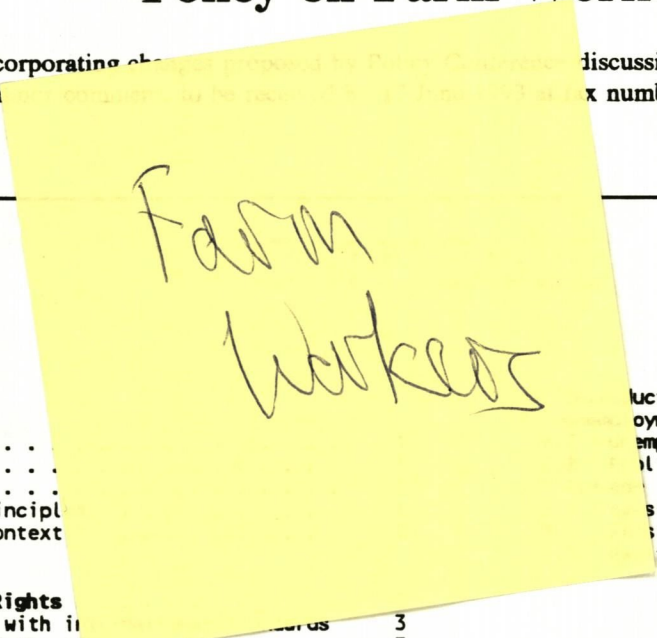


AFRICAN NATIONAL CONGRESS

Policy on Farm Workers

FINAL DRAFT, incorporating changes proposed by the Commission for Labour during discussion: 9 June 1993. Distributed for final comment on 10 June 1993. Price: R5.00. Fax number (02231) 5076.



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Section A Introduction

1 Preamble

- 1.1 The years of colonialism, segregation and apartheid have not only caused a racially skewed distribution of land and a crisis in the agricultural sector but have also, in many cases, created an oppressive and acutely exploitative relationship between workers and employers in agriculture. Workers on farms have been denied even basic legal protection and have found themselves in a situation where many aspects of their lives are controlled by farmers.
- 1.2 The free association of workers and the advancement of their interests through recognised legal channels have often been frustrated. In most cases their working and living conditions are inadequate. They have been excluded from basic protection under law through their exclusion from labour legislation. They have been denied access to even basic facilities.
- 1.3 A complete overhaul of the rural structure of South Africa is considered necessary and warranted by the distortion that has affected the lives of rural people in general and workers on farms specifically. The ANC is committed to such an overhaul, believing it necessary for the attainment of democracy, peace and stability and a viable and sustainable economic contribution from the countryside. The ANC believes that the development of democratic society in the countryside can only be achieved through upholding the principles of social justice and human rights.
- 1.4 In some cases farmers have treated farm workers fairly. These instances should be recognised and other farmers be encouraged to follow suit.
- 1.5 This policy focuses specifically on people working for a wage in commercial agriculture. However, the situation of all people on farms and in rural areas, be they labour tenants, share croppers, other tenants or small-scale owners of land, or their dependants must be addressed and improved.
- 1.6 This outline of policy on farm workers must be read against the background of the ANC's national policy guidelines, adopted in May, 1992, and the ANC's draft Bill of Rights.
- 1.7 A policy on farm workers should form part of broader policies on agriculture and rural development, and these policies should be developed at the same time and in conjunction with each other. Steps should be taken in the near future to achieve such an integrated rural policy.

2 Goals

The main goals of the ANC's policy on farm workers are:

- 2.1 To attain the recognition and protection of full human rights and dignity for farm workers as for other workers within a Bill of Rights for all the people of South Africa.
- 2.2 To overcome the legacy of unequal and unjust treatment of farm workers and their dependents, and diminish the disproportionate control of farmers over workers and people living on and off farms.
- 2.3 To subject the relationship between farmers and

farm workers to legal and fair processes; To extend and secure full labour rights to all farm workers, protecting their right to freedom of association, fair conditions of employment and access to the labour court system.

- 2.4 To give recognition to the role and contribution of farm workers and to further harness their potential in the agricultural sector and society at large.
- 2.5 To encourage and facilitate the democratisation of the agricultural sector and the rural society.

3 Overall principles

- 3.1 The ANC believes that the state must play an active and leading role in pursuance of the goals outlined above. For this reason much of the policy in this document is devoted to what should be expected of a new and democratic state, and what other measures the ANC believes is necessary to attain the goals above.
- 3.2 The ANC is committed to a state in which civil, political and social life encourages the flowering of independent organisations of rural people and of those living on farms. It believes that it is essential to encourage participatory planning and implementation with rural people in a way which would give them a real voice and build the capacity of their organisations.
- 3.3 Contributions from other organs of civil society, trade unions in particular, as well as non-governmental organisations and the private sector shall be strongly encouraged by the state.
- 3.4 In the broadest terms, the state shall guarantee the following fundamental rights to all citizens, including farm workers:
 - the right to the equal protection and equal benefit of the law
 - the right not to be directly or indirectly discriminated against
 - the right to affirmative action and special measures which have as their object the improvement of the conditions of disadvantaged people
 - the right not to be subjected to forced labour
 - the right to effective freedom of association.

In this regard farm workers, as citizens, will have these rights against the state and individuals.

- 3.5 The state shall be guided by the following directives and objectives in the formulation and implementation of its policy on farm workers (and other rural dwellers, where applicable):
 - (a) To address their demands for access to land in a broader land and agrarian reform programme.
 - (b) To establish minimum standards of employment and safety at work.
 - (c) To establish mechanisms for resolving conflict at the work place and establish tripartite mechanisms to address working conditions and wages in agriculture.
 - (d) To ensure that all have an adequate standard of living and, in particular, that housing is provided for the homeless, nutrition is provided for those who cannot provide for themselves, and social security is provided where needed.
 - (e) To give special consideration to the needs of farm workers in the provision of health facilities, education, public transport, energy, water, communication (radio, TV, postal and telephone services), recreational and sports facilities, care for the aged, policing and other services.
 - (f) To ensure that natural resources are utilised in a manner which benefits both present and future generations, promotes the ideal of sustainable development, and takes into

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Section A Introduction

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 - (d) To ensure that all have an adequate standard of living and, in particular, that housing is provided for the homeless, nutrition is provided for those who cannot provide for themselves, and social security is provided where needed.
 - (e) To give special consideration to the needs of farm workers in the provision of health facilities, education, public transport, energy, water, communication (radio, TV, postal and telephone services), recreational and sports facilities, care for the aged, policing and other services.
 - (f) To ensure that natural resources are utilised in a manner which benefits both present and future generations, promotes the ideal of sustainable development, and takes into

- account the environmental impact of such use.
- (g) To provide adequate enforcement mechanisms.
- (h) To develop the potential of people living on farms and in the rural areas in general, through training and education, provision of credit etc.
- 3.6 The State shall ensure that central policies take sufficient cognisance of regional and local differences, and that mechanisms for enforcement and implementation of this policy are effectively available to all.
- 3.7 The policies on conditions of employment of farm workers should be investigated and coordinated by a National Labour Commission or Council, where employers, employees, other affected groups and organisations (such as civics and organisations of rural dwellers) and the state are represented. Through this body the need for the improvement of farm workers' minimum conditions of employment and the constraints of the employer should be negotiated and an equitable balance struck.
- 3.8 Legal minimum standards will be set in employment, which will be enforced in law under the provisions of labour legislation. Farmers shall also be encouraged to improve farm workers' conditions of service and to acknowledge full human rights.
- 3.9 Conditions of service over and above minimum standards shall be negotiated between farmers and farm workers and their organisations.
- 3.10 Farmers who have developed fair relationships with farm workers will be encouraged to continue to do so and to bring other farmers on board a new system of labour relations in our rural areas. In general farmers will be persuaded through incentives and other positive measures and through legislation and criminal sanction, where this is essential, not to undermine the process of democracy and the changes to the conditions of farm workers which have been adopted in this policy.
- 3.11 Farmers, especially those in isolated areas, shall be encouraged to provide goods and services to farm workers at reasonable cost. Incentives shall also be considered to encourage farmers to make available to farm workers land which they can farm for their own account.
- 3.12 Farm workers are one of many special interest groups of rural dwellers. It is an objective of this policy to address the concerns of farm workers against this background, taking into account the links and interaction between farm and town people. The ANC starts by focusing on farm workers and other rural dwellers especially since they have been ignored and marginalised by government policies for so long.
- 3.13 State commitment to farm worker policy requires systematic commitment of funds. This requires that financial allocations are inter alia directed to agriculture, development, education, health and welfare specifically for farm workers.
- 3.14 The ANC is committed to -
- continuously monitoring the realisation of this policy to ensure its efficient implementation and
 - evaluating its effectiveness and adapting it where necessary.

