

# Has labour won the battle on labour market policy?

President Thabo Mbeki's state of the nation address got the labour movement all fired up about a possible erosion of worker rights gained since 1994. But is it likely to happen? Is the ANC prepared to face the political fallout of attempting to engage in a further labour market reform process? The **Labour Bulletin** explores the current state of play and thinking both within government and the ANC's Economic Transformation Committee on this issue.

*'The rules of engagement and the floor of rights contained in labour market legislation are the product of a contest between the various social forces. This contest and conflict will never go away. In the present conjuncture there is and will be increasing pressure on the government to erode these rights and rules in favour of capital in the name of greater labour market flexibility, being investor friendly, job creation and small business. I anticipate that many of the proposed erosions will not be backed up by thorough empirical evidence and will be motivated by outlandish and emotive ideologies.'* (Anton Roskam, Assessment of the labour market and future challenges to labour market regulation)

Since President Thabo Mbeki's state of the nation address when he indicated that a legislative review process was to be embarked upon in relation to small business, the labour movement has been waiting on tenterhooks to see which way the wind is going to blow. Talk within the corridors of Cosatu is that the political costs of a 'frontal' attack on labour laws will be too high for the ANC, whilst the gains will be nominal. The first signs that a frontal attack on labour laws was not on the cards emerged at a Presidential Working Group meeting on 1 April. During the meeting Mbeki reassured the trade union delegation that the intention of a review process was not to take away basic worker rights.

Mbeki said government was seeking to do a review of the whole regulatory regime governing small business so as to facilitate its development. Such a review will relate to 'taxes, levies as well as central bargaining and other labour arrangements...' A government official explained that the key aim is to try and reduce the disincentives for formalising informal sector businesses.

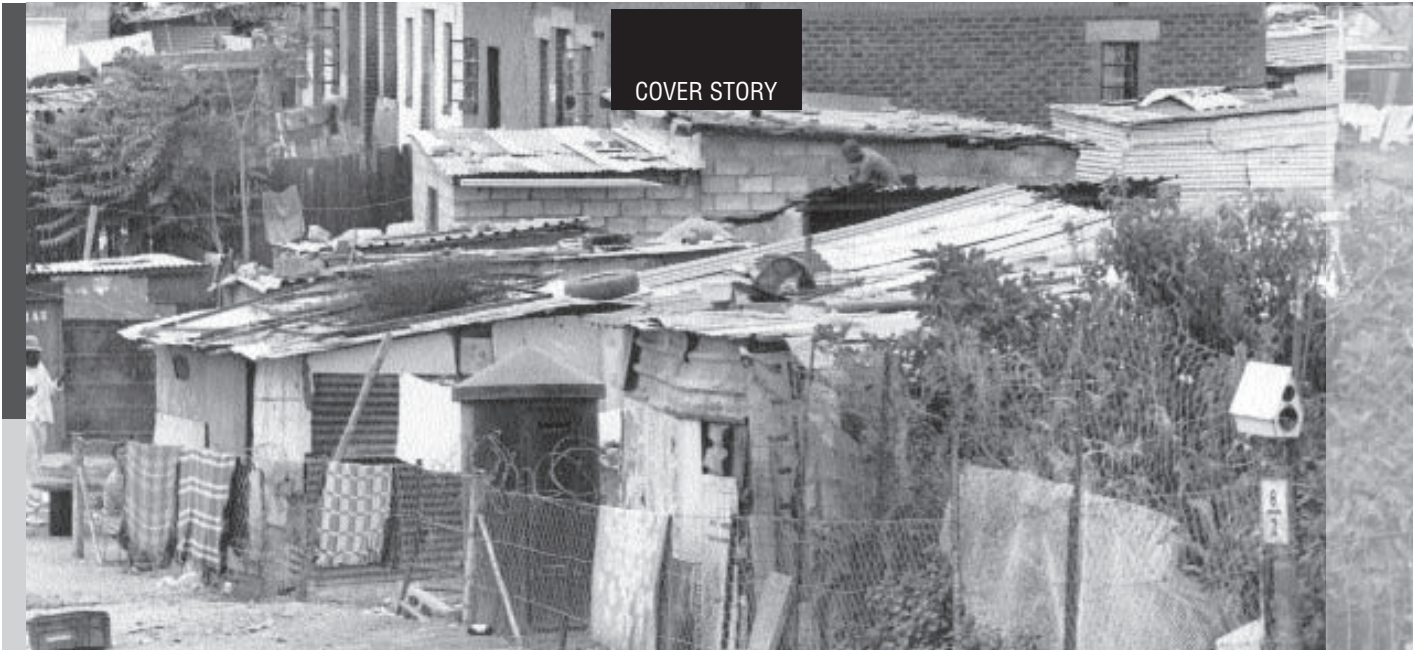
A few days prior to the Presidential Working Group, a very important workshop took place between representatives of the World Bank (WB), national treasury and the presidency. The meetings' importance lay not only in the subject matter but the brief by Finance Minister Trevor Manuel for a 'no-holds-bar' discussion on what is hampering growth and the reasons for high unemployment. Debate around constraints on growing the SA economy is not new. In the first year or two after 1994 and

