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Marikana and the future of South Africa's labour market

Edited proceedings of a Round Table convened
by the Centre for Development and Enterprise

The Centre for Development and Enterprise is a leading South African development think tank, focussing on vital national development issues and their relationship to economic growth and democratic consolidation. Through examining South African realities and international experience, CDE formulates practical policy proposals for addressing major social and economic challenges. It has a special interest in the role of business and markets in development.

Series editor: Ann Bernstein

This report summarises the proceedings of a Round Table hosted by CDE in November 2012. It was written by Evelien Storme and Antony Altbeker.

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Cover: Police officers open fire on striking mine workers outside the Nkageng informal settlement on August 16, 2012 in North West, South Africa. (Photo by Gallo Images / The Times / Alon Skuy)

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EXECUTIVE SUMMARY

South Africa's labour market is in crisis, with millions of people in unemployment and high levels of anger at their wages and prospects among many with jobs.

In November 2012, the Centre for Development and Enterprise hosted a Round Table discussion on what South Africa could learn from the processes of reforming—or failing to reform—the labour markets of India, Brazil and Malaysia. A significant part of the workshop focussed on two critical issues: labour relations after Marikana, and the politics of labour market reform in South Africa.

The workshop was attended by a diverse group of expert participants from business, labour, academia and government. (See *list of Round Table participants on page 5*). Participants did not agree on all the key lessons that emerge from the events at Marikana, but some common themes permeated the discussion. There was, for instance, wide acknowledgment of the failure of leadership on all sides before and after Marikana and agreement that some of the country's most important institutions dealing with labour market regulation and with local and provincial government are in urgent need of reform.

This report, **Marikana and the Future of South Africa's Labour Market**, summarises this discussion. Debate about the roots and implications of Marikana was wide-ranging. Some of the key points from the discussion follow.

Leadership

- 'South Africa has a thoroughly weak state and it is particularly weak and indecisive in terms of governance of the labour market' (*Sakhela Buhlungu, professor of sociology, University of Pretoria, former assistant general-secretary, PPAWU*)
- 'The key political-economic challenge we must confront after Marikana is how do you govern such an unequal country? What type of institutions do you need to govern with such steep inequality? What does leadership mean in such a country where interests are so different?' (*Kuben Naidoo, deputy director-general, National Treasury, former head the secretariat to the National Planning Commission*)
- 'The people that are elected to govern the country, who desire to govern, have a special onus of leadership on them.' (*Ann Bernstein, executive director, Centre for Development and Enterprise*)
- 'We must recognise that the crisis is so serious that we could end up with a platinum industry half or a third the size that

it is now if we don't get things right. So there are some heavy incentives to make the changes' (*Mike Spicer, vice president, Business Leadership South Africa*).

- 'South Africa has a political party in government that is allied to a trade union movement, Cosatu. This has meant that the interests of the labour movement and the state tend to be intertwined with aspects of clientelism and patronage' (*Lumkile Mondli, chief economist, Industrial Development Corporation*).
- 'Our social partners are locked in an endless dialogue and an endless process of making wish-lists. If you go back into Nedlac, you'll see there are five different charters that have been passed in the last 18 months or two years. It's part of a deeply entrenched culture that developed way back in the 1980s. Yet every wish-list and charter says nothing about what we need to give up. Not just what labour needs to give up, but what business and government need to give up' (*Gavin Hartford, CEO, Esop Shop and former national organiser at National Union of Metalworkers of South Africa*).

Business

- 'You'd have to be pretty blind if you are a platinum CEO not to see what was happening to that region of the country. . . That business was mainly silent about these issues reflects a clear failure of leadership in the business sector' (*Ann Bernstein*).
- 'The London listings have left a big vacuum in South Africa because corporate leadership is not really present in the day-to-day discussions. They fly in occasionally, but are not part of the fabric of discussing these issues and resolving them' (*Mike Spicer*).

Unions

- 'Unions represent an increasingly small crust of the workforce... [and] ... Many people who actually pay union fees don't feel represented by unions and don't feel they benefit from unions.' (*Sakhela Buhlungu*)
- 'We are likely to see less and less unity within unions on specific issues. As a result collective bargaining would have to become more and more differentiated or less collective.' (*Nicoli Natrass, professor of economics, UCT*).
- 'Currently we have a heavily fragmented wage structure, with so many different wage-setting mechanisms. The lack of centralised bargaining in platinum was a significant factor

in the unfolding of events around Marikana' (*Neil Coleman, strategies coordinator, Cosatu*).

- A simple rule for a business is 'don't hire what you can't fire' ... If we could open up labour regulations it would make the employment decision easier and remove some of the disincentives. It is Cosatu's challenge to recognise the problem and to change the paradigm.' (*Jayendra Naidoo, executive chairman, J&J Group, former deputy general-secretary, Cosatu*)

Local government

- In Marikana and elsewhere, failures of local government were clearly making labour relations and wage negotiations more complex and fraught. Reforming the labour market might, therefore, be facilitated by resolving crises in other institutions (*Antony Altbeker, research and programme director, Centre for Development and Enterprise*).
- 'In theory, the municipality is supposed to be upgrading that informal settlement, providing water, housing, sanitation, electrification and refuse removal. This in itself could have improved the social wage and improved the conditions of the mine workers. But in many areas it has obviously been a failure' (*Kuben Naidoo*).

Black economic empowerment

- 'The general model of BEE in the mining sector has been that you get a 20 per cent BEE partner and they own 20 per cent of the mine. It is a cost to the firm but there isn't anything transformational about it other than the fact that you got a few black owners and a couple of black board members' (*Kuben Naidoo*).
- '[Business] thoroughly messed [BEE] up, too. The only thing I can say in mitigation is that we were incentivised that way. The mining charter is written in a way that is just a wonderful case study in how not to do it. Process rich, it requires phalanxes of people to compile the social and labour plans and all the reports. All the effort goes into compiling the documents and not in doing what you are meant to be doing because the process is so damn complicated' (*Mike Spicer*).

