

**COSATU Submission on Farm Workers Sector**  
**Presented to the Department of Labour.**  
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## **1. Summary of Recommendations**

- COSATU fully supports the setting and enforcement of minimum wages for farm workers. The minimum should be a living wage, informed by the social and economic needs of farm workers and their responsibilities in providing for their families.
- Once the minimum is set, there should be graduated real increases over an agreed period.
- COSATU supports a system of graded minimums for farm work.
- This should be linked to a comprehensive education and training strategy for farm workers.
- The Basic Conditions of Employment Act should apply uniformly to farm workers. In addition, the Employment Conditions Commission should regulate further issues specific to farm workers.
- Education, monitoring and enforcement with respect to these workers' rights should be drastically improved.
- COSATU supports the establishment of state supervised pension/provident funds for farm workers.
- Farm workers should have full access to COIDA.
- COSATU supports the ultimate establishment of a centralised collective bargaining system for the agricultural sector and proposes that the Department of Labour should take active steps towards this end.
- An active job retention and creation strategy should be put in place for the agricultural sector.

## **2. Introduction**

The market for farm labour is a highly flexible one. This flexibility is in terms of low and arbitrarily set wages, limited worker organisation, great flexibility (both upwards and downwards) in working time, task flexibility, and virtually no barriers to discretionary firing of workers.

According to neo-liberal prescriptions, these characteristics should have made farm work a source of fantastic employment growth. Instead, low wages and unregulated labour relations have prevailed alongside dramatic job losses in the agricultural sector over a period of time.

As the Department of Labour has pointed out earlier this year, employment in the agricultural sector fell by almost 10% since 1989 despite this sector being exempt from virtually all major labour laws until 1995. The few scandalous incidents of abuse of farm workers picked up by the media are just the tip of the iceberg, and are manifestations of the deep-rooted vulnerability and exploitation of farm workers.

There are estimated to be close to a million paid agricultural employees, in the formal agricultural sector, of which about two thirds are full-time employees and the remainder casual and seasonal workers.<sup>1</sup> In addition there are many more undocumented workers, subsistence farmers, labour tenants, and dependent family members. Farm workers are amongst the poorest and most oppressed segments of the labour market, and this sector is thus one of the priorities for comprehensive transformation.

In this context COSATU welcomes the call for public comment by the Department of Labour on minimum wages and conditions for farm workers. The typically apartheid-style power relations in farms have made it difficult for them to comprehensively improve their own wages and conditions. While there have been significant advances in legislation, the *status quo* on the ground remains largely intact. This problem has been recognised *inter alia* in the ANC's Election Manifesto and in the Five Year Programme of the Department of Labour.

We are optimistic that this call for public comment will be the start of a process of consultation which will lead to a concrete improvement in the lives of farm workers, in line with the process for a sectoral determination set out in chapter 8 of the Basic Conditions of Employment Act (BCEA). We also suggest that in the process of investigation of a sectoral determination, reference be made to determinations in other relevant sectors.

In compiling this submission one problem which we noted is the lack of recent and reliable statistics and other research dealing with farm workers. This is perhaps indicative of the general marginalisation of this sector. We recommend that the Department of Labour, in consultation with the Department of Land and Agriculture, liaises with Statistics South Africa to improve the available database for this sector.

Our submission will respond to the issues raised in the Call for Public Comment, as well as putting our recommendations in a broader context of transforming this sector. We are also submitting proposals on domestic workers to the parallel investigation.

### **3. Minimum wages**

#### **3.1 Background**

Wages in the agricultural sector vary between provinces, ranging from R20 a week to about R280 per week.<sup>2</sup> According to SAAPAWU, the Western Cape is paying higher wages than other provinces. The worst paying provinces are the Eastern Cape, Gauteng, Mpumalanga, Northern Province and KwaZulu-Natal.

Using October Household Survey 1995 data, the average wage, excluding non-wage benefits, is R457 per month. Half of agricultural workers earned R400 or less per month in 1995. The bottom 10% of agricultural workers earned an average of R133 per month, while the top 10% earned an average of R1 065 per month. Looking at the bottom and top 25% of workers the average wage was R193 and R820 respectively.

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<sup>1</sup> Statistics South Africa, 1996 figures.

<sup>2</sup> C. Horton and M. Vilana (1999) "Working conditions of domestic and agricultural workers."

### 3.2 Recommendations

**COSATU fully supports the setting and enforcement of minimum wages for farm workers.** We will not be making a specific recommendation on the actual levels of minimums at this stage of the investigation. The principle is that these minimums would be informed by the social and economic needs of farm workers and their responsibilities in providing for their families. The level should also take into account the fact that employment is only seasonal for many farm workers, as well as the harsh conditions under which they labour.

