

Quarterly Research Report

JULY–SEPTEMBER 2015

Contents

Contextualising of Organised Labour's Position on Carbon Tax in South Africa Using a Qualitative System Dynamics Model	2
The State of Transformation in South Africa's Mining Sector	5
The State of Industrial Relations in South Africa: Challenges and Way Forward for Organised Labour	9



Disclaimer

The views expressed are those of a researcher(s) and do not necessarily reflect that of the institute.

For inquiries Contact

Ms Lerato Mathibedi

Email: Leratom@satri.org.za

Tel: 010 593 7238

Please note that these are summarised version of the articles. Full articles are available at: the.satri

Contextualising of Organised Labour's Position on Carbon Tax in South Africa Using a Qualitative System Dynamics Model

By Martin Kaggwa



The South African government planned to introduce a carbon tax from 2013 as part of its efforts to reduce pollution levels emanating from domestic economic activities. The position of organised labour on the introduction of the tax has ranged from outright rejection to requests for a delay in its implementation until employment safe-guards are put in place. Organised labour feels strongly that a carbon tax will have a negative impact on local employment. This paper examines the validity of organised labours' concerns on possible job losses using a qualitative system dynamics approach. A case is made that despite being set at low levels, the carbon tax has potential to negatively affect competitiveness of firms in the long term. The potential job loss from the carbon tax will not necessarily be a result of increases in the immediate operational costs of firms, but rather from the loss of firms' competitiveness in the long term. It is recommended that the implementation of the carbon tax be put on hold until safe-guards to local employment are put in place. One of the possible safeguards is to ensure that local firms in the energy sector have access to low-cost but clean production technologies that do not substitute their labour force but rather supplement its productivity.

Introduction

Global warming is now an accepted fact. The question is: how do we deal with global warming, given the other social and economic challenges that developing countries face?

The South African government recognises that the country is vulnerable to effects of climate change. As such, the government is taking steps to combat the adverse effects to the environment coming from domestic economic activities. A carbon tax is one of the policy interventions that the South African government planned to introduce in 2013. The government wanted to consult all stakeholders and get a buy-in before implementing of the policy.

The position of organised labour on the introduction of a carbon tax in South Africa has ranged from outright rejection of the tax to a request for delay in its implementation until safe-guards on employment are put in place.

The following sections reviews the structure and the assumptions behind the carbon tax with the intention of validating employment loss concerns.

The carbon tax policy for South Africa

South Africa's carbon tax policy is aimed at businesses that use and/or produce high emission products or services. The tax is supposed to discourage such businesses from using high emission processes during their production, and is aimed at subsequently reducing their carbon footprint.

The tax is set at a very low level to make sure that it does not negatively affect local productive activities on the one hand, and stifle trade on the other due to loss of competitiveness.

Supporters of the carbon tax policy for South Africa argue that the policy can contribute towards reducing emission in the country. Moreover, this can be done without adversely affecting employment since the tax is set at too low a level to have any impact on jobs. They further argue that the tax makes producers to take full responsibility for the results of their productive activities.

Those who do not agree with the policy, including organised labour, acknowledge that firms may not make decisions to retrench workers because of the carbon tax given the relatively low level at which it is set. However, regardless of the level, the tax can still negatively affect competitiveness of the local firms due to increase in

operational costs. Competitiveness is about having an edge over your competitor. Such an edge can easily be lost via small changes in the firms' production costs. Although the tax may seem insignificant, it still counts when it comes to competitiveness. Loss of competitiveness leads to less sales, reduced production and subsequently lower demand of factor inputs, one of which is labour. Loss of employment may not happen immediately with the introduction of the tax but it is possible in the medium to long terms.

One-way causal thinking on South Africa's carbon tax

The articulation of the carbon tax model for South Africa has been based largely on a one-way causal thinking. It is assumed, for example, that the carbon tax will increase the cost of high emission production processes from the manufacturers' perspective; this will, in turn, decrease their profits margins. The reduction in profit margins will force the manufacturers to change their production to low emission processes. In other words, there will be a one-way causal link from the carbon tax to low emission production and, subsequently to a cleaner economy.

On the consumer side, again, a one-way causal relationship between the carbon tax to low emission production is assumed. The causal relationship is via increase in prices of high emission products, substitution of high emission products with low emission products, and the subsequent increase in demand for low emission products. Increased demand of low emission products motivates their production.

There are serious omissions in the articulation of South Africa's carbon tax policy as presented in Figure 1. These relate to lack of recognition that the direction of causality (what caused what) is not necessarily one way and that

the effects are neither immediate nor remain the same overtime. By failing to recognise these aspects, key dynamics and effects of the carbon tax are omitted. These omissions make it probable that wrong conclusions are drawn on the potential effects of the carbon tax policy.

