

THE FARMWORKER RIGHTS CHARTER

“Struggles & Challenges of Farmworkers”

2017

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1. PREFACE

Adam Small in one of his poems said: “Die Here het gaskommel maar die dice het verkeerd geval”. (God rolled the dice but it was loaded against us). The dice is indeed still loaded against workers in general and farm workers in particular. In 1955 at a town called Kliptown the African National Congress adopted the Freedom Charter. The Freedom Charter was adopted to address the conditions of oppressed and exploited people of South Africa in general and farmworkers in particular. Of significance is the clauses that says that the land shall belong to those who work it and that there shall be houses; security and comfort and all shall be equal before the law. It is clear that these clauses have not become a reality in the lives of the farmworkers given the fact that the challenges faced by farmworkers are numerous.

These challenges include the denial and / or limiting of the space for them to freely organise, mobilise and participate in broad based people-centred development which could release them from the abject poverty and oppression in which they find themselves. Their deliberate exclusion from Local, District, Provincial and National development initiatives adds to their dilemma.

Their limited and or lack of education, their ignorance and the denial of their rights; their seclusion due to their distance from the nearest town; reliance on the farmer for transport and other means to connect with the outside world and local socio-economic activities, and the fact that they are landless and occupy houses of the farmer (without the prospect of ownership), renders them extremely vulnerable.

Given the above circumstances, farmworkers are in many instances completely at the mercy of the farmer.

This document was developed by Labour and Civil Society Organisations against the backdrop of the above scenario and describes the critical challenges faced by farmworkers with some recommendations by Labour and Civil Society organisations, which if addressed, will go a long way in restoring the dignity of farmworkers. It is envisaged that it will launch gigantic strides toward the radical transformation of the rural landscape of South Africa and be the catalyst for inclusive economic activity directed towards growth within the Fruit and Wine Industries.

2. BACKGROUND

In 2010 the department of Agriculture convened a farmworker summit in Somerset West. At that summit a number of resolutions has been adopted however, at the time of the adoption of the resolutions reflected in addendum 3 the farmers and their leadership staged a walk - out. No follow-up was done which led to the resolutions never been implemented.

Numerous studies were conducted on the working and living conditions of farmworkers. These reports include the Nkuzi report on Evictions, report on Non-compliance to the Sectoral Determination by CRLS; the reports of Women on Farms called Behind the Label 1 and 2, the report by BAWSI on the Conditions on 156 Farms as well as the report by the Human Rights Watch. All these reports have one thing in common and that is that the living and working

conditions of farmworkers is appalling and in some instances borders to that of being reduced to sub-humans. These conditions gave rise to the 2012/2013 strike in which 3 workers lost their lives, many people were seriously assaulted, and hundreds were arrested, dismissed and deported.

The strike was suspended after an agreement to review the minimum wage which increased farmworker wages from R69 per day to R105.00 per day. Another outflow of the strike was the establishment of the Vulnerable Workers Forum in which all relevant ministries participated and it was chaired by the Deputy President of the Republic of South Africa. However it is sad to say that currently this forum is dysfunctional.

The Constitution of this Country and more specifically the Bill of Rights is very clear that all employees have the right to fair labour practices and the right not to be unfairly dismissed. The law is also very clear that it is a criminal offence to illegally evict and or bulldozed a farmworker house without a court order. However, we see this as a regular feature in the lives of farmworkers.

The National Development Plan (NDP) and more specifically Chapter 6, addresses the issue of rural development and it is the intention of the authors of this charter to attempt via this charter to contribute to the goals set out in the NDP. A special meeting was called on 13 April 2017 for Labour and Civil Society Organisations and representatives within the wine industry to discuss a document and presentation by the president of BAWSI (Black Association of the Wine & Spirits Industry) which outlined and articulated the various “challenges and struggles” of farmworkers across the agricultural sector. The special meeting discussed and debated each aspect of the presentation in document and made very specific recommendations on each challenge. These challenges range from administrative justice issues, job security, housing, BBBEE, worker transport and human rights violations on farms. It was also agreed at the meeting that the “21 Demands” of farmworkers of the 2012/2013 Farm Worker Strike, must be included in the discussion document as a record of the voices and issues of workers that must still be addressed. The meeting also requested further input on the draft document and called on trade unions and civil society organisations to circulate the draft document amongst the members of trade unions and civil society organisations.

This special meeting was followed up by another on 6 June 2017, where the draft document was adopted with amendments and input from stakeholders. The adopted document shall be officially referred to as the “**Farmworker Rights Charter**” in future.

