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**Institutions, Wage Differentiation and
the Structure of Employment in South
Africa**

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Abstract

Institutions matter. More specifically, Bargaining Councils matter in contemporary South Africa in terms of their effects on the differentiation of wages and the structure of employment. Institutions established more than eighty years ago continue today, even after the abandonment of their original rationale in terms of perpetuating a racist hierarchy, to exclude non-privileged workers from regulated employment. Then, the excluded were confined to unregulated, lower-wage unskilled work. Today, the excluded are confined to unemployment or informal work. The consequences are most pronounced in tradable, labour-intensive sectors such as the clothing industry, when national bargaining councils reduce inter-regional wage differentiation through setting national minimum wages. This pushes some employers to restructure production in more capital- and skill-intensive directions, whilst some lower-wage, labour-intensive producers are forced out of business. The result is job destruction, especially among less skilled occupations. Because it is low-wage jobs and wage differentiation that are affected, the effects may be obscured in analyses of wages generally (and hence total employment). Bargaining Councils can provide for better-organised employers and workers to pursue self-interest, even at the expense of less-organised employers and workers, whilst providing also an ideological umbrella that justifies the procedures and outcomes as just and necessary. The effects are compounded when wage effects mesh with industrial policy in pushing firms towards more capital- and skill-intensive production.

1. Introduction: The Destruction of Low-Wage Formal Employment in South Africa's Clothing Industry

The clothing industry is the last surviving remnant of labour-intensive manufacturing in post-apartheid South Africa. Whereas in manufacturing as a whole the capital: labour ratio was (in 2008) R150,000 per job, in the textile, clothing and footwear sector (SIC31) the ratio was less than R30,000 per job and in apparel specifically (SIC314) it was less than R10,000 per job (Statistics South Africa, 2010). At the end of apartheid, South Africa had a strong clothing sector, producing both for the protected local market and for export. Wage employment probably hovered around 150-170,000 workers in the 1980s and 1990s, i.e. about 10 percent of total manufacturing employment (Altman, 1994: 41; Godfrey, 1997: 48). From 2003, however, employment in the clothing industry declined, to about 100,000 waged employees in total in 2010, of whom only 56,000 were registered with the bargaining council (in March 2011). Membership of the South African Clothing and Textile Workers Union (SACTWU), which organises across textiles and footwear as well as clothing production, declined from a peak of 186,000 in 1991 to 85,000 in 2010 (according to the union itself), with less than 50,000 members in the clothing industry specifically. This decline had a simple cause: producers were squeezed between stagnant or even falling prices for their produce, on the one hand, and rising labour costs, on the other. Trade liberalisation and the growth of China's export industries played the central role on the one side of this squeeze (see e.g. Morris and Einhorn, 2008). Labour market institutions played the primary role on the other side.

The National Bargaining Council (NBC) for the Clothing Industry was established as recently as 2002. Hitherto, clothing workers in most metropolitan areas were covered by regional bargaining councils, whilst workers in non-metro areas were covered by sectoral wage determinations by the Wage Board and its successor, the Employment Conditions Commission (ECC).¹ Before 2003, the parties in the regional bargaining councils, i.e. employers' organisations and trade unions, negotiated collective agreements over wages, benefits and conditions of employment. The Minister of Labour then generally extended each agreement to all non-parties (i.e. to firms and workers who had not participated in the actual negotiations) within the region covered by each

¹ The Wage Board regulated wages in the clothing industry in and adjacent to the former bantustans only from 1997-98, when WD 471 was amended and extended countrywide. WD 471 was superseded by the ECC's sectoral determination no. 4 in 2000.

bargaining council. After 2003, successive Ministers of Labour extended the collective agreements negotiated in the NBC to the entire country.

Both before and after 2003, minimum wages were set at different rates in different parts of the country, with the highest wages in Cape Town and Johannesburg, and the lowest in non-metro areas such as Newcastle and Ladysmith (in KwaZulu-Natal) and Phutaditjaba (in the Free State). In 1998, the minimum wage in Cape Town (set through a collective agreement) was three times higher than the minimum wage in Newcastle and 3.5 times higher than the minimum wage in Phutaditjaba (in both areas set by the Wage Board). Between the mid-1990s and 2010, minimum wage rates in Cape Town barely changed (in real terms), but the minimum wages payable in other metro and non-metro areas rose dramatically. Minimum wages in Newcastle doubled in real terms in the decade to 2010, and tripled in dollar terms between 2002 and 2010. Inter-regional wage differentiation declined. Whilst the highest minimum wages had been three or more times higher than the lowest over the second half of the twentieth century, by 2010 there were less than 50 percent higher, and were slowly moving towards the union's target of a 25 percent differential.

Employers' organisations in KwaZulu-Natal repeatedly objected to increased 'national' minima that affected primarily the low-productivity, lower-wage regions, especially when an appreciating currency weakened their competitive position (as in 2003-05 and 2009-10). Some firms, especially in KwaZulu-Natal, did not register with the new NBC. Many others registered, but failed to comply with the collective agreements, some with respect to the various dues payable to the NBC, many with respect to the payment of the minimum wages to their employees. A majority of employers countrywide, and at least 70 percent in KwaZulu-Natal, were reportedly non-compliant with some or all of the statutory requirements in 2009 (Godfrey *et al.*, 2010: 161). The non-compliant firms are predominantly low-wage, low-profit, low-capital, labour-intensive producers, mostly in non-metro areas. The NBC has repeatedly taken legal action against these non-compliant firms, closing down many of them. In its first eighteen months, in 2002-04, the NBC compliance officer investigated almost 1,400 firms and issued non-compliance notices against almost one thousand of them (Anstey, 2004: 1,859). The NBC's campaign against non-compliant firms continued intermittently, resulting in the closure of non-compliant firms and job losses (Godfrey *et al.*, 2010: 162). In 2010, the NBC launched a further, aggressive compliance drive, obtaining court orders against selected non-compliant firms. Sheriffs served writs of execution against non-

compliant firms, closing (temporarily) mostly ‘Chinese’ and ‘Taiwanese’-owned factories.²

When the sheriffs try to close down low-profit workplaces in high-unemployment towns, the affected employers protest; some turned to the courts. So do their workers, who typically prefer both high wages to low wages and low wages to no jobs at all. In Newcastle in 2010-11, workers threatened the sheriffs when the sheriffs tried to shut down firms. Someone burnt out the SACTWU offices in Newcastle. The Premier of the Free State complained vociferously about the sheriff’s raids on factories in that province. The Minister of Finance and his predecessor, now in charge of the National Planning Commission, both protested. The Department of Labour felt compelled to backtrack somewhat. The Department of Economic Development and the Department of Trade and Industry (DTI) intervened. When the DTI and Department of Labour convened a meeting, the Apparel Manufacturers of South Africa (AMSA) initially supported the non-compliant firms’ proposals that employers be allowed to pay lower wages to new employees (a demand not dissimilar in cost terms to the Minister of Finance’s proposals for wage subsidies) and productivity-linked pay (through a version of piece work). SACTWU remained implacably opposed to piece work. When the DTI offered a R1 billion capital subsidy for compliant firms, AMSA switched sides. The non-compliant firms were given until March 2011 to meet 70% of the minimum wage, and until April 2012 to meet 100%. In March 2011 the NBC resumed its compliance drive against those factories not paying the minimum wage.

