

A NATION IN SEARCH OF JOBS:
Six Possible Policy Suggestions For
Employment Creation in South Africa

HAROON BHORAT

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Six Possible Policy Suggestions for
Employment Creation in South Africa**

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ABSTRACT

I provide six possible employment creating policy options within the arena of principally, but not exclusively, active labour market policy. The notion is that interventions in these areas should provide for short-term and possibly long-term employment creation avenues and options for the currently unemployed. In some cases, interventions are provided that could plausibly also stem the severe loss of jobs the economy experienced since the recession.

Keywords: Job Creation, Labour Market Policy, Interventions And Policy Options, Employment-Intensive Growth Path, South Africa

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1. INTRODUCTION

Whilst the literature analysing the labour market in South Africa is extensive, academically rigorous and empirically rich – it is true to say that the variety of policy options to be found in this literature is sparse. This short paper explicitly aims to fill this gap. Hence, whilst deliberately truncated in terms of its analytical reach, it is hoped that this is compensated for by the focused policy options provided.

Hence, I attempt below, the outline of six possible options broadly (but not exclusively) within the active labour market policy arena. These policy options, it is hoped, could provide the seedbed for a more detailed set of business plans and proposals, with the clear intention of providing government with tangible and workable policy solutions towards a more enhanced employment-intensive growth path.

2. A BRIEF LABOUR MARKET PROFILE

The contours of the labour market are fairly well-known, but it is perhaps worth dwelling briefly on its key parameters. As Table 1 indicates, from a labour force of 17.3 million individuals, 13 million are in some form of employment in the formal or informal sector. The residual are of course the unemployed here whom, according to the official definition, number 4.4 million. This renders us with a narrow unemployment rate of 25.3 percent, which in many senses, has remained in the 25-30 percent range over the last decade (Bhorat, 2010).

Table 1: South Africa's Labour Market: Stylised Facts

Indicator		
Labour Force (thousands)		17 371
Employment (thousands)		12 975
Narrow Unemployment (thousands)		4 396
Discouraged Unemployed (thousands)		2 033
Narrow Unemployment Rate (percent)		25.3
Labour Force Participation Rate (percent)		54.2
Employment	Thousands	Share (percent)
Public Sector	2 330	17.73
Manufacturing	1 740	13.24
Informal Sector	2 216	16.86
Union Members	3 263	24.82
Wages		
National Mean (per month)		R3 209*
Conditional Premium/Penalty for		
African (relative to White)		0.598
Female (relative to Male)		-0.229
Union		0.044
Degree		0.176
Simply Elasticity of		
Wages to Employment		1.0**
Employment to Output		0.8

Source: Quarterly Labour Force Survey, 2010:3 and own calculations

Notes: *: Wages are in constant 2005 prices, and based on Labour Force Survey, 2007

** : Elasticities are for the period 2001-2007 and 1995-2005 respectively.

This stubbornly high unemployment rate should be viewed as some sort of natural rate of unemployment, given its inertia around a fluctuating real output gap. Whilst we focus on this narrow unemployed group, we should not lose sight of the more than 2 million workers who have given up searching for work. These discouraged work-seekers are a powerful indicator of the deeply structural nature of South Africa's unemployment problem – an issue we turn to below in at least one of the proposed policy solutions. Whilst the economy's labour force participation rates have increased dramatically since 1994, at 54 percent they remain well below the middle-income country average.

The Employment data in the table yield four key pieces of information regarding the South African labour market. Firstly, that the public sector (as is common in many developing countries) is a dominant employer – with close to 20 percent of all workers employed by all levels of general

government. Secondly, manufacturing employment remains unspectacular with only 13 percent of all the employed within a sector, which is dominated of course by heavy, low value-added production. Thirdly, South Africa has too few participants in the informal economy,¹ relative to comparator economies (Maloney, 2004). Whilst there are a number of reasons for this, some historical, we argue below that some are the unintended consequences of a post-1994 policy regime. Finally, in terms of union density whilst at about 25 percent seems high, a comparison of estimates for a sample of 26 OECD economies suggests that the average union density for the sampled countries was 29.44, placing South Africa below this mean. Note however, that on the basis of the analysis above, if public sector union density is recorded, then South Africa's union density at 48 percent would place it fairly high up in this sample.

The estimates of conditional wage penalties or premia are all derived from a semi-logarithmic earnings function, utilising data from the Labour Force Survey of 2007. Specifically we estimate a function of the form

$$\log y_i = \alpha + \beta X_i + e_i \quad (1)$$

where, $\log y_i$ represents the natural logarithm of earnings for individual i in our sample, X_i represents a vector of individual and job characteristics. The latter then, in conditional form, contains variables such as race, gender and union status. The coefficients on these variables, is what is reported in the table above. Crucially though, they represent *national* estimates of the impact of the specific variables on earnings *at the mean*.

The results suggest that race continues to define earnings differences within the labour market. Importantly though, the conditional African – White mean wage gap has declined in the 1995 – 2007 period from 78 percent in 1995 to the 60 percent reported here. Whilst women on average remain less likely to participate and be employed in the labour market, worryingly, the gender wage gap has grown since 1995, from 20 percent to 23 percent in 2007. Hence, given our latest estimates, women (controlling for a range of factors) earn on average 23 percent less than males in the South African labour market. In terms of the impact of education, the result here suggests that possessing a degree will on average increase an individual's earnings by about 18 percent. It suggests then that employers are most likely to employ and then remunerate at higher levels, those individuals with post-schooling qualifications. This latter result simply reasserts the strong body of evidence in South Africa of an economic growth trajectory based on a disproportionate demand for skilled, semi-skilled and generally post-schooling certified individuals. The union-wage premium is crucial, as it suggests – contrary to most previous estimates – a much lower union wage gap for South Africa. Based on a new formulation of the wage equation which accounts for firm characteristics, type of work and non-wage benefits, the results suggest that being a union member affords a premium of less than 5 percent (Bhorat, Goga and van der Westhuizen, 2011). This result is much more in line with international developing country estimates (Freeman, 2010).

'Simple' elasticities of wages to employment and employment to output are provided in Table 1. For example, the wage elasticity is represented here as the ratio of the average annual percentage change in employment to the average annual percentage change in real monthly wages. Hence the data shows that the employment-wage elasticity for the overall economy was 1.0 for the 2001 to 2007 period, suggesting that a one percent rise in real monthly wages was associated with an equivalent percent increase in jobs. Whilst the result suggests a growth path built on rising wages and rising employment, not all sectors in the economy have experienced positive growth in employment and wages. For example, although not shown here, the elasticity for Agriculture and Mining was negative. In addition it is crucial to note that this positive estimate occurred in a period of relatively high economic growth, and given our wage data constraints, is for the period prior to the recession.

Finally, from the above it is evident that the simple output elasticity of total employment for the period 1995-2005 was 0.80, indicating that for every one percent growth in GDP, total employment increased by 0.8 percent. Internationally comparable estimates of output-employment elasticities in addition confirm that South Africa's estimates are fairly consistent with global measures. South Africa's output employment elasticity is not suggestive of an economy with a poor or weak labour absorptive

¹ The informal economy is defined here as all self-employed or employees of the self-employed who report working in an enterprise which is not registered as a business or not registered to pay any form of taxation.

capacity. Closer inspection also indicates that South Africa's elasticity is high relative to a number of comparator economies (Bhorat, 2008). High growth economies such as India and Malaysia for example, yield far more tepid employment response to growth: While South Africa's estimate was 0.60 then, the figures for Malaysia and India were 0.47 and 0.25 (Bhorat, 2008).

