

TITLE

**COLLECTIVE BARGAINING, MINIMUM LABOUR STANDARDS AND REGULATED FLEXIBILITY IN THE SOUTH AFRICAN CLOTHING MANUFACTURING SECTOR: AT THE LEVEL OF THE NATIONAL CLOTHING BARGAINING COUNCIL'S WESTERN CAPE SUB-CHAMBER.**

BY

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A MINITHESIS PRESENTED IN (PARTIAL) FULFILMENT OF THE REQUIREMENTS FOR THE DEGREE MAGISTER LEGUM IN THE FACULTY OF LAW OF THE UNIVERSITY OF THE WESTERN CAPE.

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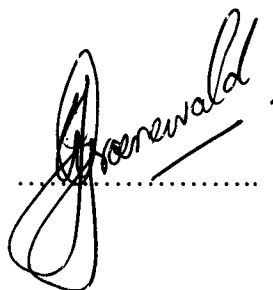
## DECLARATION

I declare that Collective Bargaining, Minimum Labour Standards and Regulated Flexibility in the South African Clothing Manufacturing Sector: at the level of the National Clothing Bargaining Council's Western Cape Sub-Chamber is my own work, that it has not been submitted for any degree or examination in any other university, and that all the sources I have used or quoted have been indicated and acknowledged by complete reference.

Jakobus William Groenewald

May 2006.

Signed: .....

A handwritten signature in black ink, appearing to read 'Groenewald', written over a dotted line. The signature is stylized and cursive.

## DEDICATION

This work is dedicated to my parents, the late Monica Groenewald (who died on 23 June 2005) and Jurie. I am indebted to them for the good upbringing they gave me. My father was the one who advised me as a child not to allow the policy of apartheid to restrict my independence of thought. My late mother always encouraged me as a child to try to fulfil my ambitions in life. As a family unit, we firmly believed that one can move mountains with the help of the Lord. From there came our motto in life: *Nisi Dominus Frusta*<sup>2</sup>.

So, it was the Lord who not only gave me (whilst in a state of bereavement) the strength to complete this research, but also blessed me with parents who understood the pressure brought about by working full-time and studying part-time. Not once did they ever level any criticism against me for neglecting them. On the contrary, they were always prepared to assist financially when an academic book needed to be purchased. This gesture (on their part) I will never forget, because I am mindful of the fact that such financial assistance had to be budgeted for out of a pension. Thus, I can only say: Thank you Lord, for such parents.

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<sup>2</sup> If this phrase is rendered in English, it means: 'Without God everything is in vain'.

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(1) Information services:

(1.1) Reading room: Mr Leonard Benjamin (section head)

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Mr Faiek Ariefdien

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## ABSTRACT

In the context of a society in which there is an urgent need to create jobs, this research considers, firstly, whether the current labour regulatory environment is flexible enough to allow for an employment scenario that is conducive to job creation. The research then considers what is meant by the policy of ‘regulated flexibility’ and considers how flexibility operates in practice at NBC level. It is argued that the concept of flexibility is a misnomer – since it creates more problems than it solves. The research concludes with a call for real flexibility that will allow for increased investment and a greater supply of jobs.

## KEYWORDS

1. SA economic policy
2. Job creation
3. Labour regulatory environment
4. Regulated flexibility
5. Exemptions
6. Collective bargaining
7. Industrial action
8. Sectoral collective agreements
9. Flexibility
10. NBC

## ABBREVIATIONS

AD	<i>Appellate Division</i>
ANC	<i>African National Congress</i>
BBQ	<i>Black Business Quarterly</i>
BCEA	<i>Basic Conditions of Employment Act</i>
BLLR	<i>Butterworths Labour Law Report</i>
BEE Com	<i>Black Economic Empowerment Commission</i>
BEE	<i>Black Economic Empowerment</i>
CCA	<i>Cape Clothing Association</i>
CCMA	<i>Commission for Conciliation Mediation and Arbitration</i>
CDE	<i>Centre for Development and Enterprise</i>
CIBC (Western Cape)	<i>Clothing Industry Bargaining Council (Western Cape)</i>
CMT	<i>Cut, make and trim</i>
COSATU	<i>Congress of South African Trade Unions</i>
DOL	<i>Department of Labour</i>
DTI	<i>Department of Trade and Industry</i>
EE	<i>Employment Equity</i>
EEA	<i>Employment Equity Act</i>
FAWU	<i>Food and Allied Workers Union</i>
FGWU	<i>Food and General Workers Union</i>
GDP	<i>Gross Domestic Product</i>
GDS	<i>Growth and Development Summit</i>
GEAR	<i>Growth, Employment and Redistribution</i>
GEM	<i>Global Entrepreneurship Monitor</i>
GG	<i>Government Gazette</i>
GN	<i>Government Notice</i>
HSRC	<i>Human Sciences Research Council</i>
ICCI (Cape)	<i>Industrial Council for the Clothing Industry (Cape)</i>
IDLL	<i>Institute of Development and Labour Law</i>
ILJ	<i>Industrial Law Journal</i>