Over and above the setting of minimum wages, the Department of Labour should along with the union bring employers into a central bargaining forum or council to make uniform implementation and monitoring easier. There could be a possibility of different determinations for different sub-sectors of agriculture, as long as there is a minimum floor which is adhered to across the board.

Despite existing differences in rates of pay between different geographic and socio-economic areas, COSATU in principle opposes the perpetuation of regionally differentiated minimums. However, there may need to be a transition period over which uniformity is established. This should be guided by the principle of reducing regional inequality.

“In kind” payments, often including accommodation and/or food, currently comprise a portion of the wages of many farm workers. These payments are of varying utility to these labourers. Nevertheless, minimum wage regulations would have to take account of in kind payments while avoiding situations where employers use such payments to avoid paying the required minimums. If the ECC is to provide for remuneration in kind, we recommend that in kind payments only be accepted in lieu of money wages by mutual consent of the employer and employee, and furthermore that a ceiling be set on the proportion of wages which can be received in kind. We suggest a ceiling in the region of 25%, so that if for example the minimum wage is R1 600 the minimum money wage is R1 200. Furthermore, the ECC should look at how to regulate in-kind payments to avoid the abuse of their positions of power. This should include stipulating what goods what constitute acceptable in-kind payments and how to set a monetary value to these goods

**We propose that once the minimum is set, there should be graduated real increases over an agreed period.** The aim of this is to raise the living standards of farm workers by providing for real annual increases in minimum wages. After a period to be agreed upon, there should be a **review** of stipulated minimums based on an evaluation of a range of factors.

## 4. Differential minimums and education and training

The call for public comment also raises the issue of differential minimums for different categories of farm workers. We see this issue as being integrally linked to an education and training strategy for farm workers.

### 4.1 Background

Farm workers generally have low levels of education and illiteracy is high. Just over a quarter of agricultural labourers have no education and only 20% of labourers have gone beyond Standard 5.

### 4.2 Recommendation

COSATU supports a system of **graded minimums for farm work** as applies in other industries. In principle, the different levels should be based not on tasks performed, but rather on **skills**. At present, however, there are difficulties in quantifying skills of workers. We thus suggest the **definition of several categories of farm workers, based primarily on what the principal responsibility of the worker is.** A living wage should inform the lowest of these minimums, with other minimums being set over and above this.

The South African Qualifications Authority should develop a system towards recognising and accrediting skills acquired by agricultural workers. Other aspects of an education and training strategy for farm workers would include the provision of **adult basic education and training**, the payment of a **skills levy** by employers, and the provision of **paid time off** for skills development.

## 5. Conditions of work

### 5.1 Background

As with domestic workers, the agricultural labour market is also characterised by limited regulation and apartheid social relations. As a consequence workers in this sector suffer the effects of low wages and poor working conditions. Workers in this sector, prior to 1995, were not covered by most labour laws. With the enactment of the Basic Conditions of Employment Act of 1997, agricultural workers were protected by the stipulations on basic conditions of employment. However, the major problem is the enforcement of the Act as agricultural workplaces are scattered and there are too few inspectors to monitor the implementation of the Act. This is exacerbated by social relations in rural areas and the hostility of many farmers to government regulation.

According to SAAPAWU workers work abnormal hours, generally in the region of 9 to 10 hours per day. Working hours are not fixed and depend on the amount of work to be done. Over 49% of agricultural workers work more than a 47 hour week. Approximately 13% work a 60 hour or more working week and 5% work more than 70 hours per week.<sup>3</sup> These exceptionally long working hours indicate that more needs to be done to enforce the Basic Conditions of Employment Act. Very often workers do not get a lunch hour during working hours, and they are often not given leave (particularly sick or compassionate leave). If it so happens that a worker gets sick, and can not work that day, that days wage may often be deducted. In most cases workers do not get paid overtime and many workers work on Sundays and Public Holidays.

### 5.2 Recommendations

**The BCEA should apply uniformly to farm workers, except if and where – by mutual agreement of stakeholders – there are sector-specific or sub-sector specific characteristics which make the implementation of the BCEA impracticable.**

**The ECC should also make provision on other issues specific to farm workers, including but not limited to the following:**

- regulating the conditions under which deductions from a workers pay can be made.
- reasonable meal intervals and rest periods
- where a uniform is to be worn by the farm worker, this should be provided by the employer at his/her own cost
- where a farm worker resides on the farm, their housing and sanitation should be of a suitable standard.