3. KEY INTERVENTIONS TO CREATING EMPLOYMENT IN SOUTH AFRICA

We present in what follows below a list, in no particular order, of six possible interventions that the South African government could potentially undertake in a bid to realize, either directly or indirectly, an increase in the rate of employment growth in the domestic economy. Needless to say, this is not an exhaustive or exclusive list. Furthermore, in almost all cases, the proposals considered are of a microeconomic nature. Indeed, there may be larger, possibly more potent macro-economic interventions available to the state to generate employment. These however, are explicitly not considered here.

The six policy suggestions, which we elaborate in greater detail sequentially below are:

1. *Re-directing investable state funds, toward a greater focus and emphasis on those listed companies directly or indirectly creating jobs*
2. *The Wage Subsidy Re-Considered*
3. *A Transport Subsidy for Unemployed Youth*
4. *Change State Procurement Rules to Grow the Informal Sector*
5. *Improving the Functioning of Public Employment Services*
6. *Considering Labour Regulatory Changes at the Margin*

3.1 Re-directing PIC investments through a Job Creation Index

The Public Investment Corporation (PIC) through the Government Employees Pension Fund (GEPF) currently has R910.9 billion (as at 31 March 2010) of assets under management. Put differently, the PIC is currently the single largest institutional investor on the JSE owning nine percent of the market capitalisation of JSE Limited. The total value of this portfolio amounted to R437 billion as at 31 March 2010, representing almost 48 percent of net assets under PIC management.

In this manner, whilst it has certainly been an activist shareholder of note, it has arguably, not been sufficiently activist in one key area of firm activity – job creation. Hence, it is not evident that the PIC has placed sufficient pressure on firms to, at a minimum, report on the number of jobs per unit of output that they have directly and indirectly created in the course of any given financial year. The 'Job Creation Index' of these listed companies could become a vital additional criterion by which the PIC's investment flows and mandates are shaped and determined. It is in effect an extremely powerful manner in which the state can incentivize listed entities to make decisions which encourage, rather than minimize employment creation through a combination of technology and investment decisions. In another manner, ensuring that a Job Creation Index features in the decisions of the PIC, may indeed alter the nature and mix of the JSE-listed entities the corporation is invested in. Given the importance of the PIC to the domestic equity market, this could certainly raise the importance of direct and indirect employment creation as a key decision parameter for growth and development of the South African economy.

In tandem, the state could conceive of another vehicle to effectively fund and support those companies which are job creators. This is through the launching of a Job Creation Index Fund on the JSE. Traded Index Funds, or 'tracker funds' as they are known internationally, such as SATRIX40, SATRIXINDI25 and SATRIXFIN15 and so on, are now a key part of any institutional and individual investors' profile. Placing a Job Creation Index Tracker Fund on the JSE is surely a very powerful means of channelling investible funds to those firms and companies which can show high employment creation levels in the domestic economy. It is of course not only a mechanism for increasing the profile of high job generating firms, but also possibly a route to increasing their access to domestic and foreign equity – and hence effectively a growth-enhancing lever to those firms which yield high job generating quotients.

In keeping with the notion of a Job Creation Index, the state could encourage and publish in every financial year, those companies yielding the highest (and lowest) levels of employment creation both directly and indirectly.

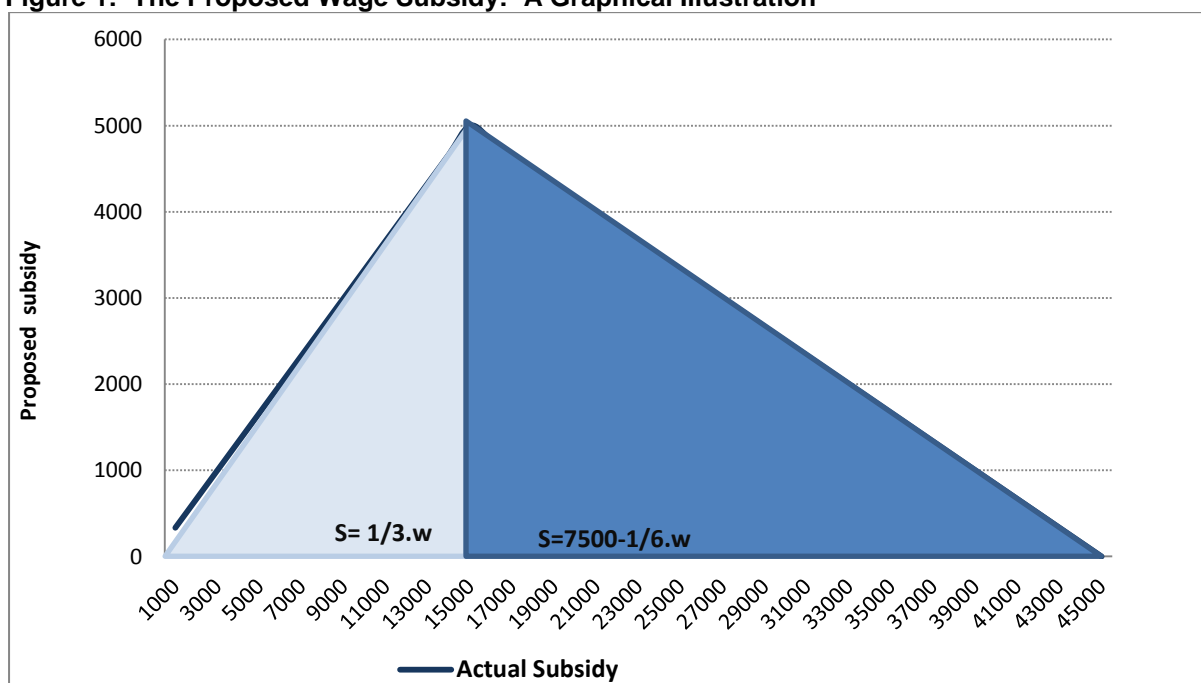
3.2 Implementation of the National Wage Subsidy Scheme

The Minister of Finance’s announcement during the 2011 Budget Speech in Parliament stressed that one element of the state’s strategy to create employment was the offering, through the tax system, of a wage subsidy to employers who hired young workers. In its original and current conception (National Treasury, 2010) the wage subsidy is conceived of as a marginal subsidy designed to subsidise net new employment, although this remains unclear in the current documentation. Secondly, the route proposed to intervening is via employers and through the tax system (specifically the PAYE system of the SARS). The reasoning here is that it would be administratively more efficient, as well as better targeted, at creating employment (as opposed to reducing welfare) if the subsidy was administered through employers, as opposed to potential employees. It may effectively also reduce leakages if administered via the tax system.

The specifics of the wage subsidy proposal, and shown graphically below as currently presented by National Treasury, are:

- For a wage less than R15,000 per annum, the subsidy(s) is equal to one-third of the wage. Hence $s = (1/3.w)$ for $w < 15000$.
- For a wage of R15,000 a year, the subsidy equals R5,000 per annum (maximum subsidy). Hence $s = 5000$ for $w = 15000$
- For a wage between R15,000 and R45,000 per annum, the annual subsidy equals R7,500 minus one-sixth of the wage. Hence $s = 7500 - [1/6.(w)]$
- For wages greater than R45,000 per annum there is no subsidy. Hence $s = 0$ for $w > 45000$

Figure 1: The Proposed Wage Subsidy: A Graphical Illustration



Given that the subsidy accrues to those earning less than R45,000 per annum, is it ex ante targeted at those individuals who are vulnerable and marginalised. Given the above then, and by most accounts in terms of international experience with such schemes, this is a well-conceived of policy idea. However, it is currently not a policy which has been implemented.