A qualitative system dynamics model of South Africa's carbon tax policy

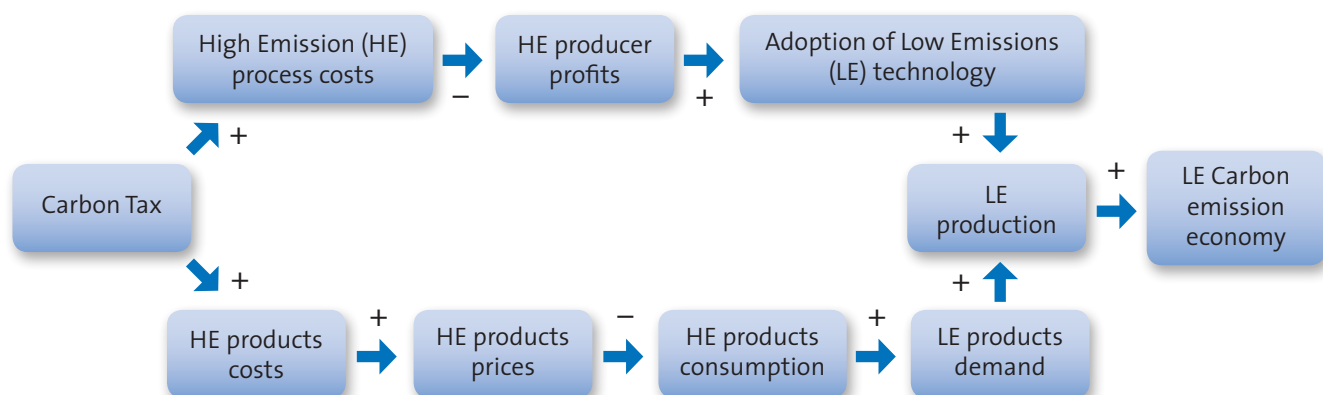
Formalization and capturing of the carbon policy using a system dynamics approach help to make clear the three aspects omitted in the one-way causal articulation of the carbon tax and its effects as presented in Figure 1. These are: two-way causality, time lags or delays, and the changing nature of causal relations overtime.

The articulation of South Africa's carbon tax as a system dynamics model brings to the fore assumptions that may not necessarily be true, and other omitted effects. The inaccurate assumptions and omitted effects weaken the key proposition that the carbon tax policy will reduce emissions in the domestic economy and will have minimal adverse effects on local employment. The following section considers some of the omitted effects, and how their omission leads to inaccurate conclusions on the carbon tax introduction.

Cost of low emission technology

For producers using high emission processes, it is assumed that imposing the carbon tax will reduce their profits on the high emission products. Driven by the desire to maintain or increase profits, such producers will adopt low emission technologies on which no or low carbon tax is payable. As a result of this, low emission production will increase in the local economy and employment will be created in low emission sectors.

Figure 1: Graphical Representation of the one-way casual thinking of the carbon tax effects



Notes: HE represents High Emission; LE represents Low Emission

An implicit assumption with this line of thought is that use of low emission technology comes at a cost equal or less than that of high emission technology. If the cost of low emission technology is higher than that of the high emission technology, then the adoption of the low emission technology will not necessarily lead to higher profits, even after imposing carbon tax. Without the higher profits being anticipated, producers will have no motivation to adopt low emission technologies despite the existence of the carbon tax.

In reality, there is a two way causal relationship between profits for high emission producers and the adoption of low emission technology that is determined by the relative cost of low emission and high emission technologies.

To the extent that low emission technology in South Africa is more expensive than the high emission technology, the assumed effect of the carbon tax motivating the adoption of low emission technologies is less likely. Subsequently, the anticipated increase in low emission production and increase in employment in low emission sectors may not take place, too.

Price substitution effect between low emission and high emission products

On the consumer side, it is assumed that the imposition of the carbon tax will increase the cost of producing high emission products; high emission products prices will increase as a result. Consumers of high emission products will find it more expensive to buy these products and will be forced to switch to buying low emission products. The increasing buying of low emission products will upsurge production levels of low emission sectors, reducing the local economy carbon footprint while creating employment in these 'clean' sectors.

An important effect that is not accounted for in the above logic is that increase in the demand for low emission products will raise up their prices, according to the law of demand. This price increase will force consumers to substitute the low emission products with high emission products according to the phenomenon of price substitution effect. If this happens, the causal link between carbon tax and the low emission production will cease to exist. What this means is that even from the consumer side, the introduction of the carbon tax will not necessarily discourage the consumption of high emission products.

