

You entered & will leave through that gate

Decent work deficit amongst farm workers

Farm workers are amongst the most vulnerable workers in Gauteng Province. With low pay and seasonal or casual workers, unions find them hard to organise, writes **Mbuso Nkosi**.



William Matlala

Jacklyn Cock says South Africa is facing a deepening food crisis with 40% of households described as 'food insecure' and one in every four children under the age of six showing signs of stunted growth due to malnutrition. In this report we shift attention from food as a crucial item of consumption to a focus on the work and living conditions of those who produce the food.

We use the metaphor of the 'gate' as it is constantly evoked by farm owners and farm workers as a symbol of the tight boundaries through which employers exercise, their power over the entry and exit of employees to their private property. Drawing on a sample of

600 farm workers in the province of Gauteng, we present the findings of a questionnaire administered to workers engaged in field crops, livestock and horticulture.

In order to capture the experience of working life, we carried out in-depth interviews and also had focus group discussions. We also interviewed employers, employer organisations and the Food and Allied Workers Union (Fawu).

The National Labour and Economic Development Institute (Naledi) remarks that in spite of an estimated 34 unions organising in an agricultural sector of nearly 800,000 workers nation-wide, union density is only 3%. The South African Human Rights Commission (SAHRC)

explains this lack of success to the unequal power dynamics suggesting that the rural farming sector is characterised by feudalistic social and economic relations.

Others argue that employment relations in commercial agriculture have undergone significant change under the impact of trade liberalisation and the withdrawal of subsidies provided by the apartheid government. Researches Clarke, Godfrey, and Theron conclude: 'Historically the agricultural sector relied heavily on permanent workers that lived and worked on the farms. Farmers are increasingly moving away from employing permanent (and resident) workers and instead are employing seasonal and temporary workers'.



In the field: Women are part of the farm labour force.

This report explores ways to assist the provincial government of Gauteng to realise progressively the goal of decent work amongst farm workers.

EMPLOYMENT TRENDS

The number of farm workers employed in commercial farms has declined from 1.1 million in 1993 to 796,806 in 2007. The number of farm workers in Gauteng employed in commercial agriculture in 1993 was 34,302 and in 2007 34,936 – a 2% increase. According to the South African Institute of Race Relations, in KwaZulu-Natal and the Free State the number of farm workers

in the commercial sector declined by 39%. The largest decline was in Mpumalanga by 45%.

The Department of Finance say employment relations in commercial agriculture have undergone significant changes under the impact of trade liberalisation and withdrawal of the subsidies provided by the apartheid government.

By 2007, workers employed on a continuous full-time or part-time basis (permanent workers) dropped down to 54.2% while that of temporary workers employed for a specific period of time (seasonal workers) and casual workers (intermittent or 'stand by' workers) climbed to 45.8%.

There were 34,936 farm workers in Gauteng in 2007 (22,979 full-time (65.8%)) with a total remuneration of R534,083,000 per annum and 11,957 (33.9%) were casual and seasonal workers earning R93,461,000 per annum. Gauteng has the largest proportion of full-time employees, although it has also the smallest agricultural output when compared to other provinces.

It is clear that labour has been casualised on South African farms – particularly between 1996 and 2002. The casual share of total farm labour increased from about one third to almost one half by 2007. Despite widespread recognition of the very low earnings of casual/seasonal farm workers, no effort has been made by the statistical authorities to regularly monitor their real hourly or annual wages.

Instead, average nominal farm wages lump the wages of managers, foremen and permanent workers together with those of casual/seasonal workers. This data, collected using out-dated and sloppy methods, conceals very wide variations in levels of remuneration across different types of farm workers, clouding the characteristics and trends suffered by poor rural households.

In contrast, a careful and relatively recent study by the International Labour Organisation (ILO) in the Eastern Cape found wage rates for casual farm workers of R4.26 per hour in 2008. This is well below the official minimum wage, which fell in real terms in 2007 and 2008.

Farmers have used casualisation, immigrant labour and, increasingly, labour brokers to evade labour legislation. Studies say rural contractors pay much lower wages than direct employers. Human Rights Watch (HRW) remarks that evasion has been facilitated by the state's failure to employ or support a reasonable number of labour inspectors in rural South Africa.