This wage subsidy proposal has now had a policy lifespan of three years, as it has successively been stalled and delayed at various stages of the policy process. At the time of writing, the proposal is currently stalled within NEDLAC, with a key blockage apparently emanating from the labour constituency, as they view the proposal as:

- a policy intervention which will only increase profits and the profit margin to employers, given that the subsidy is managed through firms;

- a policy which would displace existing (unionised and permanent) workers and be used as a strategy to move to increased non-standard employment;
- an intervention designed to encourage and facilitate a 'race to the bottom' in terms of lower wages in particular, and a deterioration in the conditions of employment and labour standards in general.

Given the above, the proposal here is to firstly 're-package' the idea, and secondly to attempt to seriously deal with organised labour's concerns through building in detailed conditions on the subsidy. Specifically the responses to union concerns within NEDLAC could be dealt with in the following manner:

- Be explicit, which is not currently the case in the documentation, that the wage subsidy is a subsidy on net new employment created by firms. Hence, the notion that this is a profit gain to employers cannot be true, if the subsidy is serving as a mechanism to entice employers to hire more, additional workers.
- The notion that the subsidy will ameliorate labour standards through reducing conditions of work, a dual labour market regime for these 'subsidy workers' and so on, can be dealt with through legislating specific enforcement of firms who participate in the scheme. The Department of Labour (through its Labour Centres) operates a nation-wide system of enforcing labour regulation (including minimum wage laws) via teams of labour inspectors. The National Treasury can earmark increased funding to these LCs to ensure that these 'wage subsidy firms' are in fact compliant with labour regulation, and not reducing labour standards. Those non-compliant firms will be heavily penalised and fined. Effectively then, the state would guarantee no slippage of labour standards through greater and targeted enforcement of participating firms.
- In order to deal with concerns about young workers replacing older, more experienced employees, it is possible to re-work the wage subsidy proposal with a set of new conditions and requirements. For example, the participating employer would need to ensure that a specific percentage of workers hired through the scheme were those on the retrenchment list or possibly even union members first.

A related proposal – which could be viewed as either complementary to, or a substitute for the wage subsidy – would be to provide a wage subsidy to the unemployed through the Unemployment Insurance Fund. The basic parameters of such a scheme could be made up as follows: That the decision rule for allocating the subsidy is to link it to those individuals who arrive the quickest at the UIF offices, from the time of retrenchment. We refer to this as the 'claim waiting period' and analysis of the UIF data indicates that this claim waiting period varies from two weeks to as long as three months. Put differently, some of the unemployed are more urgently in need of the unemployment insurance. It those with high 'urgency levels' as it were, who we are suggesting should be targeted for a wage subsidy. Hence, the proposal here is that for those individuals who have come more quickly than others to claim their benefit have (and hence for whom savings, wealth and skill levels are low), instead of a benefit, will be given a wage subsidy directly to their own account, but *conditional on their employer re-hiring them*.

The intervention could target, as with the original National Treasury wage subsidy proposal, only those individuals earning R45,000 per annum or less. Hence, in our conception here it would be targeted, co-jointly at those who are the working poor and, with this nuanced proposal, at those who arrive very rapidly at the UIF offices. Low claim waiting periods means that these individuals need income urgently. The fact remains that when this pre-selected group are offered a tied wage subsidy, it means that the employees are targeted (not the employers) at the point of entry of the subsidy. Whilst they would have their own account in which to manage this wage subsidy, it is only activated once the employer offers to re-hire the individual.² In that sense, it is an employment-creating (or employment-retaining) wage subsidy. The employer being registered with the UIF makes administration relatively easy and as efficient as if the system was run through the SARS. The key advantage is that the subsidy is delivered to the workers at the point of the first contact, and could then deal with COSATU's concerns around employers gaining from the wage subsidy.

² Indeed, this system would form the start of an 'own-account' UI and savings system that has been so successful in Chile (See Vodopivec (2008))

For this employment-retaining, wage subsidy scheme to work effectively though, there needs to be information symmetry across all parties concerned: the institution, the employer, and the employee. Otherwise, moral hazard problems may occur. For instance, the employer and the employee may collude in agreement and shorten the claim-waiting period to inflate the state of urgency for wage subsidies and exploit the wage subsidy system. In order to deal with this problem of collusion between employers and employees, a cost of a mandatory waiting period for the wage subsidy to be operational for a pre-specified period (two months for example) could be instituted. Hence an employee faces no wage income for two months, and an employer no workers for two months. There would, of course, also be a penalty cost on the colluding employers for cheating. This way, the likelihood for moral hazard problems to occur will be minimized while the institution can gain full administrative control in job creation and retention, and provide income assistance to those willing workers that are most in need of wage assistance and secured employment.

3.3 A Transport Subsidy for Unemployed Youth

Spatial apartheid laws have meant that some 15 years into democracy, residential areas continue to be defined, in the main, by race in South Africa. In short, one of the arguments often made for the economy's high unemployment rates, is the fact that spatial apartheid does not allow for optimal search behaviour amongst the unemployed. Indeed, the spatial disconnect between where the jobs are and where the majority of the employed and unemployed live, remains probably one of the key unique features of the domestic economy. It is thus extremely expensive for unemployed individuals to go out and search for jobs, as the jobs exist in areas which are extremely expensive to get to. Those who are most in need of jobs and wage income are furthest spatially from where the jobs are located.

Our initial overview of the data suggests that the average employed South African spent 33.66 minutes per day travelling to work.³ When dissected by race and gender, our results suggest that African males in 1995 spent an average of 38 minutes daily travelling to work. In contrast, employed White males committed 25 minutes on average per day to travelling. Gender differences suggest that there is on average no significant difference between males and females in daily travel time to work.

³ Mobility costs were measured as the time spent travelling to work, which may be used as a proxy measure for the cost of searching for work. Alternatively however, it would be interesting to explore the cost of intra-regional migration, for instance migration from lesser developed or more rural areas to areas where better labour market prospects exist. However, such data are not available for South Africa.

