THE OXFORD HANDBOOK OF

AFRICA AND ECONOMICS

VOLUME 2

POLICIES AND PRACTICES

Edited by
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and
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OXFORD
UNIVERSITY PRESS

OXFORD
UNIVERSITY PRESS

Great Clarendon Street, Oxford, OX2 6DP,
United Kingdom

Oxford University Press is a department of the University of Oxford.
It furthers the University's objective of excellence in research, scholarship,
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First Edition published in 2015

Impression: 1

Published in the United States of America by Oxford University Press
198 Madison Avenue, New York, NY 10016, United States of America

British Library Cataloguing in Publication Data
Data available

Library of Congress Control Number: 2015936455

ISBN 978-0-19-968710-7

Printed and bound by
CPI Group (UK) Ltd, Croydon, CRO 4YY

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CHAPTER 35

TRADE UNIONS IN SOUTH AFRICA

HAROON BHORAT, KARMEN NAIDOO,
AND DEREK YU

35.1 Introduction

As an upper middle-income country within Africa and the continent's largest economy, South Africa often attracts specific interest in terms of its economic growth and development dynamics. This is of course also in part a function of the country's unique history, based on the notorious system of apartheid. Often under-appreciated is the extent to which this history of racial segregation and discrimination has generated so many of the outlier features of this economy. From high levels of spatial segregation and a very small informal economy, to extraordinary economic and social inequalities amongst the citizens of the country and a surprisingly deep inherited social assistance scheme—South Africa remains a country of unusual and unexpected statistics. Nowhere is this feature more evident than in the labor market of this economy.

Perhaps the most relevant outlier statistics lie in the areas of unemployment and income inequality. In the case of the former, South Africa has had an average unemployment rate, since 1994, of about 25%. This unemployment rate remains one of the highest in the world. The figure has a low standard deviation over the sample period and for the immediate future is unlikely to change significantly. In terms of income inequality, the latest estimate for 2010, places the Gini coefficient at 0.69, ranking South Africa as one of the most unequal societies in the world today. Underlying this high inequality is the notion that the moderate economic growth rate since 1994, averaging at 3.3% per annum, has yielded a modest poverty reduction, but sharp rises in household inequality (Bhorat and van der Westhuizen 2013b). At the heart of the debate around the country's "twin peaks" of unemployment and inequality is the role played by the labor market in generating unequal returns as well as large quantity-based disequilibria. The role then, played by wages and institutions in the labor market, in generating these outcomes has been a focus of research in these areas in South Africa (Armstrong and Steenkamp 2008; Bhorat, van der Westhuizen and Goga 2009b; Bhorat, Goga and van der Westhuizen 2012a; Bhorat, Kanbur, and Mayet 2012b). In this chapter, we attempt to consider the role played by institutions in the South African economy with a focus on the trade union movement and the labor-regulating architecture of the country.

The chapter thus first provides a historical overview of the South African trade union movement before and after the end of apartheid, followed by a brief discussion of the labor market legislation and institutions formed since 1994. Thereafter, there is a detailed evaluation of the impact of trade unions and wage legislation on labor market outcomes in South Africa. Lastly, the chapter culminates in a discussion on the political economy effects shaping South Africa's employment relations in light of the tripartite structure of the ruling governmental party, before concluding.

35.2 The South African Trade Union Movement: A Brief History

The Union of South Africa, formed in 1910, was characterized by a political partnership between English-speaking and Afrikaans-speaking Whites, representing their mining and agricultural interests respectively. The Union formally excluded the African majority from any formal political expression[1]. A series of laws was passed that would deleteriously impact on the smooth functioning of the labor market. For instance, the 1911 Mines and Works Act reserved skilled mining jobs for Whites, while the 1913 Land Act forbade Africans from owning land in designated "White" areas and resigned Africans to "reserves" accounting for only 7% (increasing to 13% later) of the total land area of the country. Also, the pass laws curtailed the free flow of African labor, thereby forcing many African workers into low-wage sectors and occupations (Van der Berg and Bhorat 1999; Woolard 2001). As a result, the labor market was characterized by a strong racial division of labor that would persist for decades to come.

The core foundation of collective bargaining legislation in South Africa was the Industrial Conciliation Act of 1924, which provided for the voluntary establishment of permanent collective bargaining institutions, namely Industrial Councils (ICs), by employers' organizations and registered non-African trade unions (Godfrey, Maree, Du Toit, and Theron 2010). Within its legal ambit, for the first five decades after being established, the ICs denied African workers access to centralized collective bargaining and despite the lack of racial representation within the bargaining structures, could set minimum wages for the sectors concerned. Since only non-African trade unions were recognized and allowed to negotiate, they were in a favorable position to protect the wage interests of their non-African members. Needless to say, this reinforced discrimination against Africans, as they were placed outside the ambit of IC agreements (Nattrass and Seekings 1997; Butcher and Rouse 2001; Rospabé 2001; Woolard 2001).

The Industrial Conciliation Act was amended in 1930 by stipulating that the agreements reached at the IC could be extended by the Minister of Labour to all workers (including Africans) in the industry concerned, regardless of whether the workers belonged to the trade union(s) participating in the negotiation. Although this amendment did improve wages of

[1] There are four population groups in South Africa, namely African, Coloured, Indian and White. African, Coloured and Indian individuals are collectively referred to as Black.

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African workers, the real aim was to protect the jobs and living conditions of White workers, given that the 1924 act unintentionally incentivized employers to dismiss White employees and replace them with the African employees at lower wages (Godfrey et al. 2010). In addition, influx control was implemented in the 1940s to limit the geographic mobility of African workers, so that White workers would face less competition in the labor market from African workers, who were prepared to accept lower wages and inferior working conditions (Rospabé 2001).

After the National Party came into power in 1948, various new acts (e.g. 1950 Groups Area Act, 1953 Bantu Education Act, 1959 Extension of Universities Education Act) were implemented to limit the education prospects of Africans and deny them the right of residence in urban areas with more profitable work opportunities. In addition, job reservation was tightened in the mining industry and even extended to the manufacturing and commerce industries, favoring the employment of White workers (Van der Berg and Bhorat 1999; Woolard 2001). The Industrial Conciliation Act was amended again in 1956, with the primary aim of extending and refining racial segregation within the industrial relations system. In particular, no new "racially mixed" unions[2] could be registered, unless the number of members who were not White was too small to make a separate trade union viable. For the existing "racially mixed" unions, they were required to establish two separate branches (one for Whites and one for Coloureds and Indians) and hold separate branch meetings, but only White members could sit on such union's executive committee (Godfrey et al. 2010).