Measures need to be implemented to ensure the consistent adherence to standards and procedures agreed upon. These include: **educating** farm workers about their rights; **stepping up random inspections and responses to complaints**; and facilitating easier **union access to farms** even where they do not have majority membership. We also recommend **specialised capacity** both within the Directorate of Minimum Standards and labour inspectorates, as well as the allocation of the **necessary resources**, to monitor wages and conditions on farms.<sup>4</sup>

<sup>3</sup> Figures calculated from 1995 October Household Survey.

<sup>4</sup> The reduction in the budget allocated to overall inspections is regrettable and is one of the effects of a macroeconomic policy which prioritises “fiscal discipline”.

## 6. Pension and provident funds

Most farm workers have no retirement provisions despite working for all their adult lives, often for the same employer. The failure of farmers to provide for their workers' retirement amounts to a cross-subsidisation of these employers by the rest of society. **COSATU thus supports the establishment of pension/provident funds for farm workers.** There would be a need for **state supervision** of these funds. Contributions from both employers and employees should be mandatory, and the added expense of these contributions to workers also needs to be taken into account in the setting of their minimum wage levels. State regulation of a **medical aid scheme** for farm workers should also be investigated.

## 7. Further issues

### 7.1 Employment

As discussed earlier, there have been substantial job losses in the agricultural sector, over a protracted period, despite low wages and abysmal working and living conditions. Keeping wages low is clearly no route to employment growth or reinvigoration of the agricultural sector. Rather, the demand for unskilled workers is expected to remain low (or decline) regardless of wage rates.

Even if minimum wages were to lead to some job losses, however, this is not necessarily an argument against their implementation. There is a general consensus that the wage elasticity of demand lies between 0 and -1, meaning that a particular increase in aggregate wage levels (say 10%) would be associated with a fall in employment levels, but of a lesser magnitude (say 7%) (other factors held constant). A wage increase would thus increase the total resources going to workers, even if there are some job losses. Given the fact that the employed – including the working poor – are effectively a social security net for the unemployed and for each other, increased wages would certainly reduce overall inequality and redistribute income more equitably.

Where retrenchments of farm workers are unavoidable, these should be undertaken in line with the **Labour Relations Act** (including the Code of Good practice: Dismissals). This stipulates the need for consultation with affected employees or their representatives in the case of dismissals based on operational requirements, that the employer and employee must attempt to reach consensus on various issues associated with a dismissal, the need for extensive information disclosure by the employer, and other procedural issues. Compliance with these and other relevant provisions should be enforced in the agricultural sector. Furthermore, we reiterate our proposal for the amendment of Section 189 of the Labour Relations Act, which would make dismissals based on operational requirements an issue for negotiation rather than consultation, and which would assist in stemming job losses in the agricultural sector and the economy as a whole.

The ongoing job losses in the agricultural sector need to be addressed, in a way that caters for unavoidable job losses as well as making the sector an active creator of jobs. COSATU has already made a number of proposals in different forums for job retention and creation in the agricultural sector.<sup>5</sup> Implementation of such proposals would complement the advances in regulation being contemplated in the Department of Labour's current investigation.

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<sup>5</sup> These proposals include the following:

- A comprehensive land reform and redistribution programme could have a massive impact. For example, the World Bank has calculated that 2 million full-time jobs could be created in agriculture and related industries through a land reform programme.
- The promotion of small-scale farmers. Numerous studies, particularly in developing countries, show an inverse relationship between farm size and efficiency of resource use, including employment.
- Strategies for increasing the labour intensity of agricultural production, and countering the mechanisation of agriculture which was deliberately promoted under apartheid.
- Addressing the semi-feudal living and working conditions and employer-employee relationships characterising the farming sector.
- Building and transforming agricultural co-operatives.
- Decentralisation of processing and storing of agricultural produce.

## 7.2 Access to COIDA.

Farm workers face assault from their employers, as well as many other work-place injuries. There remain largely uncovered by the COIDA and access to sick leave may be difficult, and often unpaid. They are also generally uncovered by the UIF, and thus have no unemployment, sick or maternity benefits.

COSATU proposes that farm workers should be brought under the ambits of both the **UIF and COIDA**, enjoying all the benefits and with employers and employees making the requisite contributions.

During the passing of the COIDA Amendments in 1997 the Portfolio Committee on Labour recommended that the Department investigate a number of issues<sup>6</sup>. In our submission to the Department on the Five Year Programme earlier this year, we supported these recommendations. We request a **progress report** on implementation.

