



School of Economics  
University of Cape Town

## CONFERENCE 2008

The Regulatory Environment  
and its Impact on the Nature  
and Level of Economic  
Growth and Development in  
South Africa

### Great Expectations: Working Conditions since the End of Apartheid

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Employment Promotion Programme



## **Great Expectations: Working Conditions since the End of Apartheid**

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Paper prepared for the 2008 DPRU conference

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A wave of xenophobic attacks targeting African immigrants in South Africa has shocked the world in April and May 2008. Leaving 62 people dead and thousands injured, it has incited hundreds of thousands to leave their homes and sometimes the country. Most political parties have condemned these attacks, although many rioters attacking foreigners were heard chanting *Umshini wami* ("Give me my machine gun"), which Jacob Zuma used to sing in 2007 before entering the Johannesburg court where he was being trialled (he was subsequently acquitted). Mr. Zuma, who registered a landslide victory over Thabo Mbeki to become President of the African National Congress (ANC) at its Polokwane Congress in December 2007, is widely seen as crystallising the hopes of the many South Africans who feel that they have not been able to reap the benefits they expected from the end of the apartheid regime in 1994. While it is unlikely that the attacks have been plotted by any organised political organisation, they convey a strong message which should not be ignored: there is a growing disenchantment with the "New" South Africa and it would be foolish not to recognise it.

In a country where inequality is still higher than anywhere else in the world, it is hardly surprising that demands for improved living conditions are making themselves heard. What is worrying is that they are expressed with increasing violence while debates are confined within the ruling tripartite Alliance. The general elections planned for April-May 2009 carry a sense of immense (if vague) hope and apprehension. This paper will attempt to shed light on the political economy of South Africa by focusing on an essential, yet often overlooked, cause for frustration among the majority of South Africans, namely their inability to access satisfactory jobs since 1994. The persistence of high unemployment is an essential part of this phenomenon; it is discussed in the conclusion of the paper but it is not its main focus. Rather, we look at the evolution of working conditions and argue that, while important changes have taken place, exploitation and poor working relations have all but disappeared. This could go a long way in explaining the frustration of the citizens last African country to have been freed from White political rule.

In the first section, we emphasize the great expectations that were associated with the end of the apartheid workplace regime and the substantial revamping of labour law. In the following three sections, we look at the changes that have taken place in three selected sectors: mining, forestry and agriculture. Our perspective is firmly rooted in a reliance on case studies as opposed to abstract generalisations derived from large datasets, notwithstanding the latter's value when they are rooted in a qualitative understanding of their object – and when the data is reliable. The sectoral diversity of legal regimes, institutional frameworks and economic conditions under apartheid further support our decision to analyse the evolution of working conditions in three sectors of the South African economy: mining, forestry and agriculture. Chosen for their historical and economic importance in South Africa (they represented 15% of the working population and 17.7% of GDP in 2005), these sectors were characterised by violent labour relations during apartheid and have experienced rapid (albeit multi-faceted) casualisation of labour

thereafter. They present varying degrees of unionisation and linkage to international capitalism. Mining is an industrial sector that is deeply integrated with the global economy, with historically powerful unions. Forestry, a semi-industrial sector integrated into a number of local and global value chains, has seen its rate of unionisation collapse since the beginning of the 1990s. The situation of agriculture is quite different: it remains a conservative sector with paternalistic labour relations and weak unions, although its production, a portion of which is exported, is economically very significant. In the last section, we conclude by highlighting that the casualisation of working conditions in South Africa has triggered a crisis of reproduction which reveals the striking (and probably unsustainable) insufficiency of the transformation of the country's economy.

### **Great expectations: Into the Post-Apartheid Workplace Regime**

Social relations of production in contemporary South Africa have been heavily shaped by a violent history. Wage labour regimes have been remodelled by continuous social and political conflicts experienced in the country since the late 19<sup>th</sup> century. As noted by Makgetla (2006), the apartheid regime (and before this the British and South African colonial regimes) intentionally weakened the position of Blacks both as capitalists and as labourers by maintaining a situation of structural under-unemployment. This was aimed at protecting the socio-economic position of all Whites (notably the poor and least educated) while providing the capitalists with a cheap and tractable Black workforce, drawn from an impoverished “reserve army of labour”, ready to accept whatever work was on offer<sup>1</sup>

At the heart of the apartheid political regime lay racially segregated and highly unequal labour rights. Beyond employment opportunities, the panoply of rights that white workers benefited from (union rights, social security, medical insurance, unemployment fund, access to labour courts, and so on) contrasted with the State's efforts to weaken African workers, whether by subverting their organisations or by direct attacks<sup>2</sup>. White power was such that the permanent and often violent assertion of racial domination blurred the lines between productive tasks and personal services. At a “mixed” workplace, like the Highveld steel factory studied by Karl Von Holdt (2003), a black worker always had to be at the service of a white worker, whether the latter was his superior or not. Von Holdt shows how this blurring of racial and technical hierarchies, on top of being inefficient, generated a humiliation and a frustration that played a decisive role in the emergence of unions. The professional status of Blacks relegated them to the least qualified, most gruelling tasks for which they received miserly wages; their status did not allow them to contest unfair practices or dismissal, deprived them of any indirect wage such as pension or insurance, and of all potential for professional advancement. If employers' practices allowed it, only the few Blacks who were in formal employment (from which all temporary workers were excluded) had the capacity to bargain for improved working conditions.<sup>3</sup>

Apartheid generated individual workplace resistance from its outset, but working conditions only started improving in the wake of the violent strikes of 1973 in Durban.

