

# *Labour law* *in* **agriculture**

JOHANN HAMMAN\* argues that industrial councils and corporatism provide a solution to the special conditions of agricultural production.

South Africa's democratisation and reintegration into the world economy has unleashed changes which pose critical challenges to traditional agricultural labour relations.

The extension of labour legislation to agriculture forms an integral part of the process of rural restructuring and democratisation. It has been met with enormous resistance from agricultural employers. They claim that the agricultural sector is 'unique' and that production conditions are so different that normal labour standards cannot be applied there.

Farmers' resistance to labour law and trade unionism is understandable. In the context of low returns on capital and the potentially devastating effect of strikes, it is

perfectly rational for employers to avoid collective bargaining. In a regulated market, individual employers are unable to recover higher labour costs by raising prices. A strike cannot only destroy a whole year's production, but also seriously damage the means of production. Collective bargaining legislation protecting legal strikes therefore greatly increases the risk of economic ruin.

Trade unions, on the other hand, regard the extension of collective bargaining legislation, especially protection against victimisation for trade union membership, as a prerequisite for successful organisation amongst farmworkers. Unions have made little progress in their efforts to organise in this sector. Almost 90% of farmers employ fewer than 20 workers and only 1,9%

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\* *Johann Hamman is a former farmworker organiser and currently a researcher at the Centre for Rural Legal Studies.*

employ more than 51 employees. Coupled with the vast distances between farms and farmworkers' lack of resources, this raises the cost of organising farmworkers to a level where only the largest farms will become organised on a farm-by-farm basis. The pluralist assumption of a powerful, countervailing worker organisation is not likely to be realised in practice.

The basic argument of this article is that the principles of labour management on farms differ from those in industry. However, this in no way detracts from the necessity for collective bargaining in agriculture. Agriculture is indeed different from industry – but not in the sense understood by the farming lobby. Furthermore, this difference is by no means unique, rather, it is typical of the non-industrial sectors.

### Mass production and post-Fordism

It was only during the twentieth century that the system of mass industrial production known as Fordism reached maturity. An adversarial industrial relations system developed with unions focusing on improving workers' material well-being. As this system spread around the globe, labour law and industrial relations practices followed.

However, in the 1970s and 1980s, a number of profound changes occurred in the mass industrial production system.

- In 1973, the Bretton Woods agreement on international monetary order collapsed, reducing the stability of demand which is at the heart of the mass production system.
- The oil crises of that period lead to a

severe recession and unemployment, prompting intensified international competition.

- Consumer demand became increasingly differentiated as the disparity in the distribution of personal income tended to sharpen the division between the consumption of standardised and of customised goods.

These economic changes increased competition amongst firms. Employers responded by either lowering labour costs or by enhancing employees' capacity for innovation. The latter strategy involves a move towards the production of smaller

batch runs of more customised goods for niche markets, utilising flexible (as opposed to dedicated) machinery and a more flexible, multi-skilled workforce. This production system is known as post-Fordism.

Not only have employers had to respond to the changing economic situation. Trade unions have been confronted with dwindling membership figures, smaller plant sizes and increased intra-firm competition, making traditional organisational

strategies obsolete. Unions had to develop strategies to meet their members' needs by exerting responsible influence over development processes that are too far-reaching and complex to be regulated through traditional channels.

Abandoning adversarialism, employees and their unions have become involved in the reintegration of the conception, execution and control functions, in redesigning work and in the vocational training of workers.

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### Changing labour law

The economic stability of the post-war period saw the development of a very static labour relations system in the industrialised capitalist democracies. This was in turn reflected in very rigid labour legislation, where unions often used alliances with social democratic parties to influence legislative developments.

These institutional rigidities have prevented firms from responding quickly to changing market conditions. However, during the 1980s and particularly in the 1990s, many of the legal restrictions on the hiring of temporary workers, prohibitions on fixed-term contracts and protection against dismissals have been relaxed. Apart from in Britain, the process of deregulation went hand in hand with corporatist collective bargaining.