4 Economic context

- 4.1 Macro economic and social policy set the boundaries within which the state will frame the potential and limits of agriculture and rural development. It is vital, therefore, to develop and place policy appropriate to the needs of farm workers within this context.

- 4.2 Commercial agriculture is indispensable in the social economy of our country. This is so even though it is a small contributor to GDP. It produces a surplus in most of our country's food and agricultural needs. Yet the workers who produce this surplus often suffer under conditions of deprivation.
- 4.3 Many people live in rural South Africa. Of these, many depend upon the income that they generate within the agricultural sector or by working the land, and for many it is an avenue out of the crisis of structural unemployment. Moreover, a substantial proportion of industrial production and urban employment is directly linked to agriculture. For these reasons a future democratic government must devote sufficient time, resources and infra-structural development to reorganise, sustain and extend agriculture.
- 4.4 Historically state policies have encouraged cheap labour in most of commercial agriculture and capital intensive production within some sectors. This approach has had negative effects on farm workers and their dependents, the shape of commercial agricultural production, sustainable rural development and relations between town and countryside. This has contributed to the present political, economic and social crisis of major proportions in rural South Africa.
- 4.5 Farm labour costs are not the reason for the low profitability and bad economic status of agriculture. Farm workers are, instead, amongst the primary victims of the crisis.
- 4.6 Farming in South Africa is not conducted in a sustainable manner, either from an economic or an environmental perspective.

Section B General Employment Rights

1 Compliance with international standards

All necessary steps shall be taken to ensure that South Africa is capable of being readmitted to the ILO. All ILO conventions and recommendations shall be investigated, especially those that specifically refer to rural, agricultural and plantation workers. These conventions and recommendations represent minimum international standards, and shall be considered in the assessment of appropriate employment practices and in the formulation of legislation for South Africa. This process shall be monitored by the National Labour Commission.

2 The role of the state

The state shall enact legislation laying down minimum employment standards, encourage the free association of farm workers, ensure that farm workers and farmers know their rights and duties under the law, and ensure the effective enforcement of the law, in consultation with the National Labour Commission.

3 Application of labour laws to farm workers

- 3.1 All existing and future general labour legislation that is not aimed at employment in a specific

sector shall be extended to farm workers.

3.2 The enactment of separate legislation setting out employment standards specifically for farm workers will generally be opposed except where, after effective consultation between the major players:

- (a) specific conditions in agriculture necessitate different measures to those applicable in other industries;
- (b) conditions in agriculture and potential abuse of farm workers require additional mechanisms to ensure their effective protection and the encouragement of farm worker organisation.

4 Self-regulation in the Agricultural Industry

4.1 The ANC supports the principle that organisations of employers and of employees should be encouraged to negotiate appropriate and better minimum standards of employment and related measures. Self-regulation of this nature in agriculture will only become effective once farm workers have organised themselves into workers' organisations. The ANC commits itself to achieving this. The state shall strengthen self-regulation through the creation of forums where capital and labour can meet and negotiate and through the encouragement of organisational and collective bargaining mechanisms.

4.2 Options which could be considered for self-regulation are:

- a) Industrial councils comprising equal representation of employer and employee organisations
- b) Compulsory membership of such industrial councils, or the application of industrial council agreements setting minimum standards to parties who are not members
- c) Forums funded by the state where a code of conduct with legitimacy in the industry (regarding both workers and employers) may be drawn up nationally, with participation of employers' and employees' groups.

5 Co-determination

Farmers and farm workers will be encouraged to work towards co-determination at the workplace between management and labour. This co-determination should be aimed at real joint decision-making and taking of responsibility rather than mere co-optation of elements within the workforce.

The ANC believes that acceptable forms of co-determination will reduce the potential for conflict between management and labour, although it will not completely remove elements of opposing interests between the parties.

6 Living wage

6.1 Policy considerations

- (a) The ANC is committed to the policy of a living wage for all South Africans, taking full cognisance of the specificities of each industry and region.
- (b) Because of unevenness within the sector, it will be ill-advised to set a national minimum wage for farm workers. However, the ANC is committed to the attainment of adequate and improved living standards for farm workers and their families, by monitoring wage levels and direct and indirect measures and incentives.
- (c) Even in other industries sections of the work force are not organised effectively into workers' organisations. This will also be

the case in agriculture. Even in agricultural sectors where full unionisation will be successful in due course, it will time before that happens.

- (d) Mechanisms shall therefore be set in place for the determination of minimum wages for specific sectors and geographical areas in agriculture. In this regard the proposed National Labour Commission shall consider the relevant conventions and recommendations of the International Labour Organisation, as well as guidelines used elsewhere and the conditions in rural South Africa and make recommendations as to which mechanisms would be most appropriate for our country.
- (e) The Wage Act at the moment provides mechanisms for setting minimum wages. In the short term this Act, although needing reform, shall immediately be extended to cover farm workers. The act does not guarantee the setting of minimum standards but will only provide the mechanism for doing so. Wages and other conditions of employment on some farms are such that the state has a duty to intervene and enforce minimum standards.
- (f) State policies (eg related to taxation, provisions of loans etc) shall be developed to encourage labour intensive production, provided that this shall not occur at the expense of minimum wages and working conditions.
- (g) The state shall use the determination of wage rates as an instrument to improve wages and conditions progressively, rather than just as a measure of ensuring basic minimums.

6.2 The nature of the wage

- (a) For the purposes of the Wage Act and similar legislation, farm workers' "wage" shall include the cash wage and the value of payment in kind.
- (b) Farm workers shall not be required to pay for accommodation on farms where they work where their presence is an operational requirement of the farm.
- (c) Farmers shall be encouraged to pay a substantial set percentage of workers' wages in cash. However, any move away from payment in kind must be done in negotiation with the affected farm workers. In the conversion from payment in kind to a cash wage, farm workers shall have an enforceable right against loss of real income.
- (d) Inferior and spoiled goods shall not be given as part of payment in kind.
- (e) Farm workers shall be paid the bulk of their wages regularly, preferably weekly.

6.3 Reform of the Wage Act

- (a) The Wage Act shall be reformed. It should, for example, provide for the inclusion of representatives of three sets of interests: employers groups, employees organisations and the state. The National Labour Commission shall investigate the necessary reform of the act.
- (b) The National Labour Commission shall also oversee investigation into the agricultural sector to ensure the extension of rights and compliance with legislation in this area until such time as the sector has developed adequate self-regulatory mechanisms with effective employer and employee organisations and representative structures.
- (c) In the setting of a minimum wage and other conditions of service the body responsible for setting minimum employment conditions shall consider -
 - balancing the ability of employers to pay with meeting the basic needs of farm workers to maintain an adequate standard of living
 - fair and reasonable value of services

- rendered
- general level of wages for work of a comparable skill in other industries where the workers are sufficiently organised in the area
- the best employment conditions offered by employers in the applicable agricultural sector and region.

Wage measures should be flexible enough to accommodate production conditions in agriculture.