They were followed by increasingly structured union contestation which pushed the government to adopt the Industrial Conciliation Act (ICA) of 1979 and to recognise black workers' unions. New rights sparked the extension of conflict in the workplace and beyond, marking a turn in South African history. The increase of power of black unions drastically modified the status of wage labour and played a decisive role in the political turmoil that brought about the end of apartheid. In 1994, after the first democratic elections, a tripartite alliance between the African National Congress (ANC), the South African Communist Party (SACP) and the Congress of South African Trade Unions (COSATU<sup>4</sup>) took power, bringing hope for better living and working conditions to the majority of South Africans. In 1995, one year after apartheid officially ended, the Labour Relations Act (LRA) restructured the relationships between employers and employees. Two years later, in 1997, the Basic Conditions of Employment Act (BCEA) provided a clear and inclusive definition of an employee, which covered all workers (except the self-employed) and strictly regulated working conditions (45 working hours per week, 21 days of leave per year, sick leave entitlement, etc.). While some of the regulations retained in the BCEA concern all sectors (unemployment insurance, retrenchment funds, etc.), a number of social protection measures (pension funds and different types of insurance) depend on negotiated agreements within each business or branch. It is for this reason that the BCEA provides a mechanism, called sectoral determination, allowing the Minister of Labour to intervene to define the minimum remuneration and working conditions in a given sector if workers are insufficiently unionised to negotiate with their employers.<sup>5</sup>

The legal design of the post-apartheid labour regime reveals its (intended) collaborative nature and bears a striking resemblance to the Northern-European model of industrial relations. The latter's appeal to COSATU and to the liberation movement at large reflects the popular rejection of what Von Holdt calls the "apartheid workplace regime"<sup>6</sup> and signals a will to entrench the social gains obtained during the twenty years that preceded the first democratic elections. It is at odds with the market-oriented model promoted by institutions such as the World Bank and the International Monetary Fund, who followed closely the ANC and the South African transition and sought to influence them<sup>7</sup>. These efforts were however not vain in other areas: macro economic policy, after an initial phase of fiscal largesse (the Reconstruction and Development Programme) aimed at addressing some of the structural inequalities inherited from apartheid, has been very prudent since 1996, both in its fiscal (South Africa ran an 11 billion Rand budget surplus in 2007) and monetary components. The violence associated with recent xenophobic outbursts draws attention to the fact that the social and economic expectations of many poor South Africans have often not been fulfilled. While one cannot ignore the progress made with the adoption of a very progressive Constitution and subsequent legislation, which enhanced the protection of civil, economic and social rights, several dynamics have constrained the awaited improvements of working and living conditions. We will explore them selectively, starting with the sector which has been the engine of South Africa's economic development since the 19<sup>th</sup> century: mining.

## **Mining Affected by Liberalisation and Subcontracting**

The mining sector has played a central role in South African history. It was for many years one of the nation's primary employers and it has deeply shaped social relations of production<sup>8</sup>. The capitalisation required to enable extraction led to a concentration of capital among several large companies, which structured the whole economy. As such, mining development has led to the conditions of "petty-bourgeois production" through corporate mergers which concentrated ownership in progressively fewer hands<sup>9</sup>. Since the beginning of the 20<sup>th</sup> century, in the years following the discovery of diamonds in Kimberley in 1867 and of gold in Johannesburg in 1886, the South African economy has been organised around a "minerals-energy complex" (MEC), a term coined by Fine and Rustomjee in their landmark study of 1996<sup>10</sup>. In order to supply this sector with an abundant and cheap workforce, specific social relations of production as well as spatial configurations were developed. The division of labour and tasks was strongly related to race, as illustrated by the separation between white 'miners' (allowed to work with explosives) and black 'mineworkers' (confined to basic tasks such as hand-digging or excavating) – a practice going back to the early 1920s<sup>11</sup>. This organisation of production was complemented by a system based on the employment of migrant workers travelling from territories reserved for non-Whites (the Bantustans) and neighbouring countries (Lesotho and Swaziland, but also Zimbabwe, Botswana and Mozambique)<sup>12</sup>. This spatial structure was integral to the apartheid legal framework<sup>13</sup> and persisted until 1994<sup>14</sup>.

Since the 1970s, the mining sector has become increasingly dependent on South African workers as a result of the partial loss of control over foreign labourers (following the independence of several southern African countries) and of the increase of local labour demand, which has led to an increase in wages (+320% between 1980 and 1985) in order to compete against other labour-intensive sectors<sup>15</sup>. Combined with the rising value of gold and the growing power of unions since the early 1980s<sup>16</sup>, this situation favoured the emergence of far-reaching demands, which led to sectoral agreements on the distribution of value added and working conditions. In addition to higher salaries compared to other sectors, mine workers generally benefited from well-defined, full-time, indefinite duration contracts. Indirect salaries and social protection were also important, partially protecting mine workers against the risks of unemployment, illness, disability or dismissal. Labour law covering issues such as working hours or sick leave was respected and health and safety regulations were relatively well abided by. Mineworkers often benefited from additional advantages (pension funds, multiple forms of insurance, living and food allowances)<sup>17</sup>. Improvements in working conditions began to be reversed following the restructuring of the sector initiated after the major strike of 1987 and the liberalisation process of the 1990s. The concomitant decrease in international mineral prices meant that mines struggled to cover their labour costs, which had risen from 25 % to over 50% of overall production costs, initially triggering a substitution of labour with capital<sup>18</sup>. The South African mining workforce decreased from 750 000 in 1990 to 402 000 in 1999<sup>19</sup>. Moreover, since the 1990s, the sector has witnessed the emergence of companies adopting new organisational models and outsourcing the workforce *en masse*. Facilitated by the liberalisation of the economy, these trends have deeply impacted the working conditions of mine workers.