The case of the clothing industry shows that institutions matter in job destruction in contemporary South Africa. Bargaining councils, with the assistance of the Minister (who extends collective agreements, even when the representivity of the parties to the agreement is uncertain) and backed up by the legal apparatus of courts and sheriffs, not only can but do destroy low-wage employment.³ Low-wage jobs have been destroyed both directly and indirectly: directly in that the institutions of bargaining councils and the extensions of their collective agreements allow dramatic real increases in minimum wage to be imposed uniformly on employers, despite important differences in production technologies and product markets within the industry, and with the consequence that more clothing is imported; and indirectly because industrial policy has been

² We use inverted commas around these terms because some of the owners are now South African citizens, and some were born in South Africa (to parents who came from Taiwan or Hong Kong more than twenty years ago).

³ This paper does not consider the consequences of the more modest minimum wage increases set by the ECC, although recent work suggests that even these result in significant job losses (Pauw and Leibbrandt, 2011).

used to support productivity-enhancing investments that result in increasingly capital- and skill-intensive production, with low-wage jobs being replaced by a smaller number of higher-wage jobs.

Institutions matter in this case because the industry is not homogeneous. For almost a century, clothing production in South Africa has comprised a mix of more labour-intensive cut, make and trim (CMT) production of basic clothing items, and more skill-intensive production for niche markets. Pushing up minimum wages in an open economy destroys jobs in the more labour-intensive sub-sector. The more skill-intensive producers, as well as firms in sub-sectors that are, in effect, non-tradable (producing for the government, for example), are less sensitive to wage effects. Diminished wage differentiation destroys jobs in some but not all sub-sectors. There is little evidence that it protects jobs in the higher-wage sub-sector, because the two sub-sectors generally produce for different markets. Instead, retailers import low-cost clothing from Lesotho, China or elsewhere (Nattrass and Seekings, 2012).

This raises a troubling question: Is South Africa's system of wage-setting through the extension of national collective bargaining agreements compatible with labour-intensive manufacturing? Our conclusion is that it is not, if the union and some employers join to push for wages that render labour-intensive producers uncompetitive in the face of cheap imports. In the clothing industry, an uneasy and unstable coalition of the trade union (with its head-office in Cape Town) and predominantly Cape Town-based employers, with strong support from various parts of the state, used national collective agreements, the extension mechanism and their enforcement mechanisms to shut down lower-wage, labour-intensive production in other parts of the country. South Africa's labour market institutions provide strong incentives to a range of actors – organised labour, major employers, bargaining council officers, and the Minister of Labour – to pursue their own interests in ways that, not necessarily intentionally, lead to lower-skilled job destruction.

Job destruction might be justified through preventing 'exploitation' in 'sweatshops'. It is important to be clear that the clothing industry is, for the most part, a low-wage industry, and the lower-wage, labour-intensive sub-sector pays wages that are very low by comparison with the wages earned by skilled workers, managers and professionals in South Africa. A democratic society might prefer a smaller volume of 'decent' work to a larger volume of low-paid work, especially if social welfare policies provide for a minimum standard of living even for the unemployed. In this paper we do not examine how South Africans *should* engage with this choice. Whatever the merits of these arguments, the fact is that jobs have been destroyed through raising real wage

costs in areas such as Newcastle, as a result of the choice that has already been made, implicitly, in that South Africa has adopted labour market institutions – and supportive industrial and other policies – which inhibit or perhaps even preclude labour-intensive manufacturing production.

Bargaining councils operate in diverse ways with respect to wage-setting. The NBC for the clothing industry should not be considered as typical of bargaining councils. It has pursued and implemented the extension of collective agreements aggressively, and has shown little willingness to allow wage-related exemptions. Some other councils – for example, the Metal and Engineering Industries Bargaining Council – seem to have been more tolerant of exemptions from minimum wages in order to limit job losses (see Grawitzky, 2011). Moreover, the bargaining councils in the clothing sector had less pernicious effects on job destruction when they were regional councils, prior to establishing a national council. Job destruction in sectors such as clothing is the consequence not of bargaining councils per se, but more specifically of *the enforcement of wages at a sufficiently uniform and high level, through extensions without wage-related exemptions, so as to curtail the demand from employers for less-skilled labour in labour-intensive production*. National bargaining councils contribute to country-wide wage-setting and the erosion of wage differentiation. This is especially important in the remaining patches of labour-intensive manufacturing, including (especially) the clothing industry. The case of the clothing industry and the NBC is important not because they are typical, but precisely because they are now atypical, as the final vestiges of labour-intensive manufacturing amidst ever more capital- and skill-intensive industry.

In order to understand the effects of bargaining councils on job destruction, we first turn to the early history of South Africa's bargaining council system. We show that South Africa's labour market institutions have their origins in pre-apartheid institutions that were designed to protect 'civilised labour' (i.e. the forerunner of what in the 2000s came to be called 'decent work'). From the 1920s until close to the end of apartheid, labour market institutions served to uphold the earnings and status of privileged white workers. In the last years of apartheid, and especially in the years since the end of apartheid, these institutions have ceased to be racist, but they continue to provide opportunities for relatively privileged groups of workers to pursue policies that result in the exclusion of other workers from employment. The second half of the paper examines critically the existing literature on the impact of bargaining councils on wages and employment, focusing on the effects of bargaining councils on wage differentiation and the structure of employment. We conclude that the bargaining council and extension systems have contributed significantly to the

decimation of un- and semi-skilled labour in manufacturing, and hence to the destruction of labour-intensive production.