Competitiveness and employment in the high and low emission sectors

The focus here is to understand the potential effect of carbon tax on employment. One cannot talk about

sustainable employment without considering the aspect of competitiveness. Competitiveness is critical in sustaining jobs.

The carbon tax will increase the unit price of high emission products, subsequently making the high emission sectors less competitive. To the extent that competitiveness is a pre-requisite for sustainable employment, jobs will most likely be lost in the high emission sectors in the long run. Based on the same logic, lower prices for low emission products will make low emission sectors of the economy more competitive and will create more jobs in these sectors.

However, whereas job loss in the high emission sectors of the country as a result of imposing a carbon tax is almost certain, the job creation potential of the carbon tax in the low emission sector is doubtful and highly improbable. Creation of 'green jobs' remains an untested aspiration thus far. This observation supports organised labours' position that the introduction of the carbon tax should either be stopped or at least be delayed until safeguards are put in place to mitigate its effect on local employment.

Conclusion and recommendations

There are many factors that will influence the ultimate impact of the carbon tax on employment in both the low emission and high emission sectors of the South African economy. From systems thinking perspective, the scale of probability is high that jobs will be lost in the high emission sectors of the South African economy, specifically the coal and energy sectors.

The analysis of the carbon tax structure and assumptions from a systems perspective validates, to a reasonable extent, labour's concerns on unconditional implementation of the tax in the country despite being set at low levels. The tax has the potential to negatively affect competitiveness of firms in the long term which in turn will lead to job losses.

Safeguards to local employment, in vulnerable sectors, need to be put in place before the introduction of the tax. One of the safeguards is to ensure, beforehand, that local firms in the energy sector have access to low-cost clean technology that does not substitute local labour force, but supplements its efficiency.

The State of Transformation in South Africa's Mining Sector

By Mbali Pewa and Pulane Mafoea



The exclusionary policies of apartheid systematically marginalised the majority of South Africans from partaking in the economic activities of their country. The Mining Charter and the B-BBEE codes were introduced to facilitate transformation in the mining, construction and energy sectors. This paper examines the extent to which the objectives of the Mining Charter and the B-BBEE codes have been achieved in the mining sector. The findings show that some progress has been made in terms of compliance, however transformation has not occurred at the intended rate. It is recommended that unions need to find space to be part of the mining Charter and B-BBEE compliance auditing processes. Furthermore, workers must be sensitised on the requirements of the mining Charter and B-BBEE codes and be empowered to report, continually on progress made at the workplace towards meeting these requirements, within their own structures.

Introduction

Apartheid excluded the majority of South Africans from the main economic activities. Historically Disadvantaged South Africans (HDSAs) were prevented from participation in the main stream economy. The Mining Charter and the B-BBEE codes were established as instruments for transformation in the mining, construction and energy sectors.

This paper discusses the extent of transformation in the mining sector. The Mining Charter and the B-BBEE scorecards, are used to determine the level of transformation in the sector. For the mining sector, compliance is assessed for the period 2009-2014.

Mining Sector

In the past, mining was used as a method for selective development which promoted a few, while excluding the majority of the black people. To address these inequalities, the Mining Charter was established. The Charter was adopted in 2004 as an instrument for driving transformation in the mining sector. The various stakeholders agreed to periodically review the Charter's performance. This was to make sure that in case the Charter was not leading to transformation, it could be changed or supplemented.

The Mining Charter has nine elements that are intended to facilitate the transformation of the mining industry. The aim of these elements is to include the previously disadvantaged South Africans in the ownership and management of the mining sector. The following

section presents the nine elements of the Charter, the transformation targets set and progress made on each of these elements.

Elements of the Mining Charter

Human Resource Development

The mining industry requires specific skills which the South African labour market does not produce. The Mining Charter addresses the inherent skills deficit in South Africa and requires the mining industry to: offer every employee the opportunity to be functionally literate and numerate by the year 2005; implement skills development plans for Historically Disadvantaged South Africans (HDSA); and to develop systems through which empowerment groups can be mentored. The 2014 target is 5% of total annual payroll (excluding mandatory skills development levies) to be spent on Human Resource Development (HRD).

In 2010, the functional literacy average for HDSA in the mining sector was 17.1%. Skills development for HDSA stood at 17.1%. Only 11.4% of all HDSA had benefited from mentoring and empowerment interventions in the work place.

By 2014, 56,9% of industry had achieved the target of spending 5% of payroll on HRD according the Department of Mineral Resources (DMR) report of 2015. By implication, 43% of the industry had not complied with the HRD requirement. The Chamber of Mines reports, though, indicate that the HRD requirement had been fully complied with by 2014.

