

Minimum Wages & Enforcement in South Africa

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Overview

- Current Enforcement System
 - Procedures
 - The inspectorate
- Levels of Compliance
 - Basic estimates
 - A note on partial compliance
- Key Issues for the IES

Inspection and Enforcement in SA

- Procedurally well-developed
- Inspection and Enforcement Services (IES) is an arm of the Dept. of Labour
- Inspectors based at Labour Centres around the country
- Conduct workplace inspections (proactive and reactive) to ensure compliance with regulation
 - Employee reporting is limited, usually after the fact

How the process works

1. Inspector conducts workplace inspection
2. If non-compliant, inspector secures 'written undertaking' on employer (max. 21 days to comply)
3. If still non-compliant, inspector serves compliance order (21 days maximum for employer to comply)
4. If non-compliant after further 21 days, case referred to Labour Court

Schedule of Fines (1)

Maximum Permissible Fines for Violation Not Involving Underpayment

No previous violation	R300 per employee
No previous violation in respect of the same provision of the Act	R600 per employee
A previous violation the same year or two violations in respect to the same provision during the past 3 years	R900 per employee
3 previous violations of the same provision within 3 years	R1200 per employee
4 previous violations of the same provision within 3 years	R1500 per employee

Schedule of Fines (2)

Maximum Permissible Fines Involving Underpayment

No previous violation	25% of the underpayment, including any interest owing
A previous violation of the same provision during the past 3 years	50% of the amount due including applicable interest
A previous violation of the same provision within a year, or 2 previous violations, or 2 previous violations of the same provision	75% of the amount due, including applicable interest
3 previous violations of the same provision during the past 3 years	100% of the amount due including applicable interest
3 previous violations of the same provision during the past 3 years	200% of the amount due including applicable interest

Overview of Inspectors

Variable	Mean
Age	37.5
Male	57%
Years of Education	12 (Matric)
Income	R6 401 - 12 800/month
Hours	41.7
Tenure	7.5 years
Inspections per month	22
Firm size Inspected	35 (med. Size)
Distance travelled last wk.	250-350 kms

Source: Development Policy Research Unit, 2012

Inspector Allocation

Province	Labour Inspectors*	Labour Centres	Inspectors/LC	Inspectors per 100K Employees
Eastern Cape	119	16	5.7	10.9
Free State	87	11	6.6	13.3
Gauteng	224	26	7.2	5.5
KwaZulu Natal	231	16	11.6	10.8
Limpopo	111	13	6.3	12.3
Mpumalanga	80	16	4	8.5
Northern Cape	44	8	4.1	15.2
Northwest	66	10	5.1	8.7
Western Cape	94	12	6.4	4.9
Total/Average	1056	128	6.3	10.0

Source: Department of Labour (2015)

*Labour Inspectors include Team Leaders (not OHS nor EE inspectors)

Compliance with Minimum Wages

- Compliance with labour regulations in developing countries is low
 - Borat, Kanbur & Mayet, 2012; Borat & Stanwix, 2013; Ronconi, 2010a, 2010b; Gindling, 2012; Gindling *et al*, 2014; Rani *et al*, 2014; Linxiang *et al*, 2014)
- It seems that the key issue here is not usually a lack of legislation but rather a lack of compliance
- We use an Index of Violation to measure non-compliance (analogous to the FGT class of poverty measures)

Levels of non-Compliance

Sectoral Determination	V_0 (Headcount)	V_1 (Gap)
Agriculture	0.65	0.26
Forestry	0.75	0.33
Domestic Workers	0.40	0.14
Private Security	0.65	0.28
Wholesale and Retail	0.47	0.24
Taxi	0.38	0.18
Hospitality	0.37	0.16
Contract Cleaners	0.56	0.24
Average	0.53	0.23

Source: LMDS (2013)

Note: The sample has been restricted to employees who earn less than the BCEA income cut-off.

Levels of Compliance: Formal/Informal

Sectoral Determination	V ₀ (Headcount)		V ₁ (Gap)	
	Formal Employment	Informal Employment	Formal Employment	Informal Employment
Agriculture	0.33	0.63	0.14	0.22
Forestry	0.32	0.61	0.14	0.27
Domestic Workers	0.19	0.39	0.09	0.15
Private Security	0.37	0.66	0.17	0.30
Wholesale and Retail	0.28	0.53	0.13	0.24
Taxi	0.27	0.57	0.12	0.22
Hospitality	0.35	0.62	0.15	0.29
Contract Cleaners	0.37	0.67	0.17	0.31
Average	0.31	0.59	0.14	0.25