3. SCOPE OF THE CHARTER

This Charter will primarily focus on primary and secondary agriculture. With this Charter, we aim to address the challenges faced by farmworkers and farm dwellers as well as labour tenants in the Republic of South Africa.

4. OBJECTIVES OF THE CHARTER

- 4.1 This Charter endeavours to contribute to the radical transformation of the lives and circumstances of farmworkers along the entire value chain.
- 4.2 The drivers of the Charter will allocate the issues and challenges to the responsible entities to be addressed and resolved amicably.
- 4.3 The Charter furthermore endeavours to contribute to secure justice for all.
- 4.4 By its nature it shall also strengthen Relative Tenure Rights of people working the land.
- 4.5 We wish to create awareness with the public nationally and internationally, consumers, Government as well as the captains of industry.

5. STRATEGIC THEMES AND PROPOSED ACTIONS OF THE CHARTER

5.1 ACCESS TO HEALTH CARE SERVICES

Many rural towns do not have basic clinics. In some areas mobile clinics are provided but unfortunately workers are being exposed to the elements of nature while queuing to be attended too. We therefore resolve that these mobile clinics must increase their visits to rural towns. Even once a fortnight is inadequate. Furthermore clinics must be staffed by suitably qualified staff and doctors must be available daily. The operating hours of clinics must be adjusted to accommodate workers after 17h00. Free accessible Health Care for Farm workers is an imperative to be addressed by the Department of Health (DOH).

5.2.1 LABOUR RELATIONS ACT

The guilt of an alleged criminal must be proven beyond reasonable doubt, but the guilt of a transgressor in the labour sphere must be proven merely on the balance of probabilities. Consequently, the future and livelihood of a worker is determined by who presents the most probable version.

The tragedy is that CCMA commissioners and judges (to cite case studies as reference) invariably found the version of the employer to be the most probable, because according to them the employer has no reason to lie whilst the worker will lie to save his job. At numerous hearings we observed, with alarm, how employers tell lies, especially when they want to get rid of workers.

The saying, “justice delayed is justice denied”, holds true in this case. It takes forever to get a case heard after its referral to the Labour Court for review. By the time that the case is heard, the worker has lost his/her house and his/her car and has been driven to the brink of suicide by creditors, and in many instances people even went through divorces.

There are time frames for referrals of unfair dismissals, unfair labour practices, issuing of arbitration awards, etc. We therefore propose that the Labour Court reviews must also be subjected to a reasonable time frame of less than six months and that more labour courts should also be set up.

The constitution of South Africa emphatically declares that all are equal before the law. For workers in general and farmworkers (in particular), that is not true. Their reality is that we are living in a pay-as-you-go-democracy. Their matter can only be referred to the labour court if they or their trade union can afford it.

We therefore resolve that the state must provide representation to all workers in the labour court. All lawyers should have right of appearance in the labour court. It does not make sense that a trade union representative or an ordinary worker has locus standi in the high court and the Labour Court but not an attorney.

5.2.2 BASIC CONDITIONS OF EMPLOYMENT ACT AND SECTORAL DETERMINATION FOR FARMWORKERS

- (i) Workers are powerless to negotiate with the farmer when presented with a contract to sign. In most instances, they are intimidated and threatened with dismissal if they don't sign. We therefore resolve that a contract must be declared null and void if the worker was not assisted by a trade union irrespective if the worker has signed it in the presence of witnesses.
- (ii) One of the tactics of farmers, not to allow workers to benefit from the minimum wage increase, is to unilaterally reduce hours of work. We therefore resolve that unilateral reduction of the daily working hours must be outlawed. Any reduction of daily hours must be negotiated with the trade union and where there is no trade union, only the Minister can grant a reduction. Such a reduction will only be valid for 3 months.
- (iii) Prior to the strike some farmers provided free transport while others provided transport at nominal cost. Subsequent to the strike part of the unilateral changes of conditions of employment included imposing transport cost or increase of transport cost to negate the hard fought increase gained by the farmworkers. We therefore resolve that free transport must be provided.
- (iv) We note with concern that even though farmworkers have been declared beneficiaries of benefits for the indigent policy they pay exorbitant prices for electricity. We therefore resolve that farmworkers must benefit from the free electricity allocations that are available to those who qualify for indigent grants.
- (v) We note with concern that the Sectoral Determination for farmworkers prescribe a 10% rent to be paid by farmworkers. We believe that this is

unfair given the starvation level wages that farmworkers currently receive. We therefore resolve that deductions for rent must be scrapped.