ILO	<i>International Labour Organisation</i>
IRASA	<i>Industrial Relations Association of South Africa</i>
JTP	<i>Journal of Theoretical Politics</i>
LAC	<i>Labour Appeal Court</i>
LC	<i>Labour Court</i>
LDD	<i>Law Democracy and Development</i>
LFS	<i>Labour Force Survey</i>
LRA	<i>Labour Relations Act</i>
NBC	<i>National Bargaining Council for the Clothing Manufacturing Industry</i>
NBF	<i>National Bargaining Forum</i>
NCOP	<i>National Council of Provinces</i>
NEHAWU	<i>National Education of Health &amp; Allied Workers Union</i>
NUMSA	<i>National Union of Metalworkers of South Africa</i>
RDP	<i>Reconstruction and Development Programme</i>
SA	<i>The South African Law Reports</i>
SA	<i>South Africa</i>
SACOB	<i>South African Chamber of Business</i>
SALB	<i>South African Labour Bulletin</i>
SACCAWU	<i>South African Commercial Catering &amp; Allied Workers Union</i>
SACP	<i>South African Communist Party</i>
SAJLR	<i>South African Journal of Labour Relations</i>
SACTWU	<i>Southern African Clothing and Textile Workers Union</i>
SCA	<i>Supreme Court of Appeal</i>
SMMEs	<i>Small, medium and micro-sized enterprises</i>
TGWU	<i>Transport and General Workers Union</i>
THRHR	<i>Tydskrif vir Hedendaagse Romeins-Hollandse Reg</i>
TURP	<i>Trade Union Research Project</i>
UCT	<i>University of Cape Town</i>
UN	<i>University of Natal</i>

UNISA

*University of South Africa*

UP

*University of Pretoria*

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<sup>3</sup> They are: representatives of 'organisations of community and development interests', 'organised labour', 'organised business' and 'the state' (see s 3(1) of the National Economic, Development and Labour Council Act (Act no. 35 of 1994)).

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## Chapter 1: Introduction, research question and layout

### 1. Introduction

The decision to participate in a Masters Programme, which in turn led to the writing of this thesis, was not taken lightly. It was a calculated decision, after realizing that –

[w]here previously labour was, second to capital, the most important production input, it now gets substituted by knowledge. ‘Knowledge-workers’ – people with special skills and specialized knowledge – became the elite-workers of a globalised labour market. Worldwide there is an acute shortage of such people. Gone are the days when workers were paid for their ‘presence’. Now one gets paid according to what one can do. In order to enter the new labour market, one needs to have a proven background of competence – or a certificate which clearly stipulates competence on certain cardinal areas.<sup>1</sup>

The topic of this thesis was developed after reading that ‘a labour standard cannot be created by individual employment relations between workers and employers. It can only be inaugurated by law or collective agreement’<sup>2</sup> and that ‘[d]omestic business and industry ... have consistently cited ... binding industry wide collective bargaining agreements and minimum wages as impediments to job creation.’<sup>3</sup>

Due to the fact that the writer’s job primarily involves seeking compliance with collective agreements concluded at sectoral level,<sup>4</sup> the focus of this research is on regulated flexibility in the South African clothing manufacturing sector: at the level of the National Clothing Bargaining Council’s Western Cape Sub-Chamber. Why the clothing

<sup>1</sup> Muller, P., ‘Arbeidsmark het nou “kenniswerkers” nodig’ *Die Burger*, 6/01/2004 at 9.

<sup>2</sup> Sengenberger, W., ‘Protection – participation – promotion: The systemic nature and effects of labour standards’ *Creating Economic Opportunities – the role of labour standards in industrial restructuring* (ILO publication, 1994) at 48.

<sup>3</sup> Boyle, B., ‘Economic overhaul under way’ *Sunday Times, Business*, 22/05/2005 at 8.