First, liberalisation and the withdrawal of the State following the end of apartheid were accompanied by a political desire to undermine the power of oligopolies in the mining sector. Besides the many larger South African companies and conglomerates moving abroad or registering offshore<sup>20</sup>, the opening of markets has allowed the emergence of new, medium-sized, often foreign-owned mining enterprises which generally benefit from temporary licenses for mines whose rights they rent from large South African mining companies. In addition, since 1998, a programme aimed at increasing investment, business creation and employment has promoted small-scale, mainly Black-run mining activities, often on agricultural land and sometimes in the former Bantustans. Such businesses have rapidly developed and, although their production is difficult to quantify, Anseuw estimated in a study conducted in 2000 that workers employed by these new companies represented 24% of the mining workforce<sup>21</sup>. All these new companies are investing either small or impermanent capital in generally temporary mining activities and their profitability depends on a considerable reorganisation of labour. As such, productivity gains are generally realised thanks to a reduction in production costs achieved through the deterioration of working and living conditions of labourers.

Second, outsourcing of labour has developed rapidly<sup>22</sup>; initially concerning so-called side or secondary activities such as catering, accommodation, and social services, outsourcing increasingly impacts core productive activities. Two different types of subcontracting have been observed in the mining sector<sup>23</sup>. The first can be considered to be “formal”: contractors are legally registered companies that allocate their workers to different companies; a labour surplus in one mine can be absorbed by another. In this case, subcontracting is not a means to circumvent labour laws or branch agreements, nor is it geared to prevent union organising, but it aims to create a more flexible work organisation. Indeed, mining companies have imposed on their formal contractors, often due to union pressure, work conditions more or less comparable to their own. However, subcontracting often goes hand in hand with a deterioration of working conditions. This sort of subcontracting can be called “informal”. Workers employed by these contractors are typically offered less advantageous working conditions. Such practices are observed in all types of mining companies, who use them to evade certain legislative requirements and limit union action. In these cases, subcontracting becomes mainly a means to change working conditions without having to negotiate with workers or their unions. Though little recent data is available, Crush noted that in 1997, 5% of coal mine workers worked on subcontracts<sup>24</sup>, while in 1999 Streek estimated that the rate of workers on subcontracts in the mining industry was in general above 30% (50% of whom were foreigners)<sup>25</sup>. Anseuw, in his study conducted in 2000, estimated that 12% of workers were “informally” subcontracted<sup>26</sup>.

Except for formal subcontracting, recent processes associated with the liberalisation of the mining sector, *i.e.* new mining enterprises and informal subcontracting, have thus led to a deterioration of working conditions. These new models are characterised by low investment and intense labour exploitation: lower production costs are achieved through the deterioration of labour situations, which become very precarious, even illegal. When they are declared, employees are often hired on temporary (sometimes daily) contracts.

This change goes hand in hand with a less advantageous employment status and decreased security, an important reduction in direct (which are neither indexed nor negotiated) and indirect wages, as well as with a degradation of physical working conditions (the 45-hour work week is often not respected). Compared to the initial conditions of large mining companies, Anseeuw estimates that the average decrease in direct salaries is 65% on average, for increased working hours and more difficult and strenuous tasks<sup>27</sup>. These workers do not have unemployment (or any other) insurance or pension fund and their temporary status does not include holidays or sick leave. In addition, employment often depends on available work and on actual profits: mine workers are forced to assume part of the business risk of the company. This model of organisation allows employers to access a flexible, cheap and tractable workforce, which in addition is not in a position to bargain for improvements: labour insecurity discourages mineworkers from joining a union or from attempting to negotiate better working conditions. The employees of temporary mine exploitations, of abroad/offshore based companies or of the majority of the subcontracted activities are thus unlikely to ever benefit from the current high mineral prices linked to high demand from India, China and Eastern Europe. The casualisation of work observed in South African mines finds its equivalent in many countries confronted with globalisation, but liberalisation also has, as will be demonstrated, more specific consequences in less integrated and less unionised sectors.

### **South African Forestry in Crisis: A Worst-Practice of Outsourcing?**

The South African timber industry developed from the beginning of the 20<sup>th</sup> century and was the driving force behind the emergence of numerous tree plantations<sup>28</sup>. Contrary to central Africa, southern Africa has a modest area under natural forest cover: in 1999, forests represented approximately 0.3% of the South African territory<sup>29</sup>. Plantations are constituted of imported species, mainly pine and eucalyptus, which are replanted shortly after felling. Like many South African industries, the timber industry was first at the service of the minerals-energy complex; until the 1960s, demand for timber mostly came from the mining sector, as well as from construction<sup>30</sup>. The State played a direct role in the establishment of plantations to overcome the risks inherent in this type of investment, where the return takes many years to be realised. From the 1960s onwards, the State supported the growth of the pulp and paper industry through a variety of export subsidies and credit facilities, intended in particular for two private companies which have since become global players: Sappi and Mondi, a subsidiary of the Anglo-American Group. Although the expansion of South African plantations was slightly curbed after 1972 in order to regulate their impact on river flows, the timber industry represented in 2003 a value added of 1.35 billion euros, or 1% of South Africa's GDP, and employed more than 170 000 people, 60 000 of which in forestry<sup>31</sup>. But, since the end of the 1980s, the sector has been experiencing a crisis which it struggles to overcome and which is linked – as we will see – to the outsourcing of forestry operations.