In the 1960s, the South African economy experienced a decade of rapid growth exceeding 5% per annum. In order to meet the increasing demand for skilled labor without undermining apartheid, the government created a "floating" job bar: a White skilled job was fragmented, with African employees being allowed to perform the less skilled part of a job. However, no White worker could be replaced by a Black worker and no White worker could work under a Black worker. Conditional labor market mobility then was provided to an African workforce desperately required for a fast-growing economy (Van der Berg and Bhorat 1999; Woolard 2001).

With rising inflation but persistently low remuneration, more frequent strikes by African workers founded on wage demands took place in the early 1970s. As a result, the Settlement of Disputes Act in 1973 provided for joint liaison committees of employers and African workers, along with the existing racially divided committees (Godfrey et al. 2010). The remainder of the 1970s saw mounting pressure on the government from various sources such as the slow-down of economic growth, the 1974 imposition of international trade sanctions, and the defining 1976 Soweto uprising of Black youths. Hence, there was an increasing realization that the job reservation policy, trade union registration and collective bargaining systems, which favored the White workers, were generating significant social and economic instability in the South African economy at the time (Van der Berg and Bhorat 1999).

In the labor market specifically, the 1973 wildcat strikes—both spontaneous and widespread—were a watershed event in the country's labor movement history and forced government and employers to rethink their approach to industrial relations. The Wiehahn and Riekert Commissions of 1979 represented their response to the increasing labor unrest. The former commission recommended the legalization of Black trade unions and eradicated

[2] A "racially mixed" union consists of Coloured, Indian and White workers.

job reservation through the Industrial Conciliation Amendment Act of 1979, which widened the definition of an employee to include African workers. Only two years later was the ban also lifted on non-racial trade unions (Rospabé 2001; Godfrey et al 2010). The result of the Wiehahn Commission then was an increasingly empowered Black workforce with greater bargaining power and rising participation in the regulated labor market, where they would be covered by legislation on minimum employment conditions. The latter commission focused on issues of labor mobility and argued for the relaxation of controls on workers who held rights of urban residence or employment. Pressure from both the mining and manufacturing sectors for a stable workforce finally led to the eradication of influx control in 1986 (Van der Berg and Bhorat 1999).

This crucial moment in 1979 represents a turning point in the Black trade union movement, as it signaled the formal legal recognition of this burgeoning movement representing the aspirations and demands of Black workers. As a result of their new legal status and recognition by employers, these trade unions grew rapidly in size and strength—from a membership of 70 150 in 1979 to almost 300 000 in 1983 (Maree 1987). Trade unions, it must be noted, became a crucial economic and political force against the apartheid regime from the mid-1980s onward. The Black trade unions effectively became the voice of the marginalized majority of working-class South Africans and by extension, the voice of the country's politically marginalized majority. In this sense—and it is a point we allude to later in the chapter—the Black trade union movement was historically at the center of the political struggle against apartheid in South Africa. In industries in which Black trade unions were already established, the unions pressurized employers' associations to agree to their amalgamation into a national bargaining council and in industries with no bargaining councils, large Black trade unions successfully managed to lobby for the creation of a national bargaining council (Godfrey et al. 2010). This led the way toward more centralized collective bargaining from the 1990s onward.

The brief history of South Africa's trade union movement highlights the extent to which the trade union movement has been inextricably linked to the anti-apartheid movement and clearly positions it as a central agent in the struggle for democracy. The late 1970s legalization of Black trade unions provided further impetus to the already strong labor movement that then eventually achieved the abolition influx control in 1986. In this sense, the goals of the broader anti-apartheid movement, that of a non-racial and democratic society, underpinned the goals of the trade union movement along with the more specific aims to improve employment conditions for all members.

These developments, along with post-apartheid amendments to labor legislation that promoted the registration of trade unions in all sectors of the economy, paved the way for considerable growth in the number of unions and unionized workers since 1994. Currently, there are 22 trade union federations in the country (South African Labour Guide 2013a), with four of them being organized on a national basis, namely the Congress of South African Trade Unions (COSATU), the Federation of Unions of South Africa (FEDUSA), the National Council of Trade Unions (NACTU), and the Confederation of South African Workers' Union (CONSAWU).

COSATU was established in November 1985 and is arguably the largest federation, with a membership of 20 trade union affiliates, representing more than 2 million members (COSATU 2013). COSATU plays an influential role in the direction of transformation and economic restructuring of South Africa, and it is argued that its power resides in the size of its affiliated

Table 35.1 Trade union m
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	Private sector
Year	Number of union members
1997	1 813 217
2001	1 748 807
2005	1 925 248
2010	1 888 293
2013	1 868 711

Source: Authors' calculations, us
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Table 35.1 Trade union membership of public and private sector employees in formal sector, selected years

	Private sector		Public sector	
Year	Number of union members	Union members as % of workers	Number of union members	Union members as % of workers
1997	1 813 217	35.6%	835 795	55.2%
2001	1 748 807	30.6%	1 070 248	70.1%
2005	1 925 248	30.1%	1 087 772	68.4%
2010	1 888 293	26.3%	1 324 964	74.6%
2013	1 868 711	24.4%	1 393 189	69.2%

Source: Authors' calculations, using 1997 October Household Survey, 2001 and 2005 Labour Force Surveys, 2010 and 2013 Quarterly Labour Force Surveys.

unions' membership; capacity to mobilize employees; strong links with the government; as well as regional and international credibility (Finnemore 2009). How COSATU functions as part of South Africa's ruling party's tripartite alliance will be discussed in more detail in section 5.

At present, there are 189 registered unions in South Africa (South African Labour Guide 2013a). Table 35.1 shows that the proportion of the public sector's formal workforce who are union members—or the public sector's union density—rose from 55% in 1997 (834 thousand workers) to almost 70% in 2013 (1.4 million workers). Interestingly, the 2013 figure is 5 percentage points lower than at the peak of unionization in 2010. The private sector union density displays the opposite overall trend, declining from 36% in 1997 to 24% in 2013, while the absolute number of private sector unionized workers has remained fairly constant. Notably then, the growth of the private sector workforce has outstripped the rate of unionization.

The downward trend of union density since 2010 has been driven at a sectoral level primarily by declining membership numbers in the manufacturing, construction, finance, and agricultural[3] sectors. However, the mining sector, historically South Africa's most highly unionized sector, continues to show increasing union density rates over time, increasing from 71% in 1997 to 80% in 2013. The dominant union in this sector has been the National Union of Mineworkers (NUM), founded in 1982 and with a current membership of more than 300 000 workers, equating to almost all formal mining sector employees.[4]

Set against South Africa's history of racial segregation and marginalization of the African workforce, amendments to the legislation that aimed to empower the majority of the country's workers can be expected to have increased union density. The public sector unionization rates are evidence of this. However, when comparing South Africa to a range of OECD countries, as in Figure 35.1, it is clear that on these estimates South Africa's union density figures are not an outlier in this sample.