<sup>4</sup> The question which arises in this regard is what does the term ‘sectoral collective agreement’, as defined in s 213 of the LRA, mean? A sectoral collective agreement can best be described as subordinate legislation (*S v Prefabricated Housing Corporation (Pty) Ltd and another* 1997 (1) SA 535 (AD) at 540A-B; see also Fouché, M.A., ‘Contract of employment’ *Legal principles of contracts and negotiable instruments* (Butterworth Publishers (Pty) Ltd, 1999) at 249).

manufacturing sector? The ANC-led government considers, among others, the clothing manufacturing sector to be ‘a strategic industrial sector’.<sup>5</sup>

## 2. Research question

This research examines whether (a) the National Bargaining Council for the Clothing Manufacturing Industry (NBC) is flexible in its approach towards agreement enforcement and (b) there is any special dispensation for small, medium and micro-enterprises (SMMEs) in relation to minimum wages, funds, etc or in terms of size.

This question needs to be considered within the following context: The parties to the NBC concluded collective agreements which cover all non-metro regions,<sup>6</sup> certain ‘country’ regions,<sup>7</sup> and specific metro regions in South Africa.<sup>8</sup> Furthermore, it must also be noted that the latter two collective agreements were the outcome of collective bargaining negotiations between the parties to the NBC’s Western Cape Sub-Chamber, i.e. the CCA (a registered employer organization<sup>9</sup>) and SACTWU (a registered trade

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<sup>5</sup> Address by the Deputy President of the Republic of South Africa to SACTWU’s National Congress which was held at the International Convention Centre in Durban on 9/08/2001. See Zuma, J., SACTWU National Congress, 2001.

<sup>6</sup> See for example the Consolidated Main Collective Agreement for the Non-Metro Areas, published under GN R 1001 in *GG* No 25197 of 25/07/2003. This collective agreement was extended and made binding on non-parties with effect from 28/07/2003 to 30/06/2005.

<sup>7</sup> See for example the Consolidated Country Areas Collective Agreement for the Western Cape Region, published under GN R 234 in *GG* No 24385 of 21/02/2003. This collective agreement was extended and made binding on non-parties with effect from 22/09/2003 to 30/06/2004 and thereafter to 30/06/2005 (see GN R 508 in *GG* No 26279 of 30/04/2004). These government notices were subsequently cancelled ( see GN R 1186 in *GG* No. 26878 of 15/10/2004) and an amended collective agreement was re-enacted and extended to non-parties (see GN R 1187 in *GG* 26878 of 15/10/2004, corrected by GN R 1312 in *GG* 26963 of 12/11/2004 and by GN R 24 in *GG* 26168 of 21/01/2005).

<sup>8</sup> See for example the Consolidated Main Collective Agreement for the Western Cape Region, published under GN R 322 in *GG* No 24967 of 7/03/2003. This collective agreement was extended and made binding on non-parties with effect from 30/06/2003 to 30/06/2004 and thereafter to 30/06/2005 (see GN R 510 in *GG* No 26279 of 30/04/2004). These government notices were subsequently cancelled (see GN R 1184 in *GG* No 26878 of 15/10/2004) and an amended collective agreement was re-enacted and extended to non-parties (see GN R 1185 in *GG* 26878 of 15/10/2004, corrected by GN R 1367 in *GG* 27007 of 26/11/2004 and by GN R 24 in *GG* 26168 of 21/06/2005).

<sup>9</sup> In terms of the definition of ‘employer organisation’ in s 213 of the LRA it means: ‘[A]ny number of employers associated together for the purpose, whether by itself or with other purposes, of regulating relations between employers and employees or trade unions.’



union<sup>10</sup>). The latter is an affiliate member of COSATU.<sup>11</sup> This trade union federation is, in turn, not only a member of the tripartite Alliance<sup>12</sup> but also one of the representatives of organised labour at NEDLAC. The latter is ‘a national-level bargaining forum’<sup>13</sup> and its functions are inter alia to ‘seek to reach consensus and conclude agreements on matters pertaining to social and economic policy’ and to ‘promote the formulation of co-ordinated policy on social and economic matters’.<sup>14</sup> That said, it is also of interest to note that ‘[t]his wording contains the potential for placing a very wide range of policy issues within the competence of Nedlac’.<sup>15</sup> For example, NEDLAC dealt with a very wide range of policy issues at the 2003 Growth and Development Summit (GDS) which was held at the Gallagher Estate in Midrand. It was at this summit that the four constituencies of NEDLAC<sup>16</sup> reached agreement on an aspect such as ‘[s]mall business promotion’.<sup>17</sup>