- (vi) We note with concern that women who desire to have children cannot afford to fall pregnant because they will be without an income for four months. We therefore resolve that comprehensive maternity benefits for all workers, including seasonal workers must be introduced. This must be addressed by the Department of Labour (DOL) with the review of the Sectoral Determination (SD) 13 for Farm Workers. Alternatively, this could be a subject matter of a Bargaining Forum but as indicated earlier, the hostile attitude of farmers, make negotiations with the union merely a dream. This has particular bearing on the wine and fruit industries.
- (vii) We note that super exploitation of farmworkers are taking place via the shops on the farms. Farmers are exploiting the fact that they have a captive client based. We therefore resolve that farm shops must be shut down and farmers must transport workers to do their weekly shopping in nearby towns where prices are invariably lower than those on farms or bring the prices in line with prices in the nearby town. Or alternatively lower their prices in line with the shops in the nearby towns.

5.2.3 EMPLOYMENT EQUITY

Currently the Employment Equity Act applies to workplaces where there are more than 50 employees and because of that those farms with less than 50 employees remain untransformed. We therefore resolve that compliance with Employment Equity stipulations must be applicable at every workplace irrespective of the number of workers employed. The same applies to Health and Safety. Here reference is made *inter alia* to the establishment of committees, the election and training of safety representatives.

Furthermore we still note that wage discrimination is prevalent on a number of farms specifically in relation to foreigners and women. We note and appreciate the amendments to the Employment Equity Act however the discrimination persist. We therefore call on all employers to end wage discrimination and that the principle of equal pay for equal work be introduced.

Furthermore, Ethical Trade Associations such as WIETA and SISA must ensure that all accredited workplaces fully comply in this regard. DOL must improve their frequency of inspections to ensure enforcement of these amendments.

5.2.4 OCCUPATIONAL HEALTH AND SAFETY AND EMPLOYEE WELLNESS

We note with concern that when workers are injured on duty many employers refuse to pay these workers whilst they are sick and they are subjected to extreme hardships. We therefore resolve that employers must continue to pay workers their full salaries should they suffer an injury on duty (IOD) until such time the worker is declared fit. Workers must be kept informed about the status of their claim and in the event that the claim is finalised, the worker must be given a clear and simple statement of what is due to him/her.

It is with sadness that we note the level of alcohol abuse and the fact that mind altering drugs have entered our rural towns. We therefore resolve that there is a need for the creation of a Fund to assist with alcohol and substance abuse, foetal alcohol syndrome and gender violence. This must be addressed by the Department of Social Development (DSD) and Department of Health (DOH). ARA and FasFact must be visible and effective.

5.2.5 FAIR DISPENSATION FOR SEASONAL WORKERS

We note with concern the instability and uncertainty as far as job security is concern in the lives of seasonal workers. Many of them work for decades for the same employer without a guarantee that they will be re-employed the next season. We therefore introduce the motion of a “Permanent Seasonal Workers”. The latest amendments to the LRA do not properly deal with seasonal workers. We propose that seasonal workers must be given some form of job security such as a “permanent seasonal worker” which will guarantee the worker stability and certainty. Some work as seasonal workers for as long as 40 years without job security.

Seasonal workers in most instances also do not have any insured benefit cover. We propose that they must be covered even during the off-season due to their limited opportunity to earn, because the employer pays for insured benefits of its permanent staff.

Furthermore seasonal worker helpdesk must be set up by the Department Of Labour, that keeps a data-base, track and service seasonal worker needs, i.e. UIF claims, etc. Granting of permanent seasonal status to all seasonal workers. The database must be accessible to labour and civil society.

This is a matter for Department of Labour (DOL) to address.

5.2.6 INSURANCE BENEFITS, RETIREMENT DUE TO AGE AND INCAPACITY

Seasonal workers retire without a cent unless an ex gratia payment is negotiated by trade unions and the amount a trade union succeed in getting never amounts to more than R3000.00.

We therefore propose that seasonal workers must as mentioned above, be granted permanent seasonal status with a retirement benefit made up by worker and employer contributions whilst at work during the season.

Provident Fund for all farm workers:

Farm workers work and live on farms for decades. Many of their siblings and children were born and raised on those farms. The fact that workers work for many years for the farmer, has raised a misconception amongst farm workers, that; “they have worked for years for the farmer and they can expect remuneration for years of service”. The reality is in many cases, when the farm worker reaches the age of retirement and can no longer be a part of the productive staff of the farm, and his/her service must be terminated, the farmer only issues the farm worker with his final pay check and his UI19 form.

