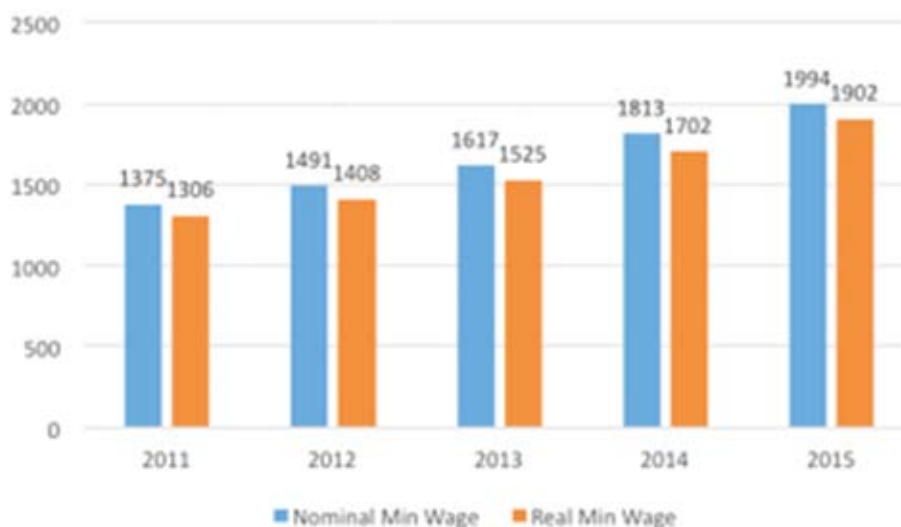
Figure 27: Domestic Worker (who works more than 27 ordinary hours per week) Area A Nominal Minimum Wages and Real Minimum Wage, 2011- 2015



Source: Labour Research Service (Actual Wage Rates Database), 2016

Figure 28 shows that nominal minimum wages for domestic workers as contained in sectoral determinations area (b) (who works more than 27 ordinary hours per week) increased from R1 375 in 2011 to R1 994 in 2015. Nominal minimum wages have thus increased by R619 (45%) or R124 per year over a five year period. Real minimum wages increased from R1 306 in 2011 to R1 902 in 2015. Thus, the real minimum wage increased by R596 (45%) or R119 per year over a five year period.

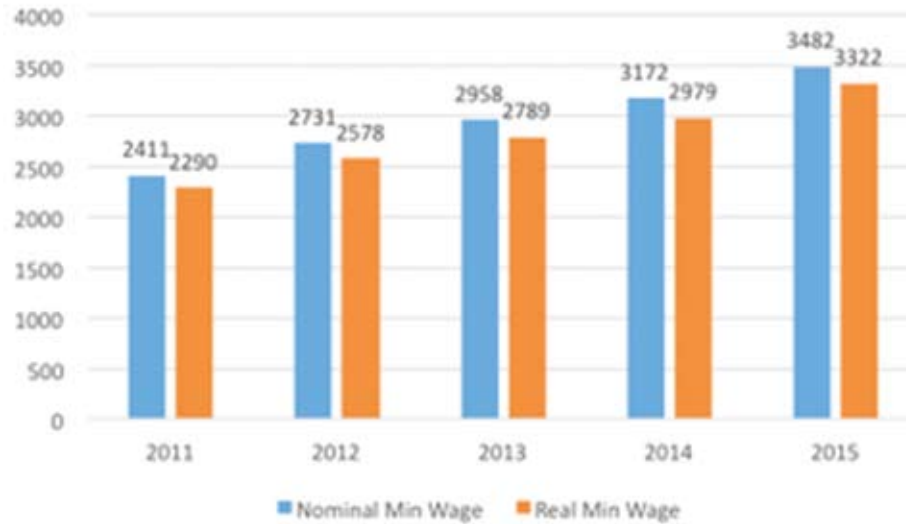
Figure 28: Domestic Worker (who works more than 27 ordinary hours per week) Area B Nominal Minimum Wage and Real Minimum Wage, 2011- 2015



Source: Labour Research Service (Actual Wage Rates Database), 2016

Figure 29 shows that nominal minimum wages for private security area 1 as contained in sectoral determinations increased from R2 411 in 2011 to R3 482 in 2015. Nominal minimum wages have thus increased by R1 071 (44%) or R214 per year over a five year period. Real minimum wages increased from R2 290 in 2011 to R3 322 in 2015. Thus, the real minimum wage increased by R1 032 (45%) or R206 per year over a five year period.