The contracting of forestry operations began in the late 1980s, at the time when urban unrest against the apartheid regime reached rural areas and forestry workers, in large part

through the activism of unionised factory (paper- and sawmills) workers (Webster, 1999, and author interviews). Until 2000, large forestry companies insisted that they relied on contractors to improve productivity, alleging that entrepreneurs should be more productive than managers (for an ingenuous presentation of this argument, see Morkel, 2000). Forestry companies outsourced their entire operations in a few years' time, encouraging their foresters – all Whites – to set themselves up as contractors. The first to outsource were the pulp and paper giants, Sappi and Mondi, whose activities were traditionally integrated vertically “from stump to mill” and who are referred to as growers-producers (GPs). Production of timber was in effect subsidised by that of pulp and paper, which have a much higher market value. By contracting the most labour-intensive part of their activities, the GPs effectively transferred risks to their contractors, paying them for actual production only without providing them with any technical assistance<sup>32</sup>.

Forestry, *a fortiori* when deprived of the mutualisation of risks with downstream transformation industries, is a risky activity, marred by low timber prices, very small margins and vulnerability to weather variations (mostly impacting debarking and transportation). The organisation of production in the sector is draconian and profits depend on strict controls of production and costs. But outsourcing was accompanied by an aggressive strategy by the GPs to reduce the remuneration of contractors. They exacerbated a “race to the bottom” price competition and prevented contractors from collectively negotiating annual remuneration increases, by threatening them individually not to award them a contract<sup>33</sup>. There are no available figures to determine the evolution of the remuneration of contractors, but it is likely that it increased on average less quickly than inflation since the beginning of the 1990s, reducing real income considerably. A study conducted in KwaZulu Natal, South Africa's main forestry area along with Mpumalanga, estimated the bankruptcy rate of contractors to be more than 40% in 2004<sup>34</sup>. It is emphasised in this study that ‘although contracting is in theory about a commercial relationship based on provision of services, in reality there is such a power imbalance between the GPs and the contractors, such that it better resembles an employment relationship’ (p.14).

The insistence of forestry companies to remunerate their contractors as little as possible contributed to the development of subcontracting, sometimes chain subcontracting (i.e.e contracting out by contractors), most often outside any formal rules. These new entrepreneurs are usually Blacks who work for white contractors and employ unskilled workers, often women and illegal migrants, living near their place of residence. This evolution is paradoxically seen as progressive from the point of view of the national Broad-Based Black Economic Empowerment (BBBEE) policy, which supports the creation of small Black-owned businesses as part of a development and poverty reduction strategy. But most of these entrepreneurs struggle to keep their businesses afloat; reimbursing debts accumulated to finance the business is often the main motivation to continue until bankruptcy. Moreover, the difficulties they experience to insure the reproduction of their means of production often leads to the suffocation of the household income. Entrepreneurs tend to “divert” resources from the family budget (school fees, food) to pay workers or fix equipment, which makes them more akin to the African petty

commodity producers described by Bernstein (2003) than to promising capitalists. In his research, Pons-Vignon has documented numerous cases where small contractors experienced a squeeze as they exhausted domestic resources (reproduction as labour) in order to keep their business afloat (reproduction as capital). The forestry industry has thus greatly suffered from outsourcing: the bankruptcy of many foresters turned contractors has deprived the sector of qualified professionals; productivity and production have declined and the number of criminal acts on plantations (arson, timber theft, etc.) are on the rise<sup>35</sup>.

This crisis has profoundly affected the forestry workforce, leading to a rapid casualisation of working conditions. The risk that forestry companies are unloading onto their contractors is in large part assumed by the workers themselves, who are subject to task work (i.e. they are paid upon completion of a set task rather than of a work day). This practice, common in forestry, has become a means of intolerable exploitation with outsourcing: the task is indexed on the productivity necessary to achieve the production stipulated in the contract between the forestry company and the contractor, rather than on the physical capacity of workers. Many of them are paid between 300 and 500 rands per month for hard and often dangerous labour (author research). The tasks demanded are often beyond workers' abilities, they are usually not given adequate training and lack experience and proper equipment. Their resulting inability to perform the required task allows contractors to underpay them and reduce costs. A frequently observed mechanism to transfer production risks to workers is the refusal to adapt tasks to changing weather conditions, a determining factor notably for debarking, since dry bark is very hard to tear. The daily "task race" pushes workers to take risks, further increasing the danger associated with forestry work. Employers are however very reluctant to recognise work-related injuries; they often do not pay their insurance contributions and their principal companies threaten not to renew their contract if the number of reported accidents increases. Living conditions in forestry compounds have also deteriorated largely due to widespread overpopulation in these "worker villages", isolated in the middle of plantations, and to the withdrawal of GPs from their direct management. Compound management has indeed also been outsourced, with as little supervision as other forestry activities; cases of workers living in crowded tents are frequent in Mpumalanga (author research).