[3] According to our own calculations using the 1997 October Household Surveys, 2001 and 2005 Labour Force Surveys, 2010 and 2013 Quarterly Labour Force Surveys; disaggregated at a sectoral level. The data is not tabulated here.

[4] More recently, the Association of Mineworkers and Construction Union (AMCU) has been formed and it is estimated to currently have approximately 50,000 members from both sectors in total.

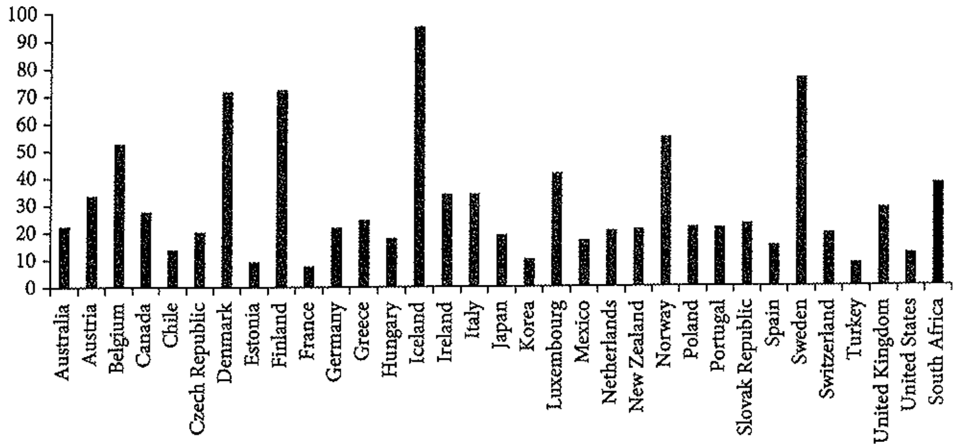

FIGURE 35.1 2005 Union Density Estimates for OECD Countries and South Africa.

Source: OECD Stat (2013) and LFS 2005:2 (Statistics South Africa).

The average union density for the counties represented in the figure was 30% and South Africa was to some extent above this mean at 37.5%. Statistics reported by the International Labour Organisation suggest that in 2001, Brazil had a union density of as high as 71% (Lawrence and Ishikawa 2005). Thus, the combined evidence at least initially suggests that the level of union membership in South Africa does not reflect an unusually highly unionized labor market. Hence, whilst unions may not have relatively large membership figures, it is entirely possible that the relevant regulatory environment has ensured that their wage and non-wage demands are more easily attained. We turn then in the next section to assessing the post-1994 labor regulatory environment in South Africa.

35.3 The Post-1994 Environment: from Legislation to Labor Market Institutions

The two most relevant acts in the post-apartheid period to understanding South Africa's labor regulatory regime are the Labour Relations Act (LRA) and the Basic Conditions of Employment Act (BCEA).[5]

The LRA 66 of 1995 aims at the promotion of economic development, social justice, labor peace and democracy in the workplace. This is achieved by regulating the organizational rights of trade unions, as well as promoting and facilitating collective bargaining at the workplace

[5] Other legislations (i.e. Employment Equity Act, Occupational Health and Safety Act, Compensation for Occupational Injuries and Diseases Act, Skills Development Act, Skills Development Levies Act, Unemployment Insurance Act, and Unemployment Insurance Contributions Act) fall beyond the scope of this chapter and will not be discussed.

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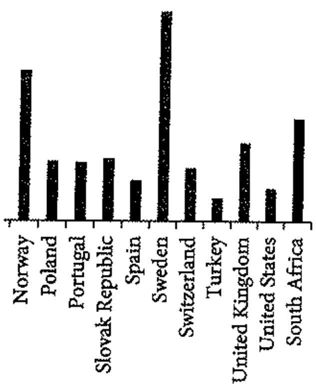

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and at a sectoral level. Bargaining councils (BCs)—formerly known as ICs as mentioned in section 2—are voluntary bodies established by registered trade unions in collaboration with employer-organizations within a specific sector and area. Collective agreement on various issues, ranging from minimum wage to conditions of employment, is reached during the collective bargaining process. Furthermore, the LRA promotes the dispute resolution and labor peace with the establishment of the Commission for Conciliation, Mediation and Arbitration (CCMA), Labour Court and Labour Appeal Court (Republic of South Africa 1995 and 2002a).

As far as the BCEA 75 of 1997 is concerned, it provides for minimum working conditions regarding issues such as work hours, overtime payment, annual leave and sick leave (Republic of South Africa 1997). The Act was revised in 2002 to provide for the establishment of the Employment Conditions Commission (ECC), which makes recommendations to the Minister of Labour in respect of minimum wages and other conditions of employment in vulnerable sectors (Republic of South Africa 2002b). Currently, 11 areas of economic activity have such sectoral determinations in place.[6]

It is argued that in an overly regulated labor market, labor laws, while protecting worker rights, create a disincentive to fire workers even if they might not be productive. This is because when firms dismiss workers, they need to follow a complex set of procedures that in South Africa's case can include activities such as time-consuming hearings with the CCMA. This argument is supported by the results of a few recent studies (Benjamin and Gruen 2006; Bhorat, Pauw, and Mncube 2009a) which found that the turnaround time for dispute resolution is relatively longer in some CCMA regional offices (e.g. those in the Eastern Cape and North West provinces) and industries (e.g. agriculture and mining). For instance, in 2006, the average time taken to complete the conciliation cases was the longest in the mining industry (37.3 days, which is above the stipulated duration of 30 days). Furthermore, Bhorat, Jacobs and van der Westhuizen (2013a) found that, ceteris paribus, regions characterized by lower number of industrial disputes but greater efficiency of the regional offices to handle the disputes (i.e. those offices with shorter conciliation, arbitration, and con-arb mean time) are associated with higher levels of employment.

To gauge whether these findings, on a basis of a comparative ranking of labor laws, are indicative of an overly regulated or rigid labor market, the World Bank's Doing Business (DB) survey provides a set of normalized Employment Protection Legislation measures. Using the 2013 DB results, Table 35.2 presents five key measures of the "employing workers" indices by country income level. First, the "difficulty of hiring" index measures restrictions on part-time and temporary contracts, together with the wages of trainees relative to worker value-added. Second, the "difficulty of firing" index assesses and ranks specific legislative provisions on dismissals. Third, the "rigidity of hours" index measures the various restrictions around weekend, Sunday and public holiday work, limits on overtime, etc. Fourth, "non-wage labour costs" encompass social protection costs and measure all social security and health costs associated with hiring a worker. Lastly, the "firing cost" measures the cost of terminating the employment of an individual in terms of legislated prior notice requirements, severance pay, and so on.