2. The Origins and Growth of the Bargaining Council System

Industrial councils – i.e. the forerunners of bargaining councils – were first established in the mid-1920s under the 1924 Industrial Conciliation Act. The Act provided for the registration and regulation of trade unions and employers' associations, for collective bargaining between them in industrial councils, and for giving these collective agreements statutory authority not only over the parties to the agreement but also to non-parties (through extensions gazetted by the Minister of Labour). Non-compliance with an agreement or extension that had been gazetted by the Minister constituted a criminal offence.⁴ The Act originally did not cover pass-carrying African workers, who were excluded from the status of 'employee', and whose employment was governed by other legislation.⁵ In 1930, the Act was amended to allow collective agreements and their extensions to cover African workers also, explicitly to prevent high-wage white (and coloured) workers being replaced by low-wage African workers.⁶ New legislation in 1937 provided for African workers to be represented in industrial council hearings by inspectors from the Department of Labour.⁷ Employees who were not covered by industrial councils were subject to wage determinations by the Wage Board, established under the 1925 Wage Act.

From the outset the industrial councils served as vehicles for regulating competition to higher-waged, unionised workers in higher-productivity firms from lower-wage employers and workers.⁸ Skilled workers in South Africa were highly-paid, by comparison to both skilled workers elsewhere in the world and less skilled workers in South Africa. A series of government commissions

⁴ Industrial Conciliation Act 11 of 1924.

⁵ The 1923 Natives (Urban Areas) Act provided for the registration and control of employment contracts, and regulated migration into and residence in towns on the basis of the 'pass'. In addition, colonial-era Masters and Servants laws and the 1911 Native Labour Regulation Act served, *inter alia*, to criminalize breaches of employment contracts by African workers (for example, through 'desertion').

⁶ Section 9 (4) of the Industrial Conciliation (Amendment) Act 24 of 1930 (cited in Du Toit *et al.*, 2000: 6). Trade unions representing African workers were not recognized, and were not allowed to participate in centralized bargaining.

⁷ Industrial Conciliation Act 36 of 1937; see Du Toit *et al.*, 2000: 7.

⁸ The legislation also served to institutionalise industrial conflict, which was what made it attractive to the state and capital in 1924 (Davies, 1978; Lever, 1978).

documented the high wages paid to skilled workers, especially on the Witwatersrand. Skilled (white) workers and artisans in South Africa were better paid than their British, American or Australian counterparts, and much better paid than in most of Europe, even taking the cost of living into account. Unskilled (African) workers, in contrast, were paid much less than in Britain or Australia, and much the same as the wages paid to labourers in Italy, Belgium and even Germany (South Africa, 1914; 1926: 23-31). The new industrial councils were used to prevent any undercutting of the high wages paid to skilled white workers. Jobs were reclassified to favour white workers, and minima set at a high rate to preclude the employment of African workers (Van der Horst, 1942: 245-51).

The regulation of low wages required the extension mechanism, whereby collective agreements were extended non-parties, and the consolidation of wage determination at a national level, so as to prevent or limit inter-regional differentiation. Through the twentieth century the clothing industry achieved the first of these, but some other industries achieved both, with predictable consequences. The first two industrial councils established nationally were in the printing and building industries. Bargaining in these two councils led to a Printing and Newspaper Industry agreement that was imposed countrywide and a Building Trades agreement that imposed minima in selected rural districts. Prior to these agreements, wages for artisans in smaller towns were approximately one half (or even less) of the wages paid and earned in the metropolitan areas. Extending higher wages to Bloemfontein, Kimberley and smaller towns resulted in job losses (South Africa, 1926).

High wages were justified on the ideological grounds that ‘civilised’ white workers in South Africa needed a standard of living commensurate with their (white) counterparts in Britain and, especially, Australia (and New Zealand). This would also ensure that a clear racial hierarchy was maintained: ‘To maintain a white civilization in South Africa the white workers must receive a civilized wage’ (South Africa, 1926: 352), and a ‘fair’ wage for ‘civilised’ workers must permit them to employ a domestic ‘servant’ (*ibid*: 172-87).⁹ In this view, the jobs that were destroyed when higher wages were imposed (through extensions) were dispensable in the noble cause of paying ‘civilized’

⁹ As Karl Marx famously observed, there is a distinct ‘historical and moral element’ in the assessment of minimum living standards for workers: ‘The number and extent of his so-called necessary wants, as also the modes of satisfying them, are themselves the product of historical development, and depend therefore to a great extent on the degree of civilisation of the country, more particularly on the conditions under which the class of free labourers had been formed’ (1886: 168).

wages to ‘civilized’ workers. In the case of the printing industry, these were low-productivity, coloured workers (*ibid*: 290-1).

In establishing institutions that maintained wages and incomes at ‘civilised’, ‘fair’ or ‘European’ levels, the state constructed a high-wage framework that would endure through the apartheid era and into post-apartheid South Africa (in its deracialised form), with enormous consequences for poverty and inequality. From the outset, voices were raised about the sustainability of this wage model. One of the two reports in 1926 of the Economic and Wage Commission argued that skilled white workers on the Witwatersrand could be paid high wages only because they comprised a small minority of the workforce, and did so ‘at the expense’ of low-paid African workers (South Africa, 1926: 86-7). The report criticised extensions specifically: ‘it is manifestly unwise’ to apply the same minimum wages to small towns (*ibid*: 57).

Unsurprisingly, the imposition of high wages, whether through industrial councils or the Wage Board, was sometimes resisted by firms that were paying lower wages. In the clothing sector, the first industrial council was established in the Transvaal in 1925, where most workers were young white women. Because employers in the Western Cape were not covered by an industrial council, they were subject to a wage determination by the Wage Board. When the Wage Board proposed Transvaal-level minimum wages, to protect the position of white workers, Western Cape employers pushed for a regional industrial council and helped a regional trade union to organise their (mostly coloured) employees. Industrial councils were eventually established in the Western Cape and Natal in 1936, and in the Eastern Cape in 1938 (Barker, 1962: 373; Nicol, 1984).

Wages reflected both intra- and inter-regional differentiation. The regional industrial councils allowed small towns in their area of jurisdiction to pay slightly lower minimum wages, to compensate for ‘locational disadvantage’. The preferred concession was 5 percent, but in exceptional circumstances concessions of as much as 20-25 percent were permitted (*ibid*: 373-4). Differences between the industrial councils tended to be slightly larger than differences within them. Between the 1930s and 1950s, the *average* wages paid in each of the three ‘coastal’ areas (Cape Town, Port Elizabeth and Durban) varied between 10 and 30 percent below the average paid in Johannesburg. The biggest differences were due to firms relocating outside of the industrial councils’ geographical jurisdictions. High wages in Johannesburg in the 1940s and 1950s pushed a few firms to the lower-wage coastal areas, but many more firms relocated to the so-called ‘uncontrolled areas’ such as Charlestown (north of Newcastle in northern Natal), where African or Indian rather than white or

coloured workers were employed. In 1954, the average wage paid in the ‘uncontrolled’ areas of Charlestown, Port Shepstone, Standerton, George and Umtata was one-third of the average paid in Johannesburg (*ibid*: 408). The ‘uncontrolled areas’ were not entirely unregulated given that they were subject to intermittent wage determinations by the Wage Board¹⁰ and at times the Minister of Labour decided that some of these areas should be subject to the extension of an agreement negotiated in an industrial council.¹¹ Beginning in the 1960s, however, the apartheid state sought to promote industrialisation and employment in the bantustans (Glaser, 1987), and used lower wages as an incentive to firms to relocate to industrial areas within the bantustans (such as Isithebe, on the Natal North Coast). In addition to exempting employers in these areas from even the Wage Board’s wage determinations, the state provided a range of subsidies.

