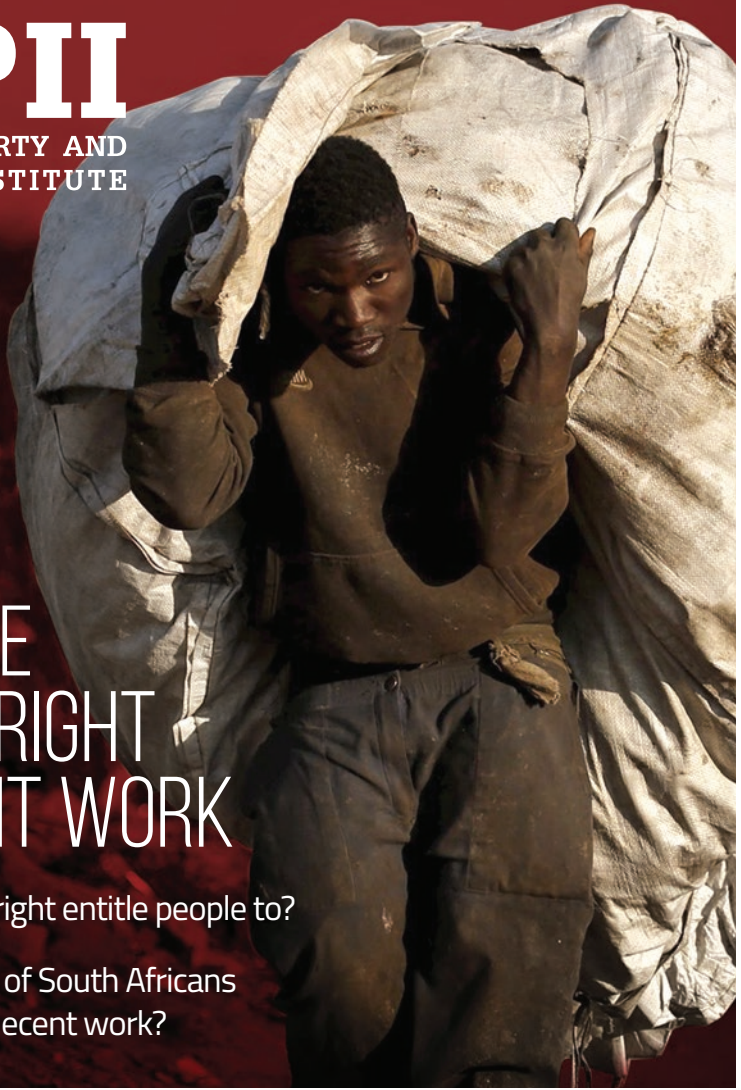




STUDIES IN POVERTY AND
INEQUALITY INSTITUTE



EVERYONE HAS THE RIGHT TO DECENT WORK

But what does this right entitle people to?

And do the majority of South Africans
enjoy their right to decent work?

In 2015, South Africa ratified the International Covenant on Economic, Social and Cultural Rights (the International Covenant). As well as signalling a renewed commitment by government to ensure that everyone has access to all their socio-economic rights – including access to quality education, sufficient food and water, adequate housing, social security, and a healthy environment

– by signing up to implement the Covenant, the government also committed to ensuring that all South Africans have access to decent work and an adequate standard of living for themselves and their family.

This is an important development for workers, as the right to decent work was not explicitly recognised in the Constitution.

This has meant that attempts by government to deal with high levels of unemployment have not been designed and implemented on the basis that access to decent work is a human right. By committing to fulfil the right to decent work, the government has taken on new obligations which workers can use to hold the state to account.

WHAT IS THE RIGHT TO DECENT WORK?

The International Covenant on Economic, Social and Cultural Rights has been a cornerstone of international human rights law since 1976. 165 countries around the world have now ratified the Covenant (including 50 in Africa), which makes the rights it contains legally binding in those countries. Articles 6 to 8 of the Covenant are dedicated to the right to decent work.¹

Article 6 deals with *rights to work*. It says that those countries that have ratified the Covenant recognize the right to work, and that this includes the right of everyone to gain his or her living by work which is freely chosen or accepted. The government must take steps to ensure that people enjoy this right. These must include access to quality education, training and skills development programmes, as well as the development of policies which can achieve full employment.

Article 7 deals with *individual rights at work*. It says that everyone has the right to just and favourable conditions of work. This includes fair wages and equal pay for equal work which is enough to provide a decent living for every worker and his or her family. Workers are also entitled to safe working conditions that are

not harmful to their health or well-being; equal opportunity to be promoted; and rest, leisure and holiday's with pay (which includes paid sick leave, paid maternity/paternity leave, paid annual leave and paid public holiday leave).

Article 8 deals with *collective rights at work*. It says that everyone has the right to form and join trade unions, and that trade unions have the right to function freely. It also says that everyone has the right to strike.

WHAT DOES THE CONSTITUTION SAY ABOUT DECENT WORK?

The Constitution recognises all of the above rights, except the right *to* work. In Section 22 it says that every citizen has the right to choose their trade or occupation freely, and in Section 23 it says that everyone has the right to fair labour practices (which is a different way of saying 'just and favourable conditions of work'). Section 23 also provides the same collective rights at work that are provided in Article 8 of the International Covenant.