Table 2: Ratio of Time Travelled to Work, by Race, Gender and Location

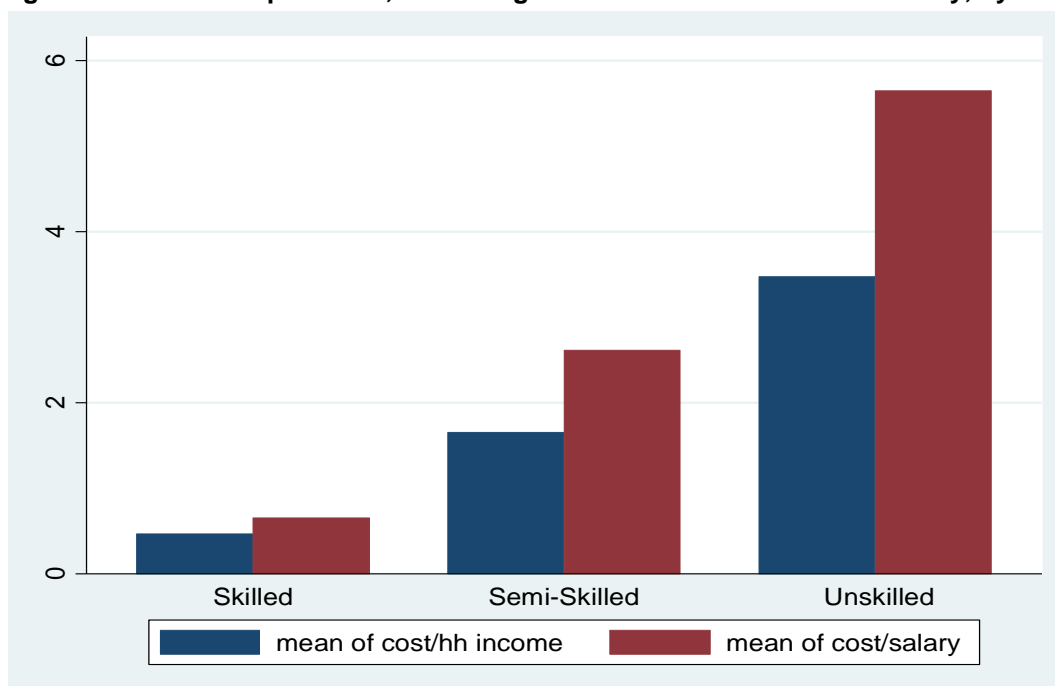
	Sub group	Ratio
Race	African	1.62*** (33.01)
	Coloured	1.23*** (12.56)
	Indian	1.33*** (12.77)
	White	1.00
Gender	Male	1.00* (1.7)
	Female	1.00
Location	Metro	1.02*** (3.79)
	Urban	1.11*** (3.10)
	Rural	1.00

Source: Own Calculations from OHS 1995

Notes: *** indicates significant at 1% level, ** at 5% level and * at 10% level.

The location ratio indicates that urban travellers travel daily 11 percent more than their rural counterparts, whilst with metro travellers this difference is smaller, at 1.02. The data by skill level indicate a significantly larger expenditure on transport, relative to both household income and wage income, amongst unskilled workers. Unskilled employed individuals need to commit 3.8 percent and 5.5 percent of their household income and wage income respectively – in order to travel to and from work. Whilst it is not clear whether this is high by international comparisons, the data here makes it plain that the legacy of spatial apartheid has meant that unskilled (and African) workers need to commit significantly more time and financial resources in order to get to and from work.

Figure 2: Mean Transport Cost, Percentage of Household Income and Salary, by Skill Level



Source: Own Calculations from OHS 1995

A final indication of the dislocation and discontinuity in the space-employment nexus, is provided in the table below. Hence, it is clear that 24 percent of the narrowly unemployed and 56 percent of all discouraged work-seekers are in areas (communal land areas) with the lowest density of jobs.

Table 3: Labour Market Status and Spatial Distribution

Type	Employed	Unemployed	Discouraged
Urban formal	0.70	0.63	0.33
Urban informal	0.08	0.11	0.10
Communal Land Areas	0.17	0.24	0.56
Rural formal	0.05	0.02	0.02

Source: Quarterly Labour Force Survey, 2010:3 and own calculations

These unemployed are often in outlying rural areas, furthest from any employment nodes in the economy – and lack both the networks and the skills to access employment opportunities in urban areas. In addition though, and this links to our proposal here, the unemployed in these areas are often too budget-constrained to go out and search for work. Put differently, the cost of searching for work is unaffordable for these individuals. Herein lies the reasoning for the proposal here: The state pilots a project wherein young unemployed people are provided with a transport subsidy to go out into high-employment density areas to search for work. Some of the possible design details for such a proposal could include the following:

- Mobility costs may be used as a proxy measure for the cost of searching for work, and therefore the value of the subsidy. Depending on the number of sites for the pilot then, the value of the subsidy could differ across sites.
- The subsidy could be provided and administered through the Department of Labour's Labour Centres where the unemployed can access information about the subsidy.
- There could be a specific set of options for search behaviour provided to the unemployed: For example, individuals use the subsidy to visit Labour Centres in urban areas to access information on where jobs are, or go to firms in urban areas which facilitate walk-in private hires. Indeed, they could use the subsidy to explore self-employment opportunities in urban areas.
- More than one round of a subsidy should be provided, to allow for a 'learning' period during the search. One can think, for example of five rounds of job search subsidised over a pre-specified period such as five months.

Ultimately then, given the above design details, a transport subsidy pilot project will test whether the spatial disconnect between jobs and the jobless, can be overcome via supporting the travel costs of the unemployed.

3.4 State Procurement Rules and the Informal Sector

Currently, state procurement, possibly one of the largest purchasers of goods and services in the economy, is ostensibly served by a framework designed to incorporate and grow black businesses. Formally known as Broad-Based Black Economic Empowerment (BBBEE), the policy, whilst admirable in intention, has yet to reach those in the informal economy and formal micro-enterprises. Indeed, the elements of BBBEE which emphasise for example employment equity in HR, procurement, CSI and ownership – whilst correctly focused on redress and redistribution – is in no way a mechanism for increasing business and employment opportunities to the truly economically marginalised. As a mechanism for employment creation, it has been a failure.

Given the above, two specific inter-linked proposals are made:

- Firstly, it is proposed that a system of indirect access to state procurement be instituted, wherein those recipients of large state contracts are required to include (where practically feasible) an informal sector partner with the tender submission. In addition, monitoring of the contract outcomes should ensure that these informal sector operators are remunerated for effort at a pre-set minimum.
- Secondly, that specific state procurement contracts are exclusively targeted at micro-enterprises, to encourage and grow these businesses as well as create employment. One can imagine that state tenders around catering, provision of school uniforms, and some low-technology or service-oriented contracts with government, could be retained in large part for micro-enterprises only.

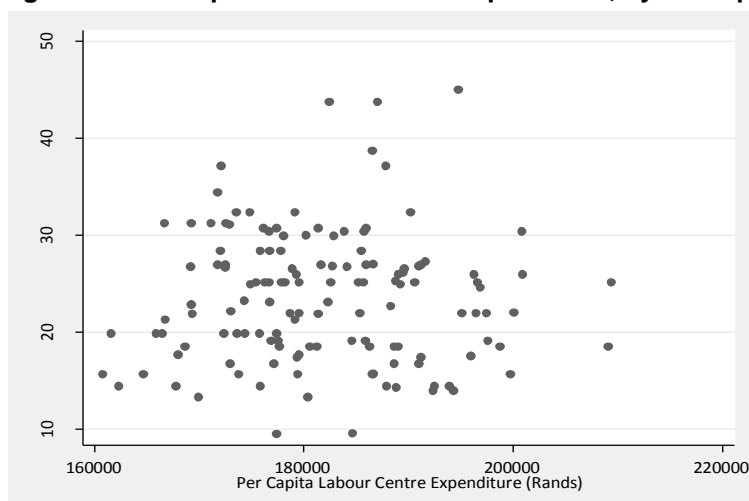
The inclusion of informal sector providers (or only registered micro-enterprises perhaps) effectively reaches not only the poor, but those firms which are invariably more labour-intensive than their larger counterparts in the similar industries. State procurement which re-orientates itself partly from a pure BBBEE model to one which includes employment intensity and the informal sector – is a key route to enabling state procurement to increase the employment outcomes from state expenditure.