Employment Equity

In the 2002 charter, the employment equity element was introduced as a measure for including and advancing previously disadvantaged races in the workplace. In addition, it asked mining companies to establish a plan to achieve a target for women participation in mining of 10% within the five years and show evidence of implementing the plan. In the revised Charter, companies had to achieve at least 40% HDSA representation at all levels including executive management and senior management levels by 2015,

According to the DMR 2015 report, the industry had surpassed the 40% representation of HDSA at all levels by 2015 (Table 1 below).

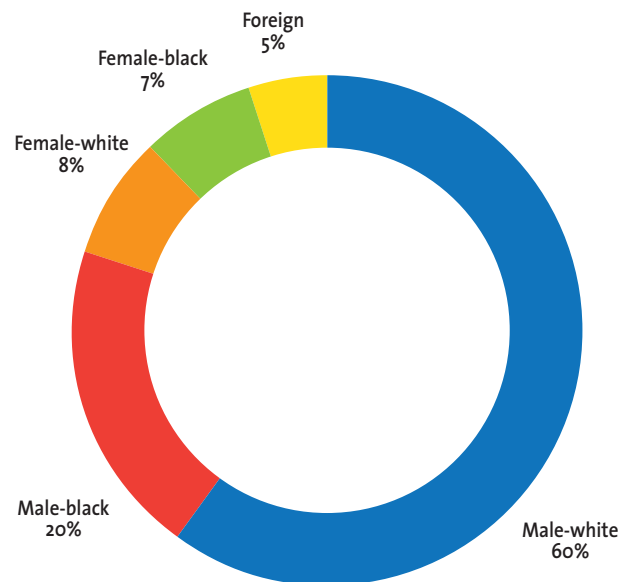
However, a recent report by Commission for Employment and Equity 2014-2015 paints a rather a different and gloomy picture compared to that of DMR. According to the report, progress of HDSA in top management is clearly unsatisfactory with top management position still dominated by white males as shown in Figure 1.

The finding of Commission for Employment and Equity on low representation of women in senior management positions is supported by the results of the 2015 research on challenges facing women in the mining, construction and energy sectors done by the Sam Tambani Research Institute (SATRI), in which more than 1,400 women were interviewed. Women cited lack of career progress as the most common challenge they faced.

Whether the representation of HDSA as set out in the Mining Charter has been achieved depends on which information source one uses. Nonetheless, causal observation of 'who does what' and 'who holds the power' in the mining sector, reveals that the desired transformation in terms of HDSA has not been achieved. One has also to be careful about the issue of quantity versus quality. Some HDSA may be put in high position

but with minimal powers to influence the workplace dynamics.

Figure 1: Top management composition – Mining and quarrying Sector



Source: Commission for Employment and Equity Report 2014-2015

Mine Community Development

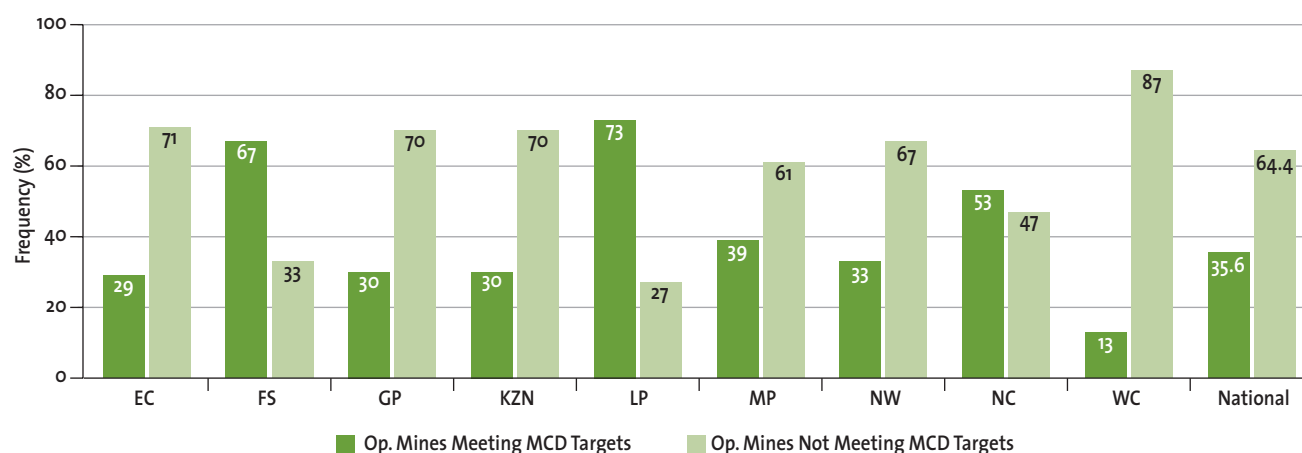
Mining exploration and mining activities are often located in remote and under developed areas of the country. The Mining Charter aims to ensure that community upliftment programmes are implemented to support communities within which mining takes place, as well as the labour sending areas. There, however, is little evidence that this is being achieved.