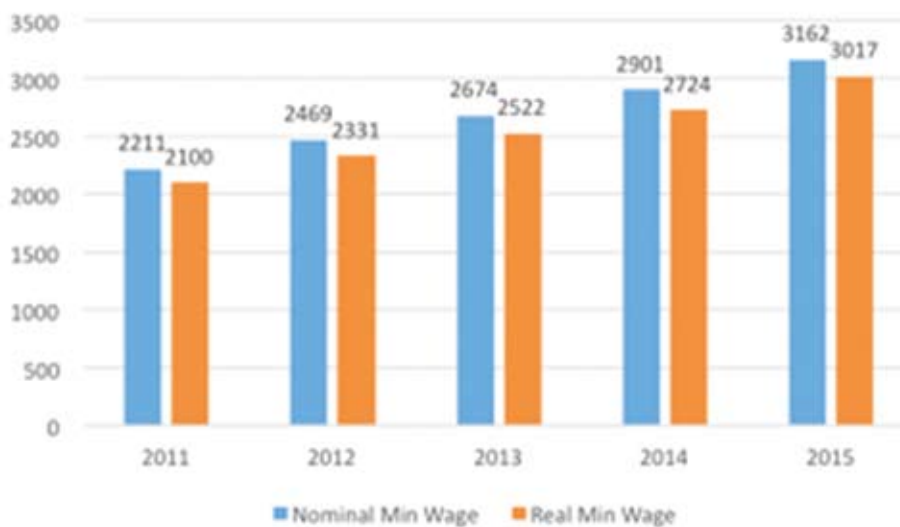
Figure 29: Private Security Area 1 Nominal Minimum Wage and Real Minimum Wage, 2011- 2015



Source: Labour Research Service (Actual Wage Rates Database), 2016

Figure 30 shows that nominal minimum wages for private security area 2 as contained in sectoral determinations increased from R2 211 in 2011 to R3 162 in 2015. Nominal minimum wages have thus increased by R951 (43%) or R190 per year over a five year period. Real minimum wages increased from R2 100 in 2011 to R3 017 in 2015. Thus, the real minimum wage increased by R917 (43%) or R183 per year over a five year period.

Figure 30: Private Security Area 2 Nominal Minimum Wage and Real Minimum Wage, 2011- 2015



Source: Labour Research Service (Actual Wage Rates Database), 2016

Figure 31 shows that nominal minimum wages for private security area 3 as contained in the sectoral determinations increased from R2 000 in 2011 to R2 874 in 2015. Nominal minimum wages have thus increased by R874 (43%) or R175 per year over a five year period. Real minimum wages increased from R1 900 in 2011 to R2 742 in 2015. Thus, the real minimum wage increased by R842 (44%) or R168 per year over a five year period.

Figure 31: Private Security Area 3 Nominal Minimum Wage and Real Minimum Wage, 2011- 2015