PROFILE OF FARM WORKERS

According to the Department of Labour (DoL) 70% of workers in agriculture in South Africa are male. In Gauteng 64.7% of the farm workers are male. PROVIDE says although some have secondary education, only 25.1% have completed matric. While only 15.7% of workers in the agricultural sector in Gauteng can be classified as skilled, 29.45% of the non-agricultural workforce has matric, and 11.98% have a post-matric qualification.

Poor health and the large number of accidents have always been a problem in agriculture. The growing number of displaced rural workers, now flooding rural informal settlements, has led to a further deterioration of health and safety on the farms. This has been well documented by Leslie London from the Occupational and Environmental Health Research Unit, School of Public Health and Family Medicine at the University of Cape Town. London has argued for some years that the international human rights conventions actually provide quite a lot of leverage to address occupational health as a right.

Tanusha Singh, Head Immunology and Microbiology, NIOH, at the University of the Witwatersrand, has produced evidence for a high prevalence of exposure-related symptoms in poultry workers, and argues for improved hazard controls. Research has shown that dust as an occupational hazard for farm workers, results in over-exposure to respirable quartz which causes silicosis in miners.

London and others have shown that farm workers who survived acute poisoning with pesticides were more likely to develop long-term neurobehavioral symptom disorders. This research showed how the Department of Health (DoH) surveillance system for notifiable conditions (of which, surprisingly, pesticide poisoning

is one), undercounts poisoning by about 90%, and particularly occupational poisonings and poisonings involving women!

With regard to child work, there are only about 8,000 children aged seven to 17 years in South Africa engaged in agricultural activities (6.6% of the child work total) with the majority, 70,000, engaged in trade (58.1%).

According to Stats SA of those who do engage in agricultural activities 69.4% worked for less than 14 hours per week. Importantly, 97.9% of all young people in SA working in agriculture or other labour markets listed below are attending school.

INDUSTRIAL RELATIONS

Farm workers are not covered by a bargaining council as no trade union is sufficiently representative of the agricultural sector. Instead provision is made for the Minister of Labour in terms of the Basic Conditions of Employment Act (BCEA) of 1997 which establishes sectoral determinations to regulate minimum conditions where there are unorganised and vulnerable workers. In March 2003 the sectoral determination that sets the minimum wages for all farm workers was passed by the DoL.

Among other things, the sectoral determination requires that employers pay at least the minimum wage, including no more than 10% for food and 10% for accommodation. It requires employers to provide written particulars of employment, paid annual leave, sick leave, and maternity leave, regulates hours of work, including payments for overtime work on Sundays and public holidays. It also prohibits child and forced labour.

The BCEA is supplemented by four other Acts:

- The Skills Development Act 1998 aimed to improve skills by improving investment in training and development.

- The Occupational Health and Safety Act 1993 provides for the health and safety of persons at work and the Compensation for Occupational Injuries and Diseases Act of 1997 for compensation of losses due to occupational injuries and diseases.
- The Unemployment Insurance Act 2003 establishes, from contributions made by employers and employees, an insurance fund against which employees may draw when unemployed, on maternity leave or as illness benefits, or for their beneficiaries.
- The Employment Equity Act 1998, which sought – against the racially discriminatory background of apartheid – to promote equal opportunities in the workplace by eliminating unfair discrimination in employment practice or policy. However, farmers need only report if they have 50 or more workers.

UNION MEMBERSHIP

Reliable figures on trade union membership are difficult to find as ‘a true estimate of the number of farm workers belonging to unions is virtually impossible’. Naledi estimates that there are 34 unions organising in the sector, but in spite of the large number of unions, union density has rarely exceeded 10% in the post-1994 period: in 2003 it was 6.6%, in 2007 10.2%, and by September 2011, 3.4%.

‘Farm workers have the second lowest union density after domestic workers whose union density lies at 0.9%. Fawu is the largest trade union in the sector with approximately 120,000 members.’ However, Fawu organises very few farm workers, concentrating instead on food processing workers. Most of the unions do not focus only on farm workers.