The Mining Charter requires that mining companies include detailed community development initiatives in the mine's Social and Labour Plan (SLP), and that the plans must be followed by consultation, assessment and implementation.

Table 1: HDSA representation at different employment functional categories 2015

Category	African		Coloured		Asian (Indian and Chinese)		White		Foreign Nationals		Total HDSA
	Male	Female	male	Female	Male	Female	Male	Female	Male	Female	
Top Management	32.0%	9.4%	3.9%	1.5%	2.8%	1.1%	37.4%	3.4%	8.5%	0.0%	54.1%
Senior Management (EXCO)	29.1%	5.2%	3.8%	0.7%	4.1%	2.1%	49.3%	5.7%	0.0%	0.0%	50.7%
Middle Management	26.3%	8.6%	4.4%	1%	2.1%	0.9%	45.1%	9.4%	1.8%	0.3%	52.7%
Junior Management	41.9%	9%	5%	1%	0.6%	0.2%	33.1%	5.1%	4%	0.1%	62.8%
Core Skills	64.1%	8.6%	1.7%	0.3%	0.1%	0.0%	6.1%	0.4%	18.2%	0.4%	75.2%

Source: DMR 2015

Figure 2: Extent of implementation of approved MCD projects

Source: DMR 2015

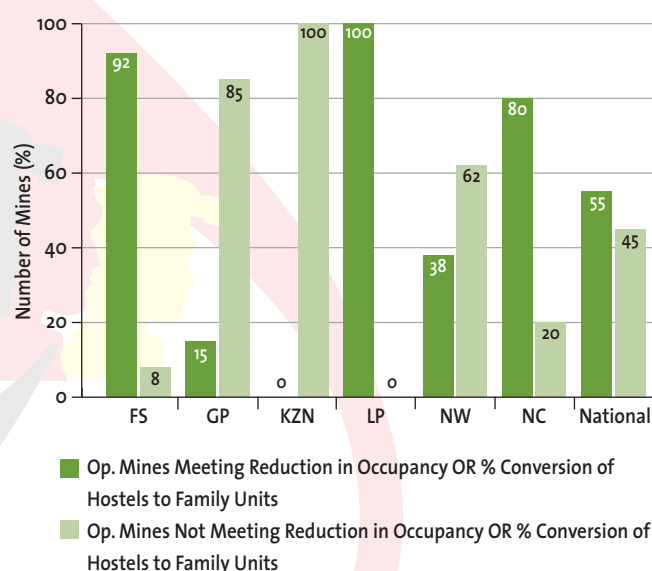
By 2014, only 30% of mining companies, on average, had implemented on approved Mining Community Development (MCD) projects indicated in their SLP (Figure 2).

Housing and Living Conditions

The living conditions in the mines under the apartheid system were appalling and resulted in many social ills, like substance abuse and the spread of diseases. These conditions prompted government to promote humane living conditions for affected workers. In this regard, mining companies must implement measures to improve standards of housing and living conditions of mine workers.

The target set in the Charter was to convert or upgrade hostel into family home by 2014, as well as strive for occupancy rate of a single person room by 2014.

The 2009 DMR assessment of progress made towards improving the housing and living conditions of mineworkers indicated that 26% of mining companies had provided housing to their employees, while 29% had improved the existing standards of housing. The assessment further revealed that 34% of companies had facilitated employees' access to home ownership through various schemes. The occupancy rate per unit had decreased from 16 to 4 mine workers. By 2014, 55% of mining companies met the housing and living conditions target according to the 2015 DMR report (Figure 3).

Figure 3: Performance of mining right holders against the target set for housing and living conditions in 2014

Source: DMR 2015

Overall, the mining sector has made reasonable progress towards the creation of decent housing and living conditions for mine workers through various schemes. Nonetheless, the occupancy rate of more than one worker per unit remains high.

Procurement

The procurement requirement was established to facilitate economic freedom for HDSA companies. It was observed that the South African economy was still divided along racial lines. Procurement of capital goods managed by the mining industry continued to be dominated by non-HDSA companies. To change this, mining companies are required to give HDSA companies a preferred supplier status, and report on the extent to which commitment to procure from HDSA companies has been implemented.

The DMR report of 2009 on procurement by mining companies showed the following:

- 89% of mining companies had not given HDSA companies preferred suppliers status.
- 80% of mining companies had not indicated commitment to the progress of procurement from HDSA companies over a 3/5-year time frame.