In rural areas, until the 1990s, forestry workers formed a sort of proletarian elite when compared to workers in agriculture, because they were employed by large companies who conceded a number of social advantages, often as a result of action by workers in transformation industries. Due to the impact of outsourcing, forestry has come to be seen as a last resort and many prefer to work in sugar cane or citrus plantations, where conditions are reputed to be very difficult. All indirect incomes have been cut from forestry workers' wages and the duration of contracts, sometimes based on the contractors' (generally one year), has often been shortened to three months. More and more women and foreigners, often illegal Mozambicans, Zimbabweans, or Swazis, replace the "traditional" male South African workers who made up the majority of the labour force during the era of vertical integration.

Although union mobilisation played a decisive role in the improvement of working conditions in the forestry sector in the 1980s, its efficiency was linked to an alliance with factory workers, for example in sawmills, who were better organised than plantation workers. The contracting out of forestry operations separated the two groups of workers, and the separation was entrenched in the mid-1990s with COSATU's creation of SAAPAWU (South African Agricultural, Plantations and Allied Workers Union), which organised agricultural workers together with their counterparts in forestry, who were previously organised by PPWAWU (Paper, Printing, Wood and Allied Workers Union). Whatever the motives behind the creation of SAAPAWU, regrouping two of the weakest categories of workers (forestry and agriculture) in conditions of growing casualisation proved to be impossible and the union soon collapsed. Membership declined and negotiations with forestry employers were difficult, since the latter, from a handful of GPs, were now made up of hundreds of contractors. Numerous micro unions, often with questionable practices, appeared in areas left uncovered by COSATU-affiliated unions (author research). In 2004, the failure of SAAPAWU was made apparent by its merger into FAWU (Food and Allied Workers Union), which until present has not succeeded in halting the collapse of unions in forestry. The failure of unions to protect forestry workers is obvious, and the causes are at least partially found in their division, which happened at the same time as a far-reaching structural change in the organisation in the industry was taking place.

The publication, in March 2006, of a forestry sectoral determination<sup>36</sup> demonstrates the government's recognition of the inability of unions to represent and defend forestry workers. The Minister prohibited that task payment be applied to the entire wage of forestry workers, declaring that the minimum wage was to be given in full and that he could not "*tolerate employer's argument according to which task-based work without a guaranteed minimum wage ensures that 'lazy' workers do what is asked of them*"<sup>37</sup>. However, one can doubt the impact that this ministerial determination will have in a sector where the deficiency of unions and the precariousness of workers render the reporting of violations unlikely, especially when labour inspectors are notoriously understaffed<sup>38</sup>. However, the fact that state intervention was necessary reflects the severity of the problems of working relations in rural areas, as further documented below.

### **In the Agricultural Sector, a Failure to Secure Land and Labour**

In comparison with forestry and mining, the history of South African agricultural labour is found as much, if not more, in the pattern of land appropriation as it is in labour legislation. Indeed, colonial history and the expropriation of indigenous people, especially since the land laws of 1913 and 1936 (Native Land Acts), have shaped working and living conditions.

After the migration of the Boers (the "Great Trek") in the 19<sup>th</sup> century and the appropriation of much land by settlers, many non-Whites were confined to small, squattered and infertile pieces of land, often leaving them with the sole option to become sharecroppers on white farmland<sup>39</sup>. In addition, the laws of 1913 and 1936 attributed

precisely 8% then 13% of South African land to non-Whites, who represented approximately 80% of the population. These laws confined Coloureds in reserves and Blacks in Bantustans, where land tenure was kept uncertain and agricultural practice was supposed to remain communal. Although these measures first served the objective of land appropriation by Whites, leading to the displacement of millions of non-Whites, they also aimed at suffocating the Black peasantry<sup>40</sup>. Subordinated and deprived of their own economic resources, these populations became a reserve army of labour for White agriculture and industries for which, as seen above, a system of migrant work from the reserves and the Bantustans was established. These laws also allowed Whites to evict Black workers living on their land and facilitated the hardening of labour conditions. Sharecropping agreements – considered to be generous towards Blacks – were questioned and gradually transformed into paid agricultural labour and, in Natal, into “labour tenants”, a system in which work was supplied in exchange for the right to live on the farm land<sup>41</sup>.

By the end of apartheid, living conditions of farm workers (either paid workers or labour tenants) had deteriorated considerably: in addition to the 3.5 million Blacks that were expelled from their land between 1950 and 1980, about 1.4 million people, during the same period, and an additional 730 000 people in the last 10 years of apartheid were chased from White-owned land<sup>42</sup>. Furthermore, until 1994, farm workers did not have the right to organise themselves or to join a union. Their working conditions were less than mediocre: difficult tasks and workdays frequently in excess of 12 hours for extremely low wages, often paid in kind. The relationships between farm workers and owners were characterised by dependence and paternalism<sup>43</sup>: Not only was permission to reside on the farm dependent on work, making it liable to be revoked with loss of employment; workers were (and are sometimes still) also dependent on the farmer to provide necessities, often creating a cycle of indebtedness.