[6] These sectors include children in the performance of advertising, artistic and cultural activities; civil engineering; contract cleaning; domestic workers; farm workers; forestry sector; hospitality workers; learnerships; private security sector; taxi sector; wholesale and retail sector (Department of Labour 2013b).

The aggregate cross-country data in Table 35.2 shows that the countries at the two ends of the spectrum—low-income and high-income OECD countries—display the highest average scores of labor market rigidity, non-wage labor costs and firing costs. Countries falling in between these two categories show on average declining rigidity and firing costs as national income levels rise, however, non-wage labor costs increase with income level, as expected.

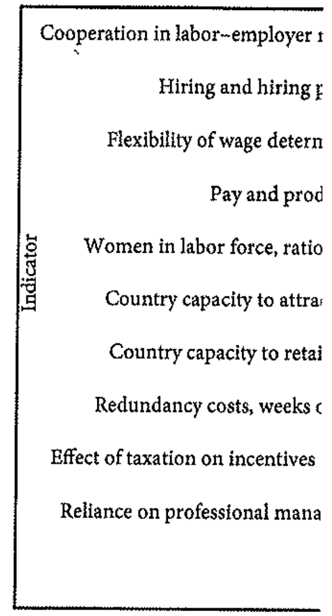
South Africa then, falling into the upper middle income range, exhibits rankings of the indices for firing costs and non-wage labor costs that are all below the means for its income-level category and well as the world means. However, the measures for the difficulty of hiring and firing and rigidity of hours are above the respective means, more remarkably for the difficulty of hiring index. Thus, South Africa's higher than global average measure of aggregate labor market rigidity is primarily driven by the difficulty in hiring. These results suggest that South Africa's labor legislation translates into a labor market that is relatively flexible in terms of hiring and firing costs—that is, not overly-regulated. In these respects, however, the greater legislative requirements regarding the procedures to hire workers, in particular, introduces a degree of inflexibility.

The World Economic Forum (2013) also had similar findings with regard to rigidity of the South African labor market. Despite the fact that South Africa was ranked 53rd out of 148 countries in the overall global competitiveness index, the country was only ranked 116th in in terms of its labor market efficiency, one of the 11 pillars that comprise the overall index.

Table 35.2 Mean measures of labor regulation, by income level

Area of regulation	Low income	Lower-middle income	Upper-middle income	High-income: non-OECD	High-income: OECD	South Africa	All countries
Difficulty of hiring	50.89	35.28	30.40	17.79	27.72	55.67	33.13
Difficulty of firing	36.88	33.96	25.60	16.25	22.26	30.00	27.95
Rigidity of hours	19.38	18.33	14.00	16.67	24.52	20.00	18.16
Aggregate rigidity of employment index	35.71	29.19	23.33	16.90	24.83	35.22	26.41
Non-wage labor 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: Authors' own calculations using World Bank (2013b) data; Benjamin, Bhorat and Cheadle (2010).
* Results from the 2006 Doing Business Report, which focused on the jobs challenge and thus provided more detailed labor market indicators.
Regarding the consistency of South Africa's ranking over time, the 2013 results show no change in South Africa's relative position (compared to each country income-category and the global averages) in the aggregate rigidity of employment index from 2006 to 2013.



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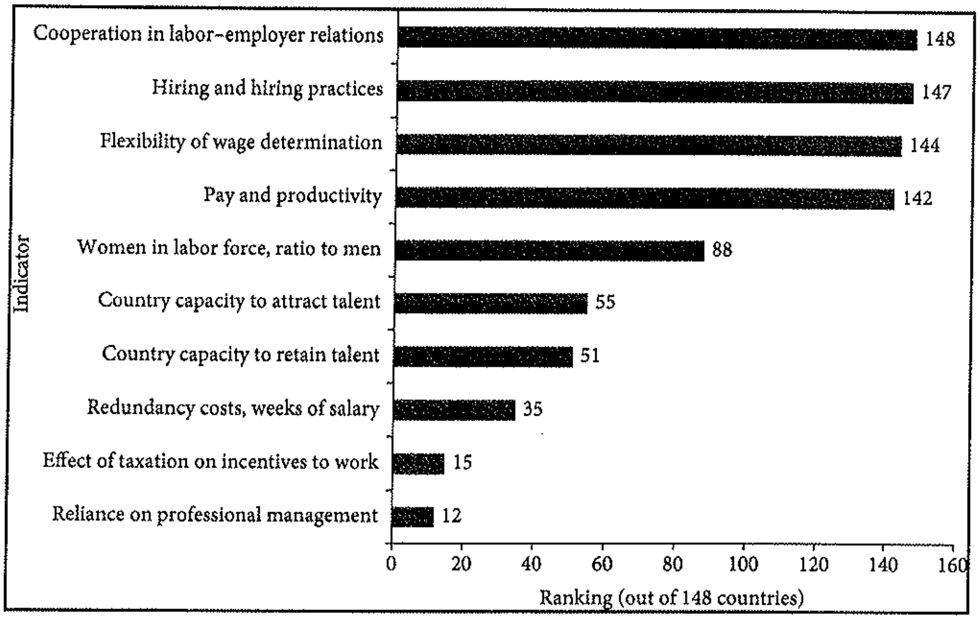

FIGURE 35.2 South Africa's labor market efficiency.

Source: World Economic Forum (2013: 347).

Looking at the labor market efficiency in greater detail (Figure 35.2), although South Africa performs well in half of the indicators,[7] including on the firing costs (35th); it was almost the worst ranked country in terms of hiring and firing procedures (147th). These findings support our conclusions on the World Bank's DB results.

The previous two sections have illustrated that within an international context, South Africa has neither an unusually highly unionized nor an overly-regulated labor market. An element of rigidity, however, does exist specifically around the difficulty of hiring workers. This notion of rigidity in hiring procedures has been supported quite widely in the local labor literature (Benjamin et al. 2010; Cheadle 2006; CDE 2013). Despite these features, the discourse around South Africa's labor markets often serves to perpetuate the perception of a more broadly overly regulated or rigid market, partly based on seemingly politically influential trade unions. To address this issue, the next section assesses in more empirical detail, the impact that trade unions and labor legislation have on employment and earnings.

35.4 The Impact of Trade Unions and Labor Legislation on Labor Market Outcomes in South Africa

Given South Africa's persistent high unemployment levels, sclerotic competitiveness and the perceived political power of the union movement, the impact that trade unions may have on

[7] Five of South Africa's labor market indices ranking above the median.

raising average wage levels has long dominated the debates around trade union power and job creation. This section then first aims to assess the legal rights afforded by the country's legislation specifically to trade unions. In turn then, we present a more considered set of trade union wage premia based on recent econometric evidence for South Africa.