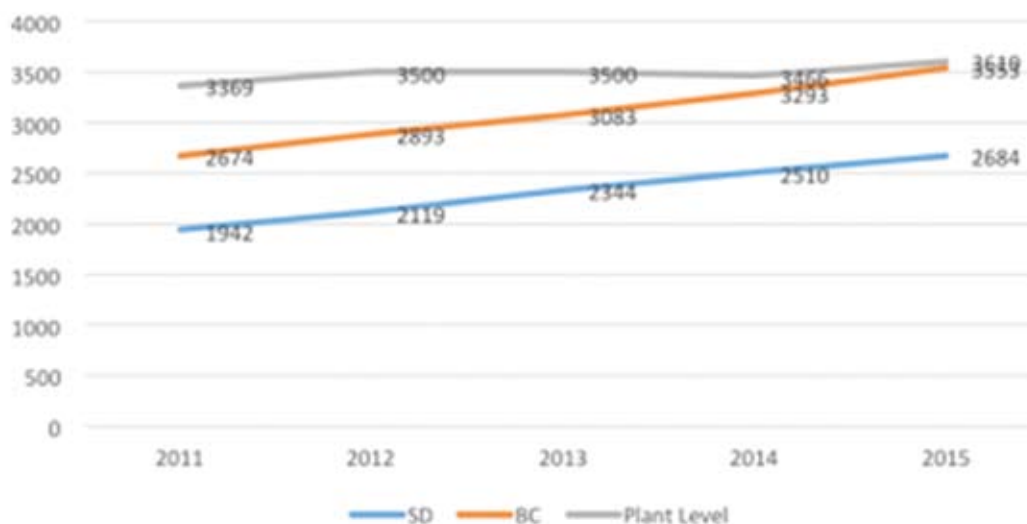


Source: Labour Research Service (Actual Wage Rates Database), 2016

## Comparison between Sectoral Determination, Bargaining Council and Plant Level Minimum Wages

Figure 32 shows that, at plant level, the highest nominal median minimum wage was R3 369 in 2011 and R3 610 in 2015, while sectoral determinations showed the lowest nominal median minimum wage of R1 942 in 2011 and R2 684 in 2015. Bargaining councils attained nominal median minimum wages of R2 674 in 2011 and R3 553 in 2015, higher than the sectoral determinations but lower than the plant level agreements.

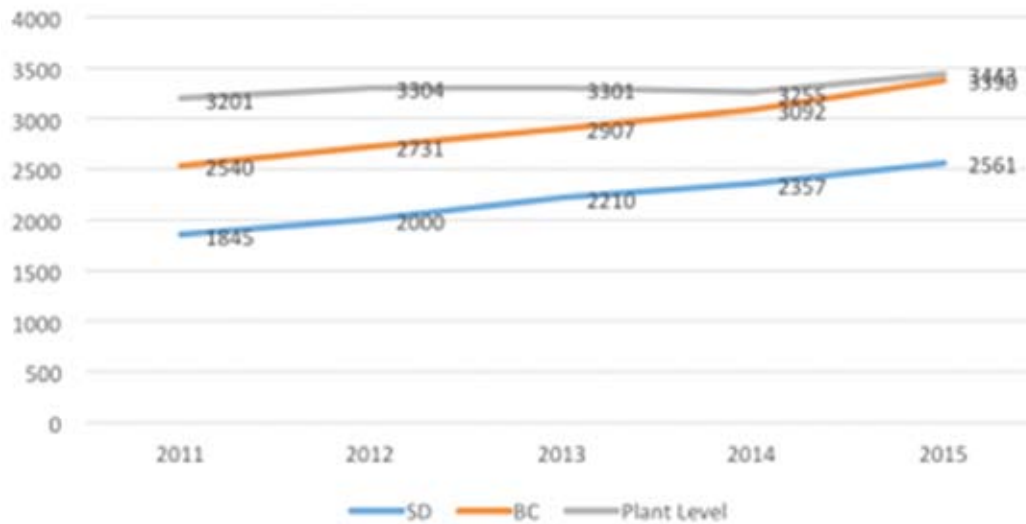
Figure 32: Nominal Median Minimum Wages by SD, BC and Plant Level, 2011- 2015



Source: Labour Research Service (Actual Wage Rates Database), 2016

Figure 33 shows that, at plant level, the highest real median minimum wage was R3 201 in 2011 and R3 443 in 2015, while sectoral determinations showed the lowest real median minimum wage of R1 845 in 2011 and R2 561 in 2015. Bargaining councils attained real median minimum wages of R2 540 in 2011 and R3 390 in 2015, higher than the sectoral determinations but lower than plant level agreements.

Figure 33: Real Median Minimum Wages by Sectoral Determination, Bargaining Council and Plant Level, 2011- 2015



Source: Labour Research Service (Actual Wage Rates Database), 2016

## CONCLUSION AND RECOMMENDATIONS

This report has tried to capture key results in terms of minimum wages of the collective bargaining process undertaken by trade unions for the period 2011 to 2015. The results show that minimum wages have stagnated and not increased by more than 2.6% over the period 2011 to 2015.

Trade union negotiators must not allow employers to come to the bargaining table with sub-inflation offers as it gives them space to move somewhere closer to or just above inflation. In principle, negotiations must start from inflation.

Instead of using average inflation only, trade union negotiators must also look at other components that affect their members, for example, transport and food inflation. According to Stats SA, there is a different inflation rate for different quintiles. Inflation is higher in the 'very low' quintiles and lower in the higher quintiles. Thus, the inflationary effect for lower income households is greater than households that earn 'high' or 'very high' incomes.

Trade unions must insist on the implementation of a national minimum wage in order to benefit those workers who are most vulnerable and to protect workers where collective bargaining is not strong.

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