3.5 Public Employment Services and Labour Market Asymmetries

South Africa, according to the most recent administrative data, has 135 public employment service offices known as Labour Centres, spread throughout the country. Currently, our data indicate that the DoL employs some 5,806 staff within the Public Employment Service system with a total budgetary commitment of about R1 billion, which translates into a per capita expenditure of about R175,000 per staff member within the PES system.

The figure below shows very clearly that there is little relationship between the unemployment rate at the district council level on the one hand, and the budget allocation to the relevant Labour Centre on the other hand. It would have been expected then, at least as a first glance, that unemployment rates at the district council level would be positively related to the total and per capita expenditure on each matching Labour Centre.

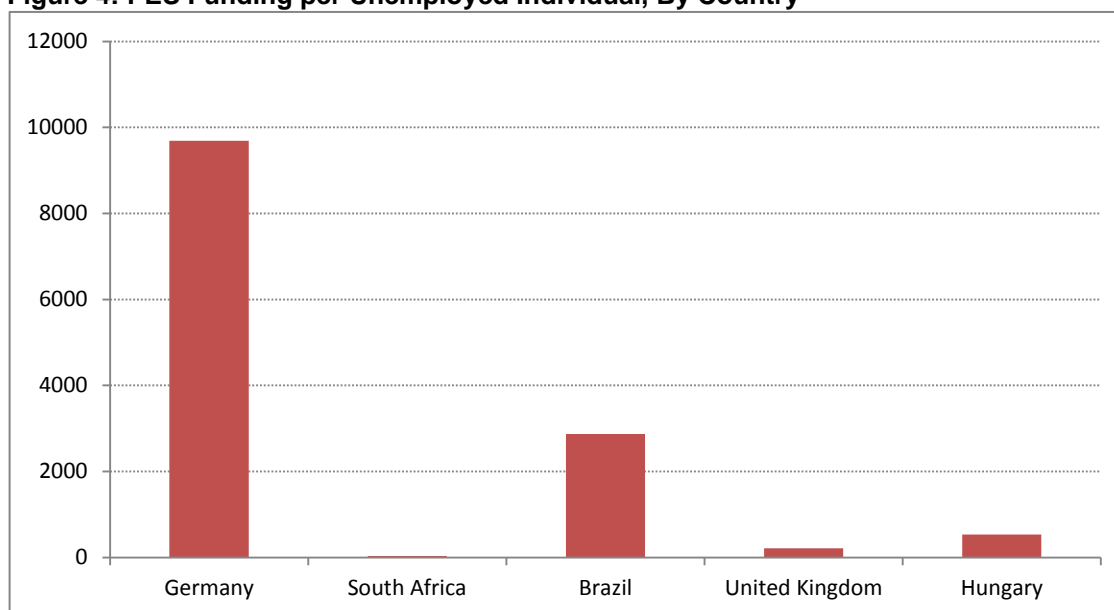
Figure 3: Per Capita Labour Centre Expenditure, by Unemployment Rate



Source: Department of Labour (2010) and Labour Force Survey, 2009:2

Indeed, a simple correlation between the two variables indicates no statistically significant relationship. Inclusion of total expenditure instead of per capita expenditure also yields no relationship. Ultimately then, the evidence does suggest that some closer inspection of the internal budgetary allocation rules for these Labour Centres may be required.

In terms of fiscal allocations to PESs, cross-country evidence suggests a significant under-investment in South Africa: Germany commits a total of over €36 billion on all its services, which is expected to rise to €56 billion during this financial year, while Brazil spends between R\$11-12 billion on employment services and UI. This is compared to the budget for the UK (£3 555 million for cost and administration costs and an additional £845 million for outsourced services for job seekers) and Hungary (€300 million). In the case of Germany and Brazil, it is difficult to estimate the actual operational costs of the PES as the global figures include the disbursement of UI and other benefits, and other labour market interventions such as training. The ratios though, are of course more relevant.

Figure 4: PES Funding per Unemployed Individual, By Country

Source: Funding details from the PES' of the respective countries

- Notes:
1. Data based on the ILO definition of unemployment for each country
 2. Expenditure Estimates on PES are in nominal values of home currency.

Here the data indicates that Germany spends just over €9,500 per unemployed individual on public employment services. The figure for Brazil was about R\$2,900. Whilst the UK spends only £212 per unemployed worker – the figure for South Africa is only R37.39. Indeed, South Africa spends in relative terms 76 times less on public employment services than its middle income country counterpart – Brazil.

It is clear from the above then, that there has been a significant under-investment in South Africa in terms of an appropriate and effective labour market information system. To this end state interventions designed to reduce information asymmetries in the labour market are critical. Whilst this function currently falls under the Labour Centres within the purview of the Department of Labour, it is not evident that the most optimal approach to reducing search costs for the unemployed has been considered.

Under the current system Labour Centres manage and run all functions of active labour market policy, including job matching or job placement services (registering of job seekers, career and vocational counselling and assessment); labour market information (employment information) and job placement assistance. An increasing number also administer UI benefits and other forms of social benefits. Other services include facilitating access to training as well as job creation programmes; unemployment insurance and other grant allocations; creating linkages between the employment services and other government initiatives such as training programmes, and access to special employment programmes.

However, it may be beneficial to enter into some form of limited public-private partnership arrangement with private employment services across some of the existing functions of Labour Centres. For example, private employment agencies could be responsible for matching and placement of the unemployed. Alternatively, Labour Centres of the state could provide matching and placement services in general, but may select to outsource certain of these services – based on the reach of particular agencies or their specialised skills to work with particular target groupings. For example, all unemployed individuals with a skills set relevant to the IT sector could be outsourced to a private agency. In this mixed employment service model, there are different approaches which have been used internationally. For example, individual-based voucher schemes which incentivise placement at the margin (in certain examples there is a small amount paid for the initial placement and then an additional amount where the individual remains in the job for at least six months). On the other hand, a Labour Centre within a particular area could issue a tender for competition amongst

potential private providers to assist with the placement of a particular category of unemployed, such as those with disabilities.

3.6 Labour Regulatory Changes at the Margin

We concentrate, in what follows below, on the labour regulation module within the World Bank's Cost of Doing Business Survey (DBS). The broad areas of labour regulation covered in the survey are those related to legislative provisions for hiring, firing and hours of work in the employment relationship. Analysis of this type of detailed data, needless to say, is essential in furthering the highly contentious labour regulation debates in South Africa.

Table 4 then presents the key aggregated measures of labour regulation by country income level.⁴ The difficulty of hiring index measures restrictions on part-time and temporary contracts, together with the wages of trainees relative to worker value-added.⁵ The rigidity of hours measures the various restrictions around weekend, Sunday, public holiday work, as well as the limits on overtime and so on. The firing index very closely resembles the above dataset, in that the specific dismissal clauses within the legislation are examined and ranked. What the DBS refers to as hiring costs are in effect social protection costs and, hence, measure all social security and health costs associated with hiring a worker. Finally, the cost of firing measures the costs of terminating the employment of an individual in terms of legislated notice period requirements, severance pay and so on.