To measure South Africa's relative union power and protection of workers during collective disputes, Bhorat (2008) draws on a dataset compiled by Botero, Djankov, La Porta, Lopez-De-Silanes, and Schleifer (2004),[8] whose seminal study on the impact of labor regulation around the world makes use of data from 85 countries for the late 1990s. The results are presented in Table 35.3 and highlight most remarkably that South Africa's labor union power index, encompassing employees' right to unionize and to collective bargaining, is much higher than the mean value for all other countries, even when comparing South Africa to the upper-middle income category into which it falls. In contrast, South Africa's measure relating to collective disputes—a more appropriate measure of the protection offered to workers during collective disputes, such as large-scale dismissals—is both below the global average and also all income-classified country categories. Therefore, the relatively higher aggregate collective relations index is driven disproportionately by the labor union power index, otherwise understood as the basic rights to organize and form a trade union, rather than the protection of workers during collective disputes. Importantly, while this initially seems incompatible with the union density figures discussed earlier, it is actually more reflective of a highly protective labor legislation and constitution regarding the *right to unionize* and not necessarily that that South Africa's workforce is overly unionized to give labor unions disproportionate power in the arena of employment relations.

To further this discussion, we assess the wage premia associated with trade union membership as measure of their associated power. Although there is extensive literature on the union wage gap in South Africa, the studies on the bargaining council premium are fewer. In addition, there is little consensus on the appropriate method to correct for the endogeneity of union membership or on the magnitude of the institutional wage premium. Taking account of this, Bhorat et al. (2012a) used the 2005 South African Labour Force Survey data to investigate the union and bargaining council wage premiums and correct for the endogeniety of union status through a two-stage selection model, controlling for firm-level and job characteristics. In their most richly specified estimation[9] it is found that union members outside of the bargaining council system earned a premium of 7.04% and that members of private and public bargaining councils not belonging to unions earned a 8.97% and 10.5% premium over non-union workers outside of the bargaining council system, respectively.[10] The total estimated premium to union workers within the public bargaining council stands at 22%.

Therefore, there is evidence that belonging to either unions or bargaining councils are associated with statistically significant wage premia, and furthermore that unions may negotiate at the plant level for additional gains for their members within the bargaining council system. Most importantly, however, although this paper confirms the clear wage benefit

[8] The World Bank's "Employing Workers" indices are derived using the methodology developed in Botero et al. (2004) and was only introduced into the overall "Ease of Doing Business" index in 2006.

[9] Including dummy variables for union status, private and public bargaining council status, type of work, firm characteristics, and non-wage benefits.

[10] With significance at the 5% level.

Table 35.3 Average measu
income level

Area of regulation/ income level	Low income	LMI
Labor union power	0.348	0.422
Collective disputes	0.431	0.504
Aggregate collective relations Index	*0.389*	*0.463*

Source: Dataset compiled by Bote
authors' own calculations.
LMI refers to lower middle incom
income economies either within t
World Bank's World Development
Labor union power measures the
following seven dummy variables
employees have the right to colle
with unions, (4) if collective contr
shops, (6) if workers, or unions, or
and (7) if workers' councils are ma
Collective disputes measures the
of the following eight dummy var
(2) if workers have the right to ind
secondary strikes are legal, (4) if t
before strikes can occur, (5) if strik
laws do not mandate conciliation
labor dispute is mandated by law,
The Collective Relations Index me
(1) labor union power and (2) colle

of union membership, particu
that institutional wage premiu
mated, with most of the previ
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union wage premiums range fr
tries such as Brazil, Ghana, M
Freeman 2009; see Table 35.4).
therefore suggest that union po
members.

An alternative argument fo
by higher than optimal wages

Table 35.3 Average measures of trade union power in the late 1990s, by country income level

Area of regulation/ income level	Low income	LMI	UMI	HI–non-OECD	HI–OECD	South Africa	Total
Labor union power	0.348	0.422	0.489	0.463	0.305	0.714	0.425
Collective disputes	0.431	0.504	0.465	0.456	0.458	0.333	0.465
Aggregate collective relations Index	*0.389*	*0.463*	*0.477*	*0.460*	*0.382*	*0.524*	*0.445*

Source: Dataset compiled by Botero et al *2004* (http://www.andrei-shleifer.com/data.html), and authors' own calculations.
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).
Labor union power measures the statutory protection and power of unions as the average of the following seven dummy variables which equal 1: (1) if employees have the right to unionize, (2) if employees have the right to collective bargaining, (3) if employees have the legal duty to bargain with unions, (4) if collective contracts are extended to third parties by law, (5) if the law allows closed shops, (6) if workers, or unions, or both have a right to appoint members to the Boards of Directors, and (7) if workers' councils are mandated by law.
Collective disputes measures the protection of workers during collective disputes as the average of the following eight dummy variables which equal one: (1) if employer lockouts are illegal, (2) if workers have the right to industrial action, (3) if wildcat, political, and sympathy/solidarity/secondary strikes are legal, (4) if there is no mandatory waiting period or notification requirement before strikes can occur, (5) if striking is legal even if there is a collective agreement in force, (6) if laws do not mandate conciliation procedures before a strike, (7) if third-party arbitration during a labor dispute is mandated by law, and (8) if it is illegal to fire or replace striking workers.
The Collective Relations Index measures the protection of collective relations laws as the average of (1) labor union power and (2) collective disputes.

of union membership, particularly within the bargaining council system, it also uncovers that institutional wage premiums in South Africa may be much smaller than previously estimated, with most of the previous studies reporting a premium in excess of 20%, possibly overstated through not accounting for BC coverage (Butcher and Rouse 2001; Armstrong and Steenkamp 2008; Miliea, Rezek, and Pitts 2013). Internationally, estimates of conditional union wage premiums range from 5% in Japan and the Republic of Korea, up to 15% in countries such as Brazil, Ghana, Mexico, Canada, Germany, and Malaysia (World Bank 2013a; Freeman 2009; see Table 35.4). Falling broadly within this range, the results for South Africa therefore suggest that union power is not evidently resulting in excessive wage premia for its members.

An alternative argument for South Africa's high levels of unemployment being driven by higher than optimal wages would be that wage legislation, particularly minimum wage

Table 35.4 Estimates of union effects on wages in developing countries

Country	Union wage premium
Brazil	5–12%
Ghana	6–16%
Mexico	10–15%
Malaysia	15–20%
Republic of Korea	3–7%
South Africa*	7%

Source: Freeman (2009);
* Bhorat et al. (2012a).

laws, has led to rising wage levels in the targeted sectors. Since the introduction of minimum wages in 1999, South Africa has instituted about 11 different sectoral minimum wage laws through a process of union, business, and government negotiation. Reliable economic research on the effects of minimum wages on labor market outcomes or household poverty in South Africa is limited and the few studies that exist mostly focus on a single sector.