Employment in the clothing industry boomed in the middle and final decades of apartheid. Registered employment in industrial council areas rose from about 50,000 in the 1950s to 100,000 by 1970 and peaked at about 130,000 in 1982 (Altman, 1994: 200). By 1991, employment in the industrial council areas had declined to about 119,000 jobs, but there were an additional 35,000 jobs within the bantustans and another 15,000 jobs in areas subject to the Wage Board, giving a total of almost 170,000 jobs (*ibid*: 41). Newcastle’s clothing industry grew rapidly in the 1980s and 1990s, taking advantage of initially unregulated wages as well as investment incentives (Todes and Harrison, 1998; Hart, 2002). The decline of employment in higher-wage Johannesburg meant that the industry comprised two major components: a generally higher-wage industry in Cape Town, and a lower-wage industry spread across Natal and the bantustan industrial areas. The growth of the industry was predicated on wage differentiation between these two poles. There is little evidence during this period that clothing firms earned super-profits. The lower-waged firms outside Johannesburg and Cape Town, and especially those in the ‘uncontrolled’ areas or (later) industrial decentralisation areas in the bantustans, typically produced cheaper, lower-quality garments and utility wear, for which labour costs were by far the most important cost item (Barker, 1962: 109-110, 120). Such firms were not more profitable than urban firms (which typically specialised in higher quality, fast fashion, custom-made clothing items using finer and more expensive fabrics and relatively more productive workers), they were simply producing in different product markets (*ibid*: 120; 134). .

¹⁰ Especially WD 221 in 1961.

¹¹ This resulted in the odd situation in 1960-61 when Newcastle and some other areas in Natal were subject to the extension of the agreement negotiated in the industrial council for the Transvaal (Barker, 1961: 377-8). Employers in Kroonstad, Parys and Kimberly formed their own industrial council.

From the 1920s, wage differentiation has been crucial to the growth and survival of a large-scale clothing industry. The industry grew to employ as many as 170,000 workers through combining a higher-wage, higher-productivity sub-sector, located first in Johannesburg and later in Cape Town, with a lower-wage, lower-productivity sub-sector, located outside of these two cities, and especially in the small towns adjacent to or within the bantustans. Wage differentiation as necessary even whilst the industry enjoyed protection behind tariff barriers. As the Wage Board had concluded in 1955, the imposition of nationally uniform wages was neither practicable nor in the public interest (Barker, 1962: 375).

3. The Transformation of Industrial Councils into Bargaining Councils

In the 1980s and 1990s the industrial council system was transformed through the struggles waged by the new 'independent' trade unions representing mostly semi-skilled African workers, culminating in the enactment by the post-apartheid state of the 1995 Labour Relations Act. For a while during the 1980s it was unclear whether the industrial councils had much of a future. The established trade unions, representing mostly skilled white workers, were seen to use the councils to negotiate wage increases for themselves at the expense of low-paid black workers (Baskin, 1991: 256), and did indeed seek to use the councils to defend the colour bar, but by the 1970s the minimum wage rates agreed in the councils were generally of little concern to white workers whose wages were far above the agreed minima (Friedman, 1987: 267). The established unions' primary interest in the councils was that they served to protect their pensions and other benefits. Minimum wages were of value to some large employers, who used the extension of negotiated minimum wages across entire sectors to limit the possibility of rival employers competing on the basis of lower wages. 'If agreements were not extended to non-parties it would, in the opinion of many employers, be of little use to continue negotiating on industrial councils' (Bendix, 1995: 492, quoted in Standing et al., 1996: 194). This was especially true in labour-intensive industries such as contract cleaning (Pillay, 1990: 8). In clothing, industrial councils limited intra-regional wage-based competition, but not inter-regional competition. The result was, as Godfrey (1997) discovered in interviews conducted in Cape Town in the early 1990s, that employers were ambivalent about the industrial council system.

What ensured the survival, and indeed strengthening, of the industrial council was its embrace by the independent trade unions. In the 1980s, the prospect of negotiating over minimum wages and improved benefits across entire sectors, rather than piecemeal at the plant level, became increasingly attractive, as long as the unions could combine this with industrial action. In the 1980s, the new unions became cautiously interested in the council system. In 1981, for the first time, one of the smaller new independent unions joined the industrial council in the metals industry (Friedman, 1987: 270). Anglo-American pushed employers' bodies such as the Steel and Engineering Industrial Federation of South Africa (SEIFSA) to open industrial councils to the new unions. In 1983, unions affiliated to the Federation of South African Trade Unions (FOSATU) joined industrial councils in the textiles and metals sectors, after employers made important procedural concessions to them and over-rode opposition from the established unions. FOSATU unions insisted on their right to organize and negotiate at the plant level as well as the industrial level, and backed the demands presented in the councils with strike action (*ibid*: 326-31).

The new independent unions soon became enthusiastic users of the councils. As long as an independent union was just one of several unions on an industrial council, the value of participation remained muted. As the independent unions outgrew the established unions in terms of membership, they became the majority unions on the councils, and acquired the power that came with this. The National Union of Mineworkers, which negotiated centrally with the Chamber of Mines (although without any need for an industrial council), provided an example. After the formation of the new union federation, the Congress of South African Trade Unions (COSATU), in December 1985, several major unions in both manufacturing and services identified industrial councils as an opportunity to advance their campaigns for a 'living wage' through negotiating industry-wide minima (Baskin, 1991). The independent metalworkers' union shifted from seeing industrial councils as symbolising and epitomising 'the worst features of South Africa's racial despotic system' in the early 1980s to energetically defending them in the late 1980s (Morris, 1990: 159). COSATU pushed for industrial councils to cover the entire country, as part of its 'Living Wage' campaign (Godfrey and Macun, 1992: 400). The discourse of a 'civilised' wage was thus reincarnated via the very same institutions through which it had been effected in a racialised form half a century earlier. Not all unionists were committed to using the council system. Some feared bureaucratisation. Others, based primarily in the 'larger, more profitable companies', had an incentive to retain some plant-level bargaining because they were 'able to gain wage increases far in excess of the industrial councils' minimums' (Godfrey and Macun, 1992: 396). Nonetheless, and despite hostility from some employers, COSATU unions reached agreement

with employers over centralized bargaining in engineering, car manufacturing and other sectors (Pillay, 1990; Baskin, 1991).