The future of mining

- I was at a university and the vice-chancellor said to me, "The platinum industry is pouring out all these profits, so why can't it deal with its issues?" I had to explain very carefully to him that the platinum industry was deeply troubled and that they are not "pouring" out any profits at the moment. I think

it is simply not brought home to key constituencies, let alone the public (*Mike Spicer*).

- Since the living out allowance was introduced in the mining industry, the national figure of tonnage extracted is going down ... This is ... because of the poor living and social conditions in the shacks that rock drill operators take with them to the rock face (*Gavin Hartford*).
- We are the only industry in the world that works 230 to 260 days a year; everyone else is working 330 to 360 days. We're giving up one third of our annual production. ... We need to deal with the holy cow of productivity, which so far hasn't featured in wage negotiations. Business has simply folded in the face of labour demands every single time, and they have failed to raise the issues and opportunities related to increasing productivity (*Mike Spicer*).

Concluding Remarks

The tragedy at Marikana left South Africa reeling. It exposed many of the key fault lines plaguing our society. While it is impossible to predict what the long-term consequences of this will be, it is clear that already 'the winds of change' are blowing through our labour market institutions.

The CDE Round Table focussed on what South Africa could learn from the experiences of regulating and reforming the labour markets of India, Brazil and Malaysia. A comprehensive report on these issues will be published in the coming months. What Marikana shows is that the country needs to tackle the challenges of the labour market with urgency and purpose.

It is to be hoped that this tragedy will spur South African leaders-across the cabinet, the business community, and the trade unions-into a new appreciation of the fundamental challenges we are facing. What is needed is thoughtful leadership on a range of vital issues central to the labour market; as well as related issues ranging from more effective housing policy to urbanisation, from the quality of governance to the future of the migrant labour system.

Marikana seems to have opened up space for a potentially constructive debate about the direction of the country. It is a space South Africans desperately need to exploit.

Introduction

In November 2012, CDE hosted a Round Table discussion on what South Africa could learn from the processes of reforming—or failing to reform—the labour markets of Brazil, India and Malaysia. To inform the Round Table, we commissioned experts on each of these labour markets to draft papers on the processes of regulation and reform in these countries. We also asked a local economist to do the same for South Africa. Apart from these experts, the workshop was also attended by senior policy-makers and leaders from government, business, labour and civil society. Planning for the event had begun in early 2012 and the event itself was held on 2 November 2012. A report summarising the presentations and subsequent discussions is currently in production.

The events at Marikana in mid-August 2012 are so important that we devoted a considerable part of the November workshop to the discussion of two critical issues: labour relations after Marikana; and the politics of labour market reform in South Africa.

The Farlam Commission is currently trying to unearth what really happened at Marikana. What is certain is that the death of 34 miners at the hands of the police makes it the most deadly encounter between the state and its citizens since the transition to democracy.

No-one has emerged from Marikana with an unblemished reputation. Workers, unions, employers, cabinet ministers, the state and the police must all share some of the blame. The events have opened a window onto the deficiencies of many of the institutions of governance and the regulation of the labour market in South Africa. In this regard, it is striking that it is the mining industry, around which so many of South Africa's labour relations rules, regulations and institutions were designed and built, which is now in deep trouble.

In this context, CDE invited a number of leaders from government, labour and business to talk on two panel discussions addressing Marikana, its implications and the politics of labour market regulation and reform. In this report, we summarise the inputs made by the panellists and some of the thoughts and insights offered by other participants at the CDE Round Table (see list of participants on p 5).

No-one has emerged
from Marikana with an
unblemished reputation

PARTICIPANTS

Johann Baard, executive director, Apparel Manufacturers of SA

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Vusi Gumede, independent analyst

Bongani Gumede, corporate director, Tongaat Hulett Developments

Gavin Hartford, chief executive officer, The Esop Shop

Nerine Kahn, national director, CCMA

Professor David Kaplan, professor of business government relations, University of Cape Town

Thomas Ketsise, acting head policy and research, National Union of Mineworkers

Jac Laubscher, group economist, Sanlam LTD

Lerato Lentsoane, senior researcher, The Presidency

Alex Liu, chairman, Newcastle Chinese Chamber of Commerce

Greg Lopez, researcher, Australian National University

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Professor Mike Morris, director of Policy Research in International Services and Manufacturing, University of Cape Town

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Labour relations after Marikana

Gavin Hartford

Director, The Esop Shop, and former national organiser, National Union of Metalworkers of South Africa (Numsa)

To me, Marikana is an opportunity for South Africa to look at itself in the mirror. But there are lots of different South African experiences. So let me try and contextualise our problems from the point of view of the life experience of a rock drill operator.

He is probably 45 to 55 years of age, and he has probably 25 to 35 years of service. He is part of the 80 per cent of migrant workers who come from Pondoland, primarily from Lusikisiki or Flagstaff. His father was a rock drill operator and so was his grandfather. He or his father helped found NUM and faced the Bophuthatswana police's bullets in the early 1980s when NUM sought recognition. At home in Pondoland, he sits on the hills with the rock drill operators of the entire mining industry in South Africa. He doesn't care much who he works for, whether it is Goldfields or AngloGold or AngloPlat. He thinks of himself as a rock drill operator like the others.

Rock drill operators' service conditions 18 years into the democracy look like this: at one point the NUM negotiated a housing allowance and a living out allowance and he realised that he could get somewhere between R1 200 and R2 200 a month extra if he left the hostel. So he left the hostel with many of his comrades. Today, in some mines, 90 per cent of the employees live in shacks to secure the living-out allowance. The first thing you do when you live in a shack is to get a so-called *nyatsi* (a second wife) to manage the domestic affairs of the shack and cook your meals. In effect the introduction of the living-out allowance resulted in the emergence of a second family housed in the shacklands, with all the associated food, transport, domestic furniture, appliances and transport costs.

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ACRONYMS

Numsa:	National Union of Metalworkers of South Africa
Nedlac:	National Economic Development and Labour Council
MIGDETT:	Mining Industry Growth and Development Task Team
NPC:	National Planning Commission
BLSA:	Business Leadership South Africa
IDC:	Industrial Development Corporation
Cosatu:	Congress of South African Trade Unions
CCMA:	Commission for Conciliation, Mediation and Arbitration
NUM:	National Union of Mineworkers
Saccawu:	South African Commercial, Catering and Allied Workers Union

Because rock-drillers run two households now, with households close to the mines being the new beneficiaries of workers' wages, we see a new feature emerging in the rock drill operators' families in Pondoland—violence.