As one of the most comprehensive studies on the impact of sectoral wage laws in South Africa, Bhorat et al. (2012b), investigate the impact of minimum wage laws applied to the Retail, Domestic work, Forestry, Security, and Taxi sectors, on employment, wages and hours of work. They use the biannual South African Labour Force Survey (LFS) data for the 2000–2007 period. These sectors were specifically chosen as representative of low wage sectors. Using different specifications of a difference-in-differences model, they were able to control for sector-specific factors that may be impacting the outcome variables. The authors report three important results. Firstly, there is no significant negative effect of the minimum wage on the probability of employment for all focus sectors, except the Taxi sector and in fact, for three of the remaining four sectors, there is a significantly positive relationship. Secondly, there is evidence of a significant increase in real hourly wages in the post-law period as a result of the minimum wage law (between 5% and 20%), where the increase is proportionately higher in district councils where pre-law wages were further below the introduced minimum. Lastly, the results show that employers in some sectors have responded to the introduction of a minimum wage by reducing the number of weekly hours worked, however, three of the five sectors show that the increase in real hourly wages was sufficient to outweigh any adjustments to working hours, resulting in these workers experiencing an improvement in their real monthly income.

Therefore, where there are real wage increases, they are not of a magnitude higher than 20% and in most cases can be interpreted to be a wage catch-up as these sectors, particularly Domestic work, have been historically low paying sectors. This is supported by the outcome that the probability of employment after the minimum wage law implementation in the sectors that experienced real wage increases was not negative. This result is particularly important in shaping our understanding of South Africa's labor market dynamics. Indeed, the result of a benign impact at the extensive or intensive margin from minimum wage laws is not an unusual result, with the "new minimum wage" literature being sparked of course by the work of Card and Krueger (1994) on the US labor market.

A key caveat to this conclusion, however, is that labor outcomes may respond quite differently to minimum wage legislation across different sectors. Bhorat, Kanbur, and Stanwix (2012c) estimate the impact of the 2003 introduction of the minimum wage law in South Africa's agricultural sector, using the same data and approach as Bhorat et al. (2012b). Their results show a significant increase in farmworker wages (at a magnitude of 17%) along with a significant fall in employment in response to the law, rather than any adjustments at the intensive margin—that is in the number of hours worked on average.[11] In this instance, further contextual detail is needed to understand the apparent employment loses during a time of fairly stable agricultural output. The primary reasons argued by Bhorat et al. (2012c) are that agriculture was employing excess labor in the pre-law period thus the higher wage encouraged farmers to shed excess unskilled labor in favor of fewer more skilled workers; the possibility that many permanent workers were converted to casual or seasonal employees; and that the minimum wage law was implemented amidst fears of land redistribution in South Africa (with land reforms in full-swing in neighboring Zimbabwe). Arguably, job-shedding served as a defensive response to White farm-owners' insecurities about possible increased state interference in their industry.[12]

Therefore, using both the standard "trade union" impact measure, namely the OLS earnings functions estimates, together with the canonical model on the impact of minimum wages, there is no convincing evidence that South Africa's trade union movement is unusually strong or powerful in its ability to realize significant returns for its members. Perhaps then, their impact is at the margin through high-impact strike action, which leads to another relevant consideration when assessing trade union power—organizational capacity. Unions which prioritize collective bargaining require higher levels of membership density and financial resources to sustain prolonged disputes. However, if organizational resources are modest, mobilization on the streets may be easier to conduct than sustained strike action, which is "certainly an important component of bargaining power, even if not its only source" (Hyman and Gumbrell-McCormick 2010: 318). Put differently, relatively weak trade unions can gain huge "multiplier effects" through public displays of strike action, hence raising their perceived bargaining power during the dispute process. Through an international comparison of South Africa's strike intensity, we aim then to assess whether the perceived power of the country's trade unions stems from their relatively greater ability to organize members into prolonged strike action.

In the year from August 2012, South Africa experienced a period of relatively more frequent strike action, particularly in the mining sector, which has garnered the perception within the media and foreign investor community that the country's strong labor movement actions have the potential to lead to wider social unrest. In some quarters, it has been argued that this strike action may be an indicator of greater challenges to South Africa's macroeconomic policy framework and broader institutions. This was reflected in two major

[11] These results are consistent with Conradie (2004), which focused on South African grape farmers; however, in contrast to Murray and Van Walbeek (2007), who report no large disemployment effect for sugarcane farmers as a result of the law. The latter study, however, does show a decrease in the average number of hours worked as a result of the minimum wage and that farmers moved toward more capital-intensive farming methods where possible.

[12] Furthermore, prior to the agricultural minimum wage implementation, there was a 1997 Extension of Security of Tenure Act (ESTA), which served to increase the tenure rights of agricultural workers.

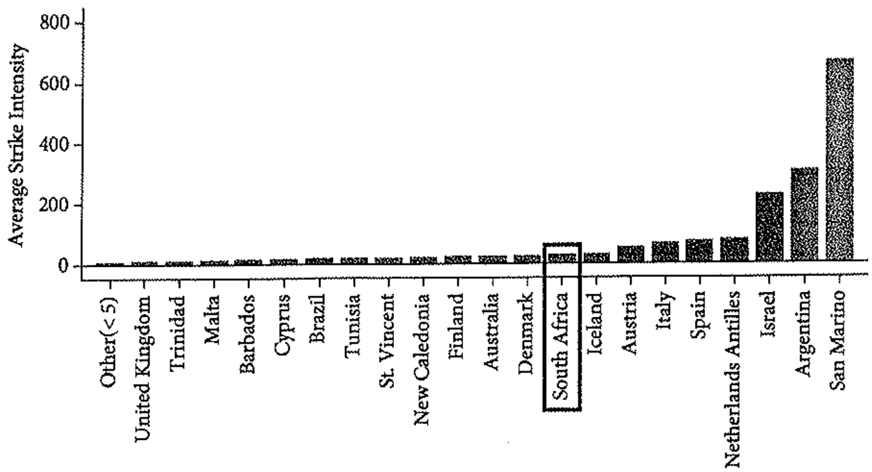

FIGURE 35.3 Average Annual Strikes Intensity (Number of Strikers per 1000 workers).

Source: LABORSTA Labour Statistics Database; International Labour Organisation (2013) and Own calculation.

Note: Average Annual Strike Intensity is the mean of annual strike intensity over the period from 1999 to 2008. See Footnote 13 for details on deriving Annual Strikes Intensity.

international credit rating agencies, Fitch Rating Agency and Standard and Poor's Rating Services, downgrade of both South Africa's long-term foreign and local currency credit ratings between October 2012 and March 2013.[13]

A more measured view of South African workers' propensity to strike is obtained by calculating the country's strike intensity,[14] using data from the South African Department of Labour's (DoL) Annual Report on Industrial Action (2003, 2007, 2012) on the number of striking workers per year, which is then normalized to the number of formal sector employees. On average, striking workers represented 1.1% of all workers in 2003, 7% in 2007, and only 2% in 2011—all fairly low proportions. To place South Africa's strike intensity in an international context, Figure 35.3 illustrates the average annual strike intensity for a range of different countries during the 1998–2008 period. On average, only 2.8% of South African workers were involved in strike action over the period, a similar intensity to countries such as Australia, Denmark and Iceland.