Table 4: Mean Measures of Regulation, by Income Level

Area of Regulation	Low					South Africa	Total
	Income	LMI	UMI	HI – non OECD	HI - OECD		
Rigidity of Hiring	44.28	33.68	29.91	27.00	20.60	44.00	34.33
Rigidity of Hours	47.60	39.64	40.57	45.22	32.00	40.00	42.40
Rigidity of Firing	40.00	33.04	33.43	27.39	14.00	40.00	33.26
Aggregate							
Employment Index	43.96	35.45	34.64	33.20	22.20	41.33	36.66
Hiring Costs	12.40	16.01	17.31	21.43	10.17	2.40	15.62
Firing Costs	65.32	50.91	44.63	31.32	54.64	24.00	51.34

Source: World Bank (2006) and Authors' Own Calculations

Notes: 1. 'LMI' refers to Lower- Middle Income countries; UMI to Upper-Middle Income countries and HI to High-Income economies either within the OECD or not. These are standard classification drawn from the World Bank's World Development Report (2005)
2. All indices are normalised to one hundred, with the italicised, composite indices the arithmetic mean of the preceding sub-indices.

From the aggregate cross-country data there is an interesting bifurcation in the regulation and protection measures. Hence, the data indicates that the highest measures for any area of rigidity relating to regulation in hiring, firing and hours of work, are found in low-income economies. In addition, however, the data show that firing costs are also the highest amongst low-income countries, although notably hiring costs are the highest in non-OECD high-income economies.

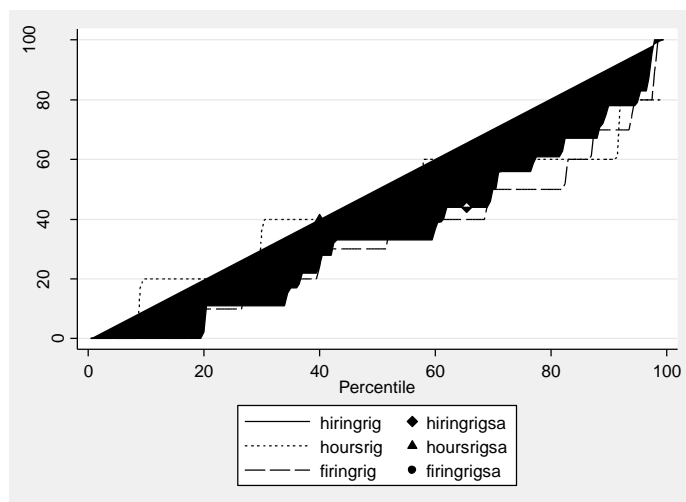
A glance at the values for South Africa indicates that, while firing and hiring costs, together with the hours rigidity index are below the global average, it is the hiring and firing rigidity measures which are noticeably above the world mean. The possible areas within the legislation which could be deemed as problematic, or having unintended consequences within these latter two areas, are therefore raised in detail in the sections below. However, similar to the above approach, we examine in Figures 5 and 6, the country's specific position according to each of the indices – in the global percentile distribution

⁴ It should be noted that the detailed measures which together aggregate up to the five presented in this table, while explained in the metadata, but not available for download in their raw form, are obtainable through a special request to the World Bank. This more textured data is in fact essential for a more detailed analysis of regulation and protection at the country and cross-country level. Importantly for our purposes here, a close examination of the sub-indices that make up the overall index reveals a fairly accurate estimation of South African legislation by the law firms ultimately contracted by the World Bank.

⁵ Herein lies one of the concerns, raised earlier, regarding the choice of sub-indices to derive an aggregate index. Hence, we find that on the measure of hiring rigidity, South Africa scores 0 on the first sub-indicator (there is no limitation on the use of fixed term contracts); and 0 on the second (there is no maximum cumulative duration for fixed term contracts). That leaves the ratio of an apprentice's wages to average added value per worker as the third sub-indicator. In essence, therefore, the measure of hiring rigidity for South Africa is a measure of entry-level wages relative labour productivity – an inadequate representation of hiring rigidity. As Section 3 confirms, South Africa yields fairly low levels of regulation around contractual employment.

of protection and labour regulation. Figure 5, therefore, presents the global distribution across 175 countries, of rigidity in hiring, hours of work and firing. It is South Africa's hiring and firing rigidity, in corroboration with the mean results above, which, on this more recent data, are positioned fairly high in the distribution: The economy is thus positioned at the 65th percentile for hiring rigidity and at about the 60th percentile for the difficulty of firing index. In addition, in comparison with upper-middle country samples, South Africa ranks at the 73rd percentile for difficulty in hiring, and at the 63rd for firing rigidity.

Figure 5: Hiring Hours and Firing Rigidity Cross-Country Percentile Distribution and South Africa

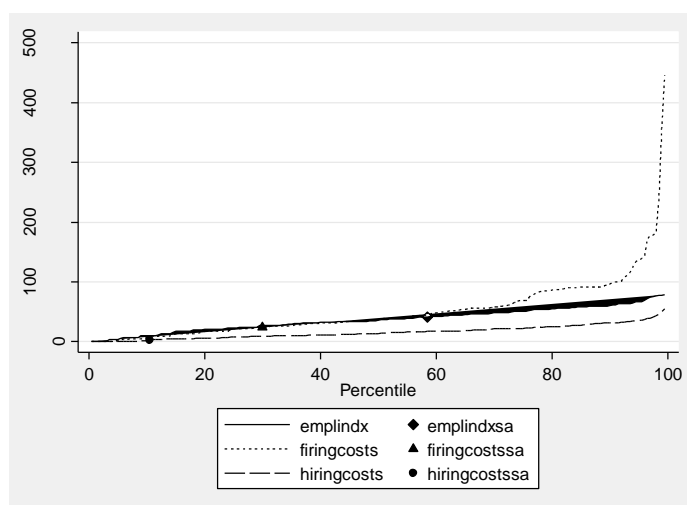


Source: World Bank (2006) and Authors' Own Calculations

It must be noted, however, that despite the above, in terms of the regulation governing hours of work, South Africa ranks at about the 40th percentile in global terms.

Figure 6 examines the percentile distributions for the aggregate employment regulation index, and then firing and hiring costs estimates. Visually it is very clear that in terms of hiring and firing costs, South Africa remains both fairly flexible and relatively unprotected. Worker protection in the form of social security therefore positions South Africa at the 10th percentile of the global distribution. Firing costs, which in effect measure the notice period and severance pay for a worker with specific characteristics, are also fairly low in international terms. South Africa's index value of 24 thus places it in the bottom third of the distribution – specifically at the 30th percentile.

Figure 6: Hiring and Firing Costs and Employment Regulation Cross-Country Percentile Distribution and South Africa



Source: World Bank (2006) and Authors' Own Calculations

Simply put, the legislative provisions for retrenching a worker yield a South African labour market that, according to this data, is fairly flexible in terms of firing costs. The relatively high values for the regulation in hiring and firing, however, ultimately result in an employment regulation index that lies in contrast to the low firing and hiring costs. Hence we find that for the employment index, South Africa ranks at the 58th percentile for the global sample. It is worth reiterating that this employment regulation index measures legislative provisions on work arrangements such as temporary tasks, the maximum duration for retaining short-term contracts, whether an employer needs to notify a third party in a retrenchment, reassignment and retraining rules during a retrenchment and so on. In this context, these measures are very specific about which components of the legislative environment are considered to be inimical to employment creation.