Section C Individual Rights

1 Minimum standards regarding individual employment rights

Farm workers shall be protected by minimum employment standards, at least to the levels that they apply in other economic sectors. Specifically:

- 1.1 Farm workers will be protected from all forms of forced labour, whether done directly or in a disguised way. Other forms of obliged labour, such as where a farmer requires wives and children of farm workers to work during the season, shall be prohibited. In addition:
 - (a) The "dop system", through which farmers control and pacify farm workers by payment in alcohol, will be prohibited by law, and the state shall give the necessary assistance to farm workers to break addiction to alcohol.
 - (b) Farm workers shall be protected against excessive indebtedness and resultant bondage to their employers. Farm workers who owe money to a farmer shall not be bound to work for the farmer, but will be free to leave the employment of the farmer as a free person.
 - (c) The practise whereby employers effectively force farm workers to buy goods at specific shops will be prohibited.
 - (d) The use of prison labour in commercial agriculture will be prohibited.
- 1.2 The state shall protect farm workers, as all other people, effectively against violence committed by their employers. Stringent action shall be taken against all persons and institutions that undermine this human right. Where magistrates and judges hand down unduly light sentences against assailants and murderers of farm workers, the state should appeal against the sentences.
- 1.3 Maximum daily and weekly working hours of farm workers shall be brought down, with a view to setting them at levels similar to that of workers in other industries. Farmers and workers will be allowed to negotiate about the extension of ordinary working hours during busy seasons, within acceptable limits, and any agreement reached shall require annual renegotiation. A reasonable limit shall also be placed on the extent to which farm workers' working hours can be spread over a day.
- 1.4 Farmers shall be required to pay farm workers additional wages for overtime worked and for work on public holidays and Sundays, as in other industries. Farmers shall also recognise the holy days of the religious organisations of farm workers. Farm workers shall be free to decline to work overtime (except in clearly defined cases of emergency), and shall receive the same public holidays as workers in other industries. Measures shall be introduced to discourage the use of farm workers on Sundays, to allow them a common rest day to meet socially, to attend religious meetings and for farm worker organisations to meet. Such measures shall allow work on Sundays and public holidays in sectors where work needs to be done

every day of the week, such as in parts of dairy farming. Workers working on such days shall receive increased pay, at a level sufficient to ensure that employers make use of these workers' services for ~~as~~ short a time as possible on these days.

- 1.5 Farm workers shall enjoy the right to reasonable annual and sick leave in accordance with international and standards in other industries. Where a farmer requires a medical certificate from a sick worker, the farmer shall help the worker to see an accredited health worker of the worker's choice to obtain such a certificate.
- 1.6 Farm workers could easily be discriminated against through employers obtaining exemptions from legal provisions without consulting workers, especially since farm workers are now not effectively organised. Measures shall be introduced to ensure that the consent of the affected employees or trade union must be obtained before exemptions are granted. A judicial appeal procedure shall be created granting affected parties the right to contest exemptions. The granting of exemptions shall be monitored by the National Labour Commission.
- 1.7 Loopholes which could be used by employers to avoid minimum standards legislation shall be identified and closed. Some of these loopholes, through which farmers may want to get past legal requirements, are the use of labour brokers or labour-only contractors, paying low piece work rates, abusing the exemption of casual workers etc.
 - (a) Farmers shall be held co-responsible for transgressions of labour-only contractors, of labour brokers and of similar "outside" employers regarding work done on their farms. Only in well defined cases where farm workers' interests are adequately protected can a farmer be freed from this responsibility. (A labour-only contractor is a contractor who does not own a substantial portion of the appliances, vehicles etc that is needed to do the work. A labour broker is a contractor who supply workers to a farmer and pay the workers him/herself - and is therefore technically the workers' employer.)
 - (b) Farm workers doing piece work shall be guaranteed a minimum level of payment for a given period of work, but productivity or piece work bonuses shall be allowed.
 - (c) Where farmers make arrangements to disguise permanent workers as casual workers (eg by sharing a group of workers with another employer so as to ensure that they work three days or less per week) the law shall protect these workers in the same way as permanent workers.
- 1.8 On termination of employment:
 - (a) Farm workers and their organisations or representatives will be able to contest unfair dismissals.
 - (b) Farm workers shall also be entitled to reasonable notice in cases of termination of employment, taking into account factors such as:
 - Duration of service.
 - Whether the workers have built their own housing on the farm.
 - How much time workers would need to find alternative accommodation and, if they have stock, alternative grazing.
 - The workers' contribution to development and improvement of the land.
 - Whether workers still need to harvest crops on land they used as part of payment for work.
 In cases where immediate dismissal shall be allowed by law (such as consistent refusal to

work), farm workers shall be entitled to reasonable notice concerning housing, the use of land on the farm and the use of educational facilities.

- (c) Nobody shall be evicted from housing except with a court order and the court shall, before granting such an order, take into account factors such as the availability of alternative accommodation (see Section F).
- (d) Where farm workers are retrenched through no fault of their own, but because of operational requirements, they shall be entitled to the same rights as workers in the other economic sectors. The law shall set out the right to severance pay (special pay for retrenched workers) in more detail to make enforcement of this right easier. When farm workers are retrenched, farmers will be obliged to pay a special levy into a national training fund for retrenched workers, as will be required of all employers who retrench workers. This fund will be established and run according to the ANC's policy guidelines on the matter, set out elsewhere.
- (e) Where a farmer wants to end the employment because the farm worker has reached retirement age, the farmer shall give additional and adequate prior notice to the worker. On housing rights of retired farm workers, see Section J.

2 Women's rights

More drafting and consultation necessary.

- 2.1 The position of women on farms, who form the majority of farm workers, merits special attention because they are a vulnerable group. As such they have right to affirmative action to overcome the disadvantages suffered on account of past and continuing discrimination. Women's issues will be fully integrated into policies, and the multiple roles they play in the agricultural sector must be recognised.
- 2.2 Rights of women referred to in this paragraph will apply to agriculture as it applies in other industries, except in cases where the circumstances prevailing in agriculture necessitate additional protection.
- 2.3 The ANC is committed to the end of discrimination based on gender. The following concerns shall be addressed in this regard:
- (a) Equal pay for work of equal value: legislation shall be introduced effectively to protect women against wage discrimination and differentiation of their work in comparison with that of their male counterparts. The state shall also establish effective mechanisms to combat discrimination.
- (b) Equal access to permanent work opportunity and promotion: Anti-discrimination legislation which prohibit discrimination against women entering the labour market shall apply to agriculture as to other industries. Farm worker organisations have a responsibility to ensure that the right to equal opportunity be adhered to.
- (c) Right to separate contracts of employment: The law shall prohibit employers from requiring of workers or prospective workers, whether explicitly or through their conduct, that their dependents or family members work for the employers. For example, no farmer shall be able to force farm workers' wives to work as domestic servants or as seasonal workers. Such agreements shall be null and void. Employers shall also be prohibited from preventing farm workers' wives or dependants who live on farms accepting outside employment.
- (d) Equal access to housing: measures shall

ensure that women have an equal right to tenancy alone or with their partner or the concurrent right to a common home. Women seasonal workers' right to housing during employment will be specifically addressed, unless they live within reasonable daily commuting distance of their place of work. In addition, women migrant and seasonal workers will be entitled to separate living quarters to those of male seasonal workers, as protection against sexual harassment.

- (e) Equal access to land: Women shall have equal opportunities concerning the distribution of land, the right to inherit land and the right to stand as land title holders in their own name.
- (f) Protection against sexual abuse: The state shall seek to provide appropriate protection by law against violence harassment and abuse, and the impairment of the dignity of any person.
- (g) Equal access to training and education.
- 2.4 Maternity rights
- (a) Legislation introducing paid and unpaid maternity leave of a prescribed minimum period, with a guaranteed job on return, will be introduced. The period of maternity leave shall be open to extension for illness directly related to pregnancy. Furthermore, during pregnancy women will be protected from having to carry out tasks that are potentially harmful to themselves or their unborn children. Once they have returned to work, women will have the right to continue to nurse their children during working hours without loss of pay.
- (b) Women shall be protected against dismissal for reason of their pregnancy or during maternity leave.
- (c) The state shall be responsible for providing subsidised medical care. Farmers shall have clearly defined responsibilities to provide transport to medical facilities, in appropriate cases, where the women live on their farms.
- (d) State funded primary health care, which includes family planning services, shall be made easily accessible to all women resident on farms.