We have men killing their wives because remittances don't come home the way they used to. People in Pondoland have told me that in the old days the best homesteads on the hill were the ones painted blue because those were the miners'. Today if you walk around the hills of Lusikisiki and Pondoland, you'll see that the worst homes on the hills are the miners'. So without the flow of remittances, the wives look elsewhere for support.

With the emergence of the *dinyatsi*, you get something else, too. If you look at the strikes, you'll see that the *dinyatsi*—who are the first beneficiaries of the wage increase—are the women who populate much of the industrial action.

As a rock-driller, you'll typically start your day at about 4 or 5am. You'll have a piece of bread and poloni, catch two taxis, and pay for all that yourself. Then you get to the shaft by 6am, go 1.5km underground, though deep-level mining can go up to 3km. You'll walk another 1-3km underground to get to the rock panel. If you're lucky your tools are there at the same time, because, after 150 years of mining in South Africa, to get the employee and the tool on site at the same time is still not always being achieved. You will then start drilling and you will drill into a rock panel.

In the mines, productivity is a very simple calculation: it's a function of the number of blasts and the advance per blast. The mines talk about a perfect advance with a blast of 1.2m into the rock.

Interestingly, since the living out allowance came in, the national figure of tonnage extracted is going down. The advance per blast and the number of blasts is going down—today we're running at about 550 to 650mm advance into the rock per blast. This is precisely because of the poor living and social conditions in the shacks that rock drill operators take with them to the rock face. Absenteeism is shooting up, with massive costs to the mines. If it rains you just stay at home, and, if you need one, the doctor gives you a certificate.

As an individual rock driller, you have these three components to your life: your shackland *nyatsi* family, your household back in Lusikisiki, and your work. You are typically functionally illiterate and you have to manage those three components of your work life. Needless to say this requires complex people management skills. You are constantly living in conditions of very scarce resources, with many hungry mouths to feed, both at home and where you work because the number of direct dependants you have has gone up from eight to fifteen. This completely obliterates the real wage increases which have been negotiated over the last decade.

That is the life of a rock drill operator day in and day out.

The roots of Marikana

In October 2011, Impala Platinum and the NUM concluded wage negotiations. Despite proposals to adjust rock-drill operator salaries, the parties agreed to uniform increases across the bargaining unit. In retrospect, the bargaining process failed both parties. I don't blame the union, I don't blame the company, but the two parties could not reach an agreement on a differentiated distribution of income across the bargaining unit. So they didn't pay the rock drill operators more and they also didn't pay the miners more.

Then, in November 2011, immediately after they concluded the negotiations, the company and NUM consulted and ultimately the company adjusted the miners' wage by

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18 per cent. And the rock drill operators—who work with the miners on every panel—saw the miners get an increase and sat there in anger. They had heard that their issues had been raised in the negotiations, they'd heard that their own union had not agreed to a differentiated increase for them, and they also saw, one month after the closing of the wage negotiations, that their own union had concurred with the company that the miners alone get an 18 per cent increase. And this happens almost immediately after they had been told by their union that there was no more money and that they had to settle on the standard uniform increase of about ten per cent.

Deeply alienated from the union and from the company, the rock drillers return to Lusikisiki and Flagstaff in December and they make a plan to bring down the mine in industrial action on 12 January 2012. When the strike starts, they said, 'We have two demands: we want R9 000 and we don't want to negotiate through the union.' (The second demand was because the chairman of the NUM's Northern and Southern branch are both miners who were beneficiaries of that 18 per cent adjustment.)

What emerges from this is evidence of institutional failure in both parties—the company and the union. The union's failure is essentially around what has emerged since 1994 and what I call a 'labour aristocracy'—which is where a leadership process is driven from head office to region to local, where your ability to move up the union structures is based on your toeing of the line of those above you and not your representation of your members on the shop-floor. Shop-floor leadership of constituencies has been paralysed. There is money involved, so people will campaign to put in office those who could look after tenders and look after a job for them tomorrow. You become a full-time shop steward, you move from being an A level employee to C1, C2, C3 and you work in an office. You get paid three times what an A level employee gets paid. (About two-thirds of the NUM membership are A level employees.) You no longer have sight of your own membership. That is what happening in the union—deep alienation of those who cannot get on that train.

On the side of the company, post-1994, you have a raft of labour legislation—labour law, labour relations, skills development, the Basic Conditions of Employment Act, the Employment Equity Act, plus the total revision of mining law. All of these led to a professionalization of human resource management and employee relations, and its removal from the shop floor to the HR bureaucracy.

So, what has happened since 1994 is that the standard operating procedure of any company anywhere in the world—which is to talk to your employees and say, 'This is what we achieved yesterday, this is where we've failed and this is who we've failed. What are your problems? How can I resolve them?'—all of that capacity has gone. What is left is a line-management function which is around production, tonnage and safety, in other words the more technical side of things. The people-side of things—how do we get to production, how do we get safety, how do we manage our costs—that's all become an HR problem. HR departments have ballooned. They're filled with professionals who have very little experience of operations, and they run from place to place putting out fires.

'The opportunities are massive'

We have a huge crisis. But the opportunities are massive, and it stuns me every day. If only we had the leadership to change it.

I'll give you one example, about the Mining Industry Growth and Development Task Team (MIGDETT). It is a, tripartite process outside Nedlac, where the policy future is supposed to be designed. There are lots of wish lists coming out of MIGDETT, but there is no discussion about the structural crisis in the mining industry: the shareholders who don't want to invest here anymore, the costs that are climbing rapidly, the employees who live in terrible conditions and, and, and...

The opportunities rest in things like productivity, where the mining companies lose about three months of production a year as a result of the statutory holidays, sick leave, paid leave, unpaid leave, annual leave, and so on. We could be running these mining companies 365 days a year and create enormous numbers of jobs out of that, generate new revenue for government, and create real returns for shareholders by stretching the asset harder, longer and better. But to do this means changing things that have become untouchable in the industry, things like the eleven shift fortnight, the grading structure, the migrant labour system itself, and short cycles.