The new unions reinvigorated the industrial council system, using it just as white workers' unions had used it earlier in the century, to push up minimum wages and to secure improved benefits and working conditions, in the face of economic pressures to depress wages and labour costs. Unions affiliated to COSATU rightly saw that the 'wage gap' – i.e. the gap between the salaries and wages paid to better-paid (mostly white) employees and the wages paid to unskilled workers – was very wide, and that most of their members (including semi-skilled as well as unskilled workers) were paid less than a 'living wage' (which a union-linked service organization calculated in 1989 at R1140 per month (approximately \$430 per month at the time), i.e. double the minimum wage of a qualified machinist in Cape Town or Johannesburg at the time (Altman, 1994: 209). What made industrial councils especially attractive is that they enabled a union to neutralize the downward pressures on wages exerted by non-members. For most of the twentieth century, such downward pressure on unionized (white) workers' wages came from coloured and African workers, and the solution, negotiated in part in the industrial councils, was the colour bar. At the end of the century the pressure on unionized African workers' wages came from the growing numbers of unemployed African workers and the threat of cheap imports from China and elsewhere. The extension of minimum wages across whole sectors had the effect of preventing the survival or emergence of smaller, low-wage, labour-intensive enterprises, and thereby contributed to the rising capital-intensity of production and, perversely, the very unemployment that was threatening wages in the first place.

In the clothing sector, several trade unions merged to form SACTWU in 1989. The merging unions – which had few members in factories in the various bantustans – agreed on the need for countrywide wage parity, and sought to use a national industrial council 'as a vehicle to reduce the regional wage differentials in the sector' (Godfrey *et al.*, 2010: 155). The regional employers' associations initially resisted the formation of a national industrial council, although some higher-waged employers recognised the benefits in terms of regulating wage-based competition. The political pressures for national-level bargaining were immense, however. Pressure from SACTWU, including threatened strikes, prompted the largest employer, Seardel, to agree to form a national industrial council, and in 1993 the regional associations ostensibly fell into line – despite the fact that only one-quarter of the Cape Town firms interviewed by Godfrey in 1995 favoured national over regional or enterprise level bargaining (and employers elsewhere were presumably even less enthusiastic). Some employers predicted that centralised bargaining would

enable SACTWU to raise wages, resulting in massive job destruction (Godfrey, 1997). Despite having formally agreed, the employers' associations dragged their heels and it took another nine years before the NBC was established. Mark Anstey, who himself served in 2001-02 as the external facilitator of the process to establish the NBC, reports that it was not until 'SACTWU used its bargaining muscle to achieve separate agreements with [the] various [regional] employer organizations' that the NBC was finally established (Anstey, 2004: 1,845). Anstey explains that the employers' organisations were opposed not only to the union but also to each other. Wage differentials were at the core of these divisions. The Cape Clothing Association, which by the 1990s was paying the highest wages in the country, concurred with the union on the need to set uniform countrywide wage rates, to enforce these in the lower-wage regions, and thus to 'level the playing field'. The Natal Clothing Manufacturers' Association and other associations wanted to retain a more flexible wage structure, including provision for piecework payments. The different employers' associations only agreed to the NBC when Anstey brokered an agreement that the statutory wage differentials between regions would be narrowed or eliminated in return for the promise of a new national wage structure or model providing for variations in wages and payment systems on some basis other than region alone (*ibid*: 1,846-52). It seems likely that the employers' associations finally acquiesced due to the combination of the lead take by the biggest firms in the industry and the Cape Clothing Association, the fear of confrontation with the union, and the national context of a pro-labour democratic government.

From 2002 the NBC increased steadily the minimum wages payable in lower-wage regions, especially in areas such as Newcastle and Ladysmith in Northern KwaZulu-Natal. Employers in KwaZulu-Natal – and especially in Northern KwaZulu-Natal – resisted the high wage rates demanded by the union and Cape employers. Non-compliance remained widespread, however, with as many as 61 percent of employers, employing 51 percent of the industry's workforce, being non-compliant in 2004 (*ibid*: 1,859). Many non-compliant firms seem to have opted out of participation in the NBC, so that the NBC became the vehicle for mostly Cape-based firms to negotiate agreements with the union, and then – through the Minister of Labour – to extend these countrywide.

Anstey, who was clearly proud of the fact that he had successfully facilitated the establishment of the NBC, nonetheless assessed in 2004 that 'the days of a "one size fits all" approach to wage bargaining are clearly past. ... [I]n the context of a global economy in which employers find themselves in very diverse situations of competitiveness and in which it is critical to preserve and create jobs it is inevitable that one or even a few sizes will not fit all' (*ibid*: 1,862). Despite some discussions, however, no new national wage structure or model was ever

agreed. The NBC became the vehicle for a coalition of well-organised, high-wage employers and the trade union to restructure the industry by pushing it towards uniform minimum wages. Through the second half of the twentieth century, minimum wages in low-wage areas were about one-third of the minimum wages in the highest-wage area (initially Johannesburg, and later Cape Town). By 2010, minimum wages in areas like Newcastle had been raised to 68 percent of the minimum in Cape Town, and SACTWU argued that they should be raised further to 80 percent. In a little more than a decade, the lowest minimum wages in the industry had been doubled, in real terms. SACTWU's public position was that wage parity could be achieved without job losses through a national strategy based on industrial policies to raise productivity. Despite such industrial policies, the actual outcome was massive job losses.

Job losses were especially severe because wage differentiation was eroded and minimum wages increased dramatically in the aftermath of trade liberalisation and when the Rand was appreciating against other currencies. Between 2002 and 2010, the minimum wages in Newcastle *tripled* in terms of US dollars. Raising wages at a time of declining international competitiveness was folly. If trade liberalisation was the anvil on which jobs were being beaten, real increases in minimum wages in low-wage areas were the hammer being used ever more vigorously to beat them.