3 Child Labour

- 3.1 In spite of the recent extension of prohibition of child labour to farm work, South African farm children are still not effectively protected against the negative effects of child labour. In the rural areas child labour, coupled with the lack of adequate opportunities for schooling, contribute to a vicious cycle of illiteracy and poverty. A lack of educational facilities, farmers' threats to dismiss their parents or the poverty of their parents often forces farm workers' children into this cycle - and the children's children will face the same fate unless the state effectively introduces appropriate policies and legislation.
- 3.2 Thousands of families, facing poverty and unemployment, depend for their survival on the complementary income of their children. A ban on child labour may mean many families may be detrimentally affected. However, arguments against the use of child labour include:
- Employers often use children because they are much more easily exploited.
 - Lack of employment opportunities for adults often contribute to poverty in families. Where children do the work that adults should do, this contributes to a higher level of unemployment of adults. Women, in particular, are often disadvantaged in the labour market through the use of child labour.
 - The possibility of earning an income

encourages families to allow children to work even where this negatively affects their welfare and schooling and thereby their future.

- Enforcement problems of child labour provisions increase when many employers are exempted from this prohibition, especially in wide exemptions (such as exempting all employers in a specific sector). Problems with enforcement are particularly acute in rural areas.

- 3.3 As a rule child labour shall be prohibited up to the age of 15 years or until the child has completed compulsory schooling. Where work is likely to jeopardise the health, safety or morals of a young person, the prohibition on child labour shall be extended to 18 years. The prohibition shall also be extended to protect children who want to continue their education, even if they have completed compulsory schooling.
- 3.4 The state is also responsible, however, for encouraging development that will free people from the poverty which forces children to work. Farm workers also need adequate social infrastructure to free children from household duties such as looking after the house, siblings or sick household members during school hours.
- 3.5 The law shall prohibit the victimisation by employers of parents who refuse to grant permission for their children to work.
- 3.6 Well motivated limited exemptions to the prohibition on child labour may be granted. These exemptions shall be administered by the state department responsible for child welfare and not the labour department, since the primary consideration in granting exemptions shall be the welfare of the child. Before granting exemption, the department shall obtain comment from people and bodies who have closer knowledge of the circumstances, such as teachers at the school servicing the relevant farm.
- 3.7 Government officials shall, however, not have the exclusive power over the granting of exemptions. The law shall require that other bodies, such as the Child Welfare Society, take part in considering an application for exemption. These bodies shall also be involved in deciding under which conditions exemptions can be granted, if at all.
- 3.8 Enforcement of legal provisions shall be made more effective. A sufficient number of inspectors will be appointed, and these inspectors will be deployed widely in the rural areas. Inspectors and officials from all departments dealing with farms (including the labour and health departments) shall be responsible for reporting instances of child labour and, where appropriate, of enforcing child labour provisions. It is necessary that the enforcement function not be limited to one department because of the long distances in rural areas and the isolation of farms. In addition accredited public and private child welfare bodies shall also have the power to take immediate action where employers transgress legal provisions on child labour.
- 3.9 The state should set in place a constant and extensive monitoring programme of the incidence of child labour in South Africa and the problems caused by this practise.

4 Right to family life

- 4.1 The basic right to family life for farm workers and the civil and human rights of individual family members shall be acknowledged by the state.
- 4.2 Workers living on the farm where they work shall be ensured the right to have their families with them.

- 4.3 Migrant, seasonal and casual workers shall have a right of easy access to or regular cohabitation with spouses and dependants. Appropriate family housing shall be provided by the farmer at the place of work or within a reasonable distance. This provision shall not serve to discriminate against migrant workers whose families live far from their work place and they shall be protected in this regard by the unfair labour practice provisions. They shall be assisted with both transport and adequate and regular leave intervals to meet their social obligations.
- 4.4 Farm workers shall be allowed to exercise their parental rights and duties, which include providing shelter for their dependants, their educational and developmental needs as well as their psychological and social well-being. This requires, at least, the right to live with children as well as the right to easily accessible and affordable education which is not tied to the employer.

5 Migrant and seasonal workers

Migrant and seasonal workers shall enjoy the same rights as other farm workers. In addition the following shall apply:

- 5.1 Measures to protect migrant workers and their families shall be enacted, according to guidelines of the relevant ILO conventions and recommendations. Seasonal workers who are recruited more than a short distance (eg 50km) from the work place shall enjoy the same additional protection as migrant workers.
- 5.2 Protective measures for migrant workers shall include:
- (a) Specific conditions of employment and information regarding work and living environment shall be described in detail in a written contract, but agreements regarding improvements of conditions of migrant workers need not be in writing. Workers shall receive copies of contracts when and where they are recruited. Because most farm workers are illiterate, they shall not be bound to the written contract if they can prove that something else was agreed upon. Farmers and their agents shall not have this freedom, because it can be expected that they are literate and will write into the contract measures that protect their interests.
 - (b) Employers will be bound to undertakings made by their recruiters.
 - (c) A maximum period that migrant workers can be bound by contracts shall be set. Workers shall, however, have the first option to return to the job when such work is again required by the farmers, to encourage the development of continuous employment relationships.
 - (d) Recruiters shall be responsible for providing free, adequate and safe transport for migrant workers (and their families, where applicable) to the workplace.
 - (e) If so requested by migrant workers, employers shall provide free, adequate and safe transport back to where they were recruited during annual leave, after the contract period, and also when the workers
 - become ill for a long period and want to return,
 - resign because the employer did not comply with the contract,
 - are retrenched, or
 - are unfairly dismissed.
- 5.3 The potential for mistreatment of foreign and refugee workers applies especially to those working illegally in South Africa because the workers' fear that the employer will hand them over to the authorities. Labour rights of citizens will apply to them and mechanisms aimed at protecting such

workers and at counteracting such practices shall be introduced.

- 5.4 Specific concerns of seasonal workers falling outside the protection of migrant workers shall be addressed in legislation, to ensure:
- Clearly defined rights to re-employment.
 - That family members of farm workers shall be free to choose whether or not to do seasonal work.
 - Adequate housing and transport arrangements.
 - That women seasonal workers' right to housing during employment will be specifically addressed as is set out in 2 above.
 - Fulfilment by the employer and the state of their responsibilities during off-season periods, eg public works programmes etc, as is set out elsewhere in this document.
 - That other relevant factors are addressed.

6 Disaster relief

- 6.1 Farm workers and their families shall be direct beneficiaries in the allocation of disaster relief in rural areas. Concerns of seasonal workers shall also be specifically addressed in disaster relief measures.
- 6.2 Structures shall be created to ensure joint decision-making on application of disaster funds in agriculture, involving employers, the state, farm workers and their organisations (or, where these do not exist, service and church organisations with their interests at heart). Where appropriate, allocation of relief to farmers shall be subject to conditions addressing the concerns of farm workers, such as continued employment. Farmers shall not be able to profiteer from relief schemes.
- 6.3 An early warning system, including nutritional monitoring of farm workers and their children, shall be put in place.

