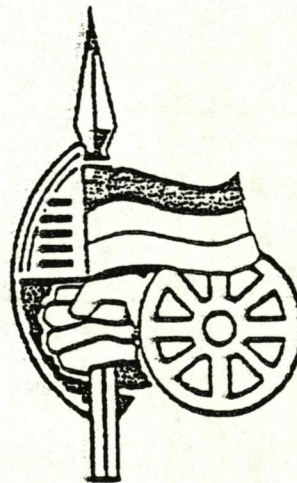


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AFRICAN NATIONAL CONGRESS
Working Document

A Policy on Farm Workers



August 1993

History of this policy document

A first draft of this policy document was drawn up after a national workshop of service organisations addressing the needs of farm workers, which was held in Stellenbosch in the middle of 1992. This draft was widely distributed within the ANC (to all regions, ANC departments, and the women's and youth leagues), Cosatu and the CP (as ANC alliance partners), many service organisations working in the area, the South African Agricultural Union (with a request that they distribute it widely to their constituent regions and organisations), producer organisations and bodies such as the World Bank and was also freely available to all who requested a copy.

Many comments were received and the document was redrafted taking these into account. The redrafted document formed the basis of a National ANC Policy Workshop that was held on 8 and 9 June 1993. This policy was adopted on 9 June 1993 in Johannesburg at the Policy Workshop (except for small language changes and additions made in the subsequent process of consultation).

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The ANC Land and Agriculture Desk hereby wishes to express its sincere appreciation to ANC members, organisations and other individuals, but especially the NGOs working on farm worker issues, for their time and assistance in the drawing up of this document.

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This policy document will be available shortly in Afrikaans and Tswana.

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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 essential for the social economy of our country. This is so even though it is a small contributor to economic production. 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 hardship.
- 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 infrastructural development to reorganise, sustain and extend agriculture.
- 4.4 Historically state policies which have encouraged cheap labour and capital intensive production have had negative effects on farm workers and their dependents. They have also negatively affected the shape of commercial agriculture, detrimentally impacted upon sustainable rural development and disastrously distorted the relationship between town and countryside in South Africa. The present political, economic and social crisis in rural South Africa has reached major proportions.
- 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 this dislocated sector.
- 4.6 Farming in South Africa is not conducted in a sustainable manner, either from an economic or an environmental perspective. It is therefore in society's broader interests as much as it is in the particular interests of the farm working community that the sector is significantly reorganised in a socially just manner.

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 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 (for 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

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 must 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.
 - (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 As with all other people, the state shall protect farm workers 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 have a right to reasonable annual and sick leave in accordance with international standards and the better practices 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

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 through indirect measures and incentives.
- (c) As with other industries, sections of the agricultural workforce will not be organised into workers' organisations effectively. Even in sectors where full unionisation can eventually be achieved, this process will take time.
- (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

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

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 is 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, advice offices and centres 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 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 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 regional and local differences sufficiently into account 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 shall be investigated and coordinated by a National Labour Commission or Council, where employers, employees, other affected groups and organisations (such as civics, organisations of rural dwellers and service organisations addressing the concerns of farm workers) 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

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 Some farmers do treat farm workers fairly. Where this happens, it should be acknowledged and other farmers be encouraged to follow suit.

A. Introduction

- 1.5 This policy focuses specifically on farm workers. For the purposes of this document the term *farm workers* includes people working for a wage in commercial agriculture, their families and anybody else who has a link with farmers or farms in any way related to an employment relationship with an owner or any category of tenant (including share cropper) of agricultural land or who live on commercial or state-owned farms. 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, and their dependants must still be addressed comprehensively.
- 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 must 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 must 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 elsewhere.