Take that as a cost and you come to billions and billions of Rand. Now offset that cost against a real transformation not by putting more black people on the board, but a transformation right down in the bottom of the pit, and you could have a growing industry again. But at an industry level, we've got a leadership crisis. The opportunities are there but the stakeholders' leaderships do not come to the table prepared to make major changes, to make big concessions, to give up things that they've already got in order to grow the cake for all.

Leadership

I want to make a more general point about leadership. There was a time when we could pride ourselves for the quality of leadership that managed the country's transition. If it was a commodity that we could sell the world, we could have a very rich nation. But that's no longer true, and I'm talking about across the board: political leadership (which has a primary responsibility), but also corporate leadership, labour leadership, and community leadership. If you look at the conversations we're having, whether it is at sectoral level, company level or Nedlac level, everybody believes they are losing, the conversation is adversarial with each party trying to strip down the other.

We have four major stakeholders. There is the government, the communities, shareholders, and the employed. We haven't been able to pull all parties together. We say in documents we want shared growth and shared values, but we never have conversations about how we share an economic cake that is getting smaller.

I don't believe that the institutions created post 1994—Nedlac, the Labour Relations Act, the vast array of labour law that came post that—are all flawed. The flaw is in the social partners and their capacity to do trade-offs, big trade-offs on the economic fundamentals, and for them to understand that we live in a country of forty per cent unemployment, to understand the housing and infrastructure crisis, and even in their capacity to feel and experience it.

There are lots of wish lists but there is no discussion about the structural crisis in the mining industry

While wages have improved in the mining industry in the last eighteen years, living conditions are still atrocious

Our social partners are locked in an endless dialogue and an endless process of making wish-lists. If you go back into Nedlac, you'll see there are five different charters that have been passed in the last 18 months or two years. It's part of a deeply entrenched culture that developed way back in the 1980s. Yet every wish-list and charter says nothing about what we need to give up. Not just what labour needs to give up, but what business and government need to give up.

Just imagine a situation where government, business and labour came to the table and put that their highest interest is not their constituency, but Team SA. It is building the nation, it is everybody who is not in the room, everybody who is not an insider, who is not organised, who is not the ANC, not in government. Everyone who hasn't got a job.

Why don't we start the conversation like the Irish did at the end of the winters of discontent and the teacher strike, where they sat down and said, 'Above all else we're Irishmen and we're the potato pickers from Europe. And since we want to get out of being the potato pickers from Europe, we're prepared to have a conversation about the real fight to grow the cake, which means we all have to give up interests and rights and the biggest fight is not between us, but to change the mind-set of our constituencies in business, government, and labour.'

For South Africans, the real fight is about how to change our own constituencies. How do we convince big bosses to reduce the wage gap over the next 15 years? The real fight is to convince organised workers that there must be a space for the unemployed. There must be a space for creating jobs, etc. That is the fight South Africans have to have. And very sadly, South Africa does not have the leadership to have that kind of conversation. I say this with respect because I was there too, but the leadership is so deeply entrenched in a love affair with each other that they can no longer see the pain and suffering that is in our country every day.

Kuben Naidoo

Deputy director-general, National Treasury, and former head, National Planning Commission Secretariat

The key political-economic challenge we must confront after Marikana is how do you govern such an unequal country? What type of institutions do you need to govern with such steep inequality? What does leadership mean in such a country where interests are so different?

Marikana is a jolt to the system and we need to be honest when we reflect on what has gone wrong with many of our core policies and core beliefs. So let me run through a list of what I think needs to be challenged or questioned and what Marikana brings into sharp relief.

Let me start off with BEE in the mining sector. The general model has been that you get a 20 per cent BEE partner and they own 20 per cent of the mine. It is a cost to the firm but there isn't anything transformational about it other than the fact that you got a few black owners and a couple of black board members. It does not significantly transform the structure, the content or the value of the mining industry. So the way in which the mining industry has used BEE must be questioned. For example, while wages have improved in the mining industry in the last eighteen years, living conditions are still atrocious. It is an indictment that 18 years into democracy the conditions in which the mine workers live,

their housing conditions, their water, sanitation, and their educational access, have not improved significantly.

The mining industry did incredibly well rolling out anti-retrovirals when government was in denial about HIV. They must be complimented for some of the health initiatives. But in general there has not been a significant improvement in the quality of life of mine workers, and that must be looked at. Fundamental to the living and working conditions of mine workers is the migrant labour system. It is something that introduces challenges and tensions into mining as an industry, and it must also be looked at again.

The collective bargaining system has come under challenge from several different quarters, but there are two specific failings. The one is, counter-intuitively, the lack of differentiation. Rock drill operators are relatively-experienced, relatively-skilled workers, and there should be a differentiation in pay compared to ordinary mine workers. But the collective bargaining system actually reduces the power of better-skilled workers to secure increased remuneration. In the public service we saw that collective bargaining pushes up the wages of the nurses over a year, but the doctors are grossly underpaid and so you lose doctors. Then, every five to ten years you have to have a massive adjustment to fix doctors' pay, which is also destabilising.

The collective bargaining system has also come under a different kind of pressure. How do you get framework agreements at industry level that provide a basis for shop-floor and firm-level differentiation, help create the space for addressing productivity-enhancing changes, etc.? Our collective bargaining system can't achieve this. My view is that the intent of the Labour Relations Act was for collective bargaining to have framework agreements that could be built on, either at shop floor or firm level, but that kind of agreement seems to have eroded.

The standing of established trade unions has come under pressure in Marikana. The legitimacy of the National Union of Mineworkers (NUM) among workers is now in question. So there needs to be introspection within the union movement about how it represents workers across all grades. In some cases the notion of shop steward and office bearers has resulted in a degree of gentrification within the union movement, and there is need for some soul searching on this.

The rule of law has come under threat. Here we had illegal strikes and the police use of deadly force. So have we become a society that is incapable of managing conflict in a peaceful way? That would be a very serious problem.