OBSTACLES TO ORGANISING

What are the obstacles to organising farm workers? The SAHRC focuses on the unequal power dynamics suggesting that the rural farming sector is characterised by feudalistic social and economic relations. The SAHRC noted that:

- The power of farm owners extends to ownership of land, employment and access to economic and social needs.
- Farm dwellers are totally dependent on farm owners for their basic social and economic needs.
- The massive power of the rights relating to land ownership in the rural areas means farm dwellers are effectively restrained from enjoying their constitutional and other legal rights.
- Land owners hold the concept of land ownership as an absolute stand-alone right that cannot be limited or interfered with.
- Access to farms and consequently to farm workers is strictly controlled by farm owners who raise issues of safety and security to block such access.

The crucial significance of safety for farmers led AgriSA and Transvaal Agricultural Union of South Africa (Tausa) to negotiate in 2001 the National Guidelines for the Protection of Farms and Smallholdings with the South African Police Force (SAPS) and the SANDF 'to find solutions to the high incidence of farm attacks'. The Guidelines draw on the commando system, a group of part-time volunteers, who are divided into 'cells' to 'enhance rural safety', says Naledi.

At the centre of these Guidelines is the Protocol for Access to Farms agreed to in 2001 'to improve control of persons moving onto or crossing farm property'. Union representatives, defined as 'private persons without statutory rights', may only in 'highly exceptional cases' be allowed access to the farm 'and then only with prior and explicit arrangement with the owner'.

Naledi identified the following obstacles facing trade union organisers in this sector.

1. The geographical spread of farms often with long distances between farms and between urban and peri-urban settlements.
2. Fears of intimidation and victimisation of farm workers and union organisers by farmers.
3. Inability of union officials to access farms when farmers assert their right to private property and use safety and security concerns to prevent access.
4. Harassment of union officials.
5. Huge educational differentials within the employer/employee relationship.
6. Structural inefficiencies and restructuring of the agricultural sector.
7. Farmers' fears and uncertainties.

In addition to the above obstacles, employment relations in the sector have also changed with the increase in the numbers of casual and seasonal workers. Naledi cites a key worker with almost 30 years' experience of organising in this sector saying that the rise of atypical employment has had grave consequences for union ability to organise farm workers.

'It has had a devastating impact on the ability of unions to organise farm workers. Casual and seasonal workers have no stability, they move from farm to farm and from region to region depending on where they can find work. Labour broker workers on the other hand belong to no one and as an organiser you do not know who their employer is.'

Another worker adds: 'More than any other sector of the South African economy, the impact of atypical employment has been most pronounced in relation to farm workers. In most areas, for example, in citrus and avocado farms, farmers prefer seasonal workers. Unions are unable to establish relationships with such workers and it is difficult to recruit them. There is also the problem of migrant workers

who are exploited extensively by farmers.'

Continues another worker: 'Agriculture work is seasonal in nature. A seasonal worker does not have the full protection of labour laws and he or she fears that by joining a union, he or she will lose the job. Unions struggle to organise such workers. For contract workers, it is even more difficult as there is no employer in the true sense. It is therefore difficult to know who to deal with, is it the farmer or the labour broker? Many labour brokers are ex-farm foremen, who as business people, take the bulk of the money paid to farm workers as service fees.'

The challenge facing unions is that their organising strategy has been based on a traditional model of union organisation, which relies on access to workers at the workplace. This model also relies on building a good relationship with the employer to gain access, but with farm owners voicing their concerns about farm murders, most trade unions have been declined access with the farmers evoking the private property clause.

The use of the 'right of private property argument' has contributed to the difficulties facing union organisers in the sector. HRW and Naledi say workers also fear victimisation and losing their job if they join a trade union. The report suggests that, given the problems with access, unions should try targeting farm workers when they go to grocery stores, shebeens, and clubs. ¹⁸

Mbuso Nkosi is an alumnus of the Global Labour University at the University of the Witwatersrand. This article is adapted from the report titled, 'You entered through that gate and you will leave through that gate: The decent work deficit amongst farm workers in Gauteng'. The researcher acknowledges the support of the Gauteng Department of Economic Development.