After 1994, the LRA and BCEA provided legal protection to agricultural workers. Even though no minimum wage was set at the time, they provided a general framework for employment conditions with, *inter alia*, the regulation of working hours and the abolition of child labour. Moreover, in order to transform the structure of land ownership in the country, as well as to ensure political, social and economic stability, the government launched a land reform programme. Besides land transfers, tenure reform aimed at securing land rights for non-Whites. To protect agricultural workers' land rights, Parliament passed the Labour Tenants Act (LTA) in 1996 and the Extension of Security of Tenure Act (ESTA) in 1997, which provided a legal framework for evictions. However, with the exception of people who have worked and lived for more than 20 years on a farm, these laws do not protect workers' residency rights; they nonetheless guarantee that a court would control evictions. Subsequently, in July 2003, minimum wages were set according to a sectoral determination: Depending on location, they range between 872 rands in rural areas and 950 rands in peri-urban areas<sup>44</sup>.

Far from achieving their objectives, the new laws intended to protect farm workers are rarely implemented and have sometimes had a negative impact on the working and living conditions of farm workers. An increase in evictions has been observed since 1994 in

reaction to the implementation of the LRA, ETA and ESTA laws and to the establishment of minimum wages. Nkuzi Development Association estimates that approximately 930,000 farm workers have been evicted since 1994, a 13% increase compared to the ten years preceding the first democratic elections<sup>45</sup>. According to O'Keefe, citing a study by Social Surveys Africa conducted in 2005, there were 199,611 households evicted from their land compared to 164,185 households benefiting from land reform programmes between 1994 and 2004<sup>46</sup>. Only 1% of these evictions was reported and conducted according to proper legal procedures. The majority of those evicted had worked and lived on the land for generations; not only did they lose their jobs but also their homes. According to Nkuzi, only 8% of the evicted found new work (and therefore new accommodation) as farm workers, 14% moved to the former Bantustans and reserves where access to over-crowded communal land is uncertain, 48% relocated to townships and 30% were reduced to illegal land occupation<sup>47</sup>.

Regarding the working conditions, even if a union of farm workers, SAAPAWU, which was subsequently integrated with FAWU (see *supra*), developed since 1994 and claims to have 300,000 members (most of whom are employed in food processing industries or catering), it has not succeeded in improving labour conditions in the sector. 68% of farm workers live in extreme poverty: in 2004, one year after the implementation of minimum wages, the average monthly salary of farm workers was estimated at 529 rands for men and 332 rands for women<sup>48</sup>, while the South African Human Rights Commission even reported salaries of 60 rands per month<sup>49</sup>. Eleven to twelve hour working days (without compensation) are commonly found and child labour is far from having disappeared. The rules concerning health and safety are rarely respected and the living conditions of workers remain very insecure in the majority of cases: many are housed in shacks (often made of corrugated iron) without electricity, running water or sanitation.

In addition, the above-mentioned measures implemented to protect workers rights increased tensions between farm owners and farm workers, exacerbating the atmosphere of mistrust and conflict<sup>50</sup>. In order to prevent workers from joining a union and to avoid having to abide by the LRA and ESTA laws (*i.e.* securing workers' land rights), farm owners have made living conditions unbearable to force workers away: homes have been demolished, electricity and water cut off, etc. The new measures have also induced changes in practices and have accelerated the evolution of the social division of labour. In order to limit the number of workers, farm owners have mechanised their activities and have turned to less labour-intensive activities (such as game farms for tourism). The use of a seasonal and/or temporary workforce increasingly made up of foreign workers, mostly Zimbabwean and Mozambican (generally employed illegally), also becomes more and more frequent. These illegal workers are victims of abuse that is rarely reported or punished.

Numerous cases of violence, including murder (besides the many farm workers killed since 1994, 1500 landowners and farmers have been murdered) have been reported, and are linked to the social demands of the landless and other rural poor, to growing inequality, to poor working and living conditions and to farm labour relations. Because of the link between agricultural work and access to land inherited from apartheid, working

conditions determine (even more than in other sectors) the living and reproduction conditions of farm workers and their families. It is against this incredibly harsh background that workers' brutality targeting White farmers should be interpreted, bearing in mind that union weakness forces them to act alone and outside of any political articulation.

### **Unfulfilled Expectations and the Post-Apartheid Disenchantment**

South Africa's transition has profoundly impacted workers, without improving their situation in a meaningful way; it has been accompanied by a casualisation of their status and conditions, as demonstrated in the three case studies presented in this article. The importance of this evolution cannot be underestimated in a country where violence in working relations was the day-to-day form of racial oppression. Although the advent of democracy met the *political* expectations of the majority, the protective labour law adopted by the new Government did not prevent, when it did not aggravate, the persistence of exploitation, deceiving the hopes of poor (i.e. most) South Africans. The roots of this disenchantment can be found, in the three sectors analysed, in specific dynamics that can be grouped in two main tendencies, also found across South African society and economy: economic liberalisation and the withdrawal of the State on the one hand; and the South African specificity of racial segregation on the other hand.

