

## **POLICY MEMO**

**November 2001**

### ***Working Conditions of Domestic and Agricultural workers***

**Author/s: Claire Horton and Mawethu Vilana**

*While all Naledi publications adopt a pro-labour perspective, their conclusions do not represent the policies of COSATU.*

*[disk\dir\filename]*

This memo is in response to a request by COSATU's Parliamentary Office. The paper may feed into COSATU's submission to the Employment Conditions Commission Investigation into working conditions and appropriate demarcation of domestic workers. The paper will focus on:

- ◆ Conditions of employment, including minimum rates of remuneration, in respect of the domestic and agricultural workers; and
- ◆ appropriate demarcation of the domestic and agricultural employment sectors for purposes of sectoral determination.

*Unfortunately, the time allowed was not sufficient, and further information is required. This paper therefore serves as an initial collection of idea and options. There is however a detailed discussion on working conditions and wage levels. It is recommended that COSATU request more time for a submission.*

#### **Introduction**

The minister of labour announced recently that minimum wages will be laid down for domestic and agricultural workers. This is a welcome step, given their disadvantage vis-a-vis organised workers in the formal sector and the levels of vulnerability experienced by these workers.

The vulnerability and power imbalance between employee and employer necessitates the establishment of a minimum wage. Debates on this subject have tended to focus on the most appropriate level at which to set the minimum wage and the effect this

will have on employment. Indeed, many opponents of such measures have argued that this will lead to job losses. Yet as pointed out by the Department of Labour, within the agriculture sector employment fell by almost 10% after 1989, despite being exempt from virtually all major labour laws until 1995 (Department of Labour, 1999). Furthermore, there is no evidence to suggest that low wages gives rise to additional employment. Rather, the demand for unskilled workers is expected to remain low (or decline) regardless of wage rates. It is important, therefore, that wages and conditions of these "surplus" workers be protected and improved.

### **Conditions of Domestic workers**

While there are no precise figures on the number of domestic workers, it is estimated that there are between 850 000 and 1,3 million domestic workers, servicing roughly 1 million households. In 1991, the National Manpower commission estimated that more persons were employed in the domestic service, larger than agriculture and mining sectors.

For most black female workseekers, domestic work is the only way of earning an income in the labour market. According to Statistics South Africa, in 1995, 35% of African women and 23% of Coloured women worked as domestic workers (Statistics South Africa, Women and men in South Africa, 1998). It is estimated that approximately 89% of all domestic workers are African and 8.4% are coloured. (Grossman, 1997).

### **Vulnerable workers**

Domestic work epitomises the workings of unregulated labour markets, with very little enforceable regulation. Workers in this sector, prior to November 1996, were not covered Labour Relations Act. The Basic Conditions of Employment Act was only extended to domestic workers in 1994.

While gains have been made in terms of legislation, such as the BCEA and Labour Relations Act, the intra-household nature of the relationship between domestic worker and employee, means that many employers do not implement the provisions of the legislation. Furthermore, many domestic workers are not aware of their rights and those that are aware fear reprisal from employers. Further, due to the dispersed nature of domestic work, monitoring of implementation is difficult.

Therefore a focus on mechanisms to promote enforcement of protective measures is crucial. Measures need to be taken to end the existing capacity of employers to impose more or less any conditions.

### **Working Conditions**

#### **◆ Many jobs no regulation**

Domestic work in general is undervalued and seen as unskilled. This stems from the fact that there is no clear job description for domestic work, and no recognition of the skills that workers have. The establishment of a cleaning SETA, would be an important step towards recognising skills. This together with the high level of unemployment and oversupply of unskilled labour, exerts a downward pressure on domestic workers' wages.

As Grossman, 1997 puts it: "Domestic workers are used and abused as cleaners, cooks, household managers, secretaries, sex-workers, security guards, confidantes, psycho-analysts, nurses, social workers, tutors, gardeners, chauffeurs, dress-makers, interior decorators etc. Domestic workers are entrusted with the most important human and financial possessions of many employers - their children and their houses and household possessions".