To complete this section, it is submitted that the latter point prompts one to consider whether there is a need for small business promotion in the South African clothing manufacturing sector. Before moving on to consider this question, it is important to bear in mind that this question cannot be addressed without making reference to the number of employer organisations (which have seats on the NBC) and the percentage of small, medium and micro enterprises (SMMEs) which are members of these employer organisations. From this perspective, the South African clothing manufacturing sector can be said to be in need of small business promotion, because ten employer organisations from the nine provinces in the country have seats on the NBC and 80 percent of those ten

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<sup>10</sup> In the same section of the LRA ‘trade union’ is defined as meaning: ‘[A]n association of employees whose principle purpose is to regulate relations between employees and employers, including any employers’ organization.’

<sup>11</sup> Interview by writer with Mr. R. Alexander: Project co-ordinator of SALRI, 9/11/2001.

<sup>12</sup> The tripartite Alliance consists out of the ANC (ruling party), the SACP and COSATU. Since April 1994 the SACP and COSATU took part in general elections under the banner of the ANC. It can thus rightly be said that the ANC, SACP and COSATU are Alliance partners.

<sup>13</sup> Maziya, M., ‘Contemporary labour market policy and poverty in South Africa’ *Fighting Poverty: Labour Markets and Inequality in South Africa* (UCT Press, 2001) at 206.

<sup>14</sup> S 5(1), National Economic, Development and Labour Council Act (Act no. 35 of 1994).

<sup>15</sup> Pretorius, L., ‘Relations between State, Capital and Labour in South Africa: Towards Corporatism?’ *JTP* (1996) Vol. 8 Part 2 at 267.

<sup>16</sup> They are: representatives of ‘organisations of community and development interests’, ‘organised labour’, ‘organised business’ and ‘the state’ (see s 3(1), National Economic, Development and Labour Council Act (Act no. 35 of 1994)).

<sup>17</sup> *Cape Times*, 9/06/2003 at 11.

employer organisations' membership are SMMEs.<sup>18</sup> This picture is no different at regional level.<sup>19</sup>

### 3. Layout

This research is organised in six chapters, in addition to chapter 1.

Chapter 2 sets the context for this research by examining current government economic policy. The ANC-led government seeks to encourage investment, yet the labour regulatory environment is viewed as the main 'constraint on investment and therefore [economic] growth and therefore on job creation'.<sup>20</sup> Yet without job creation, the high unemployment rate will continue unabated. The solution, it will be suggested, is to allow for flexibility in the labour regulatory environment, thus encouraging investment which will lead to job creation. In this chapter, the emphasis is also put on the fact that '[t]he rate of job creation lags well behind the growth in job seekers'.<sup>21</sup> This fact, coupled with the understanding that the ANC-led government considers the clothing manufacturing sector to be 'a strategic industrial sector',<sup>22</sup> prompted this research to raise the question as to whether there is a need for job creation in the South African clothing manufacturing sector. It is in this regard that this research argues that there is a need for job creation in the sector.

In chapter 3, an overview of the labour regulatory environment (applicable to South African clothing manufacturers in the Non-Metro Areas) is given. The statutes examined include the EEA, the BCEA and the LRA. Other relevant subordinate legislation and policy are: the Consolidated Main Collective Agreement for the Non-Metro Areas and

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<sup>18</sup> Swart, C.S., 'Eerder boete as ledegeld – Ally' *Die Burger, Sake*, 1/09/2005 at S2.

<sup>19</sup> For example, in the Western Cape metro region the number of SMMEs which are members of the CCA (the latter and SACTWU are parties to the NBC's Western Cape Sub-Chamber) is 70 percent (Van Zyl, G., 'Bargaining Councils from an Employer Organisation's perspective' at 2. A speech delivered at an IRASA panel discussion which was held on 9/11/2005 at the Century Restaurant, Western Province Cricket Club, Newlands.

<sup>20</sup> Bhorat, H., 'The Roundtable'. A debate on the challenges of job creation, which was held on 10/02/2005 on SABC 3.

<sup>21</sup> Hudson, J., 'From wall to gentle slope' *Mail & Guardian*, 8 to 14/08/2003 at 24.

<sup>22</sup> *Supra* (note 5).