Another point is about the role of municipalities in providing basic services. As you know, workers were given some choice of whether to continue to live on mines or earn a living-out allowance, and most went to stay in the shacks that were adjacent to the mine. In theory, the municipality is supposed to be upgrading that informal settlement, providing water, housing, sanitation, electrification and refuse removal. This in itself could have improved the social wage and improved the conditions of the mine workers. But in many areas it has obviously been a failure.

Another point I picked up from Gavin's paper is that for some reason, maybe because labour laws have become complex, there is either an outsourcing or an up-sourcing of labour relations or human resources (HR) on the mines. So, in the past, line management took on a portion of the employers' HR responsibility. Line managers in a factory saw HR as part of their function. Today, it's devolved either into a labour broker or into an HR function within the firm. At the same time, it has become overly-legalistic and overly-bureaucratised, so that it's driving a wedge between the management of human capital in a firm and the front line.

The collective bargaining system actually reduces the power of better-skilled workers to secure increased remuneration

It really isn't obvious
how you govern a
country as unequal as
South Africa

Lastly, we have a culture in South Africa stemming back from the 1970s of political strikes. It was a key part of the liberation movement and a key weapon that we used effectively against the apartheid government. Of course, you can never completely divorce social conditions and political conditions from shop floor issues, but the politicisation of strikes has contributed towards the situation in Marikana where in some ways at least, part of the battle in Marikana was a proxy battle between political factions within the ANC.

So we need to look inward. But we also need to look at the structure of our current debate about labour market reform, which is not working. I want to offer an insight into how I think the argument often plays itself out.

Imagine Antony is a white male, I'm a black male, and that Antoinette is a black female. Antony earns R100, I earn R10, and Antoinette earns nothing. Sometimes the argument for labour market reform sounds like Antony telling me that I must give something up in order to allow Antoinette into the labour market. That doesn't sound fair to me. On the other hand, I often try to make the case that Antony should pay me more because I'm looking after Antoinette. The truth is, though, that often Antoinette is getting nothing from me either. So even when I win the argument Antoinette still doesn't benefit. Antoinette is not going to put up with this very long; at some point she is going to figure out that actually she does not like what is going on here.

I think we need to find a way to move beyond a debate framed in these terms. Having said that, and to reiterate what I said before: it really isn't obvious how you govern a country as unequal as South Africa. There are few precedents. How do you achieve a degree of social cohesion in South Africa given the level of inequality? I think social cohesion is a necessary element for growth but, at the same time, how do you keep everyone on board given the disparate interests? It is not obvious and I think that is part of our challenge over the next few years.

Mike Spicer

Vice president, Business Leadership South Africa

Marikana is a wake-up call, showing that government, business and labour have all failed. But it is also a real opportunity. I'm not going to deal with the government or the union side of the balance sheet, but focus on the industry.

For the mining sector, Marikana is a wake-up call in terms of the economics of the industry and the importance of everyone's grasping the realities. This was brought home to me a couple of days ago when I was at a university and the vice-chancellor said to me, 'The platinum industry is pouring out all these profits, so why can't it deal with its issues?' I had to explain very carefully to him that the platinum industry was deeply troubled and that they are not 'pouring out' any profits at the moment. I think it is simply not brought home to key constituencies, let alone to the public.

We need to understand there are very real constraints and we need to deal with the holy cow of productivity, which so far hasn't featured in wage negotiations. I'm stunned at the business side that they have simply folded in the face of labour demands every single time, and that they have failed to raise the issues and opportunities related to increasing productivity.

Anyway, we now have a crisis which has enabled us, I think, to put that back on the table. We are the only industry in the world that works 230 to 260 days a year; everyone else is working 330 to 360 days. We're giving up one third of our annual production. So we

need to get that right. But it's a problem that we've outsourced frontline supervision. That has stripped out a whole lot of opportunities in terms of problem solving and dealing with productivity issues again.

Another thing we've made a thorough mess of is the living-out allowance. When I was working in the gold mining industry in the late 1980s and during my Anglo career in the 1990s, we started out by trying to build conventional housing and not just convert hostels. But many miners didn't want that because they had rural domiciles and they preferred a cash allowance. From the moment some people got an allowance, everybody wanted an allowance and, for cost reasons, it became easier to give the guys the cash and let them sort themselves out. This happened without analysing all of the unintended consequences and social costs. I think that was a failure, and it has taken a crisis like Marikana to face up to that.

One difficult issue is the fragmentation of leadership in the industry. I've been saying this for some time: the London listings have left a big vacuum in South Africa because corporate leadership is not really present in the day-to-day discussions. They fly in occasionally, but are not part of the fabric of discussing these issues and resolving them. This may change now because I think a lot of international investors are going to take a lot of pushing to come back. In some ways they've already mentally migrated out of the industry here and I'm not sure they're willing to put in the time that is required. So the leadership is going to have to come from the domestically-based mining companies. We may get internationals to come along, but they are not going to lead the charge.

BEE: we thoroughly messed that up, too. The only thing I can say in mitigation is that we were incentivised that way. The mining charter is written in a way that is just a wonderful case study in how not to do it. Process rich, it requires phalanxes of people to compile the social and labour plans and all the reports. All the effort goes into compiling the documents and not in doing what you are meant to be doing because the process is so damn complicated. Again, there are real opportunities to review all of that and some companies have done it properly with not only employees, but proper community engagement.

But the critical thing for industry is the general policy environment. It's going to be quite difficult to reform and restructure this industry in the absence of clarity about economic policy.

We really have two economic policies coming from government, and they contradict each other. You can't be sure which the ruling policy is. This is particularly important in mining, which is one of the longest-term industries around, an industry where you're putting your money on the table for fifty years. In those circumstances, you can't have a three year so-called debate about nationalisation. It is really asking a lot of investors that they should look seriously at a long-term investment when nationalisation is being contemplated.

Now the debate over the past two or three years is how to extract extra rents and to whom they will accrue. But anybody who has been looking at the industry has seen profitability plummeting as international prices stabilise or fall while costs escalate dramatically. We know 50 per cent of platinum shafts were underwater prior to Marikana, and what that means is that there is no scope to introduce all sort of extra rents unless you tackle the fundamental productivity issues.