[13] In October 2012, Standard and Poor's lowered its long-term foreign currency sovereign credit ratings on South Africa and maintained an overall negative investment outlook. The downgrading was based on a number of factors, including an expected increase in fiscal spending pressures due to the country's social challenges and upward pressure on public sector wages (Stanlib, 2013). On 10 January 2013, Fitch downgraded all three of South Africa's credit ratings (for long-term foreign currency and local currency credit, and short-term credit), and placed the country on a stable outlook. Regarding the reasons cited, along with a deteriorated growth performance, a secular decline in competitiveness reflecting wage settlements above productivity and the increase of social and political tensions were cited (National Treasury 2013). Furthermore, in light of potential further downgrades in October 2013, South Africa's Finance Minister stated to a joint committee that credit ratings depend not only on good governance but also on perceptions of the country, therefore "news flows" often contributed towards negative perceptions of the country (Mittner 2013).

[14] The proportion of formal sector workers involved in strike actions.

Put differently, South Africa is less strike intense than economies such as Italy (6.6% of workers), Spain (7.3% of workers), and Argentina (30.7% of workers). Thus, the evidence would seem to contradict the notion that South Africa is a high strike intensity economy.

Despite the above, it is possible that although relatively fewer workers are on average involved in strike action in South Africa, the strike length may be above global averages, hence generating significantly greater costs to the economy. Calculations using data from South Africa's DoL (2012) to derive the proportionate number of working days lost over the last decade show that 0.05%, 0.45%, and 0.13% of working days were lost due to strike action in the three years of 2003, 2007, and 2011[15], respectively. These proportions correspond to an underlying total number of strike days lost at 920 000 in 2003, 952 000 in 2007, and a more rapid increase to 2.8 million in 2011. The increasing trend in the number of strike days lost may be misleading however, as the number of strike days lost has grown more slowly than the number of individuals working, so lowering the overall proportion of working days lost due to strikes.[16]

Another perspective on strike action would be to consider strike depth. That is the percentage of strikers' work days lost per year, which provides insights into the duration of strike activity.[17] Comparing South Africa to relevant comparator countries including the BRICS[18] nations over the 1999–2008 period (Table 35.5), we see that South Africa—at 3.77%—ranks below both Brazil and India in terms of the average proportion of strikers' workdays lost per year due to strikes. Furthermore, other middle-income emerging economies of Nigeria and Turkey display a proportion of strike-related lost workdays that are respectively three and five times the estimate for South Africa's.

In essence, our data above would seem to suggest that strike action in South Africa is not remarkably different from similar activity in other similar emerging economies. In particular, it has been shown that South Africa's strike intensity and the cost to the economy in terms of the proportion of strikers' workdays lost due to strikes is not an international outlier and do not present themselves to be defining characteristics of South African labor market relations.

The evidence reviewed in this section suggests that the impact of trade unions in generating a segmented labor market through high wage demands are not so clear, given the lower than previously estimated wage premia. Similarly, wage legislation was shown to have little impact on labor market outcomes in many sectors, barring the agricultural sector. In that

[15] Percentage of working days lost is calculated as the total number of working days lost per year (the product of number of strikers and the number of striking days per year), divided by the total number of working days (product of employees and the actual working days per year). Actual working days per worker, per year, is equal to 21.67 working days per month, multiplied by 12 months, which is equal to 260.04 working days per year; less 15 days of leave and less 12 sick leave days per year; is equal to 233 actual working days per worker, per year.

[16] It is important to note that the number of working strike days lost per year is normalised to the total number of working days, which is the product of employees and the actual working days per year. Since the actual working days per year are kept constant over time, it follows then that the 2007–2011 increase in the number of strike days lost is more than overcome by a proportionately faster increase in the number of employees, therefore lowering the overall proportion of working days lost due to strikes.

[17] Percentage of strikers' working days lost is calculated as the total number of working days lost per year (the product of number of strikers and the number of striking days per year), divided by the total number of striker working days (product of number of strikers and the actual working days per year).

[18] BRICS is a grouping of the emerging markets of Brazil, the Russian Federation, India, China, and South Africa. China is excluded for lack of data.

Table 35.5 Average percent of strikers' workdays lost per year and relative average strikers' workdays lost, 1999–2008

Country	Average percentage of strikers' workdays lost per year	Relative average workdays lost to SA
Brazil	46.40	12.30
Russia	2.51	0.67
India	8.02	2.13
South Africa	3.77	1.00
Nigeria	10.94	2.90
United States	9.51	2.52
Turkey	19.77	5.24

Source: LABORSTA Labour Statistics Database, International Labour Organisation (2013) and Own Calculation.

Note: Average percentage strikers' workdays lost per year is the mean of percentage strikers' workdays lost per year from 1999–2008. Relative average workdays lost to SA is calculated as the ratio of each country's average percentage workdays lost per year over South Africa's average percentage workdays lost per year.

case, the political economy aspects of the South African agricultural sector were thought to be important in understanding of the apparent employment loses at the time. Therefore, strong political economy effects may have the potential to impact labor market outcomes in a way that estimates on direct union or regulatory intervention may not fully capture, which is the focus of the section that follows.

35.5 The Political Economy of High Unemployment

Perhaps the most important component to understanding trade unions and trade-unionism in South Africa is their role in the very fabric of the political economy of the society. This section aims to provide a political economy overview of the ruling party's tripartite alliance and how COSATU functions as part of South Africa's ruling party alliance. We interrogate the view that an implicit growth contract is struck between big business, big labor and often times, big government. Many have argued that rent seeking with this "second" alliance may exclude the unemployed and the non-unionized from the growth process. This political economy model of a middle-income country growth trap then, is closed as it were, by foreign investor sentiment, which is very sensitive to the political muscle of the trade union movement.

Employers' organizations and trade unions are not merely economic agents, they are necessarily key actors in the political arena. These organizations influence the laws that regulate labor markets and may even influence policies beyond the sphere of labor relations. Furthermore, unions which represent public sector employees—and it was shown in South Africa, union density is significantly higher in the public sector than the private sector—must inevitably address the policies of the state (Hyman and Gumbrell-McCormick 2010). The nature of trade union involvement in the political arena depends on the norms and institutional framework of the society in which they exist. Historically, labor unions have contributed to the establishment of social and labor rights, as well as to political change in many countries (World Bank 2013a), of which South Africa is no exception. In effect, the historically radical nature of South Africa's labor movement against the backdrop of apartheid has no doubt become an entrenched part of the country's trade union movement today. In some countries, perhaps like South Africa, the political involvement of unions can overshadow their activities at the workplace and because their membership is strong in the civil service and in protected sectors, unions have often opposed reforms involving fiscal consolidation, privatization, or liberalization (World Bank 2013a). As such, the dual economic and political role is both complex and often times contradictory.