Since 1996, although it did not have to implement any structural adjustment plan, South Africa has liberalised its economy and has greatly limited the role of the State, especially with regard to economic intervention<sup>51</sup>. South Africa's economic actors have adapted in different ways to a post-apartheid situation characterised not only by a new socio-political context, but also by an economic restructuring involving the end of active support from the State to selected "national champions" combined with international opening. The private sector responded with a substitution of labour with capital, the creation of temporary enterprises and, most of all, with massive outsourcing, which allowed it to reduce costs and to make working arrangements highly flexible. Businesses also anticipated a rise in labour costs and in workers' rights generally – what some would call labour market rigidity. Yet, we observed a rapid casualisation of workers' statuses as well as conditions through the increased use of temporary contracts, informal labour and task-based payment. In many sectors a movement towards the restoration of a tractable, un-unionised workforce is at work, which is continuously reducing, through means not always understood by workers (like task-based remuneration), the part of value added allocated to labour, who is forced to assume a growing part of risks. These tendencies are particularly present in the mining and forestry sectors, where labour conditions had improved during the years of union and political struggles preceding the end of apartheid. In addition, the "productive reorganisation" of these sectors was the only option proposed to reduce unemployment and poverty.

This first dynamic and its implications bear a striking resemblance to the evolution of working conditions in other "globalised" economies and followed, as noted by numerous economists and sociologists, a reorganisation inspired by the "new spirit of capitalism",

which has been traced by Boltanski and Chiapello in the evolution of business school handbooks<sup>52</sup>.

The case studies, however, reveal a liberalisation with a specifically South African flavour. Although international competition has certainly motivated, in some cases, productive reorganisation, South African employers were equally influenced, particularly in agriculture and forestry, by the fear of seeing yesterday's subordinate workforce demanding and exercising new rights to redress past wrongs. The case studies presented here unambiguously indicate that outsourcing and casualisation have been reactions to this perceived threat and to fears that labour discipline would be impossible to implement in a "free" workplace regime. Other studies confirm them, including one conducted on the contracting out of cleaning services at Wits university by Bezuidenhout and Fakier<sup>53</sup>. It is also interesting to note that liberalisation and the withdrawal of the State were the exact opposite of segregationist policies, the main instruments of apartheid. This is one of the main sources of the popularity of liberalisation among South African elite, both Black and White: the apartheid leviathan must be abandoned through a liberal policy that limits State intervention. But the relevance of this hostile rhetoric towards the State can be questioned in a country where social and racial tensions are very high and where the transition has bypassed a transformation of the productive apparatus, social relations and income structure. The implementation of liberal policies further facilitates, in South Africa, the persistence of a racial and social hierarchy in the name of the supposed benefits of the free market. The political and economic orientations adopted and analysed here in the context of the evolution of labour conditions do not demonstrate any will or capacity for profound transformation.

Differing from other countries, where crises have typically been periods characterised by a redefinition of wage relations, leading to the implementation of new relations of production, new management practices of the workforce as well as new forms of consumption,<sup>54</sup> South Africa witnesses the emergence of new forms of employment that reflect a *continuation* of racial subordination, without reconfiguring the inherited apartheid wage relations. These new forms of employment, presenting more labour precariousness, facilitate the sidestepping of restructuring and limit the actual transformation of South African society. The observation of workplace politics highlights social conflicts, whose importance is essential to shed light on the country's economic and political transformation (or lack thereof). It seems somewhat utopian to expect a restructuring of South African society on the basis of limited reforms. The sectors that have few unions (agriculture), or whose unions have lost their will or ability to fight, sometimes because of their proximity with political power, offer good examples: the simple declaration of measures supposed to protect workers' rights had little effect but that of accelerating the deterioration of working and living conditions of the least protected.

The casualisation of work is even more worrisome since it is accompanied by a withdrawal of the State and the end of the paternalism of apartheid. As Barchiesi remarks:

Macroeconomic paradigms have greatly constrained the government's ability to use state expenditures and social grants to address massive poverty and social inequality arising from the country's deepening employment crisis. The ANC government has therefore opted for symbolic compensation by continuously praising wage labour as the cornerstone of social discipline and inclusion. In this way it has, ironically, operated in substantial continuity with Apartheid-era social policy discourse, which, moreover, and similarly to the post-1994 dispensation, praised community self-help and family support as alternatives to both unemployment and dependence on public spending.<sup>55</sup>

Because of the historical weakness of social policy and of the persistence of mass unemployment (estimated at 23,1% for the 2<sup>nd</sup> quarter of 2008, a figure which would almost double if "discouraged" work seekers were included<sup>56</sup>), a strong family- and community-based solidarity subsists in South Africa. Most workers work to support their family; this points to another consequence, difficult to quantify but obviously dramatic, of labour casualisation. The ability of the employed to save money for their family has been drastically reduced, impacting an important number of (often invisible) dependents and unemployed who rely on this support to survive. For agricultural workers and their families, this even translates into the loss of access to land and housing. Another factor is the increase of the active population linked to the feminisation of the workforce<sup>57</sup>, and to the high number of foreigners in South Africa. Women and foreigners are replacing the men of the country, who can no longer provide for the needs of their family with reduced income from precarious jobs. The employment crisis – unemployment and casualisation – thus induces a general crisis of social reproduction.

The workers described in this article are, in the full sense of the term, "working poor". Their difficulties, shared by a large portion of the population, are not fully acknowledged by policy-makers, who at best address with "accompanying measures". Improvements in working conditions are also often seen as secondary given the high level of unemployment and are silenced by a solemn call for necessary adaptation: work must become more flexible so that more jobs can be created. This economic strategy is, in the eyes of some, the only means envisaged to restructure and deracialise the South African economy and reflects the transition compromise struck between the ANC and the large South African conglomerates<sup>58</sup>. Thus, the development of Black small, medium and micro enterprises (SMMEs) through preferential contracting (BEE) is imposed like a dogma, as it is perceived to be a component of a necessary trajectory (the creation of a Black bourgeoisie), and a vehicle for the transformation of society; it has also, however, increased the flexibility and exploitation of the Black workforce.