Section D Enforcement

- 1 The state shall adopt and support a coordinated strategy in respect of the effective enforcement of the rights of farm workers. This strategy will take into account the particular difficulties under which farm workers labour and accordingly enforcement mechanisms will be so designed as to meet such problems. The coordinated strategy will identify and support all mechanisms of enforcement which give effect to the rights of farm workers.
- 2 The organisation of farm workers and other rural people will be the main guarantee that any newly-won rights are implemented, safeguarded and expanded. Farm worker unions will be best placed to ensure that discrimination and other infractions of rights do not occur. However, it is clear that a significant portion of farm workers will never be organised effectively, especially in areas where their numbers on individual farms are small and where farms are isolated and distances long.
- 3 The following mechanisms of enforcement will be created, supported and adapted so as to address adequately the rights of farm workers:
 - 3.1 The state shall monitor violations of legislation affecting farm workers (including conditions of employment and health and safety) so as to provide accurate information to all interested parties. Such parties shall also be permitted and encouraged to play a role in monitoring and to raise their concerns independently.
 - 3.2 The office of the proposed Ombud shall be specifically empowered to deal with complaints regarding inadequacies in enforcement of farm workers' rights.
 - 3.3 The present Department of Manpower shall be restructured and reconstituted, and its officers be properly trained. Its services to the rural areas, no matter how remote, will be effectively extended. This may involve increased mobility of officials, who shall be enabled to converse in the languages of their area of responsibility. When necessary their office hours shall be adapted to accommodate farm workers' needs. The ILO conventions and recommendations on labour inspection shall serve as guidelines in establishing an effective inspectorate with the appropriate skills and powers.
 - 3.4 All rights shall have effective judicial remedies and the state shall establish and support special circuit courts with powers to enforce the full range of rights of workers with the appropriate and effective remedies. The state shall ensure that the legal process so created shall be cheap and accessible, that courts will be mobile and informal, and judicial officers impartial. Representation of workers by non-lawyers shall also be allowed. Private arbitration of rights disputes shall be provided for and encouraged.
 - 3.5 A national network of para-legals providing free legal services shall be promoted. Policy will address:
 - (a) The development of a coordinated, recognised and certified training programme to be provided to para-legals all over the country.
 - (b) The recognition of para-legals as a necessary part of the South African system of justice. They shall, for example, have the right to represent members of the public in relevant structures, meetings and tribunals.
 - (c) Appropriate state support through training, the provision of infrastructure, funding, and the recognition of para-legals and their

structures, without in any way weakening their independence, accountability and responsibility to their communities.

- (d) Coordination and cooperation between the various government departments and community-based para-legals shall be strongly encouraged.

3.6 Appropriate incentives and legal mechanisms shall promote and provide for the establishment of voluntary agricultural industrial councils with the capacity to enforce through internal mechanisms the rights of farm workers employed by employer parties (see Section E).

3.7 The enforcement of rights is only effective if farm workers, farmers and enforcement agencies are aware of these rights. The state will promote and encourage a drive to inform and educate them and provide adequate training to state officials.

3.8 Those infringements of rights which carry criminal sanctions will be properly and impartially enforced by the police, the department responsible for labour and the criminal courts.

3.9 The state will investigate and apply appropriate financial and tax incentives to encourage voluntary compliance with legislation and state policies.

3.10 Non-compliance by farmers will be taken into account in identification of land for redistribution and determination of possible compensation awards.

- 4 Other ways of enhancing effective enforcement shall be investigated and carried out.

Section E Organisational Rights

1 Introduction

- 1.1 The ANC recognises that the organisation of farm workers and other rural people will be the main guarantee that any newly-won rights are implemented, safeguarded and expanded.
- 1.2 Despite the widely acknowledged need for viable and vibrant organisation, the present combined farm worker membership claims of South African unions organising in the sector amount to only a very small percentage of farm workers. Since organisation is the most important mechanism through which rights can be established and enforced, labour federations such as Cosatu and Nactu will be encouraged to do much more to establish farm worker organisation. State support for the growth of strong and independent farm worker organisation is also indispensable.
- 1.3 The extension of existing labour relations legislation to farm workers is essential to create a climate in which organisations of farm workers, and farm and other rural dwellers can grow. Given the present state of affairs farm workers are unlikely to be able to organise effectively without adequate protective legislation.

2 Types of organisation

- 2.1 The ANC is committed to the independent organisation of farm workers, and of other rural people as part of its commitment to the development of strong organs of civil society. It shall support these organisations as independent instruments for people to strengthen their

interests.

- 2.2 The ANC opposes state interference in farm worker organisations, unless it is aimed at, and as long as it is limited to, protecting the rights and independence of these organisations. This could include measures to combat employer interference in trade unions, or to encourage independent organisation (such as those set out in paragraph 3 below).

3 The State's duties

- 3.1 The state shall adopt and carry out a policy of active encouragement of the organisation of farm workers and other rural people and shall help in the creation of a climate conducive to rural organisation. In this regard ILO conventions and recommendations will be considered and applied, where suitable.
- 3.2 In the application of this policy the state shall not interfere with the independent and voluntary character of workers' organisations, shall not be partisan, and shall ensure that these organisations are free from all coercion and repression. The state shall accommodate and promote independent monitoring of its involvement aimed at ensuring that it adheres to these principles.
- 3.3 The state shall coordinate and focus its support and encouragement of organisations of farm workers and other rural people effectively, especially in the initial stages of their development. To achieve this, the creation of an agency to monitor and facilitate the establishment and growth of rural organisation, shall be considered. Since bureaucracies tend to entrench themselves, this must be monitored by the National Labour Commission. The principles set out in 3.2 should be included in the constitution of the agency, to ensure its independence from other state interests.
- 3.4 The state's programme of direct involvement in encouraging the growth of organisation shall be limited to a time-frame set relative to success of rural organisation. In determining this period cognisance shall be taken of the fact that some categories and sectors of farm workers will remain unorganised in the foreseeable future.
- 3.5 State involvement shall include the following -
- Providing a legal environment to facilitate the establishment of organisation of farm workers and other rural people, their growth and the pursuit of their activities.
 - Enabling organisation of farm workers and other rural people to ensure that their members receive social and economic protection and benefits that correspond to those enjoyed by workers in other industries.
 - Where organisations of farm and other rural people need financial and material assistance (eg training and publications) the state shall, within the period of direct state assistance, make sufficient resources and funds available to them in a way that fully respects their independence and the interests of their members.
 - Introduction of appropriate measures to ensure that organisations of farm workers and other rural people are effectively consulted on all matters relating to conditions of work and life in rural areas.

4 Specific concerns regarding freedom of association and collective bargaining

The National Labour Commission shall be charged with

investigating and recommending on how the following and other concerns regarding freedom of association of farm workers can be addressed:

- 4.1 Farm workers who reside on the farm are in many respects subject to the benevolence of the farmer and any notion of the right to freedom of association can easily be subverted by prosecution under the Trespass Act. The necessary changes shall be made to the common law and laws such as the Trespass Act to ensure that farmers and agents of farmers cannot deny access to people who want to visit farm workers in good faith. Legal provisions shall also ensure that farm workers are free to receive any good faith visitors.
- 4.2 More specifically, farm worker organisations shall get a positive right to enter land on which farm workers work or live. This right may, however, be restricted through reasonable limitations, such as a requirement that the recruitment of members may not interfere with production.
- 4.3 The state shall seek to ensure that a climate exists in the rural areas that is free from violence, pressure or threats of any kind against trade unionists, workers and employers. The state shall also ensure that trade unionists and union members are not arrested or harassed for legitimate trade union activities.
- 4.4 Workers will have a right to hold meetings on the farm outside working hours, and where facilities exist on the farm where such meeting could be held, these shall be made available to trade unions, or any other bona fide farm worker representatives or organisations.
- 4.5 Victimisation (including blacklisting) of workers for trade union activities shall be outlawed effectively. Where employers have victimised workers, the workers shall be entitled to the privileges that they would have had, had they not been victimised. In addition, farmers who victimise workers for trade union activities will be subject to stringent penalties and the workers will be entitled to compensation.
- 4.6 Employers and farm workers will be encouraged to settle grievances and disputes as close to source as possible. However, farm workers will have the right to be represented by an official of their union or by anyone else selected by the workers in any proceedings involving their working conditions or resolution of disputes.
- 4.7 Appropriate mechanism to resolve disputes quickly shall be investigated and put into practice.
- (a) Disputes about rights could be addressed through an informal and accessible small labour court. It could be a circuit court, operating from the bigger centres. This will accommodate the development of presiding officers who are skilled in employment relations in rural areas, and could also increase the impartiality of the presiding officers because of the distance between them and local establishments.
- (b) The quick resolution of disputes regarding interests, such as where workers demand higher wages, shall be encouraged. In appropriate circumstances the law can provide for mechanisms such as compulsory conciliation to attain this aim.
- Procedures for the conciliation of disputes shall be adapted to speed up the process and new and suitable mechanisms of dispute resolution shall be found. Conciliation shall be available in the region where the parties to the dispute live. Appropriate time limits shall be determined.
- 4.8 The Industrial Council system currently established in the LRA shall apply to the agricultural industry. Agricultural employees' organisations

shall be given financial assistance if necessary, to enable effective participation. In this process every effort has to be made to discourage conflict between workers and workers' organisations.