The 2015 DMR indicate that 42% of the mining companies had met the target of procuring capital goods from HDSAs, 33% met the target of procuring services from HDSAs and 62 % met the target of procuring consumables from HDSAs. These most recent figures point to the fact some progress has been made on the procurement and enterprise development requirement. The question of whether these figures are an accurate representation of what is on the ground still remains.

Beneficiation

The government wanted to expand down and upstream benefits of mining to the local economy by establishing mineral beneficiation (or processing) plants in the country. To create an enabling environment to effect coordinated beneficiation in South Africa, government introduced the Precious Metals Act No. 37 of 2005, and the Diamonds Amendment Act No. 29 of 2005 which led to the establishment of the South African Diamond and Precious Metal Regulator (SADPMR) and the State Diamond Trader (SDT).

As of 2014, lack of processing of mineral resources in the domestic economy was still an issue and was part of the agenda of the Mining Lekgotla (2014). The beneficiation requirement of the Mining Charter remains largely unachieved.

Ownership and joint ventures

The next element of the Charter relates to ownership and joint ventures. The ownership element of the Mining Charter gives effect to the Freedom Charter clause: 'that the national wealth of our country, and the heritage of South Africans shall be restored to the people. The mineral wealth beneath the soil shall be transferred to the ownership of the people as a whole.' To effect change in ownership of mineral resources, the mining industry is required to comply with the following measures:

- 15% of the company's equity should be transferred to HDSAs within 5 years of the coming into effect of the New Act.
- 26% of the equity of the company should be transferred to HDSAs within 10 years of the coming into effect of the New Act.

As of 2014, many mining companies indicated that they had, at one point, achieved the required 26% ownership by HDSA. However, overtime, some of the HDSA owners sold out their shares. An encumbered ownership by HDSA in the mining sector was estimated at not more than 9 per cent in 2014 (DMR, 2015). In a separate research by SAMDA it was found that the majority of the JSE top 49 mining companies have a non-complaint ownership.

Ownership, thus, remains one of the mining Charter aspect on which the industry has underperformed. The situation is exacerbated by the court case on 'once empowered, always empowered'.

Reporting

The Mining Charter requires an ongoing process of consultation, monitoring, evaluation and reporting on the achievements of the Charter. It was agreed that companies should report, on an annual basis, progress made towards achieving the Charter's requirements.

Of the 962 mining companies that had to submit progress report to the DMR in 2014, only 442 did (DMR 2015). This translates into a non-compliance percentage of 46%.

Without these reports, proper assessment of progress made becomes almost impossible. Moreover, the accuracy of the overall industry performance towards achieving the targets, across board, becomes unreliable. The figures reported will tend to overestimate achievements because it is the non-complying companies that most likely do not submit their reports.

Conclusion

The findings in this report indicate that the Mining Charter targets are useful tools for enforcing transformation in the mining sectors. However, despite the introduction of the Mining Charter, transformation has not occurred at the intended pace. Although some of the performance figures on progress made seem reasonable, evidence on the ground indicate the sector is underperforming in terms of set targets.

It is recommended that going forward, unions need to be part of the Mining Charter and B-BBEE compliance auditing processes. Furthermore, workers must be sensitised on the requirements of the Mining Charter and B-BBEE codes and be empowered to report continually on progress made at the workplace towards meeting these requirements.

The State of Industrial Relations in South Africa: Challenges and Way Forward for Organised Labour

By P Mafoea and T Pitso



The paper looks at the state of industrial relations in the mining, construction and energy sectors of South Africa. The recent labour unrest has led many people to question the effectiveness of the country's industrial relations framework in creating productive, mutually beneficial and harmonious workplaces. The paper discusses the legal framework of post-apartheid industrial relations. It assesses the status of collective bargaining and workplace labour disputes, and the future of industrial relations in the country. It is pointed out that the existing framework for industrial relations can meet the expectation of all stakeholders in the workplace including labour if implemented in its entirety. Union rivalry within the same industry, and the resurfacing of non-compromising approach to industrial relations are identified as the key risk factors to the attainment of workers well-being through negotiations. The paper recommends that going forward, organised labour must aggressively ensure that the existing regulations pertaining to industrial relations are fully implemented and loopholes of compliance and reporting be sealed. This will go a long way to support the aspirations of workers, particularly the previous disadvantaged workers that organised labour represents.

Introduction

Industrial relations focus on the employer-employee relationships at the workplace. The employer-employee relationship has bearing on the distribution of benefits emanating from work done, hence can be a source of exploitation and conflict in the workplace. Three parties are normally involved in defining the state of industrial relations, that is: the employers, workers' unions and government.

The history of labour relations in South Africa was shaped by capitalist exploitation. The black people were first oppressed by colonialism, and thereafter by apartheid. Apartheid promoted and enforced a system of cheap black migrant labour and white domination.