The improvements of working conditions obtained during the last years of apartheid, through the pressure of union battles against despotic, often violent, practices, were followed by a casualisation that has exposed workers to the "dull compulsions of economic forces" (in Marx's terms). This faceless violence, presented as necessary, is one that labourers must impose on themselves. It appears, fourteen years after the end of apartheid, under which labour markets (and society) were segmented by law, that

inequality and the belief in the progressiveness of unfettered markets have perpetuated a dual labour market, as was already highlighted by Hinks in 2003<sup>59</sup>. This outcome is strikingly (and tragically) ironic: access to new, much awaited, political rights is concomitant to a collapse of the material means of actually using them! This labour crisis points to the essential and potentially destabilising contradiction of the economic policies that the South African government has followed since 1994, mixing economic liberalism and wilful redistribution. The Polokwane landslide in favour of Jacob Zuma (or possibly against Thabo Mbeki) and recent xenophobic violence undoubtedly indicate that this model of development is reaching its limits in terms of political tolerability.

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<sup>2</sup> Makgetla, art. cit.

<sup>3</sup> Makgetla, art. cit.

<sup>4</sup> In 1983, Black union movements were consolidated into a powerful rally consisting of more than half a million supporters and 34 unions, COSATU. See E. Webster and G. Adler (1998),.

<sup>5</sup> An employer is obliged to recognise a union once the rate of unionisation reaches 50% plus one person. See E. Donnelly and S.R. Dunn (2006).

<sup>6</sup> Von Holdt, *op.cit.*

<sup>7</sup> E. Donnelly and S.R. Dunn, art. cit.

<sup>8</sup> The mining sector employed 489,000 people in the 1940s and 758,000 at the beginning of the 1990s, representing on average approximately 10% of South Africa's formal employment. See Statistics South Africa (SSA), *Labour Force Survey*, Pretoria, SSA, Statistical Release P0210, 2006.

<sup>9</sup> D. Innes (1984), *Anglo American and the rise of Modern South Africa*, London: Heinemann Educational.

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<sup>15</sup> J. Wilmot (1992), *Our Precious Metal: African Labour in South Africa's Industry, 1970-1990*, London, James Currey.

<sup>16</sup> The concentration of the workforce facilitated the organisation of powerful unions. As such, the National Union of Mine Workers, created in 1982 to rally miners, was the most powerful union in South Africa for a long time and constituted an essential keystone of COSATU.

<sup>17</sup> For more information, see V.L. Allen, (1992-2005). *The history of Black Mineworkers in South Africa* (3 Volumes). West Yorkshire, The Moor Press.

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<sup>19</sup> SSA, *Labour Force Survey* publication cited. The number of miners has since stabilised primarily because of the increases in global demand for titanium and platinum, as well as the increased price of gold.

<sup>20</sup> P. Carmody (2002), "Between Globalisation and (Post) Apartheid: The Political Economy of Restructuring in South Africa", *Journal of Southern African Studies*, Vol. 28, No. 2, pp. 255-275.

<sup>21</sup> W. Anseeuw, *La reconversion professionnelle...* publication cited, p. 155.

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<sup>26</sup> W. Anseeuw, *La reconversion professionnelle...* publication cited.

<sup>27</sup> *Ibid.*, pp. 160-165.

<sup>28</sup> The "timber industry" includes forestry and primary transformation industries (saw mills, paper etc.). The term "forestry" covers the production cycle of timber, from growing trees (silviculture) to felling, debarking and transport.

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- <sup>47</sup> Nkuzi Development Association, "National evictions survey", document cited., p.15.
- <sup>48</sup> *Ibid.* p.5.
- <sup>49</sup> SAHRC, *Inquiry into Human Rights...op. cit.*
- <sup>50</sup> See SAHRC, *Inquiry into Human Rights Violations in Farming Communities*, Pretoria, SAHRC, Final Report, 2003; Nkuzi Development Association "National evictions survey", document cited, p.10-14.
- <sup>51</sup> Although liberalisation began in 1994, after the first democratic elections, with the "Reconstruction and Development Programme" (marking the end of most industrial and agricultural subsidies and of policies supporting Whites), it was accelerated in 1996 with the adoption of the "Growth, Employment and Redistribution" (GEAR) programme, which has been considered by many to be a self-imposed structural adjustment. See J. Michie and V. Padayachee, "Three years after apartheid: growth, employment and redistribution?" (1998), *Cambridge Journal of Economics*, vol.22, no. 5, pp. 623-636.
- <sup>52</sup> See L. Boltanski and E. Chiapello (1999), *Le nouvel esprit du capitalisme*, Paris: Gallimard.
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<sup>56</sup> According to the Labour force survey of September 2007 (Statistics South Africa, 2008), 3 905 000 persons were unemployed (official definition) and 3 443 000 persons were discouraged work-seekers.

<sup>57</sup> D. Casale and D. Posel (2002), “The continued feminisation of the labour force in South Africa: an analysis of recent data trends, *South African Journal of Economics*, vol.70, no.1, pp.156-184.

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