

Can a law determine better living?

The Department of Labour (DoL) had hopes that the new minimum wage legislation for farmworkers would help to remedy poverty in the rural areas. **Lali Naidoo** and **Lebo Manganeng** use a survey to evaluate how successful this policy has been.

During the apartheid period the agricultural sector was excluded from labour legislation. In the 1990s however, government extended key labour laws to the farming sector. These laws regulate working conditions and govern employer-employee relationships but did not deal with setting minimum wages. The absence of union and collective bargaining structures in agriculture meant that farmers set their own poverty wage levels.

After doing research, the Department of Labour reported that farmworkers were the lowest paid in the formal economy. Yet these agricultural wages were of vital importance to rural households. In the light of this, it decided that the introduction of a minimum wage for the farming sector would improve the conditions of rural dwellers and lower poverty levels.

The Basic Conditions of Employment Act (BCEA) enables the Minister of Labour to make sectoral determinations where workers are not organised. In March 2003 the department published Sectoral Determination 8 for agriculture in order to regulate wages and basic conditions of employment. The Determination sets out minimum rates for monthly, daily and hourly paid workers. Minimum wages are set according to municipalities and wages for farms falling under different municipalities so as to take into account differing circumstances.

ARE FARMERS IMPLEMENTING?

Between 2003 and 2004 the East Cape Agricultural Research Project (Ecarp) conducted a study in the Makana, Ndlambe and Sunday's River municipalities in the Eastern Cape. The survey throws an interesting light on how the determination is being implemented. The study covered 465 workers (297 men and 168 women), who were mostly paid on a monthly basis.

Ecarp found that the determination has brought some improvements. At the same time, as with the domestic worker sectoral determination (see p56), there was widespread non-compliance. Farmers ignored important provisions such as the issuing of proper pay-slips to workers, payment for overtime and Sunday/public holiday work, and deductions from wages.

WAGE CHANGES

The survey found that there was a higher level of compliance with the minimum wage aspect of the determination than with other provisions. However, widespread non-compliance with the minimum wage occurred in the first year, 2003.

In the study, 33% of workers earned less than R400 a month before the minimum wage was introduced. This figure declined 10% after the minimum was introduced then

rose to 7% after the first increment in March 2004. The number of workers earning R800 and above increased from 8% before March 2003, to 25% after March 2003, and to 39% post March 2004.

Farmworkers who earned less than R400 a month before the introduction of the minimum were mainly in the pineapple and mohair sectors. The pineapple sector has undergone the most changes and now has the least number of workers earning less than R400 a month. There was only one worker in both sectors who earned more than R1 000 per month.

In the higher paying sub-sectors, dairy and game farms, there was a noticeable increase in the number of workers earning between R801 and R1 000 per month. More however, were earning in the R1 000 bracket in game farming. Although the study noted higher wages, 31% of monthly paid workers from pineapple, mohair, game and dairy farming were still earning below the minimum wage rates.

Farmers have applied minimum wages in different ways according to the category of worker. The determination sets the minimum monthly wage for Area A farms at R800 and at R650 for Area B farms. Improvements in wages are noticeable in both areas as the number of workers earning below R400 has lowered drastically. What has become apparent however is that many Area A farmers have given Area B increases. Full compliance in Area A has thus been lower than in Area B. In Area B 60% of workers are receiving the minimum of R650 and over whilst in Area A only 31% were receiving R800 and above.

WOMEN AND WAGES

In the survey, the difference between the earnings of men and women was noticeable. The four highest paid farmworkers were male who earned between R1 300 and R1 600.

They performed more skilled tasks while one was a foreman. The other categories of male workers earning R1 000 and above were security guards and drivers. The highest paid female worker was a domestic worker on a game farm. Her wage was R1 047 per month.

The dairy sector was a stark example of discrimination on the basis of gender. Both men and women were involved in milking cows. However women's wages were in general far lower. A man could earn as much as R1 100, whilst women earned between R400 and R800 a month.

About 56% of women were not receiving the minimum wage in 2003. Likewise, in 2004, 42% were still earning below the minimum. The job category where women dominated were domestic work (42%), gardening and maintenance, which were, not core farming activities. Some women did seasonal work and were often paid on daily and hourly rates. A number of these women had their working hours reduced with the introduction of the determination.

The sub-sectors that made the most use of women's seasonal labour were crop farms, where they were employed during planting and ploughing phases, and on mohair farms, where they sorted wool about twice a year. For some of these women, the determination had a negative impact. The scrapping of piece rates led to under-employment. Two of the women explained, 'He [the farmer] always says he does not have money. Now we only work for about two weeks but we used to work for about a month' and '[Things were better before] because then you knew that if you work five days at R15 a day, you knew for sure how much you were going to get. But now we are working per hour, and some hours he [the farmer] doesn't pay for them and pays as he likes.'

Of those women interviewed, 23 women were paid hourly or daily rates, three received pay-slips, only two were registered for UIF, and none had a pension.

ILLEGAL DEDUCTIONS

The determination allows farmers to make a 10% deduction from workers' wages for accommodation provided that the house meets certain requirements. From the survey only 11% had accommodation that met the requirements, 65% had no toilets, 84% no electricity, 86% no access to clean, reliable



sources of water while only 11% had access to water, electricity, toilets and opening glass windows. Where farmers made deductions for accommodation they exceeded the determination's 10% threshold despite conditions not meeting the requirements for lawful deductions. Unlawful deductions for accommodation were clearly high. But more than this, some farmers illegally deducted 10% from the wages of each family member sharing a house. The research identified four categories of deductions, all of which were transgressions of the determination. These were for electricity where amounts ranged between R30 and R100 per month, 10% deductions for firewood and water, deductions for livestock of between R10 and R50 per head and 10% for accommodation in cases where workers used pre-paid electricity.

CONCLUSIONS

It is clear that the department's minimum wage policy as a means of addressing poverty in rural areas is not working. Wage increases alone are not enough to alter working and living conditions. The failure of the determination to substantially alter conditions for farmworkers is a result of a number of factors. These include the old paternalistic relationships between farmers and workers, the agricultural sector's exclusion from labour laws under apartheid, the dependence of farmworkers on farmers for work and other services, and the lack of regular labour inspections and law enforcement on commercial farms.

Although wages have increased, a

significant number of workers, mostly women, still did not receive the minimum wage. The lack of complete compliance with the determination was also widespread. Although such non-compliance is not unique to South Africa, it is highly problematic because of the low base that workers come from. Farmworkers do not have access to basic services such as proper housing, water, electricity and secured tenure.

Lack of enforcement of labour and tenure rights reflects the absence of effective state support to farmworkers and dwellers. This factor combines to encourage the high rate of non-compliance. As a result farmworkers lose confidence in the ability of the DoL and other organs of state to address grievances. Farmers are also encouraged to disregard the rights of their employees knowing that the chances of getting caught and sanctioned are non-existent or extremely low.

A new conceptual framework, which adopts a pro-poor-rights-approach, is needed. Sustainable livelihoods and improvements in living standards should be the basis of any policy. This framework needs inter-disciplinary and inter-departmental government interventions and a multi-faceted approach, as it would be unrealistic to expect a single department to deal with all farmworker conditions. For the determination to work effectively in addressing the conditions of rural workers and dwellers, it has to be linked to a broader agrarian transformative strategy, which includes access to land.

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This is an edited version of a paper written by Naidoo and Manganeng of Ecarp.