## 7.3 Collective bargaining

As mentioned above, COSATU supports that the agricultural sector should move towards a **collective bargaining** system. The concluding of a collective agreement would obviously replace the sectoral determination for those employers and employees covered by the agreement. Given the problems and imbalances within the sector, we recommend that the Department of Labour investigates what steps can be taken to promote collective bargaining within agriculture.

## 8. Conclusions

The success of a minimum wage policy in empowering workers and lifting them out of poverty is contingent on its effective implementation. Minimum wages and conditions of employment should be well publicised amongst both employers and employees, and thereafter uniformly enforced with punitive measures against employers who violate them. Minimum wages and employment conditions, once set, should not be subject to downward variation. As proposed earlier in this submission, more resources should be directed towards the monitoring of wages and conditions and access of inspectors and unionists to workplaces should be guaranteed.

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<sup>6</sup> These were as follows:

- Pensions to black employees who, prior to June 1997, were excluded from the provisions of the then Workmen's Compensation Act;
- Compensation for low wage earners who, because compensation is based on a percentage of earning, receive less compensation in respect of the same injury or disease as higher paid workers, and are further discriminated against because compensation is not based on the loss of a workers earning capacity but on a percentage assessment of the injury;
- Inclusion of domestic workers under COIDA bearing in mind that this matter has been under investigation since at least 1992;
- Guaranteed inflation-linked pension increase so that, when using his/her discretion to increase monthly earnings payable in terms of section 49 and 54 of the existing COIDA, the Commissioner will ensure that the increase is at least equal to the inflation rate as measured by the Consumer Price Index (CPI) of the preceding year;
- Consultation with the Board when making appointments to Regional Medical Advisory Panels;
- The principle of extending COIDA to cover sexual harassment and the practical ways which this can be achieved;
- A review of the Merit Rebate system to take into account the fact that the system acts also as a disincentive to report injuries and diseases and that some or all of the money funding the system could be used to finance other improvements the Committee has recommended above; and
- A review of the entire compensation with the possibility of incorporating the Mutual Associations into a consolidated structure. Any lifting of the restrictions placed on the Mutual Associations by section 84(1)(b) of the current Act should be part of this review.

There should also be effective complaints procedures and offices which are accessible – in terms of hours, location, and language – to farm workers.

One of the biggest challenges in implementing minimum wages and working conditions will be dealing with situations where farm workers are aware that they are being exploited but are afraid to take up a grievance for fear of reprisal and particularly dismissal. This challenge should be taken into account in policy formulation and implementation to ensure that workers protected against possible employer backlashes.

COSATU also proposes that the sectoral determination be applicable to full-time, part-time, and casual farm workers. Not only would this ensure that all domestic workers are protected, it would also avoid setting up disincentives for the casualisation of the sector.

While minimum wages and working conditions alone will not solve the problem of poverty amongst farm workers, they are one important aspect of transforming this segment of the labour market. Effectively implemented minimum wages would ensure a living wage to the most exploited workers and well as going some way towards addressing the power imbalance between farm workers and their employers. However, minimum wages and conditions of employment need to be complemented by other strategies targeted at the working poor and the unemployed.

Key amongst these are the basic income grant and the social wage. COSATU submitted a proposal on the basic income grant at the Job Summit, which argued for a universal grant which would then be recovered and subsidised at higher income levels. We welcome the initiatives currently being considered by the Department of Welfare and Population Development in this regard. A basic income grant would be an important supplement to minimum wages set as well as relieving (even if to a minimal extent) some of the burden on farm workers to support family members.

The third prong of an integrated approach would be an enhanced social wage. Increasing social investment and alleviating costs including, health, and education would also relieve some of the financial pressure on workers as well as improving productivity. To raise the social wage without enforced minimum wages, however, would amount to a cross-subsidisation of farmers by the rest of society. The combination of minimum wages, a basic income grant, and an improved social wage would make a significant difference in reducing poverty and improving living conditions and productivity.

Just as the LRA, BCEA, Employment Equity Act and Skills Development Act were blamed for job losses – in some cases even before the legislation was passed let alone implemented – so the threat of job losses will be used to argue against minimum wages and other forms of regulation for these segments of the labour market. This is an ideological offensive with no basis in fact and which seeks to block our socio-economic transformation. The flexibility of the South African labour market has been well documented, and nowhere is this flexibility more evident than in domestic and farm work. We need to make a choice between allowing employers to retain the status quo and transforming the labour market to ensure a better life for all workers. We urge the Department to pursue the latter objective.

The process initiated by the Department of Labour and ECC is a welcome step in extending transformation to all workers and workplaces. COSATU looks forward to participating at future stages of the investigation, policy formulation implementation, and monitoring processes.