Still, I also think there are some real opportunities. But we must recognise that the crisis is so serious that we could end up with a platinum industry half or a third the size that it is now if we don't get things right. So there are some heavy incentives to make the changes.

London listings have left a big vacuum in South Africa because corporate leadership is not really present in the day-to-day discussions

And I think we will do it, but probably in a typically South African fashion, after exhausting any other alternative and then we finally may decide we should do it this way.

The politics of labour market reform in South Africa

Lumkile Mondi

Chief economist, Industrial Development Corporation

South Africa has a political party in government that is allied to a trade union movement, Cosatu. This has meant that the interests of the labour movement and the state tend to be intertwined with aspects of clientelism and patronage. One of the effects has been the creation of obstacles preventing people who are outside the labour market from entering it effectively. In addition, the state, in alliance with Cosatu, has made it attractive for an individual to link himself to the ANC political system where she might get into government and benefit from this patronage and clientelism which has emerged in post-apartheid South Africa.

It's important to say that what we see here in the form of strikes and civil unrest are efforts by people to take back what they think belongs to them. What do I mean by that? Increasingly workers are demanding a larger share of the profits made by the firms they work for. So the developments that are seen today in the labour market, particularly in the mining sector (where it is workers outside Cosatu who are demanding a share of the profit and the process of pushing up their wages), is the essence of South Africa's current political economy. This is also a driving force behind BEE, which is also affecting the way the labour market develops and what people expect from it.

For South Africa to solve its unemployment problems, we need to see the separation of Cosatu and the ANC. The ANC has to be a real governing party, one that has a long-term perspective on the interests of South Africa as a whole, and not just the interests of those who are employed or who are entrepreneurs seeking rent in the guise of black industrialists. The policy must prioritise heavy public sector investment and making sure that the education system works. Then you can start talking about reforming the labour market.

Of course South Africa must address the problems of the past if we are to build national unity. But there are problems when you try to address these things through legislation. It can create entitlements which discourage people from taking responsibility for their lives and, more importantly, can create patronage and clientelism.

The interests of the labour movement and the state tend to be intertwined with aspects of clientelism and patronage

Neil Coleman

Strategies coordinator, Secretariat, Cosatu

One of the things the Marikana disaster shows us is that the claim that there is necessarily a contradiction between pursuing equity and pursuing productivity increases and growth, is false. Unless you have equity, tolerable working and living conditions, and participation in decision-making about production so that workers see a future in the industry, you are going to have an unsustainable situation.

Events around Marikana reflect a failure of leadership by the platinum companies and the Chamber of Mines, who took a deliberate decision, given short-term profitability challenges in the platinum sector, that they would use or condone divisive and repressive tactics to force through restructuring of the industry. Complaints about problems facing this high-profit industry ring hollow. What happened to the super profits that had been made over several years when the platinum price was at its peak? And what sort of long-term plan was there for the industry to provide for a downturn? Was there any long-term planning at all?

Ultimately, there are things the unions need to answer for in terms of the Marikana events. But planning is a management prerogative. It should be done with the unions; but it cannot be done without the employers.

I agree that foreign listings are an important part of the problem. We have contracted out ownership and control of some of our country's most critical assets. So when there are debates about nationalisation of mines, let's not pretend to be surprised by them. In considering these debates we need to ask, where does this conflict come from in the first place? Who are the actors in the drama? And in whose interests is it for the industry to continue operating in the old way?

An important lesson to draw from these events is that, while there is nothing in principle wrong with the collective bargaining structures that were set out in the Labour Relations Act, there is still a need for a more comprehensive bargaining system which covers all sectors. The lack of centralised bargaining in platinum was a significant factor in the unfolding of events around Marikana. There are already other sectors, particularly the most vulnerable sectors, in which workers are preparing to take action, and I can tell you that workers in some sectors are ready to follow the Marikana example of bottom-up rebellion because of the absolute frustration with conditions in these sectors.

Someone was also talking about the need for framework agreements at sectoral level and to have more differentiated negotiations taking place at company level. That is exactly the sort of vision that was there in the Labour Relations Act. But employers are reluctant to go that route because they see it as giving unions two bites at the cherry. That's why we need a discussion about a cohesive and comprehensive system. And part of this needs to include the setting of a wage policy in this country.

We cannot continue with such a fragmented wage structure, with so many different wage-setting mechanisms. Currently, we have eleven or so sectoral determinations, so many bargaining council agreements etc., but we have no coherent approach as to what our national wage policy should be. Obviously the content of this will be the subject of major contestation, but clearly there is a fundamental question of inequity in the distribution of incomes, and the wage structure has to be dealt with as an important part of addressing this challenge.

The lack of centralised bargaining in platinum was a significant factor in the unfolding of events around Marikana

An individual
enterprise bears little
responsibility for the
good of society

Jayendra Naidoo

Executive chairman, J&J Group, former executive director of Nedlac and former deputy general-secretary of Cosatu

The key thing about the politics of labour market reform is what exactly we are trying to reform, who is trying to reform, and what is the power balance between these players?

When I was 20, I became part of a start-up trade union which today is part of the South African Commercial, Catering and Allied Workers Union (Saccawu). When we started the union it was very hard to recruit people, and we couldn't begin to bargain about wages because there were too few members. So initially we started to tackle problems that were based on non-compliance with regulations and the unfair dismissal of workers, especially black workers. From the individual cases that we won, we managed to gain credibility and to build up the union to the point that we could progress to company or enterprise bargaining, and eventually cover issues like wages and national bargaining. This was a journey from the beginning of the 1980s to the 1990s, where we finally were able to deal with the subject of reform of national legislation, with the National Manpower Commission, and the National Economic Forum.

At the time, the unions, Cosatu in particular, prepared a very comprehensive strategy for labour reform. We thought it was a great achievement.

The first substantial piece of legislation, the first law passed into parliament was the Nedlac Act. It was an act to create an institution that would be the über-bargaining council of the country, and I had the honour of running it. And the first law we dealt with was the Labour Relations Act.

By now, the trade unions were led by a bunch of new guys because all the old ones had been redeployed elsewhere. The new guys had to show that they were tougher than the last lot, while workers didn't want to give them the latitude the older guys had had. So they engaged in that negotiation in the most bloody-minded kind of way, and it became a bargaining process characterised by attrition. A lot of the relationships fractured there and never healed.