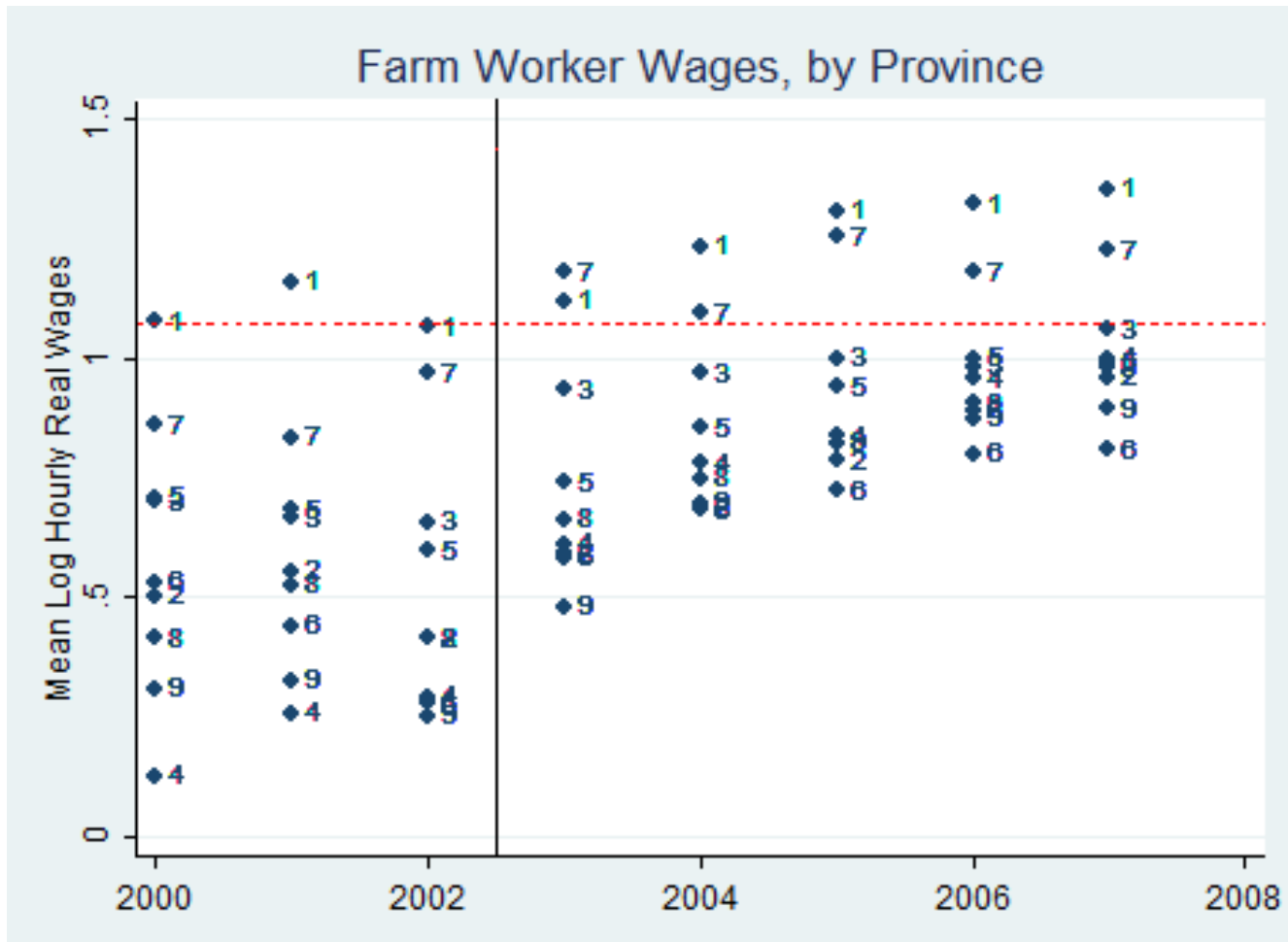
Sources: LMDS (2014), own calculations.

Note: The sample has been restricted to employees who earn less than the BCEA income cut-off. Where the schedule is complex we take the lowest SD. Formal employment in this case means having a written contract and registration for UIF

Partial Compliance

“In an environment of weak enforcement how do employers adjust wages in response to the introduction of a Wm?”