4. Bargaining Councils, Extensions and Job Destruction

The National Bargaining Council for the Clothing Industry has not pushed blindly for wage increases. SACTWU might be the major player, but collective agreements require the agreement of at least the powerful Cape Clothing Manufacturer's Association (CCMA). In the face of competition from imports, successive collective agreements hardly changed the real minimum wage payable in Cape Town. SACTWU is very well aware of the constant threat of factory closures and job losses if it pushes too hard on the wage issue in Cape Town. In 2005, for example, SACTWU agreed to what it called 'very modest' wage increases in Cape Town 'in order to provide the industry with relief during very trying times'.¹² The very same collective agreement, however, raised minimum wages in Newcastle and Ladysmith in real terms. The representatives of non-metro employers were opposed, but were outvoted on the Bargaining Council, and ignored by the Minister when he extended the agreement. Essentially, this was an agreement imposed by Cape Town-based

¹² SACTWU Press Release, "SACTWU and NCMA sew together wage agreement", not dated (but June 2005).

workers and employers, with the assistance of the Minister, on the entire country. In 2010-11, this drama was, in effect, repeated, but with renewed determination on the part of the Bargaining Council and Department of Labour to compel firms to comply – or to shut up shop.

Does this drama in the clothing industry reflect a broader truth about the South African labour market and economy? The evidence on the effects of bargaining councils on wages was, until recently, weak and mostly dated (see Boccara and Moll, 1997; Nattrass, 2000). In the early 2000s, however, the Department of Labour and other institutions commissioned a flurry of research that suggests that bargaining councils have muted effects on wages and employment.

Defenders of the bargaining council system have advanced three arguments. The first is that the system has too limited a reach to make much difference. Insofar as high wages or costs of employment might discourage employment creation, this is said to be irrelevant in South Africa because the South African labour market is sufficiently flexible already. Altman and Valodia cite studies that claim that only ‘15 per cent of formal workers were covered by councils directly, mainly in the public sector, mining and metals’, whilst ‘extensions could apply to a maximum of 300,000 workers’ (Altman and Valodia, 2006: 4). Godfrey *et al.* (2006: 94) say that extensions cover so few workers that ‘it is difficult to understand why this issue has attracted so much controversy’. They suggest that 25 percent of all employees were registered with bargaining councils in 2004. Given that some sectors did not have bargaining councils, registration was higher in those sectors which did. Godfrey *et al.* suggest that, in manufacturing, 43 percent of employees were registered, of whom about one-third (or 15 percent of all employees) were in non-party firms covered by extensions (Godfrey *et al.*, 2006: 22-23; 2010: 114-8).

As Godfrey *et al.* acknowledge, however, their estimates of the scope of extensions are based on data on employers and employees who are registered with the bargaining councils, and omit employees who are not registered, usually because they are employed at unregistered firms (2010: 118). In the clothing industry, for example, the Labour Force Survey (LFS, conducted by Statistics South Africa) suggested that there were at least 130,000 workers in wage employment in 2004 who (according to Godfrey *et al.* themselves) *should* have been registered with the bargaining council, but less than 100,000 were registered (and fewer than 50,000 were employed in party firms). In this sector, where the bargaining council itself acted aggressively against unregistered firms, unregistered employees are clearly subject to extensions. In this case, including unregistered employees would increase by 60 percent the proportion

of workers subject to extensions.¹³ This, after all, is precisely what extensions are intended to do. When the Minister of Labour extends a collective agreement, he or she proclaims that it is binding on all employers and employees in the industry. The Minister does not say that it is binding only on registered employers and employees.¹⁴

But what do these figures actually tell us? They tell us that there are many workers who are not subject to bargaining council agreements, including extensions thereof. This is hardly surprising, given that a larger number of workers are covered by sectoral wage determinations under the Basic Conditions of Employment Act because they are not covered by bargaining councils. The 3.5 million workers covered by sectoral determinations comprise almost 50 percent of the relevant workforce. Workers in mining are covered by collective bargaining but through an industry-specific institution. In sectors without bargaining councils, councils are obviously irrelevant to wage and benefit-setting. Just because bargaining councils (and extensions) do not explain wage setting across the entire economy does not mean that they are unimportant in regulating employment and wage-setting in selected sectors, including historically and prospectively labour-intensive sectors (such as clothing).

Crucially, also, the data on coverage do not tell us anything about the counterfactual, i.e. the jobs that would exist in the absence of bargaining councils. The case of clothing is revealing, because the very belated establishment of a *national* bargaining council meant that low-wage employment survived in some regions into the early 2000s.

This begs two research questions that have not, to our knowledge, been addressed. First, is the structure of wages (and hence the skill structure of employment) related to the ways in which wages are determined? Secondly, do bargaining councils deter firms from adopting more labour-intensive production or even from entering production? Godfrey *et al.* (2006: 94) acknowledge that the fact of incomplete coverage ‘does not mean that councils do not create problems for small and new businesses’. It is probably impossible to answer this counterfactual question of what firms would do in the absence of this particular form of regulation. In the clothing sector, party firms (party, that is, to collective agreements) and non-party firms (covered by extensions) do seem to have different production models. More capital- and skill-intensive firms are

¹³ Godfrey *et al.* use precisely these LFS data to demonstrate that bargaining councils do not cover most workers, even in manufacturing – but then have to be coy (see 2010: 126-8) about the fact that this shows that bargaining councils in manufacturing are not representative!

¹⁴ Borat, Goga and van der Westhuizen (2009, 2011) correctly consider *all* employees in affected sectors as covered by the bargaining council.

more likely to be party to the agreement; more labour-intensive firms are more likely to be non-parties (Nattrass and Seekings, 2012).

The second argument in defence of the bargaining council system is that any reforms, even if warranted in themselves, might undermine the collective bargaining system and result in excessive costs indirectly. Roskam (2007) warns about allowing selective exemptions without regard for the possible broader consequences. He gives as an example the possible effect of allowing ‘exemptions for small businesses from bargaining council agreements’, which ‘might dramatically affect the representivity of bargaining councils, and therefore threaten sectoral collective bargaining’. Selective reforms might undermine ‘the balance that has been painstakingly negotiated by the social partners’ (2007: 1) – overlooking the obvious point that retrenched workers, the chronically unemployed and firms that have closed do not count as ‘social partners’. In Roskam’s view, proposals such as a blanket exemption from agreements for small firms ‘would seriously undermine an already fragile bargaining council system’ (*ibid*: 8).

This is a different argument to assess, because its merit depends in part on the value of the collective bargaining system in general. But it is not clear that allowing selective exemptions, for example to labour-intensive small firms, would have dire consequences. Some of the bargaining councils already allow selective exemptions to small businesses for a finite time period (Godfrey *et al.*, 2006: 41-2), or to very small businesses indefinitely. (The NBC in the clothing industry gives blanket exemption, on application, to very small firms employing five or fewer workers). This argument also sits uneasily with the preceding one. Allowing selective exemptions to labour-intensive small firms would presumably be less corrosive of the bargaining council system than tolerating only partial reach through widespread non-compliance across the sector.