All of this was combined with quite a rich interplay of personalities and political ambition. So we ended up with an Act which had a lot of flaws. And, importantly, I think we might all have very different ideas about what the flaws are. To cite one example: only a tiny fraction of our time was spent on discussing the conception of the Commission for Conciliation, Mediation and Arbitration (CCMA), as nobody was really fussed about this institution. We thought, 'Let's concentrate on something else.' The age limit for child labour being 18, is another example. Personally I had teenage kids at that time and I was worried that I'm now going to have to support them with pocket money up to the age of 18. Of course I'd rather they got a job at the age of 16 like I did and earn their own pocket money.

Little things like these turn out to have profound effects on social behaviour as time rolls out.

In the last twelve years I've been running a company called J&J Group, which has been starting up companies in different sectors. And now, as an employer, I've developed some different ideas about labour as well as about my previous work in Nedlac and the Labour Relations Act.

An individual enterprise bears little responsibility for the good of society. The entrepreneur, the owner, the manager: he's concerned with a range of variables relating

to costs and profits, and if it is good for society that's fine; but his shareholders are not holding up society and they want returns. Also the workers want their returns.

So an individual enterprise is rather immunised from the broader social dialogue that you have. In that environment you're concerned mostly about the quality of your income and of your costs, and how you can match them. If your income is unstable, you want to keep your fixed costs down to an absolute minimum and try to make the rest of your costs as variable as possible so it is in line with your revenue. If your income is fixed and predictable over a long time, you can breathe a little bit easier, and you can employ people more on a longer term basis.

The nature of revenue in South African business tends to be quite variable. That means employers have to be able to manage costs flexibly. Of course there are many ways to do that. One is technology. The other is outsourcing. This is a key reason why unskilled workers' labour has become commoditised, and why they are now being employed and represented by labour brokers. This stuff is immovable. It can't be changed by what Vavi says or what government says about the Jobs Fund and the kinds of jobs it wants. As long as there isn't a mechanism that makes the employer willing to employ people, he is not going to touch that.

On the other hand, there's another group of workers that are paid insanely high salaries because they have either scarce skills or can help you with your BEE scorecard. There you have to load up the wage bill. And this creates more pressure, because the more you have to load the wage bill on that side, the more you've got to find ways to make other costs more variable.

This has important implications for the way I now think about the labour laws and, in particular, about one aspect that affects my business most.

A simple rule for a business is, 'don't hire your cousin.' What I mean is that you shouldn't hire what you can't fire. I know unions object to this idea because they fought hard to protect workers, but when you employ someone, you don't know how good that person will be in the business and you also don't know if you can get rid of them. This creates a serious disincentive to hire. If we can open it up it would make the employment decision easier and remove some of the disincentives, especially because of all the alternatives that people have to labour in that category.

So what does this mean for labour market reform? Frankly I think the challenge is Cosatu's. They need to recognise the problem and change the paradigm. But if they fail to do this, it doesn't actually mean anything, because employers will find plenty of ways to exit and slide out of the regulations. This is the hard reality, and it means we need to change the way we think about this issue. At the same time, I think we will transform the labour market incrementally by people slipping out of the net, which are holes you cannot close.

Sakhela Buhlungu

Professor of sociology, University of Pretoria, and former assistant general-secretary of the Paper, Printing, Wood & Allied Workers' Union

Reform is about choices. If we talk about reform, somebody has got to make tough choices. There are a number of people here, myself included, who were part of the Labour Market Commission back in 1995 and 1996. That was supposed to be the moment of big choices. I

A simple rule for a business is that you shouldn't hire what you can't fire

Unions represent an increasingly small crust of the workforce and many people who actually pay union fees don't feel represented by unions

suspect that people ducked the real task by coming up with a phrase or a concept that they called 'regulated flexibility'. What this did, effectively, was to cloud issues and to postpone solving the problem. I think the problem has caught up with the country now and choices have to be made once and for all.

We need a new language and we need to ditch some of what we have, including the term 'regulated flexibility'. Marikana has shown that people think their voices are not being heard. We believed, essentially, that anyone who was in a union would have a voice by virtue of being in the union. But research that I and many others have done shows that unions represent an increasingly small crust of the workforce, and that many people who actually pay union fees don't feel represented by unions and don't feel they benefit from unions.

So there are multiple reasons why we need reform. But reform means making difficult choices. We make this harder, though, because the country is perpetually in conference mode and election mode—it's paralysing this country. I mean, right now no decisions have been taken with Mangaung round the corner. Mangaung is going to come in December and go and then it's going to be the election in 2014. There is going to be another Mangaung, wherever it is going to happen. So what has happened is that we've paralysed decision-making because no-one wants to go to conference and defend something unpopular. I want to put that upfront here in the discussion because it is really a destabilising and disabling kind of thing.

What we have, therefore, is a stalemate in which the government is not able to govern. Let me give an example: the money put aside for the youth subsidy until the ANC policy conference came along and put the policy on hold. That's the kind of stalemate I'm talking about.

The ideological posturing that you find between business and labour also makes life very difficult for everyone because people just shout across one another all the time. The one says the labour market is flexible; the other says it's not flexible and so on and so forth. There is a lot of labelling that gets thrown about.

Then our state. South Africa has a thoroughly weak state and it is particularly weak and indecisive in terms of governance of the labour market. Look at the Department of Labour. A few years ago we did some research on employment equity at the department. There are good people that star, but there is also a high level of ineptitude and incompetence. The same applies for other institutions that are to do with the state and labour market governance. As a result all laws exist on paper only, and the truth is that anyone who wants to bypass them can get away with it. Like in the Employment Equity Act, we get report after report and nobody does anything about it. As for the inspectorate—it's absolutely shameful. Again, a high level of incompetence and lack of depth. So that is the state and those are the people that you expect to run the country.

One last thing, I think the speakers made very convincing points that you can't reform the labour market on its own and isolate it. Education, for example, is the key. Linking labour market reform to education and to expanding other aspects of the social wage, would be useful. But, up to now, it has never been done.