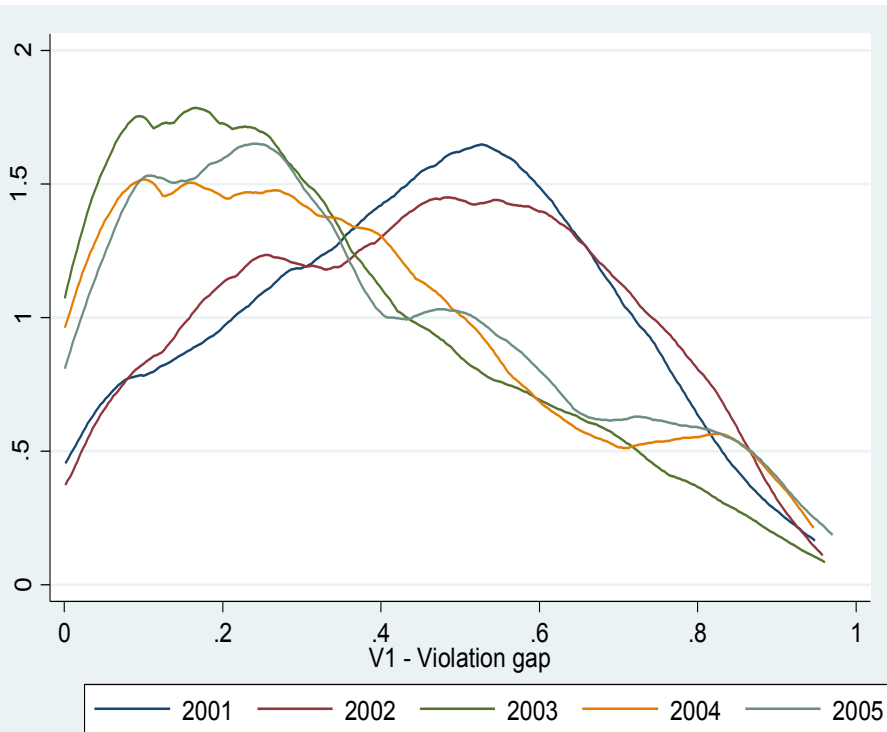
Wage Compression & Partial Compliance



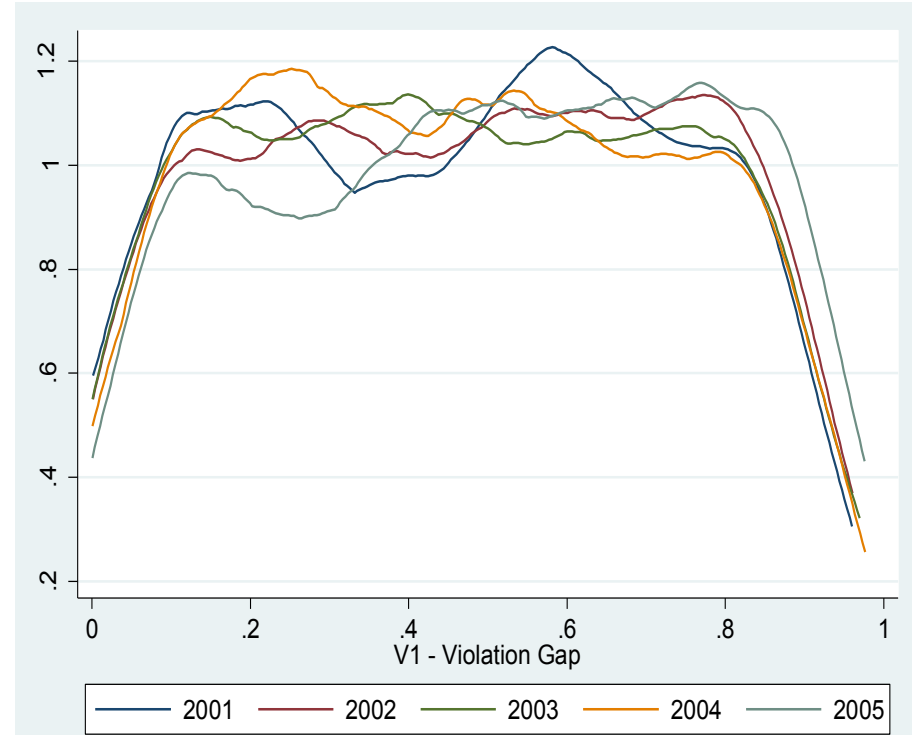
Source: Stanwix (2013)

Partial Compliance – V_1

Farmworkers



Comparison Group



Source: Borat, Kanbur & Stanwix (2015)

Note: The figures are kernel density plots of V_1 for all farmworkers (Area A and B) and the control group, calculated using the annual minimum wage. Kolmogorov-Smirnov tests for equality of distributions are rejected at the 5% level for each pairwise comparison of waves in the before and after periods in the case of the farmworker k-densities.

A Note on Enforcement

- Takes place in a high unemployment environment, which presents a potential employment trade-off
 - Inspectors appear to be aware of this: when asked whether they would enforce wages to the 'letter of the law' if they knew that this would put the firm at risk, only 30% said they would do so.
- The unemployment rate in a given area is also correlated with the probability of compliance (Bhorat et al. 2012)
- Inspection of Formal vs. Informal firms – focus is on the employment relationship

5 Challenges for the IES

1. Resources

- Human (# and skill), physical (cars, PCs, etc.), no national case management system (!)

2. Complexity of the System

- Makes it difficult for workers, inspectors & employers
- Inspectors reported that in 60% of the firms inspected, non-compliance was due to a lack of knowledge about the law

5 Challenges for the IES

3. Sector and Firm Characteristics

- Certain sectors are difficult to inspect (Taxi, Domestic work, private security, ~ agriculture)
- No inspection incentives based on firm size

4. Incentives

- Probability of inspection, combined with fines, is not a significant deterrent (Stanwix, 2012)

5. Institutional Issues

- IES collaboration (SARS, UIF, SAPS, DoHA, Chambers of Commerce)
- Consensus among 'social partners', unions, community organisations and so on

End