Similarly, far-reaching changes have taken place in the area of working time, which under the mass production system can

be equated with full-time wage employment. Although unions demanded a shorter working week, employers found that flexible work schedules proved to be effective in cutting costs. Restrictions on part-time work, maximum working hours and flexible working time have been abolished or relaxed, also in collective agreements.

### Non-fordism in agriculture

Both the production conditions (perishability of the product, dependency on natural forces and biological processes) as well as the market conditions (inelasticity of demand) distinguish agriculture from industrial production.

In the North, flexible agricultural production is understood to be family farms which integrate the latest technological innovations, moving quickly to fill the needs of specialised, customised and segmented markets. In South Africa, even though both settler and plantation farms employ large



numbers of workers, agricultural production demands similar levels of flexibility and the ability to adapt to changing market and production conditions.

Agriculture involves both a mechanical and a biological process. Apart from animal husbandry (in the form of feedlots, dairy production and poultry farming) and packing sheds, there are no assembly lines, no detailed division of labour and no continuous flow of processing. Working time and the size of the workforce varies from season to season. While it is often argued that these factors distinguish agriculture from manufacturing industry, in fact agriculture resembles post-Fordist production.

Farm work is by nature highly flexible. Workers perform a variety of tasks requiring various complex skills using general-purpose equipment. Thus, argues Jan Douwe van der Ploeg, the agricultural labour process involves "the continual observation, interpretation and evaluation of your own labour. This process is in marked contrast to

industrial labour, where the labour process can be broken down, quantified, predicted and therefore planned and controlled. Interaction with living objects of labour excludes, to a large extent, such an industrialisation of the labour process. The craftsmanlike nature of it and the need for a continual interaction, if not unity, of mental and manual labour, remain its dominant characteristics."

### **Labour law and relations on the farms**

All South Africans, including farmworkers, will soon be able to vote and have access to government institutions. It is a simple reality that the majority of rural voters will be farmworkers. Unresolved grievances, or the perceived lack of mechanisms to resolve grievances, will be fertile ground for political mobilisation. Not only will this take labour relations into the political arena, political differences will impact on labour-management relations.

The abolition of the one-channel, centralised marketing system is bound to lead to increased competition between agricultural producers. This, combined with state policy favouring the substitution of capital with labour, necessitates new approaches to labour utilisation.

As Baskin has demonstrated (see *SA LABOUR BULLETIN*, Vol 17 No 4), the LRA is based on the outdated principle of voluntarism. Conditions in agriculture make the traditional model even more obsolete. The obvious route to follow is to set up industrial councils which can reduce the cost of plant-level organisation and bargaining and remove conflict from the farm level.

Farmers are well organised along sectoral lines. Strong producer associations and marketing boards have been part of agriculture for decades. These structures can easily accept the task of collective bargaining. However, industrial councils will have to be reconceptualised. This is not only because they can be inflexible and result in over-regulation, but also because the traditional scope of bargaining is too narrow.

Housing, medical and social facilities are all provided by the farmer and will form part of the bargaining agenda. In addition, as the ILO states in Recommendation 149, rural workers' organisations should also represent rural workers in connection with the formulation and implementation of programmes of rural development, agrarian reform and access to services.

Trade unions become indispensable partners to employers in receiving state protection or assistance, particularly with

regard to rural development funding. The struggle for improved services will become a joint one as newly enfranchised city dwellers start to make their demands on government. Industrial councils provide the forums where these demands can be put to the state.

### Corporatism in agriculture

Restructuring of the agricultural sector should involve trade unions in the innovation process. This can take the form of trade union participation in vocational training at farm level, but also, according to Sengenberger, "a much wider and more

effective option for resolving restructuring problems in a socially satisfactory manner is available when negotiations take place at both company and supra-firm level, and where employers' and workers' organisations and the government are involved in finding a solution."

New bargaining structures and new bargaining agendas may emerge. Tripartite structures can be created where wages,

working conditions and state support for rural dwellers are negotiated.

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### References

- Douwe van der Ploeg, *Jan Labour, Markets, and Agricultural Production* Westview, Boulder 1990
- Sengenberger, Werner 'Intensified competition, Industrial Restructuring and Industrial Relations' (1992) *International Labour Review* 139