The third argument is that the system is working fine as it is, primarily because of the exemptions system. ‘There is no need to provide for further exemptions for small businesses from collective agreements that are extended by the Minister’, asserts Roskam, ‘because at present the bargaining council system covers small businesses fairly [and] the exemption system is working efficiently...’ (2007: 8). Defenders of the system routinely repeat this claim that *most* applications for exemption are approved (e.g. Altman and Valodia, 2006: 4), and so ‘the exemption system ... is no longer the issue it once was’ (Godfrey *et al.*, 2006: 95; see also Bhorat and Van der Westhuizen, 2009: 23). Research reportedly found that the consideration of applications for exemptions from sectoral agreements may have become less arbitrary than in the past (Godfrey *et al.*, 2006: 15; see also *ibid*: 65-72). Moreover, Roskam asserts,

citing Godfrey *et al.* (2006), ‘the notion that big business drives sectoral collective bargaining is not true’ (2007: 57).

The evidence for this argument is not strong. Even Godfrey *et al.* find that non-party employers are typically much smaller than party employers (2006: 32-33), and this is especially true in bargaining councils with a bigger reach into their sectors. As Godfrey himself showed in his earlier work on the clothing industry in Cape Town, the nominal representation of small employers in employers’ bodies does not mean that they wield as much power in practice as the large employers who have the resources to dedicate to influencing bargaining councils (Godfrey, 1997: 46, 57-9). Furthermore, the prospective employers who are deterred from establishing firms by the regulations made in bargaining council are, obviously, not represented. More importantly, exemptions do not always operate as a safety valve, as defenders of bargaining councils claim. Godfrey *et al.* also point out that exemptions cover very, very few employees (Godfrey *et al.*, 2006: 74). Research in the mid-1990s suggested that, in a variety of sectors, bargaining councils rarely if ever gave exemptions on wages (Nattrass, 2000). A comparison of the applications for exemptions in the clothing industry in 2008 with the NBC’s stated reasons for approving some of these suggests that, in this industry, wage-related exemptions are still almost never granted. The NBC in the clothing industry is one of the bargaining councils that has repeatedly made it clear that exemptions will *not* be given to firms (‘sweatshops’) that are trying to compete by paying wages below the minima set through collective agreements and their extensions.

Defenders of the bargaining council system face a basic problem: if the system works, i.e. it raises wages and secures better benefits for employees, then it follows that it might have directly or indirectly negative consequences for job creation. It will only be of no consequence if the system does not work in the first place in terms of raising wages for at least some categories of worker.

Butcher and Rouse (2001) and Bhorat, Goga and van der Westhuizen (2009, 2011), using data from 1995 and 2005 respectively, found that bargaining councils significantly increased the wages paid to African workers, especially when the workers were also in a trade union. The premium associated with being covered by a bargaining council was 9-10 percent, and this rose to 25-30 percent for workers who were also members of a trade union (and were therefore more likely to be paid wages that complied with collective agreements and extensions thereof).¹⁵ Bhorat *et al.*’s models for bargaining council

¹⁵ Bhorat *et al.* estimated the premium for bargaining council coverage and union membership at 16 percent in the initial version of their paper (2009) but at 25 percent in the published version (2011: 14). The estimated premia are higher when they do not control for conditions

coverage also revolve around the contrast between workers who are covered (comprising employees in party forms, registered employees in non-party firms, supposedly covered by extensions, and unregistered employees, also supposedly covered by extensions) with workers who are not covered, but in most cases nonetheless have regulated wages. The latter include workers in sectors with their own institutions for collective bargaining, such as mining, and workers covered by sectoral determinations, as well as those workers who are not covered by any form of wage regulation.¹⁶

Finally, and perhaps most importantly, their regression models focus on aggregate effects. The case of the clothing industry shows that unionised workers in Cape Town might not push for a wage premium if they recognise that they are in a competitive, tradable sector and their own jobs are on the line. But they might be willing to impose higher real minimum wages on other workers in places like Newcastle. The crucial question for job destruction is whether bargaining councils raise wages at the bottom end to the extent that employers opt for capital- and skill-intensive technologies. But the effects might be larger among the low-paid. Borat *et al.* find, in their preliminary analysis (2009), that the premia for private sector workers are higher at the bottom end of the wage distribution. If bargaining council coverage has effects, it is on employment among less skilled workers. Those less skilled workers in sectors covered by bargaining councils who remain employed enjoy a wage premium. Of course, those that lose their jobs, when their employers invest in more capital- and skill-intensive technologies or shut up shop, disappear from the regression models.

Godfrey *et al.* (2010) examine the import of extensions specifically. They take Borat *et al.*'s (preliminary) findings on the (overall) wage effects of bargaining councils, and combine these with their estimates of the scope of extensions and of the employment elasticity of wages to calculate the overall effect of bargaining councils on employment. They conclude that 'the extension of bargaining council agreements only had a negligible effect on employment levels', primarily because they estimate that few workers are covered by extensions. A wage premium of 20 percent, they calculate, would mean that

of employment (including pension contributions) (2011: 9). Excluding such a control from the model is more appropriate given that these conditions are frequently covered in collective agreements and cannot be considered as exogenous to the dependent variable (wages).

¹⁶ The case of the clothing industry in Newcastle shows that employees who are supposedly covered by extensions may, for long periods of time, be paid less than the required minimum. But their employers run the risk of having the sheriff arrive to attach property to pay off unpaid dues to the Bargaining Council or other pay (or contributions to provident funds, etc) which will probably never get to the employees for whom it was intended. A reduced premium does not necessarily mean reduced costs to employers.

extensions had resulted in employment being reduced by 0.4 percent, or about 50,000 jobs (2010: 184).

Godfrey *et al.* do not specify the problem in an appropriate manner. The more important question is whether raising wages at the bottom end of the labour market reduces the demand for less skilled labour in the formal sector, as formal firms adopt more capital- and skill-intensive production technologies (or shut up shop). There is clear evidence that bargaining councils have aggressively raised minimum wages at the bottom end – as well as preventing any downward flexibility in sectors facing exogenous pressures. In the clothing industry, for example, the real minimum wage paid in Newcastle doubled between 2000 and 2010. The bargaining council took legal action against low-paying firms, many of which closed, and employment declined. Formal employment in Cape Town also declined, even though the real wage rose modestly only. In Cape Town, firms sought to compete with importers through raising productivity (or by relocating to low-waged Lesotho and Swaziland). Bargaining councils have been especially effective in precisely those sectors where there were firms practicing low-wage, labour-intensive production. Godfrey *et al.* underestimate the scope of extensions, and they use estimates of the employment elasticity of wages that cannot take into account the employment that would have existed if lower wages had been possible.