In South Africa, COSATU is in a strategic political alliance with the African National Congress (ANC) and the South African Communist Party (SACP). When political organizations were unbanned, in early 1990, the ANC, SACP and COSATU agreed to work together as an alliance—formally known as the tripartite alliance. This implicit and explicit political contract has held its political position since the ANC was democratically elected into power in 1994. The ANC's 1994 election manifesto was defined by the Reconstruction and Development Programme (RDP), initially outlined by COSATU. Not only was COSATU central to the drawing up of the RDP, but the federation released 20 of its leaders to stand as candidates for Parliament on the ANC's national list in 1994, and numerous others to stand for the party for election to provincial legislatures and, in 1995, to stand in the local government elections (Southall and Webster 2010). This flow of union leaders into senior positions in government has continued steadily over the last 20 years of South African democracy.

Despite its discontentment with government policy over time, COSATU's membership has been a significant net beneficiary of ANC rule and has thus unsurprisingly remained consistently loyal to the ruling party and the tripartite alliance since 1994. Expectations of a split in the tripartite alliance were heightened in 2002 when President Thabo Mbeki criticized ultra-leftists in COSATU and the SACP, suggesting they should comply or leave the alliance (Pillay 2006). Yet by early 2004, COSATU and SACP were campaigning for an overwhelming ANC victory in national elections. Revealingly, in parts of the country where the local-level ANC lacks coherent structures and faces budgetary constraints, the ANC has been known to rely on COSATU's networks, organizational structures, and capacity, members and active involvement in electioneering, such as precisely during the 2004 election campaign (Coetzee, Daniel and Woolfrey 2012). This provides COSATU with significant leverage within the tripartite alliance.

The more recent tension between COSATU and the ANC originating from disagreements on economic and social policy eventually led to the 2007 "coup" at Polokwane, resulting in the ousting of then president, Thabo Mbeki (Bendix 2010). This push from COSATU to end Mbeki's presidential term was as a result of mounting pressure arising from ideological differences between government policy and the union movement. Government's continued attempts to create an investor-friendly economy; COSATU's giving priority to the RDP; the adoption of GEAR; and the privatization of public enterprises have all been strong points of disagreement between these two arms of the alliance (Bendix 2010).

It is clear that COSATU engages with the government in a number of areas. An important part of this engagement is their participation in the National Economic Development and Labour Council (NEDLAC) with business and a community chamber, which was established in 1995 to provide an institutional forum for policy negotiation between organized business, government and organized labor. Importantly then, the association between trade unions and economic rent-seeking is critical in understanding how the political economy effect of trade unions in South Africa can potentially influence the country's development trajectory.

Economic theorists have long agreed that the poor protection of property rights is bad for economic growth (North 1981). The theory tells us that economic rents may have either static or dynamic effects on the economy where static effects lower welfare and dynamic effects lower the growth rate. These two effects are associated with different types of rent-seeking, with private rent-seeking attacking the productive sector of the economy whereas public rent-seeking attacks innovation, since innovators need government-supplied goods such as permits and licenses (Murphy, Shleifer, and Vishny 1993). Not only are new innovators reliant on license issuance, but even established producers in sectors characterized by higher levels of government involvement are subject to the threat of revoked licenses, such as those in South Africa's mining sector in particular. The dynamic effects of rent-seeking then are particularly attributed to public rent-seeking, which takes the form of lobbying, corruption and so on.[19] In particular, these rents impact on the savings and investment channels within a country, which has the potential to severely hamper longer-term growth and development.

In South Africa there are clear signs that business acknowledges the political economy strength of the trade union movement and hence are participants in this social contract as they pursue short-term business needs. An example of this was the delay by Anglo American Platinum (Amplats) to act upon its January 2013 announcement that it would retrench nearly 14 000 workers, after a memorandum of demands by COSATU and NUM to stop the retrenchment action immediately were handed over to the mining company (South African Labour News 2013). By September 2013, Amplats revised its proposed retrenchment plans so that it would only affect 3300 workers but after an 11-day strike by AMCU members, these members were granted voluntary separation packages and so no employees were effectively retrenched (Greve 2013). The September strike action cost Amplats 44 000 platinum ounces and their medium-term outlook report has downwardly revised its targeted production capacity due to both lower platinum demand growth and a number of "structural challenges" that has eroded profitability in recent years (Anglo American 2013). Of course, mining is perhaps the sector associated with one of highest costs of non-compliance with government and labor since government has the ability to revoke mining licenses.

Therefore, in sectors where the cost of not complying with big government and big labor is high, big business' growth and development trajectory is invariably shaped by the implicit contract between these three actors. The perceived balance of power amongst these agents is a key determinant of foreign investor sentiment toward South Africa and is most exposed in the downgrading of the country's credit ratings and investment outlook by major

[19] In contrast, private rent-seeking takes the form of theft, piracy, litigation and other forms of transfer between private parties where rent-seekers attack existing stocks of wealth (Murphy et al. 1993).

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35.6 Conclusion

This chapter has attempted to locate and understand the role played by trade unions in particular and the labor regulatory environment in general in South Africa, in shaping labor market outcomes. In particular, we have attempted to ascribe the relevance of these factors to understanding the economy's high unemployment rates and severe labor market disequilibria. We find that despite a long history in South Africa, trade union membership levels, their impact on average wage levels, and indeed their pursuit of strike action has resulted in a relatively benign economic impact either within-country or when compared with other economies around the world. In the case of labor regulation, whilst there is strong evidence of a negative employment effect from the minimum wage, in the case of other sectoral minimum wage laws, there are no sufficiently compelling reasons here which explain the economy's labor market disequilibria.

Ultimately then, we seek analytical refuge in the political economy make-up of the South African economy. We argue that standard economic and econometric evidence of the power of trade unions and labor legislation, measuring their impact on labor market outcomes in South Africa, merely exposes the limitation of these tools. These powerful, yet limiting tools then, cannot uncover or appreciate the centrality of the social contract within the tripartite alliance and its dominance in shaping the country's economic development trajectory. The political economy of wage formation and economic activity in South Africa, we argue, are central to appreciating the economy's current domestic labor market disequilibria. Unlocking the kind of inclusive growth necessary to overcome the country's large structural unemployment challenge means, therefore, that a space at the negotiation table must be found for the informal sector and the unemployed—key groups which continue to be underrepresented in the current growth and development discourse of South Africa.

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