- 4.9 Farm workers shall have the right to strike, subject to reasonable procedural requirements and internationally accepted limitations to strikes in respect of the interruption of services which would endanger the life, health and personal safety of the population or any section of the population. The ANC is aware of concerns regarding the viability of farming enterprises in the light of this right, but believes that strikes used in a responsible manner are an essential tool for workers to balance relative power on the farm, and protect their interests. At the same time, employers' right to lockout is also recognised, subject to the same procedural requirements.

[Amendment in consultation with Cosatu delegate.]

- 4.10 Farm workers shall not be evicted from housing provided to them on farms while in the employ of the farmer during legal strike or any lockout action.
- 4.11 Farm worker organisations shall have the enforceable right to stop order facilities.

Section F Farm worker Housing and Tenancy

1 Introduction

This section deals with farm worker housing and the related issue of tenure in so far as it concerns farm worker housing.

- 1.1 Housing of farm workers is at present very inadequate, often of low quality and farm workers may be thrown off the farm at very short notice. This is the result of the policies of a state which did not consider farm workers or black people in general in the setting of its policies. Farm workers' right to housing is not protected, minimum standards for housing are not enforced, and employers are not encouraged sufficiently to provide adequate housing for farm workers.
- 1.2 The following major categories of residents on the land can be distinguished, namely cash wage workers, tenants, and other farm residents and informal occupiers. Within these broad categories further relevant distinctions can be made based on different needs regarding housing and tenancy rights.
- 1.3 Farm workers have no established rights to housing, and where they receive housing as part of the employment package workers are subject to arbitrary eviction on termination of the employment contract. The future democratic state shall develop a system whereby workers get housing rights over time spent in employment, while allowing for diversity in employment, and for the diversity in worker perceptions and needs.
- 1.4 A policy on farm worker housing must address the following:
- (a) Recognition of the right to decent housing and tenure security. Specific attention should be given to housing rights after a worker retires.
- (b) Legal requirement for fair employment practices, including fairness in dismissals of farm workers and associated evictions.

- (c) The repeal of laws which farmers can use to prevent farm workers receiving visitors at their sole discretion.
- (d) A requirement that farmers contribute to the housing of their workers, within reasonable limits.
- (e) The capacity to respond to the wide range of farm worker needs regarding their housing while taking cognisance of different circumstances, geographic areas and different farming sectors. Farm workers' preferences as to living on or off the farm should also be considered.
- (f) Where farm workers own their structures, used their own building material or contributed to the materials used, they should be able to sell or bequeath them or receive appropriate compensation for such investment within the limits set out in a housing policy for farm workers.
- (g) The state shall assist farm workers to establish their rights to land on an historical or other basis, in terms of land reform policies. The existence of housing rights shall not jeopardise such claims.

1.5 Further considerations:

- (a) The major actors in the provision of housing for farm workers are the state and the farmer. Farm workers are also often required to construct their own housing.
- (b) Existing facilities in the rural areas are under-utilised as a result of apartheid's distortions and a priority should be to increase the level of their use. Racial privilege in the use of rural facilities, motivated and legitimised in whatever guise, will not be tolerated.
- (c) There shall be flexibility in requirements for delivery of farm worker housing to facilitate varying preferences of farm workers and farmers and to take appropriate circumstances into account. Various options of housing farm workers must be explored.
- (d) Farm villages (on and off farm, with or without municipal status) can complement existing isolated settlement patterns. Where such villages are established attention should be given to the security of tenure of inhabitants. These villages are a possibility where farming operations are intensive but probably not where they are extensive. Farm villages will not be viable in many circumstances due to space and transport considerations.
- (e) Farm workers can also be housed in towns and cities in independent housing areas where they are within comfortable commuting distance from their places of work. The use of semi-abandoned towns should be specifically investigated in this regard.
- (f) The role of the urban centres is very important in meeting the housing needs of seasonal workers.

1.6 Regarding the responsibilities of a future state -

- (a) These needs will have to be judged within the confines of cost constraint.
- (b) Appropriate incentives to ensure co-operation and the construction and maintenance of adequate housing through subsidies and tax breaks, for example, shall be developed. Housing subsidies can also be paid directly to workers in appropriate circumstances.

- 1.7 The state shall ensure that farmers contribute to the provision of housing for their workers. State policies shall also be enforced through conditions placed on subsidies and tax breaks for socially acceptable uses of land. General state contributions to agriculture (state extension services, financial services, disaster relief and other forms of production assistance) will also be tied to support for farm worker housing by the farmer among other factors.

- 1.8 In addition a legislative programme that specifically addresses the establishment and enforcement of minimum standards of farm worker housing shall be enacted. The state shall protect especially ~~the~~ contractual rights of cash tenants by law.

- 1.9 The state will promote the development of innovative institutions such as private Community Development Trusts, which could address the housing requirements of farm workers in appropriate circumstances.

2 Workers paid mainly in cash

- 2.1 Permanent workers have a need for security of tenure of residential land, both during and after employment. Housing must comply with set minimum standards. The application of the LRA to farm workers may establish a right to housing of a reasonable standard, and will probably improve housing security, partly through negotiating and bargaining procedures. Women shall be treated as equal in the allocation of housing and concerning the nature of housing and tenancy rights.

- 2.2 The housing needs of seasonal workers are largely the same as for permanent workers but differences will arise in the procedures for the provision of housing and tenure.

- 2.3 Three options to achieve the above are:

- (a) Worker rights to housing can be part of the employment contract,
- (b) They can be established in law separate from the employment contract, or
- (c) They can be created from a combination of the employment contract and separate enabling legislation.

These options are not mutually exclusive, and all should be explored as means of entrenching worker rights to security of housing and tenure. However, in order to strengthen workers' claim to security of employment and tenure, the employment relationship shall be deemed to include the right to housing in all cases where it is claimed that separate contracts exist.

3 Tenants

- 3.1 The comments above on farm worker housing apply to regular farm workers who are paid in part or in whole through rights to use land (eg labour tenants and certain categories of share croppers), although these can be considered as special categories of tenants as well. In particular, such farm workers will have full and independent access to the range of housing options available to other waged farm workers.

- 3.2 Tenants shall have a right to compensation for improvements they have made to land and housing. Other contractual rights that may have, will also be respected. Possibilities for the registration of tenancy rights must be created, and any possible charges for such registration must be well within reach of these tenants.

4 Other farm residents and informal occupiers

- 4.1 Other classes of tenants and farm residents may also have rights which should be protected, upgraded and formalised. These rights may include rights of ownership and tenancy capable of registration, and other less formal rights in respect of land for residential purposes and/or land for productive agricultural purposes.

- 4.2 Land use rights of appropriate categories of rural

tenants shall be formalised and protected. In applicable cases, land use rights of rural tenants (and former rural tenants) will be recognised as full land rights or as lesser rights. Amongst the operative criteria will be the nature, terms and equity of the original agreement, length of occupation, birthright, investment in the land, loss and social benefit.