especially after the release of the growth, employment and redistribution strategy (Gear) in 1996, public debate was focused on how SA will arrive at a growth strategy. Despite (or in spite of Gear) this debate continues as the country has yet to achieve the growth levels required to deal adequately with the current levels of unemployment. The key economic departments continue to feel the pressure of emerging with some answers.

It is inevitable that discussions on economic growth will focus on the labour market. It was no different during the treasury/WB/presidency workshop. However, what was different is that numerous international economists did not only focus on the labour market or the need for a reform process. Some argued that this was not the only constraint for growth. For example, if the country were seeking growth through exports then the exchange rate (the rand) would become a critical issue. Within these discussions input was provided by some local economists who argued that among factors which hamper employment growth are constraints companies face in respect of the labour regulatory regime and a lack of information and networking in poor households which need to find jobs.

## ANC ETC MEETING

The day after the presidential working group meeting, the ANC Economic Transformation Committee (ETC) held a one-day workshop on labour market regulation and the second economy. ETC chair Max Sisulu set the scene for discussion by highlighting how the



labour market has been transformed in recent years and focused on the presence of two economies - the first and second economies. He stated that the division between the two economies has widened as a result of globalisation. He argued that government needed to confront the challenge of the second economy and intervene in order to move people out of a 'poverty trap'. Sisulu posed a number of questions:

- To what extent has the progressive labour market dispensation contributed to reinforcing this dualism in the world of work?
- Is it the case that the unintended consequences of labour peace have meant that rigidities introduced may not allow us to expand employment as rapidly as we would like?

In posing these questions, Sisulu stressed that while the problems of unemployment and poverty were not primarily a result of the labour market regulation, 'we should not avoid asking difficult questions regarding the role of labour market regulation realising the full potential of our interventions in terms of labour absorption'. Sisulu said that it was against this background that the workshop was taking place in order to create a forum for constructive engagement and debate with the aim of building a progressive consensus around the direction of future policy initiatives.

A number of background documents were circulated ahead of the workshop while various presentations were made. The ANC's discussion document entitled 'Development

and underdevelopment: Learning from experience to overcome the two economy divide' (see p18) caused some discomfort amongst the representatives from Cosatu who attended the workshop. The discussion document proposed some 'adjustments' to labour market regulation. These included, amongst others:

- considering limiting the extension of council agreements to non-parties (especially small business);
- reducing the 'hassle factor' in employing people;
- increasing the limit of the size of companies that comply with certain aspects of the labour legislation from 50 to 200 so as to stimulate more small business development;
- examine the application of the minimum wage in sectors that potentially could employ more people;
- accommodate some amount of duality in the labour market as a means of raising employment prospects.

UCT economist Aaron Borat and HSRC economist Miriam Altman gave their differing views on employment levels and reasons behind current unemployment. Labour department deputy director general Les Kettleas sought to address some of the concerns raised around existing labour market policy (see p23). He argued that the labour market alone is not responsible for the problems in the economy. During his input, Kettleas touched on the issue of casualisation, which was raised in some of the inputs and was the subject of one of the background documents distributed (see p27).

During discussion an attempt was made to ensure that talk of labour market reform be contextualised in an overall discussion on small business regulation. Various Cosatu officials felt that during the discussion it became clear that labour market reform was not a key driver in creating jobs. This view was helped, one Cosatu official claimed, by the fact that those in government who supported a labour market reform process were not at the ETC meeting. The Cosatu representatives were of the view that discussion around a reform process became a non-issue and that government was backtracking on this. The ETC was concluded with the sense that the labour market reform process battle had been won by Cosatu. However, one Cosatu official warns that the federation should not be so complacent as to believe that this issue is now dead.

#### STATE OF THE LABOUR DEPARTMENT

Some focus has shifted to the current state of the labour department. Some observers have criticised the ability of the department and ministry to withstand opposition from other departments, which has been an issue since 1994. In the early years, under the helm of Tito Mboweni, the department was in a position where it largely ignored opposition to its labour laws. The situation has changed as the department is seen to have been weakened by high staff turnovers and insufficient capacity. Concerns around the state of the department have been expressed privately by a number of officials in other government departments.