#### ◆ **Poverty wages**

Domestic workers earn particularly low wages, with monthly wages ranging from R150 to R600 per month. The overall median wage is estimated at R386 per month, of which 40% is represented by payment in kind (Limbrick, 1993). Using 1995 October Household Survey Data, excluding non wage benefits, revealed the following: monthly wage varies from as little as R50 to R3 090. The average wage for full time and part time domestic workers was R549 in 1995. Excluding the one case of R3 090 brought the average down to R486. Looking at the spread of wages, just over half of domestic workers earned R400 or less per month. The bottom 10% of domestic workers earned an average of R70 per month, while the top 10% earned an average of R1 648 (or R1 290 when the case of R3 090 is excluded) per month. Looking at the bottom and top quintile, the average earnings were R123 and R1 159 (or R971 when the case of R3 090 is excluded) per month respectively (OHS, 1995). Many domestic workers do not enjoy similar benefits to formal sector workers: for example a 13th cheque, maternity, provident fund, pension fund and retirement benefits.

The lack of any minimum wage legislation encourages these earnings, as does the ideologically motivated perception that higher wages means lower employment (Rees).

Wages also vary significantly between provinces. The highest is the Western Cape with an average of R659, followed by Gauteng with R542. The lowest wage paid is in the Northern Cape with an average of R171 (OHS, 1995).

#### ◆ **Hours of work**

Domestic workers tend to work long and irregular hours and are often required to be on "stand by". Approximately 18% of full time domestic workers work more than a 45 hour working week. Almost 9% of full time domestic workers work 56 or more hours per week (OHS, 1995). Furthermore, employers often do not pay any overtime. (Rees, 1997).

#### ◆ **Insecure employment**

Job security is particularly low. The dismissal of domestic workers and severance pay make up some 70 to 80% of the complaints that come to the Department of Labour, and a similar if not higher proportion of cases that come to advice offices (Rees, 1997).

#### ◆ **Limited access to education and training**

Education attainment is particularly low amongst domestic workers. Almost 10% of domestic workers have no education. Just over 12% have a standard 5. Slightly less than 70% have a standard 6 or less. This problem is compounded by the difficulty in getting access to education and training opportunities as many domestic workers live on the employers premises.

As one mechanism to deal with this the Department of Labour has committed itself to ensuring that a cleaning SETA be established. Access by domestic workers to such a SETA is an important mechanism to ensure accreditation and recognition of domestic worker skills. This will help ensure that previously undervalued skills gain recognition and improved pay. It is essential that the Department of Labour together with Community and trade unions commit themselves to mobilising women to participate in training programmes by disseminating information, organising support for women and by monitoring progress of training systems. (Job Summit).

Local authorities could form a structure through which adult basic education as well as a cleaning SETA could be run.

Towards achieving this aim legislation will have to be extended to give domestic workers the effective right to paid time off for education and training (Grossman, 1997).

◆ **Uncovered by workers' compensation**

Domestic workers face assault and sexual harassment from their employers, as well as other work-place injuries including dog bites and injuries related to the use of electrical gadgetry. There remain uncovered by the COIDA and access to sick leave may be difficult, and often unpaid. They are also uncovered by the UIF, and thus have no unemployment, sick or maternity benefits (Rees, 1997).

◆ **No Social Security Coverage**

At present, domestic workers are not covered by the Unemployment Insurance Act that makes provision for unemployment, maternity, illness, adoption and survivor benefits. A Department of Labour task team considered three mechanisms by which to extend UIF to domestics.

First, use the current UIF administrative system. However, it is thought that the benefit and, to a lesser extent, the administration costs is the major difficulty. Furthermore, there is likely to be high levels of evasion and non-registration.