Against this background, the post-apartheid government made a decision to change labour relationships in the country as part of its transformation agenda. Since 1994, the labour relations landscape in South Africa has changed. Various legislations were developed to address the past inequalities. The Employment Equity Act of 1998, for example, aimed at redressing the effects of past discrimination. The Labour Relations and Skills Development Act of 1995 focussed on improving basic conditions of employment.

Total compliance with the post-1994 labour laws has not been achieved. This has manifested itself in the continued militant stances that workers have often been forced to take in dealing with collective bargaining processes. In the mining industry, violent strikes and increased tensions are still prevalent.

This article examines the challenges facing industrial relations actors in the contemporary workplace, and makes recommendations on the way forward.

Post-Apartheid Industrial Relations in South Africa: Legal Framework

Industrial relations in South Africa have undergone major changes over the past two decades of democracy, influenced in part by legislations. The first act enacted by the post-apartheid government to address workplace injustices of the past was the Labour Relations Act of 1995. The Basic Condition of Employment Act of 1997, Skills Development Act of 1998, Employment Equity of Act of 1998 were subsequently enacted.

Labour Relations Act 1995: Objectives and Provisions

The purpose of the Act was to advance economic development, social justice, labour peace and the democratisation of the workplace. The objective of the Act was to provide a framework within which employees

and their trade unions, employers and employers' organisations could:

- Collectively bargain to determine wages, terms and conditions of employment and other matters of mutual interest
- Formulate industrial policy
- Promote orderly collective bargaining at sectoral level
- Support employee participation in decision-making in the workplace
- Enable effective resolution of labour disputes.

Basic Conditions of Employment Act (BCEA) of 1997

In 1997, the Basic Conditions of Employment Act (BCEA) came into being in supplement of the LRA Act of 1995. The BCEA stipulates, among others, that workers must have sick leave, maternity leave, overtime work regulation and their safety at work must be guaranteed. It further sets minimum standards to prevent unacceptable working conditions that impose social, economic and healthcare costs on society as a whole. The main beneficiaries of wage determinations in terms of income and benefits, as set by the BCEA, were the domestic workers and farm workers.

Skills Development Act 1998

In order to redress the lack of skills by black workers in South Africa, the Skills Development Act (1998) was enacted to ensure access to education and training for workers. The Act was aimed at addressing skills and competency gaps in the workplace by opening doors of learning and skilling for workers. Under the Act, the National Skills Authority was (NSA) was established in terms of Chapter 2 (sub-section 4-8) of the Skills Development Act to advise the relevant Minister on skills development policy, strategy and implementation. The Act also led to the establishment of Sector Education Training Authorities (SETAs) for individual industries.

Employment Equity Act of 1998

In 1998 another Act relevant to industrial relations, focussing specifically on equity aspects, was enacted. The Employment Equity Act of 1998 aimed to improve career advancement for black workers, especially women, at all levels. The Act required employers to remove barriers to the employment of people from designated groups at all levels. In pursuit of this objective, employers are required to develop Employment Equity Plans in accordance with the provisions contained in the Act.

Status of collective bargaining and workplace labour disputes in South Africa

Collective bargaining and labour disputes are two central aspects of industrial relations. Hence their status is indicative of the achievements that the country has made in terms of workplace transformation post-1994.

Collective bargaining in South Africa

In South Africa, collective bargaining has been the basis for industrial democracy and relations. It does not only serve as a mechanism for improving working conditions and wages, but also as a means for ensuring fair labour relations. The institutional frameworks of industrial relations were transformed and amended by the post-1994 democratic government whose priorities were firmly on promoting democracy and maintaining industrial peace. These priorities were set in the 1995 Labour Relations Act, which advances collective bargaining.

In the mining sector and for the purpose of collective bargaining, there is a centralised bargaining forum. This forum comprises of employer representatives from companies which are affiliated to the Chamber of Mines and representatives of the recognised trade unions. The Chamber of Mines is the only registered and recognised active employers' organisation on collective bargaining matters in the gold and coal sub-sectors. This employer organisation also provide advice and represent other group of its members in platinum, Iron Ore, Manganese Diamond including gold and coal sub-sectors on policy, legislative compliance and critical matters impacting on economic survival of its member companies.

Despite existence of collective bargaining processes and forums, wage inequalities between senior management and ordinary miners remain huge and a contentious issue of concern. According the Labour Research Centre Report 2015, in 2013, it would take a mineworker in the gold sector more than 330 years of work to earn what a mining executive earns in a single year.

Majority of strikes in the mining sector, have been attributed to dissatisfaction with wages. The persistent wage gaps indicate that the wage determination process in South Africa, particularly one governed by collective bargaining processes, has some weaknesses.