- 4.3 Where land owners or their agents have evicted farm workers, dependants and farm residents in anticipation of land claims, labour legislation or land reform which will accord farm workers and tenants their due rights, retrospective claims will be entertained. In such cases the affected land owners will not be guaranteed compensation. Farmers who refrain from such evictions will be eligible for compensation in the event of redistributive land claims, in accordance with the principles of the ANC policy on land and land reform.
- 4.4 Further incentives for farmers will be considered to encourage the maintenance of tenants and others without legal title on the land.
- 4.5 Informal occupiers of the farms shall be protected against arbitrary and unreasonable action against them. All workers, tenants and occupiers shall be guaranteed the basic right, embodied in a Bill of Rights, that no one shall be removed from his or her home except in terms of an order of court and that no court shall make an order authorising the removal of a person from his or her home unless it has taken into account the existence of appropriate alternative accommodation. Depending on the circumstances they must be able to formalise their position and protect their tenure for both residential and farming purposes, access to residential land, and access to farming land.

Section G Farm Workers and Land Reform

In general, the land reform debate is taking shape around small and medium scale farmers as the principal beneficiaries of extensive agrarian restructuring. Whilst there will still be large commercial farmers, the proliferation of a small and medium scale farming class has important implications for the establishment, protection and enforcement of farm worker rights across the sector.

The ANC commits itself to farm workers as an important segment of an overall land reform programme. It therefore is concerned to ensure the following:

- (a) Workers who wish to become independent producers shall be assisted to do so. The criteria whereby farm workers would be eligible to receive land under a land reform programme needs to be specified.
- (b) Workers who wish to protect their employment rights are able to do so, even against beneficiaries of a land redistribution programme.
- (c) Direct and indirect incentives to protect and enhance workers' right will be built into assistance and development programmes for small and medium scale farmers.
- (d) Small and medium scale farmers will not be established at the expense of or to the detriment of farm workers.

Regarding the demands of labour tenants and other occupants of farms to have their land use and residential rights upgraded and formalised, refer to Section F above.

Section H Political Rights

1 Participation in national elections

The following concerns shall be addressed by the ANC elections committee:

- (a) Due to decades of exclusion from political process, many farm workers may be ill informed or apathetic and cynical regarding participation in the process. A wide campaign shall be launched to inform farm workers and other rural people of the importance of political process, of the various considerations in this process and on reasons why they should participate. In this campaign the circumstances of farm workers, and the conditions under which they live, shall be considered, such as the isolation of many farms and wide-spread illiteracy.
- (b) Attention shall also be given to voter education and to the registration of farm dwellers as voters.
- (c) All political parties and groupings shall have a legal right to enter private land to obtain access to potential voters. This right shall be limited by individuals' right to personal privacy and, with respect to workers, to time outside working hours.
- (d) The ANC must address the urban bias in the national political process, and within its own political programmes.
- (e) Farmers often have substantial physical control over issues such as access to information. Due to the potential for political bias, farm workers shall be given effective protection against undue influence from farmers.

2 The role of farm workers and local government

The ANC department on local government shall keep the following in mind in development of local and regional government policy:

- (a) Local government structures have historically been inadequate to cater for people living on farms. In order to address the imbalances in the supply of services to rural areas, attention shall be given to the needs and aspirations of farm workers and their families.
- (b) Local government in rural areas shall be restructured, and special provisions shall be made for participation by farm workers. An appropriate system of local government shall be created, and farm workers must be able to participate directly in elections on a common voters' role and have a say in the control over and decision making of local government.

Section I Education and Training

1 Introduction

The ANC believes that education and training is a basic right of all South Africans. The situation in agriculture poses a great challenge for achieving this right for farm workers and their families.

2 Basic adult education and technical training for farm workers

- 2.1 There has been no adequate or easily accessible training system for farm workers. Most training consists of on-the-job "do-as-I-do" variety. There training programmes and facilities do exist, they are designed only to meet short term, narrowly defined needs of the farmer and reach a small minority of farm workers. The greater their social disadvantage, the smaller is their chance of participating in training. The form of training presently underlines and reinforces the existing racial, gender and social hierarchy in white commercial agriculture.
- 2.2 The short and medium term development of farm workers rests on a concerted literacy programme that meets their basic educational needs as adults in a literate adult society. Literacy training should be provided to all interested farm workers, during working hours at a time arranged between the employer, the workers and the training agency. Without this any literacy programme is likely to be ineffective.
- 2.3 The ANC is also committed to the formulation of a policy designed to promote, by appropriate methods and by stages as necessary, the granting of paid educational leave for the purposes of -
- training at any level
 - general, social and civic education and
 - trade union education.
- 2.4 Adult basic education as well as technical training for farm workers shall be integrated within national adult basic and continuing education programme which shares, expands and develops institutional, curriculum and personnel resources. This will then fit into the national education and training system, which will be designed so as to allow people to move between different forms of education and training provision.
- 2.5 Technical training and adult basic education shall be certified. This certification shall be recognised by and linked with the national education and training system of qualifications and certification. While increasing the skills of the farm workers, it will also increase their bargaining power. A grading system could be developed in consultation with agricultural employers, which will link increase in skills with increased wages and other conditions of employment. This will provide additional motivation to workers to participate in training.
- 2.6 Employer or NGO initiated projects are insufficient to address the literacy, education and training needs of farm workers. The state shall intervene at a national and local level and develop a programme into a condition of employment in the sector. Training and education initiatives by employers and NGO's shall be integrated with the national system of accreditation for courses. This need to be addressed in a cohesive fashion to ensure proper allocation of resources and avoid duplication and wastage.
- 2.7 A standardised and regulated training board shall be constituted, with direct and participation of representatives of employers and farm worker organisations and other interested parties. The training board shall rationalise existing training facilities. It shall ensure that training provision meets the very different needs and

expectations of workers as well as farmers and address certification and the setting of standards of training and facilities.

3 Children

- 3.1 The apartheid state has given the responsibility for the building of farm schools to the farmers, but has not made it obligatory. Since it has taken over private and church schools in the 1950's, its policy has been to give subsidies (now 100% of the building costs) to farmers who build schools on their land. The state also provides furniture, textbooks and teachers' salaries. The school remains the private property of the farmer despite the state's considerable financial input.
- 3.2 Because the state has not taken responsibility to build farm schools, farmers have had to bear an unfair burden, also in managing the schools after they have been built. Many have done so with honourable intentions. However, farmers then own the schools and have total authority over the existence of the schools on their property. They can open and close these schools without giving reasons. This power has often led to abuses.
- 3.3 Farm children have limited access to schooling and many schools have no toilets or other necessities. Buildings are often in a state of disrepair. The distribution of farm schools is very poor, since the provision of schools depends on farmers' initiatives rather than proper national planning.
- 3.4 The state will ensure that rural people, and their particular conditions and circumstances, will be considered in the development of an educational policy for the country as a whole. The ANC policy of free and compulsory schooling for a minimum of 10 years shall apply to all farm workers as well.
- 3.5 The state shall ensure that:
- The governance of schools for children living on farms shall the same as that of other state schools.
 - The state, together with bodies of parents, teachers, students and the wider community, have control over farm schools in accordance with new state policy regarding the governance of state schools.
 - Adequate number of schools, including secondary schools, be provided in rural areas, taking into account the distribution and densities of the rural population.
 - Children have effective access to such schools, through providing adequate transport to schools and through establishing a right to cross private land if this is necessary to gain effective access.
 - Certain minimum standards are adhered to, such as the provision of adequate water and toilet facilities at schools.
 - State expenditure on farm schools be distributed in a fair and informed way to all schools.
 - Where appropriate, particular provision should be made for other types of schools (for example private) as long as they do not undermine the principles outlined above.
- 3.6 In the short term measures will be introduced to ensure that farm schools remain open while negotiations are proceeding and new policies and legislation are formulated.
- 3.7 An appropriate national forum shall be constituted to draft regulations for the transfer of state aided farm schools to state ownership (which should be promulgated) and to monitor the progress. Educational authorities shall be bound by these guidelines.