The above more recent analysis of South Africa's labour market regulation – measured by a combination of employment inflexibility and social protection – indicates an overall level of hiring and firing costs that is low by world standards. In contrast, however, in the case of legislative provisions for firing workers and (due to the problems with the measure noted above) less so for hiring provisions, South Africa possesses a relatively high level of regulation. This is an important value-add to previous research in the area for South Africa, in that it suggests for the first time – at least according to empirical evidence here – where the reported rigidity within the domestic labour market may in fact lie. The data presented here thus suggests that in the current environment, and on the basis of estimating legislative provisions primarily, any notion of lack of flexibility within the South African labour market lies specifically within the areas of hiring and firing provisions. Legislation that currently governs fixed-term contracts and the clauses governing dismissals and unfair labour practices are, according to the evidence presented here, at the heart of the labour market flexibility debate in South Africa.

In the above then, we are provided with at least one possible analytical rubric through which to potentially analyse and estimate the extent of labour regulation within an economy. Indeed, in the case of South Africa, the estimates for the DBS for the first, allowed for a more robust and empirically informed policy debate around labour market regulation. We would argue however, that despite these advantages, the DBS has significant limitations. In one conception of these limitations, whilst they offer much for economists to interpret and understand about an economy or region's labour legislative architecture, they are stubbornly inadequate from the perspective of a legal appreciation of regulation. We turn now to only one of the possible sources of this inadequacy, in what follows below, by focusing on the role played by labour market institutions.

The Importance of Institutions: Functioning of the CCMA and the Labour Courts

The extent to which the institutional environment reinforces or hinders legislative provisions is often under-appreciated in debates around labour market regulation. In most economies institutions govern and manage the labour market. These include employer and employee organisations; the courts of law including specialist courts; institutions of dispute resolution; ministries of labour or employment; collective bargaining institutions; tripartite institutions and so on. These institutions will be differentially resourced in human and physical terms; will yield contrasting performances according to pre-set objectives; will have different governance structures, parameters of influence and ultimately power within the society. Simply put, this range of factors, all of which are time and context-dependent, can and will fundamentally alter the manner in which labour regulatory provisions impact on the economy. Two examples suffice: Firstly, a sectoral minimum wage regulation mandated by government will have little impact on either wages or employment if enforcement and oversight of this regulation through the relevant institutions is of a poor quality. In such a case, economic outcomes could potentially be relatively benign if the institutional oversight is weak and of a poor quality.

Secondly, in many developing countries the courts system is poorly resourced and inefficient. The rule of law takes a long time to be implemented in economies with an inefficient judicial system. For labour law cases this could mean that rigidity in the labour market is more about an inefficient judiciary than any aspect of wages, union power or indeed the labour legislation itself. Ultimately however, the almost obvious point is that institutions matter, and nowhere more so than within the labour regulatory environment. We consider some of the detailed analysis and discussion of one such labour market institution within South Africa – the Commission for Conciliation, Mediation and Arbitration (CCMA) – which serves as the institutional anchor through which all labour disputes are resolved within the country. The detailed discussion of such an institution and its centrality to understanding labour regulation within an economy will hopefully reflect indirectly on the limitations of the DBS approach.

The CCMA is an independent institution governed by a tri-partite Governing Body. Its functions include dispute resolution, dispute management, institution-building within the labour arena and the provision of education, training and information to employers and employees and their organisations. The Labour Courts are specialist courts with national jurisdiction having the same status as a division of the High Court of South Africa. Appeals lie from the Labour Court to the Labour Appeal Court, to the Supreme Court of Appeal (SCA)⁶ and, on constitutional issues, to the Constitutional Court.

All disputes must be referred to conciliation and there is a statutory requirement for a conciliation meeting to be held within 30 days. Dismissal cases must be referred for conciliation within 30 days of the dismissal, although late referrals are occasionally accepted. Unresolved disputes about dismissals for a reason related to the employee's conduct or capacity (and since 2002 individual retrenchments) may be referred to arbitration. As a court of first instance the Labour Court hears cases on dismissals for operational requirements, strike dismissals, as well as cases concerning discrimination.

Arbitration may be conducted under the auspices of the CCMA, a bargaining council, or by a private arbitrator appointed in terms of a collective or other agreement. Arbitration was intended to provide cheap, accessible, quick and informal dispute resolution. The arbitrator has discretion to determine a dispute fairly and quickly while dealing with the substantial merits of the dispute. The right to legal representation in arbitration is restricted. There is no appeal against the arbitrator's decisions, although decisions are subject to review by the Labour Court.

The CCMA operates an electronic Case Management System which allows for its case-load, the efficiency of dispute resolution and the outcome of cases to be tracked over time. Approximately 80,000 to 90,000 dismissal cases are referred to the CCMA each year amounting to 80 percent of its referrals (Benjamin, 2009). The majority of cases are referred by lower paid workers who are classified as being low-skilled or semi-skilled. All disputes must be conciliated and the average time taken for conciliation is approximately 28 days. Over 60 percent of disputes are settled. In the merged conciliation-arbitration process ("con-arb") introduced in 2002, arbitration can start

⁶ The Supreme Court of Appeal, which is the highest court of appeal in all matters except constitutional issues, has ruled that it will only entertain appeals from the Labour Appeal Court if "there are special considerations relating to issues of constitutional or legislative construction or important issues of principle" [*National Union of Mineworkers v. Mazista Tiles (Pty) Ltd* (2006) 27 Indus. L.J. (SA) 471 (SCA); [2003] 7 BLLR 631 (SCA) at para 12].

immediately after conciliation has failed to resolve the dispute, unless one of the parties objects. This has significantly reduced the period taken to resolve disputes and almost 50 percent of disputes are heard in this manner (Bhorat et al, 2009). A very high proportion (roughly 80 percent) of con-arbs are finalised in a single “event”. However in roughly one-third of cases enrolled for this expedited process, one of the parties, almost always the employer, objects and the ordinary process applies.

The high number of referrals for conciliation demonstrates the accessibility and legitimacy of the institution and the high number of referrals settled through conciliation demonstrates that, despite criticism of the manner in which settlements are leveraged, this particular institution has played an important role in the South African labour market in reducing the number of disputes going into the more drawn-out process of arbitration or adjudication. Even if there is no settlement, arbitrations are completed, on average, seven months after the initial referral to the CCMA. Factors which contribute to reducing the time and costs of adjudicating these cases include the absence of pre-hearing pleadings, the informal nature of arbitrations hearings and restrictions on the right of legal representations. Approximately, 25 percent of dismissal disputes that are referred to the CCMA culminate in an arbitration award, indicating the high number that are resolved by consensus.

Ultimately though, the above suggests that the South African economy’s key dispute resolution body, the CCMA, has not only ensured a highly efficient system of resolving disputes, it has also effectively provided recourse to legal protection to those workers who are un- or under-represented by trade unions within the labour market. Hence, the fact that one key segment of the economy’s labour regulatory architecture is operating efficiently, albeit not perfectly, cannot be measured through the DBS approach. Indeed, possibly one of the key elements within an efficient and effective system of labour regulation lies within the domain of optimally functioning labour market institutions. The data here suggest that for one of these key institutions for a developing country economy such as South Africa, a fair degree of labour market efficiency is present. Unfortunately, the same cannot be said for another set of institutions within the South African labour market – the courts of law.