However, the Constitutional Court, in a case in which it found in favour of the South African Informal Traders Forum,² has said that "The ability of people to earn money and support themselves and their families is an important component of the right to human dignity". This is important because, while the Constitution does not include a right to work, it does require the government to ensure that everyone can live a life of dignity and that to achieve this, it must take all necessary steps to achieve real equality between people. When the Constitution is read as a whole, it is hard to escape the fact that government cannot

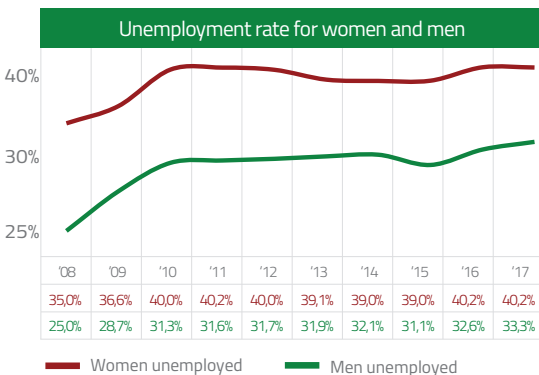
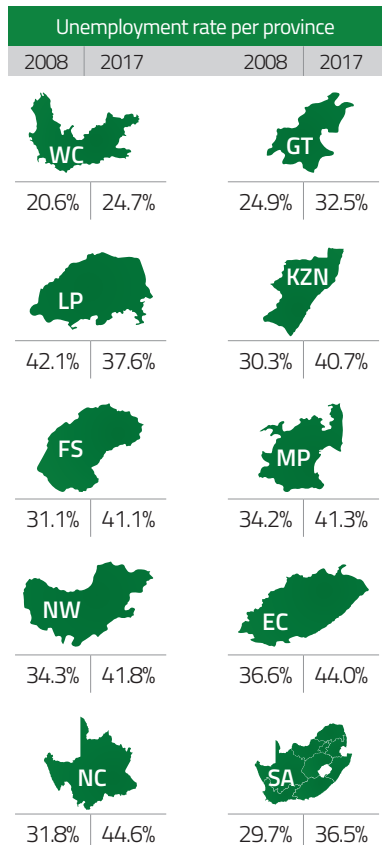
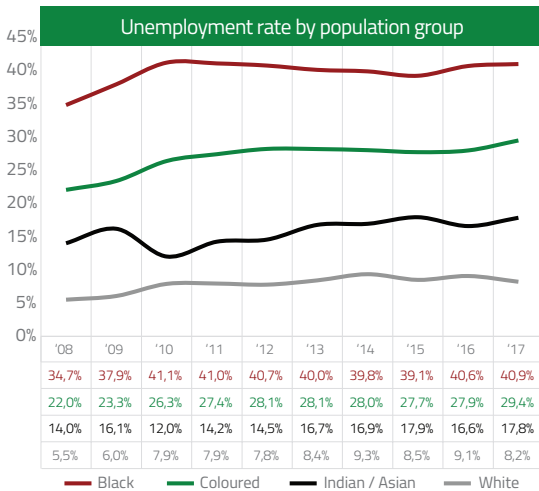
¹The full text of the Covenant can be found at: www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx

achieve its transformative aims without ensuring that people have access to decent work. Either way, the government's ratification of the International Covenant means that it must now implement the right to work as well as rights at work.

DO SOUTH AFRICANS ENJOY ACCESS TO DECENT WORK?

The answer for the majority of South African's is NO! SPII has developed indicators for the right to decent work which look at employment trends over the past 10 years, from 2008 to 2017.

Using the expanded definition of unemployment (which includes people who want to work, but have become discouraged from looking for work due to a lack of job opportunities), we found that the unemployment rate for the country as a whole has been increasing. However, different parts of the country and different population groups have very different levels of access to work, as the following indicators show:

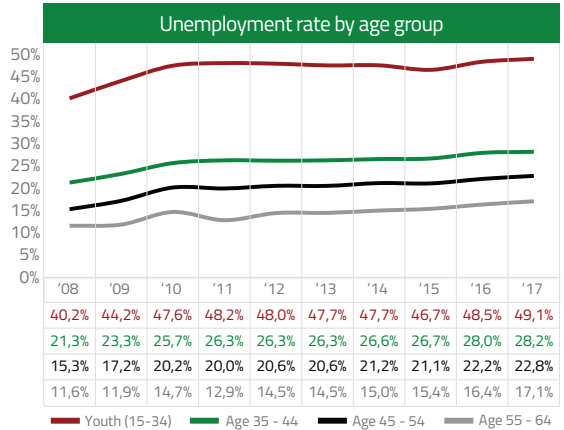


All indicators based on data from Statistics South Africa.

²This case is available at: www.seri-sa.org/images/SAITF_Judgment_CC.pdf

By 2017, there were more than 9 million South Africans without access to work. Moreover, those who do have access often do not enjoy decent conditions of work. We also found that wage inequality between women and men, skilled and unskilled workers, and those at the top and the bottom of the wage pyramid, has increased in recent years.

You can find out more by visiting www.spii.org.za to look at all of our right to decent work indicators.



REALISING THE RIGHT TO DECENT WORK

Realising the right to decent work will not be possible unless people make their voices heard and government and the private sector take a radically different approach to employment.

As a starting point, people can:

- Find out more about the right to decent work** on our website: www.spii.org.za, including how the right to decent work has been used by the government in India, and by informal traders in Brazil, to achieve important victories for workers;
- Get organised:** people have more power when they act together. Make sure the right to decent work is on the agenda of your workers union or other organisation you may be a part of. If you don't have a forum to discuss your rights, start talking to your colleagues about how to get organised.
- Demand the right to decent work!** Only by taking action and demanding the right to decent work from your government and your employer will it be possible to start changing minds and policies towards work in South Africa.

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