A second option, is to make use of local government structures such as municipalities as the collection points for contributions. As such, municipalities would act as the administration point for the UIF. An added benefit is that these municipalities could be used as the central point from which to institute training and placement services for domestic workers. This would help to reduce the importance of informal networks in obtaining jobs, making it easier for domestic workers to compare conditions of work such as wages and working hours. In addition these structures would also empower workers to better insist on their basic rights.

The third option, is to use the South African Revenue Service. In this case tax returns would be used to collect contributions from employers who pay PAYE.

Domestics also do not have access to medical benefits and retirement savings. Ultimately this cost is born by tax funded public health and the State Old Age Pension scheme. Consequently this cost is born by non-employers resulting in a subsidy to employers of domestics.

## Minimum Wage

Given the segmented labour market that occurs even within the domestic services, a minimum wage for this sector will affect some more than others.

Assessing the impact of a sectorally determined wage for domestic labour requires that we distinguish between high and low income communities. Considerable evidence suggests that in historically white areas, a minimum wage would improve domestic workers' conditions by raising their pay per hour. In less affluent communities, however, many employers cannot afford to pay much more, and they would probably shift to family labour.

Middle-class white households generally set aside a stable share of their income for domestic labour, - 2% - 2.5%. If we consider the cost of alternative, for instance day-care centres and laundromats, it appears that these employers undervalue domestic labour substantially. Furthermore, many employers of domestic workers' simply regard domestic worker's wages as one of the costs they incur in going out to work.

Using OHS 95 data, the average wage for domestic and related helpers, cleaners and lauders in offices, hotels, homes etc. was R 980. Looking at the spread of these wage, the bottom and top decile received an average of R235 and R2 134 respectively. The bottom and top quintile the average wage was R358 and R1702 respectively.

The South African Domestic Workers Union has in the past recommended the following wage structure for domestic workers.

- ◆ Skilled domestic worker should earn a minimum of R1 200 per month plus transport costs.
- ◆ Semi-skilled domestic workers should earn a minimum of R800 per month plus transport costs.
- ◆ Part-time domestic worker should earn R75 per day or R9.72 per hour plus transport costs.

In this regard, it is probable that middle class white households could afford to substantially increase the share of income paid for domestic labour to at least 6 or 8 % of their household income. This would more than double the current wages paid to domestic workers.

Alternatively, many employers might shift to part-time employment. In these circumstances, the total wage going to domestic workers would not decline. Some workers might, however, increase their total incomes, while other could be shut out all together. More organised and open hiring procedures, for example, through the use of municipalities could help equalise access to work by formalising the networks used for obtaining jobs.

The picture is very different for low-income households. The average expenditure on domestic labour for the lowest income group across all population groups is approximately 0.24% of household income, probably accounting form most the particularly low wages. Even doubling or trebling that amount would probably not raise the domestic worker incomes above the poverty line.

Secondly, the ability to pay of these households will be relatively low. Therefore it is likely that there will be job losses in response to a substantial minimum wage.

In these circumstances, enforcement of a minimum wage in low-income areas would be difficult. This differential impact of minimum wages on high and low-income households needs further research.

In addition to any minimum wage, employment opportunities for black women need to be expanded.

### **Sectoral Determination**

It would seem that the natural home for domestic workers is within the cleaning sector. As a minimum wage should be set at a rate which is parable to the wages received by cleaners within the domestic service.

## **AGRICULTURAL WORKERS**

For purposes of this paper, agricultural workers include all sectors in the industry from livestock agricultural to sugar cane agricultural excluding forestry.

### **◆ Working Conditions**

As with domestic workers, the agricultural labour market is also characterised by limited regulation. As a consequence workers in this sector suffer the effects of low wages and poor working conditions. Workers in this sector, prior to 1995, were not covered by most labour laws. With the enactment of the Basic Conditions of Employment Act of 1997, agricultural workers were protected by the stipulations on basic conditions of employment. However, the major problem is the enforcement of the act as agriculturals are scattered and there are too few inspectors to monitor the implementation of the act.