BEE. The chapter also focuses on the following question: Is this labour regulatory environment applicable to a small business in the non-metro areas of the South African clothing manufacturing sector and does it make provision for flexibility? This question is vital, because it is this research's considered opinion that it is only by way of a flexible labour regulatory environment that SMMEs can develop. The conclusion is made that this regulatory environment does apply to small businesses in the South African clothing manufacturing sector. Furthermore, this regulatory environment does make provision for flexibility. However, the onerous nature of the Consolidated Main Collective Agreement for the Non-Metro Areas (i.r.o. minimum wages) leaves small clothing manufacturers with little option than to seek relief in the form of formal exemption applications.

Chapter 4 deals with collective bargaining, the setting of minimum wages at sectoral level (with specific reference to the South African clothing manufacturing sector) and industrial action. Minimum wages and conditions of employment are established through a process of collective bargaining. The latter is examined in this chapter to provide context to the discussion of flexibility that follows in the next chapter. In doing so, attention is also paid to the extension of sectoral collective agreements to non-parties and the rationale behind the extension of sectoral collective agreements to non-parties. This is followed by a discussion on the setting of minimum wages at sectoral level (with specific reference to the South African clothing manufacturing sector). The discussion also focuses on wage-related industrial action in the Western Cape metro region of the NBC. Industrial action is considered in the final part of this chapter, because industrial action and collective bargaining are dependent on one another and the right to strike is the employees' most effective means of forcing employers to bargain with them.<sup>23</sup> It is within this context that reference is made to strikes and secondary strikes and the rules and case law which regulate the strike process.

In chapter 5, the meaning of flexibility and how it is built into the LRA of 1995 and the BCEA of 1997 are examined. The chapter also explores the policy of 'regulated

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<sup>23</sup> Etu-Seppälä, M., *Duty to bargain: in the absence of statutory duty to bargain, is there an obligation to that effect to be found in the LRA?* Unpublished LL.M Dissertation, Faculty of Law, UCT, 1999 at 59.

flexibility'. This is followed by an overview of and a discussion on the application of the three components of this policy (i.e. voice regulation, variable application of labour standards and flexible collective bargaining structures) at the level of the National Clothing Bargaining Council's Western Cape Sub-Chamber. In exploring the 'voice regulation' policy component, the concept will be more clearly defined and discussed in chapter 5. This chapter will also explore two 'voice regulation' themes namely (a) whether 'voice regulation' is a feature of the policy of 'regulated flexibility' and (b) whether 'voice regulation' has been formally endorsed as a policy directive of the ANC-led government. Another theme that this research explores is: what does the concept of 'voice regulation' imply?

With reference to the 'variable application of labour standards' policy component, particular attention is paid to the meaning of the term 'labour standard' and the fact that labour standards can only be introduced by law or collective collective agreement.<sup>24</sup> This research then moves away from the meaning of a 'labour standard' and its introduction to reflect on the function of sectoral collective agreements. This is followed by a brief discussion on the CIBC (Western Cape) Main Collective Agreement. The discussion also focuses on clause 19 Part B of this sectoral level agreement, because it allows the parties to the NBC's Western Cape Sub-Chamber to compress a working week or average hours of work through 'ordinary' collective agreements concluded at plant level. Under the 'flexible collective bargaining structures' policy component, reference is made to the NBC's exemptions system. This is followed by a discussion on the overall performance of the NBC's Western Cape Sub-Chamber with regards to exemptions. Simple examples are used to illustrate to what extent the exemptions system is providing flexibility. The discussion also focuses on policy, procedure and individual cases. Decisions by the NBC's Independent Exemptions Board (IEB) are considered in the final part of this chapter and in doing so reference is made to three unpublished ruling awards which were handed down by different panelists of the NBC's IEB.

Chapter 6 consists of a summary and conclusion.

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<sup>24</sup> *Supra* (note 2).

## Chapter 2: South Africa's economic policy

The ANC-led government adopted the economic policy entitled GEAR, on 14 June 1996<sup>1</sup> and it 'was a structural adjustment policy, self-imposed, to stabilise the macroeconomic situation [and to deal with] the realities of an unmanageable budget deficit, high interest rates and weak local and foreign investor confidence'<sup>2</sup> which existed at the time. The adoption of the GEAR policy led to disputes within the tripartite alliance. COSATU, one of the Alliance partners,<sup>3</sup> was keen to resolve these disputes at the 2003 Growth and Development Summit (GDS) which was held at the Galagher Estate in Midrand.