General discussion

A number of participants noted that efforts to reform the labour market had to be premised on recognition that the labour market did not exist in isolation. Many labour market challenges have roots in problems elsewhere in society.

For one participant, it was important to recognise that the challenges facing the labour market were less about contractual relations between equal parties, and more about differential power and access to resources, and about 'whether the poor in society have any power to get access to the resources that the wealthy and powerful are monopolising.' Marikana, this participant noted, 'tells us that black workers are still treated as semi-feudal objects in society.'

A second participant took a different view, suggesting that a key reason why labour market reform has proved so difficult around the world and across time is that labour market institutions 'are part of the DNA' of societies. For example the American and German labour markets had shaped (and been shaped by) the nature of those societies. Changing labour market institutions was difficult precisely because they are so deeply embedded in the terms of a society's social contract. For this reason, they also shape the way we think about labour markets and the kinds of reforms we think are feasible and desirable. South Africa, he said, 'is a low-trust, high-inequality' society and this may set some limits on the institutional architecture for the labour market.'

A third reason why reforming the South African labour market is so difficult is that labour institutions are having to bear the weight of expectations not being met by other institutions. Thus, in Marikana and elsewhere, failures of local government were clearly making labour relations and wage negotiations more complex and fraught. Reforming the labour market might, therefore, be facilitated by resolving crises in other institutions.

Another participant argued that companies could have done more to provide leadership on social issues in and around Marikana. 'You'd have to be pretty blind if you are a platinum CEO not to see what was happening to that region of the country.' She went on to suggest that, while it is not easy for companies to work collectively, steps could have been taken to deal with the need for much better planning and delivery of social services and for the building of the infrastructure needed for a fast-growing region. 'That it didn't happen is a clear failure of leadership in the business sector.' At the same time, she noted, that however serious the failure of business leaders, it was, in fact, government's duty to lead in this area. 'The people that are elected to govern the country, who desire to govern, have a special onus of leadership on them.'

Unions and their impact on labour market institutions

A number of other points were made in relation to the nature of unionism in South Africa today and the way this relates to the institutions that exist.

For one participant, a difficulty with South African labour relations was that the professionalisation of human resources meant that, 'the personal link between employer and employee has been broken.' This had important implications for productivity. Another effect of this was the breakdown in the ability of workers and their supervisors to resolve many kinds of problems as they arose, with the consequence that workers had to rely

South Africa is a low-trust, high-inequality society and this may set some limits on the institutional architecture for the labour market

Marikana showed what happens when unions lose credibility in their members' eyes

more heavily on their unions to represent them in resolving those problems. This meant that workers might feel that they have to join a union when better interpersonal relations might have reduced this need. It also meant that unions were constantly introduced into aspects of the business that could be managed without them.

The increasing skills differentiation in the labour market was irrevocably changing the collective bargaining process, one participant noted, and the way unions represent the workers. 'We have moved away from the conditions under which industrial unionism and the wage bargaining system started,' said a participant. 'This was the old feudal system where most of the workers were pretty much unskilled or relatively deskilled, and where a solidaristic push by a big industrial union would push up the bottom wage.' It was this system that underpinned industrial unionism in Europe and was therefore the base of social democracy. 'We then started to move economies towards more skilled labour and moved up the value chain. So, the differentiation of labour means rethinking the nature and purpose of industrial bargaining.' One consequence was that over time we would see less and less unity within unions on specific issues and collective bargaining would become more and more differentiated or less collective. It is one reason why we should relook at a system of framework agreements supplemented by plant-level agreements.

One participant felt that many union members were increasingly disaffected by their unions' focus on high politics and the 'politics of leadership' rather than on shop-floor and bread-and-butter issues. Marikana showed what happens when unions lose credibility in their members' eyes, and implied the need for a rethink about unions' priorities.

Other points

A participant referred to how Export Processing Zones were successfully established in Brazil, Malaysia and India in which exemptions from some labour market regulations was provided for. He wondered whether this could also work in South Africa. Will various parties in our labour market be able to come to an agreement on trying something similar in South Africa?

There was some debate about Cosatu's position on the wage subsidy, which, one participant noted had the effect of making it harder for young people to get into the labour market, even though government had already allocated funds to facilitate this by subsidising wages of young, low-income workers. Responding to this, another participant said that Cosatu's fears were not irrational since surveys of employers, while showing that 70 per cent of respondents would not replace older workers who do not qualify for subsidies with younger workers, also showed that as many as 30 per cent of employers said that this was a possibility they would consider. That being the case, the unions had no option but to resist the implementation of wage subsidies.

Concluding remarks

The tragedy at Marikana left South Africa reeling. It exposed many of the key fault lines plaguing our society. While it is impossible to predict what the long-term consequences of this will be, it is clear that already 'the winds of change' are blowing through our labour

market institutions. This is not before time: a society in which 40 per cent of those who are available to work are unable to find employment is socially, economically, and politically unsustainable. Add to this the fact that, as Marikana (together with subsequent events in the Cape Winelands) makes clear, a significant proportion of people who do have jobs are dissatisfied with their current incomes and prospects. Marikana and the disputes in the Winelands are a painful reminder that the labour market and its institutions are underperforming for both those in and out of work.

The CDE Round Table at which discussions about Marikana took place focussed on what South Africa could learn from the experiences of regulating and reforming the labour markets of India, Brazil and Malaysia. A comprehensive report on these issues will be published in the coming months. What Marikana shows is that the country needs to tackle the challenges of the labour market with urgency and purpose.

The Farlam Commission of Inquiry will reveal a great deal more about the events leading to the loss of life at Marikana. In the meanwhile it is to be hoped that this tragedy will spur South African leaders—across the cabinet, the business community, and the trade unions—into a new appreciation of the fundamental challenges we are facing. What is needed is thoughtful leadership on a range of vital issues central to the labour market and related issues ranging from more effective housing policy to urbanisation, from the quality of governance to the future of the migrant labour system.

Marikana seems to have opened up space for a potentially constructive debate about the direction of the country. It is a space South Africans desperately need to exploit.

The country needs to tackle the challenges of the labour market with urgency and purpose

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