### **◆ Working Hours**

According to SAAPAWU workers work abnormal hours ranging from 9 to 10 hours per day. Working hours are not fixed and depend on the amount of work to be done. According to the OHS 1995, over 49% of agricultural workers work more than a 47 hour week. Approximately 13% work a 60 hour or more working week and 5% work more than 70 hours per week. These exceptionally long working hours indicate that more needs to be done to enforce the Basic conditions of Employment Act.

Very often workers do not get a lunch hour during working hours. In most cases workers do not get paid overtime as some workers work on Sundays and Public Holidays.

### **◆ Leave**

In most instances agricultural workers are not given leave and are at times forced to work on Sundays and Public Holidays. According to SAAPAWU, workers are often

not given compassionate leave or sick leave. If it so happens that a worker gets sick, and can not work that day, that day's wage may often be deducted.

#### ◆ **Wages**

Wages in the agricultural sector range from R20 a week to about R280 per week. This varies from province to province. According to SAAPAWU, the Western Cape is paying higher wages than other provinces. The worst paying provinces are Eastern Cape, Gauteng, Mpumalanga, Northern Province and KwaZulu-Natal.

Using OHS 1995 data, the average wage, excluding non wage benefits, is R457 per month. Looking at the spread of wages 50% of agricultural workers earned R400 or less per month in 1995. The bottom 10% of agricultural workers earned an average of R133 per month, while the top 10% earned an average of R1 065 per month. Looking at the bottom and top 25% of workers the average wage was R193 and R820 respectively.

#### **Sectoral determination**

The agricultural sector is labour intensive, and most workers in this sector are classified as unskilled. Just over a quarter of agricultural labourers have no education. Eighty percent of agricultural labourers have a standard 5 education level or less.

At present, wages are negotiated on a plant by plant basis and, because of fear of retrenchment (and possible eviction), whatever the employer is willing to pay is what is going to be accepted.

#### **Conclusion and recommendations**

There are difficulties arising from lack of access to workplaces, and the small size and dispersed nature of employer unit. This undermines effective implementation and monitoring legislation.

In the case of agricultural workers, the Department of Labour should along with the union try to bring employers into a central bargaining forum or council to make implementation and monitoring easier. The following are recommendations on how agricultural workers' working conditions and wages should be determined:

- ◆ Establishment of a central bargaining forum
- ◆ Setting of minimum wage standard or living wage in all agricultural sectors.
- ◆ Greater protection of agricultural workers; rights, e.g. the prosecution of agriculturalers or employers who violated agricultural workers' constitutional rights.
- ◆ Passing or amending current legislation that will enable unions to organise in agriculturals without fear of intimidation from employers.

Unfortunately, it is harder to deal with the working conditions and wages of domestic workers. As a first step the Department of Labour should create a space where domestic workers can articulate their own positions. Financial support should be given to structures that aim to protect and advance the rights of domestic workers whether these be trade unions or advice centres. If domestic workers were to fall under the cleaning sector, a trade union may be more suitable.

The Department of Labour should put more financial resources towards a substantially larger and more effective inspectorate.

Further research needs to be done, focusing on the improvement of minimum standards for vulnerable workers as well as mechanisms to ensure better implementation of legislation.

## **Sources Used**

Department of Labour, 1999. "Labour-market policy in the era of transformation". Pretoria.

Grossman, J., 1997. "Organising Domestic workers: The challenge and some proposals" - submission to the September Commission.

Limbrick, J. and Associates, 1993. "Extending the provisions of the Workmen's Compensation Act and the Unemployment Insurance Act to domestic workers". Report to the Department of Manpower, Pretoria.

Rees, R., 1997. "If the union is not there, nothing is caring for the domestic workers"., NALEDI policy memo.

Statistics South Africa, 1997. October Household Survey., Pretoria.