### 2.1. 2003 Growth and Development Summit (GDS)

The idea of the summit was first proposed by the Congress of SA Trade Unions and SA Communist Party in a bid to end disputes within the tripartite alliance over government's macroeconomic policies.<sup>4</sup> However, a debate did not take place on this issue, because COSATU could not convince the ANC-led government to redraft its GEAR policy.<sup>5</sup>

In order to understand COSATU's desire to have the GEAR policy rewritten, one should be aware of the fact that when 'the ANC-led government formally embraced conservative, neo-liberal economic policies in the form of GEAR'<sup>6</sup> it gave up, 'the official policy framework of the ANC Alliance,'<sup>7</sup> i.e. the Reconstruction and Development Programme (RDP). Furthermore, it must be understood that although GEAR had a positive reception in the national and international business and financial

<sup>1</sup> *Growth, Employment and Redistribution: A Macroeconomic Strategy* (Department of Finance, 1996) at 1 of 10. Reported on internet at <http://www.polity.org.za/govdocs/policy/growth.html>. Retrieved on 6/03/2002.

<sup>2</sup> Netshitenche, J., 'A Social Partnership is Required for Growth in the Next 10 Years' *Sunday Times*, 4/04/2004 at 21.

<sup>3</sup> The other two are: the ANC and the SACP.

<sup>4</sup> Dlamini, J., 'ANC Meets to Prepare for growth Summit in May' *Business Day*, 14/03/2003 at 3.

<sup>5</sup> Petros, N., 'Summit of mixed fortunes for Cosatu' *Business Day*, 9/06/2003 at 3.

<sup>6</sup> Ntsebeza, L., 'Rural governance and citizenship in post-1994 South Africa: democracy compromised?' *The State of the Nation: South Africa 2004-2005*. (HSRC publication, 2005) at 77.

<sup>7</sup> Terreblanche, S. *A History of Inequality in South Africa, 1652-2002*. (UN publication, 2002) at 111.

arena,<sup>8</sup> literature suggests that it created problems within the ANC.<sup>9</sup> For example: ‘Cosatu dismissed GEAR as “conservative” and biased in favour of the private sector.’<sup>10</sup>

It is opined that COSATU is correct when it says that the ANC-led government’s macro-economic policy is biased in favour of the private sector. This cannot be otherwise, seeing that one of GEAR’s main aims was to promote economic growth through exports and investment.<sup>11</sup> Importantly for those who have an interest in investment, it appears as if the ANC-led government was unable to attract significant foreign direct investment since its acceptance of the GEAR policy in 1996:

South Africa has been attracting only a small share of the overall pool of foreign direct investment (FDI) directed to emerging markets.<sup>12</sup>

Thus it is clear that there are constraints on investment; the crucial question therefore seems to be what the main constraint on investment is.<sup>13</sup>

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<sup>8</sup> Roux, A., *Everyone’s Guide to the South African Economy* (Zebra Press, 2002) at 168.

<sup>9</sup> Barber, J., *Mandela’s World* (James Currey Ltd, 2004) at 123.

<sup>10</sup> Ibid.

<sup>11</sup> *Supra* (note 1) at 5 of 10. See also Landsberg, C., *The Quiet Diplomacy of Liberation* (Jacana Media (Pty) Ltd, 2004) at 204.

<sup>12</sup> Lewis, J.D. *Promoting Growth and Employment in South Africa* (World Bank, Economic Policy and Prospects Group, *Africa Region Working Paper Series 32*, 2002) at 4. Reported on internet at <http://www.worldbank.org/afr/wps/wp32.pdf>. Retrieved on 13/10/2003.

<sup>13</sup> We will not penetrate deeply into this question here, except to point to a 2005 programme entitled ‘The Roundtable’ with John Perlman which was screened on SABC 3 on Thursday, 10/02/2005. In this programme Tony Leon (leader of the Democratic Alliance (the official opposition in parliament)), Charles Maisel (director of the ‘men on the side of the road project), Ebrahim Patel (general secretary of SACTWU) and Dr Haroon Borhat (director of UCT’s Development Policy Research Unit) debated the challenges of job creation. Speaking on the programme, Borhat said that ‘if you ask both foreign and domestic investors what do they see as the key constraint on investment and therefore [economic] growth and therefore job creation, the first is the labour regulatory environment’. He also said, adding: ‘The other two are crime and HIV Aids’.