Roughly one in ten arbitration awards by CCMA Commissioners are taken on judicial review in the Labour Court. This amounts to a total of 1,700 review applications being launched each year during the first decade of the operation of the CCMA. The Labour Courts in South Africa therefore, are a key part of the dispute resolution process and their levels of efficiency are critical in ensuring an effective labour regulatory regime within the country. While inconsistent decision-making by Commissioners undoubtedly contributes to the number of reviews, there is no doubt that many employers use (and are advised to use) the institution of reviews as a strategy to delay the enforcement of arbitration awards against them. Research has showed that on average, only 20 percent of reviews lodged with the country’s Labour Courts in the first 10 years of the CCMA’s operation had been finalised (Benjamin, 2009).

A recent Constitutional Court judgment has clarified both the tests that arbitrators should apply when deciding on the fairness of dismissals and the circumstances in which arbitrators awards can be reviewed. This is likely to reduce the level of reviews. Almost 80 percent of employees who receive an award in their favour are required to take further legal steps to obtain payment. However, it will take additional institutional reforms to prevent reviews being abused to frustrate the enforcement of awards.

It takes an average of 24 months for a review application to be heard in the Labour Court (Benjamin, 2009). Factors contributing to these delays include an uncertainty concerning the restructuring of the Labour Courts which has discouraged lawyers from seeking appointment as judges, and an excessive reliance on acting judges. This has had a negative effect on the efficacy of the Labour Courts in South Africa and undermines one of the reasons for a specialist labour court, namely expedition. In the Labour Appeal Court it is reported that delays of 12 to 18 months between date of hearing and date of judgment are not uncommon. In contrast, the Supreme Court of Appeal, despite a very heavy case-load, hands down judgments within three months of the hearing. Ultimately though, the suggestion here is that it is entirely possible that the notion of labour market rigidity within South Africa may in fact be a function not of the labour legislative regime, but rather the sub-optimal performance of labour market institutions such as the Labour Court and Labour Appeals Court. While delays at this level may affect a relatively small proportion of cases, these cases are often highly publicised and disproportionately influence perception.

A Suggestion for Labour Regulation Policy

Whilst it is evident that the core architecture of the labour regulatory regime in South Africa is not antithetical to employment creation, it is possible to conceive of a few areas at the margin where some value-added policy intervention may be possible. In the areas of enhanced institutional efficiency and in parts of hiring practices of employers, it may be possible to tweak the regulatory regime for improved employment creation.

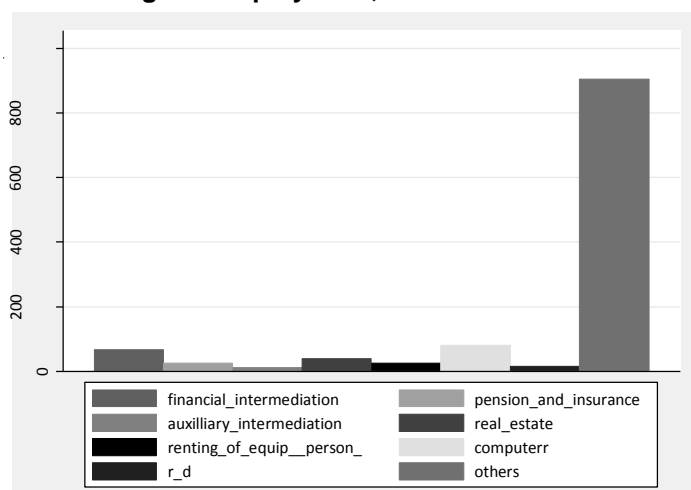
The evidence as noted above is overwhelmingly clear that, in terms of labour market institutions, the CCMA functions efficiently as a dispute resolution body but is severely under-resourced. The Labour Courts on the other hand, are notoriously inefficient. The consequence of these outcomes is that what is often described as labour market inflexibility, is effectively a reflection of a sub-optimal institutional environment. The CCMA currently projects expenditure on the basis of previous financial year's caseloads, with very little or no recourse to additional fiscal outlays in the event of a shortfall – which was precisely the position the CCMA found itself in during the economic crisis as retrenchments bulged sharply. That an institution as central to labour market efficiency in the country as the CCMA needs to worry about cash flow, is an example of a labour market rigidity which can be avoided. It is recommended that a financing model which smoothens out any shortfall arising out of large increases in the caseloads of the CCMA be instituted, to ensure a more efficiently functioning labour market.

We suggested above that on average, only 20 percent of reviews lodged with the country's Labour Courts in the first 10 years of the CCMA's operation had been finalised. Simply put, the Labour Courts system is inefficient in terms of time and resources in resolving key labour market cases. Ultimately though, the suggestion here is that it is entirely possible that the notion of labour market rigidity within South Africa may in fact be a function, not of the labour legislative regime, but rather the sub-optimal performance of labour market institutions such as the Labour Court and Labour Appeals Court, together within the unnecessary financial uncertainties placed on an institution such as the CCMA.

The Labour Broker Amendments: A Final Note

Aggregate employment growth in post-apartheid South Africa has been driven by the Financial and Business Services sector on the one hand and the Wholesale and Retail Trade sector on the other hand. The latter, wherein the informal sector is dominant, has thus been a key job generator within the domestic economy. The data shows that these two main sectors alone accounted for close to 2.3 million of the 3.4 million new jobs created in South Africa between 1995 and 2009. Put differently, 66 percent of all employment generation in post-apartheid South Africa can be located within the Financial and Business Services, and Wholesale and Retail Trade sectors.

Of the close to 1.2 million jobs generated in this sector, about 900,000 emanated from the 'Other financial and business services'. This is a key result as it suggests that of the total number of jobs created within this sector since 1995, the overwhelming majority of these have been in the sub-category defined simply as 'Business Services Not Elsewhere Classified'.

Figure 7: Change in Employment, 1995-2009: Financial & Business Services, By Sub-Sector

Source: OHS 1995; OHS 1997; LFS September 2000-2007; QLFS Quarter 1-4, 2008 and Quarter 1-3, 2009 (Statistics South Africa).

Closer inspection of this 'Other' category reveals that it has predominantly been within the employment agency, labour brokering and security services activities. This result suggests that job growth within the Financial & Business Services main sector has effectively been driven by the rapid rise in two nodes of economic activity – security services and labour brokers. The high incidence of crime in South Africa has resulted in a rapid employment expansion within the sub-sector providing crime prevention services. In addition, the rise in the use of employment agencies, for long noted in public debates in South Africa, is now powerfully evident in these numbers.

Current labour legislative negotiations revolving around the 'labour broker' clauses within the LRA should therefore be crucially mindful of these results. The notion of whether South Africa is a rigid or flexible labour market pales into comparison, when faced with the above employment data. Indeed, what it suggests is that employers have opted out of permanent employment and into a more temporary employment relationship. Whatever the view one holds on whether this constitutes decent work or not, it must be evident that this form of employment was a key job generator since 1994. The prospect of attempting to close this option out through the amendments process, in whatever form, is a frightening one for long-run employment creation in South Africa.

4. CONCLUSION

The above then, has attempted to provide a set of policy options which are microeconomic in nature, but all focused at attempting to contribute to a growth path which is more employment-focused and employment-enhancing. In trying variously to incentivise the employment capacity of the economy, such as through the PIC's investments or state procurement, or make the labour market more efficient through transport subsidies and labour regulatory changes – it is arguably possible to examine more creative policies which would enhance job creation. It is abundantly clear however, that irrespective of the veracity and acceptability of the above policies, faced with a jobs and unemployment crisis like no other economy in the world, creative and effective policy solutions are urgently required.

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