- 3.8 The state will regard rural schools as community learning centres oriented around the social, educational, health and recreational needs of the broader farm community, and accessible to this constituency. Sufficient land to accommodate not only the formal school but these additional community facilities should preferably also be acquired by the state.
- 3.9 The isolation of many schools has the effect that farmers must provide teachers with accommodation. Farmers also have the power to order teachers off the school premises and to have them arrested for trespassing if they do not leave. The state shall ensure that adequate accommodation for farm school teachers is provided, and must ensure that they are protected against exploitative demands and practices. Teachers' of rural schools shall be provided with housing or a housing allowance. Teachers shall be free to join organisations of their choice.
- 3.10 The state shall give special attention to the provision of child care services in the rural areas, and on the farms in particular to prevent children being withdrawn from school to fulfil child care duties. Child care services shall include after school care.

Section J Social Welfare

1 Introduction

- 1.1 The ANC is committed to the development and establishment of an adequate social security net for all South Africans.
- 1.2 The state shall therefore ensure that all South Africans, irrespective of race, colour, religion and gender, will attain basic social welfare rights through the establishment of a democratically determined, equitable, just and effective social welfare delivery system.
- 1.3 A comprehensive range of services shall be provided for farm workers, as for all other people in our land, addressing among others child and family welfare, social security, alcohol and substance abuse, and mental and physical health.

2 Unemployment benefits

2.1 Unemployment insurance

- (a) The present Unemployment Insurance Fund is a short term insurance fund, and can cope only with the problem of irregular unemployment. Such an insurance fund cannot address longer term structural unemployment.
- (b) To cope with longer term unemployment other mechanisms are necessary, such as public works programmes. The National Labour Commission must also investigate a more adequate social security system.
- (c) Delivery of UIF services is not accessible enough to farm workers. Procedures are complex and farm workers have to travel to urban centres to claim benefits. The state shall ensure that UIF services are freely available and accessible to farm workers.
- (d) The state shall ensure effective monitoring

and enforcement of rights to unemployment benefits and improve possibilities for retraining of the unemployed.

- (e) Seasonal workers shall, as far as is financially possible, be incorporated in UIF. Public works programmes shall be run on an off-seasonal basis for seasonal workers. Since employers of seasonal workers benefit from the unemployment of workers who are therefore available for work in the season, the state may require that they contribute to such a programme.

2.2 Public works programmes

The state shall develop public works programmes which will:

- Address long-term structural unemployment.
- Address seasonal unemployment during the off-season.
- Contribute to fulfilling the need for adequate infrastructural development in the rural areas, focusing on areas where this has been neglected in the past.

3 Old age

3.1 Housing of retired farm workers

- (a) The state has primary responsibility for housing for retired farm workers.
- (b) However, the right to housing upon retirement for workers who have long terms of service or have established generational rights (refer to Section F.4) also need to be addressed. They will be entitled to housing on the farm on which they have worked or lived, if they so choose or compensation.
- (c) Other arrangements for workers who establish tenancy rights can be negotiated between themselves and the farmers, operating within more generalised criteria for upgrading of tenancy rights.

3.2 Pension and provident funds

- (a) State pensions shall be available to all those who meet the relevant criteria. All social pensions, including those for the aged, will be equalised and the dignity, safety and convenience of recipients will always be observed.
- (b) The state will probably not be able to increase state pensions dramatically and pensions are therefore likely to remain inadequate. Contributory provident funds (referred to be below) shall therefore supplement state old age pensions, rather than replace them. State pension rules must be amended to ensure that only pensioners who receive more than the state pension from contributory schemes may lose any of their state pension.
- (c) Present procedures for claiming pensions are complex and pension pay points are inaccessible inadequate servicing also leads to inconvenience and delay. The state shall ensure that pensions are easily accessible to farm workers, if necessary by providing free transport or introducing mobile pay points.
- (d) The state shall establish a National Farm Workers' Provident Fund in due course, which shall run parallel to other approved provident funds. The principle features of the National Farm Workers' Provident Fund will be:
- Membership of the fund will be compulsory for all farm workers, unless the farm

- worker is a member of another approved pension fund.
- It will be a defined contribution fund.
 - Both employers and farm workers will contribute to the fund. The state shall investigate subsidising contributions because high employer contributions may have the effect of reducing employment opportunities in agriculture.
 - Control of the fund will be shared between representatives of employers and farm worker unions and the state.
 - The fund should provide all usual provident fund benefits, both uninsured and insured.
 - Withdrawal benefits payable on resignation, retrenchment or dismissal will include a proportion of the employer's contribution, depending on length of contributory service, in addition to 100% of the farm worker's contributions plus a reasonable return.
 - Withdrawal benefits may be paid directly to a farm worker or transferred to another retirement scheme.
 - Withdrawal benefits may only be paid directly to a farm worker after six or twelve months have lapsed since he or she last contributed to the fund.
- (e) While the state is in the process of introducing measures to make contribution to a provident fund compulsory, employers and farm workers shall be encouraged to contribute to appropriate provident fund schemes for the farm workers.
- (f) The state shall investigate the removal of legislation which encourages membership of pension funds over provident funds.

4 Health and safety

- 4.1 The state shall seek to secure a level of health for all South Africans, including farm workers and their families, which will ensure the complete physical, mental and social well-being and not merely the absence of disease. The state has the primary responsibility to provide this health care through a National Health Service.
- 4.2 The health and safety provisions for farm workers and their families will be specifically and adequately addressed within an integrated and comprehensive rural health programme. The National Labour Commission shall investigate the range of concerns of farm workers' health and safety at work, and the department responsible for health shall investigate the broader health issues of farm workers.
- 4.3 To promote and ensure their health requires attention to the following:
- adequate shelter, clean water and adequate sanitation
 - an educational programme and advisory service
 - primary health care with participation of the recipients
 - access to health care facilities to deal with common diseases and injuries including immunisation and maternal health care
 - wages and benefits sufficient for farm workers to care for themselves and their families' nutritional and other health requirements.
- 4.4 Employers have responsibilities in the provision of health to farm workers. These include:
- (a) Transport for sick workers to health facilities, where no reasonable alternative exists
 - (b) Provision, in appropriate cases, of accommodation to workers with long service who are sick, disabled or elderly
- (c) Contribution to provident and medical insurance funds
- In this regard the national health policy shall clearly define which responsibilities lie with employers.
- 4.5 All workers, including farm workers, shall have a basic right to a safe and healthy working environment. The state shall seek to ensure the improvement of industrial health and safety on farms.
- (a) Employers shall, with respect to injuries and death at work, have a higher degree of responsibility than in other cases of illness and death. This will include extension of employers' duties to provide housing for recuperating and disabled workers, and the making available of adequate facilities for the rehabilitation of injured workers.
 - (b) Workmen's Compensation provisions for farm workers shall be at least of the same standard to provision for workers in other economic sectors. Where appropriate beneficiaries shall receive a minimum amount of compensation, not related to the wage of the worker.
 - (c) Occupational health problems of farm workers shall receive specific attention. Disease for which workers may claim compensation shall be extended to include all work related diseases and illnesses.
 - (d) The state shall ensure that farmers and farm workers are educated and informed regarding hazards on the farm and shall define employers' responsibilities in this regard. The state, distributors of hazardous substances and machinery and farmers shall bear responsibilities in this regard.
 - (e) Unions and NGO's shall also be encouraged to promote and represent workers' interests regarding health and safety. Worker representatives shall be elected to identify and report on dangerous practices, machinery and substances in order to improve safety on the farm. A system of collective bargaining between farm worker organisations and farmers shall also be encouraged to ensure that measures to protect and promote the health of farm workers and their families are implemented.
- 4.6 Farms and farming activities represent health risks to all farm occupants and the environment generally. This should be monitored and effective steps taken to protect the interests of occupants, neighbours and the environment.