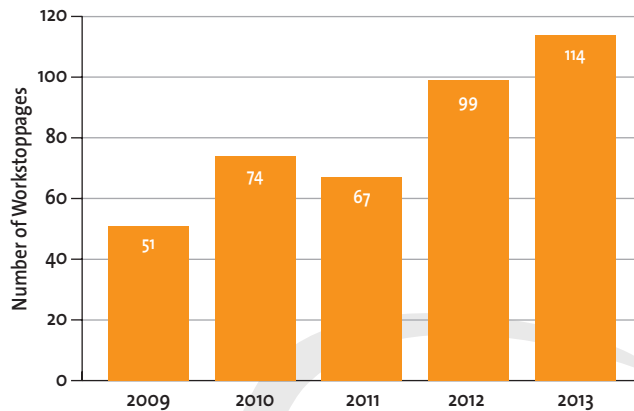
Another weakness in the collective bargaining process that has contributed to the increase in strike action is employer arrogance and divisive tactics. A case in point is the long 2012 violent strike action at AMPLANTS Rustenburg, where the employer gave increments to certain groups of workers, thus creating tension among workers.

Has the industrial relations legal framework been effective in South Africa?

Although South Africa's government has formulated regulations that govern the conduct of both the business and trade unions to avoid prolonged and violent strikes, there has been a steady increase in industrial action and work stoppages due to strikes. According to the

Department of Labour statistics, work stoppages in the country increased from 51 in 2009 to 114 in 2013 (Figure 1).

Figure 1. Number of strike-related work stoppages in South Africa, 2009-2013



Source: Department of Labour, Strikes Statistics

If the effectiveness of the industrial relations legal framework is to be judged based on strike-related work stoppages only, then the framework has not been effective. However, there are other elements of the framework that have been relatively effective like the Commission for Conciliation, Mediation and Arbitration.

The work of the CCMA

An important feature of the LRA was the creation of the Commission for Conciliation, Mediation and Arbitration (CCMA). The Labour Relations Act (LRA) states the 'main function' of the CCMA as the 'attempt to resolve disputes by conciliation so as to reduce the incidence of industrial action and litigation.'

By and large, the CCMA has been successful in fulfilling its mandate. The total labour dispute cases referred to the CCMA rose from 16,000 in 1996 to 148,000 in 2011. The economic benefits of the CCMA's success include a substantial decrease in the rate of industrial action over dismissal disputes in the post-1996 period.

Apart from the CCMA, there are other processes of dispute settlement that were put in place as part of the implementation of the LRA Act of 1995. Sectoral bargaining councils were created to deal with dispute resolution and collective bargaining functions in many different economic sectors. In addition, a labour inspectorate was established to operate under the Department of Labour. The inspectorate is responsible for the monitoring and enforcement of basic conditions of employment, including minimum wages. These dispute settlement mechanisms have worked in tandem, with different levels of success, to create a relatively better post-apartheid work environment for workers.

Conclusion

The post-apartheid legal framework for the labour market led to lower workplace conflict, but from the late 2000s, strike levels reached heights previously only seen before the transition to democracy. South Africa is facing a shift in labour relations following the labour market strikes of 2012-2013. Overall though, the industrial relations legal framework has been effective in reducing industrial actions caused by unfair dismissals. However, with the emergence of inter-trade union rivalry and the resurfacing of non-compromising approach to industrial relations in the country, one cannot pronounce on the effectiveness of the LRA framework in the future.

Ultimately, the LRA legal framework has the ability to meet expectations of all stakeholders, if fully and genuinely complied with. The way forward for organised labour is to ensure that the existing regulations pertaining to industrial relations are fully implemented. This may take the form of unions negotiating with the department of labour for resources to sensitise their members on LRA provisions and space for them to report flouting on these provisions on time. This will go a long way in supporting the aspirations of workers, particularly the previously disadvantaged workers whom organised labour represents.



SATRI Profile

The Sam Tambani Research Institute is a Public Benefit Non-profit Company registered in 2012. The idea of establishing the institute was perceived jointly by the NUM and MIT. It arose from the need to consolidate NUM efforts to ensure that workers get a fair share of what they produce which enables them in turn to their livelihoods.

It was recognised that interventions aimed at improving workers and their families' welfare had become complex and required a great deal of factual information. SATRI would be responsible for gathering and analysing such information through its targeted research agenda.

Objective

The Institute's major objective is to undertake research and analysis of substantive and primary issues affecting the welfare of workers in general, but especially workers in the mining, construction and energy sectors of South Africa. From the research conducted, it produces publications and recommendations that inform policies and have a bearing on the welfare of workers and workers' communities.