By pushing firms into using more capital- and skill-intensive production, high minimum wages for less skilled workers both reduce employment for less skilled labour and reduce any possible downward pressure on the wages paid to skilled workers, thus exacerbating both poverty and inequality. Bargaining councils and extensions probably also contribute to a culture of inflated reservation wages.

Conclusion

Debates about the growth path, labour market policy and distribution seem to revolve around very different views of what causes poverty. One widespread view is that income inequality is due to wage inequality, that poverty is due to low wages, and low wages are due to exploitation (i.e. employers earn excessive profits). The state should regulate labour markets to prevent employers exploiting workers, and ensure that all work is ‘decent’. Industrial policies ensure ‘decent’ work by helping firms to invest in more skill- and capital-intensive production. Insofar as any attention is paid to the challenge of job creation, the emphasis is on the state adopting macro-economic policies that boost economic growth. This view is widespread within the trade union

movement and among the labour lawyers who helped to write South Africa's union-friendly labour legislation in the 1980s. They assume that wages matter to workers but the structure of labour costs does not matter to employers. Sectoral determinations, the extension of collective agreements, and other regulations and controls should therefore be used to force 'sweatshops' (and labour brokers) to employ workers at non-exploitative¹⁷ wages and terms of employment. In this view, issues of employment and poverty are viewed in terms of the employment relationship and not in terms of job creation.

This view ignores the micro-economics of decision-making by employers (and prospective employers) about how to mix different factors of production, i.e. how the structure of wages (or labour costs) affects choices between more labour-intensive and more capital- and skill-intensive production. There is abundant evidence of the importance of this. Economic growth might not have been entirely jobless (Bhorat and Oosthuizen, 2006: 154-64), but job creation has not matched the expansion of output. Pollin *et al.* (2006) point to the declining 'labour intensity of production in the formal economy': 'Between 1994-2001, the number of workers utilized per unit of output – i.e. a basic measure of labor intensity – fell by an average of nearly four percent per year, an acceleration of a longer-term trend decline between 1967-2001 of roughly one percent per year' (*ibid*: xiii-xiv). Put another way, the ratio of formal employment per million rands of output declined from about 8 (in the early 1970s), to 7 by the early 1990s, and 5 by 2001 (*ibid*: 11). Simple modelling suggests that 'around 2 million jobs will be lost if this pattern of declining labor intensity continues through the next decade' (*ibid*: 56).

Over the course of several decades, South African employers in mining and manufacturing have replaced production systems using abundant un- and semi-skilled labour with ones using much less skilled labour. Survey data suggest that, in manufacturing, the proportion of workers who were unskilled fell from 11 percent to 9 percent between 1995 and 2002, whilst the semi-skilled proportion dropped massively from 81 percent to 48 percent. The proportion who were skilled rose from 7 percent to 43 percent (Bhorat and Oosthuizen, 2006: 185). One response to this is to continue with policies that promote a high-productivity, high-wage growth path: push up minimum wages, emphasise skills-development, and hope that economic growth is strong enough that benefits will trickle down from the well-paid insiders in the labour market to the unemployed and unskilled. An alternative response is to ask 'why are employers uninterested in employing less skilled labour?', then investigate what

¹⁷ The word 'civilised' was favoured at the time of the introduction of South Africa's labour regulations, in the 1920s, when the objective was maintaining the standard of living of mostly white skilled workers.

policy reforms might shift employers' decision-making, and assess the benefits and costs of such reforms.

The cost of employment of un- and semi-skilled workers is an obvious candidate for explaining why employers have shifted to skill- and capital-intensive production. Pollin *et al.* counter that 'the *evidence* linking mass unemployment to high labor costs is not persuasive' (2006: xx, emphasis added). They do not dispute that employers might believe that labour legislation raises the costs of employing labour¹⁸ and they accept that there is a relationship between unit labour costs relative to international competitors, but they are emphatic that the reduction in labour costs required to create a significant number of jobs would be so drastic as to push many working people down to the poverty line. Pollin *et al.* here repeat the classic error of pro-union scholars in assuming that lower average wage costs would be achieved through depressing the wages of workers who are already employed. They envisage that the relaxation of sectoral minimum-wage determinations or bargaining council agreements, or the deregulation of job security, would result in many workers' wages dropping to much lower levels. They ignore the fact that labour market institutions have been *raising* the real minimum wages of many un- and semi-skilled workers, and that one objective of reforming wage-setting institutions is to preserve jobs – such as those of clothing workers in Newcastle – which are being threatened by rising minima. They ignore also the second argument for reforming wage-setting institutions, which is that reform would create *new* jobs (at wages that are currently illegally low); average wages would drop not so much because existing workers' wages would fall but because new low-wage jobs would be created. Pollin *et al.* seem to accept the logic of this argument when they suggest that massive wage subsidies be introduced to promote labour-intensive production, but (without giving reasons) they seem to prefer the mechanism of wage subsidies to that of selective reform of wage-setting institutions.

The case of the clothing industry poses the dilemmas especially starkly. This is an industry long tainted with the odour of the sweatshop.¹⁹ Wages are undoubtedly low by some criteria. 'Decent' work seems an attractive ambition. But are 'decent' work and bargaining councils compatible with labour-intensive

¹⁸ Even those labour lawyers who disregard the employment consequences of labour legislation implicitly accept that the costs of employment do matter when they explain undesirable outcomes, such as replacing labour with capital, on employers' supposed 'mis'-understandings of labour law.

¹⁹ SACTWU, the NBC and the Department of Labour go to great lengths to represent low-wage firms as exploitative sweatshops; labelling such firms as 'Chinese' invokes the image of the sweatshop.

production? The experience of the clothing industry in the 2000s suggests that the countrywide extension of the bargaining council's collective agreements (and intolerance of wage-related exemptions) have served to reduce 'indecent' employment, but, in an open economy, at the expense of massive job destruction of un- and semi-skilled occupations. Bargaining councils are institutions that effectively empower employers and trade union members who think themselves to be insulated, to some extent, against the effects of wage-related job destruction, who can legitimate their preferences through an ideology of decent work, who believe that their own interests lie in the reorganisation of production entailed in industrial policies focused on raising labour productivity, and who therefore raise minimum wages payable by other employers and to other workers, generally in other areas. The result is the destruction of labour-intensive manufacturing production.

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