In 2015, Deputy President, Cyril Ramaphosa, indicated that government is considering the issue of Provident Funds but that was the last we heard about this, all important matter. We therefore call on the Deputy President to provide feedback on this very important matter and that this matter be pursued to its ultimate conclusion.

5.2.7 CCMA

The credibility of findings of CCMA commissioners is often questionable. There is often no factual basis. For example, in one instance the commissioner found that because the applicant cried, she was guilty of lying whilst in another the commissioner found that because the applicant did not cry, she was not showing any remorse.

We therefore resolve that Commissioners be thoroughly trained in this particular area and that they demonstrate consistency in their pronouncements.

Commissioners are seemingly a law unto themselves because they are protected by the limited review provision in S145 of the LRA. As Labour and Civil Society we therefore propose that the basis for review must be expanded to include a review of the procedural and substantive fairness of a dismissal.

When employers realise that they are going to lose the case, they argue that the relationship has broken down beyond repair without leading any evidence to that effect. Employers generally don't want employees back whom they have dismissed, especially when they are trade union members and/or shop stewards. The primary remedy for unfair dismissals in terms of the LRA is reinstatement and that is what must be pursued.

We therefore resolve that given the high rate of unemployment and the hostility towards trade unions, commissioners must be compelled to reinstate. They must abandon the argument that they were reluctant to return workers to a hostile

environment. Employers must be taught that they cannot get rid of the trade union or the shop stewards through a cash pay-off.

Many farms are in remote areas and workers are far from towns. The level of literacy is low and workers are ignorant of their rights because of being denied opportunities for rights based education by their employers. Due to amongst others the hostility of farmers, there is an extremely low level of unionization amongst farmworkers. For these reasons, the 30-day period for referring dismissals to the CCMA is utterly and totally inadequate. It militates against the notion of justice for all. We therefore resolve that there should be an extension of this period and the above-mentioned factors must be positively considered during condonation hearings. Unfair labour practices have a 90-day time frame and the employee is still at work.

Furthermore settlement agreements entered into at the CCMA should be declared null and void if the workers were not represented by a trade union and they afterwards realised they have been done in.

5.2.8 UNIONISATION AND PROTECTION OF UNION MEMBERS

We note with concern some serious violations of the Union's rights to Freedom of Association and anti-union activity and the refusal to grant organisational rights to Unions.

Freedom of Association is a fundamental right enshrined in the Constitution of the Republic of South Africa (RSA), Section 18. However, many farmers show absolutely no respect for this right of workers. Allegations of intimidation against workers are in many instances criminalised. We therefore resolve that the same should happen to employers.

The Amendments to the Labour Relations Act (LRA) on 1st August 2014, and more specifically Section 21: Obtaining Organisational Rights, open the door just wider which was opened by the constitution. Government must deal with the intimidation and victimisation of workers and hostile attitudes of farmers.

Victimisation and intimidation of trade union members in general and shop stewards in particular are the order of the day in most workplaces. Organised workers find themselves in an extremely hostile environment. We therefore resolve that intimidation and victimization by employers must be legislated a criminal offence. Trade unions and workers must be able to lay criminal charges against trade union bashing employers. Workers are being criminally charged for intimidation during strikes and protests. Therefore, employers should also be criminally charged when they intimidate workers.

We further resolve:

- (i) It must be made compulsory that within 3 days of receipt of membership forms, the company will engage the trade union in a non-threatening and non-hostile verification exercise to limit the opportunity of intimidating employees to resign from the trade union. In the event that no verification exercise is conducted, the trade union will automatically enjoy the right of a sufficiently representative trade union. Trade unions should immediately be granted organisational rights in accordance with their levels of representation.
- (ii) Unilateral changes to conditions of employment may be arbitrated if the employee so wishes. Strike action should not be the only option.
- (iii) Consultants and lawyers must not be allowed to participate in disciplinary hearings at plant level unless a trade union official is also granted the same right to represent the worker. In the LRA, Schedule 8, “representation of fellow employee” must be deleted and replaced by “trade union representative”.

Banning of all labour brokers on farms: The Amendments to the Labour Relations Act (LRA) as Amended on 1st August 2014 and more specifically Section 198, addresses some of the problems that we have with labour brokers. However, whilst in the beginning the commissioners vigorously pursued this, we note with concern, that of late, leniency has started to creep in.

5.2.9 SECTORAL BARGAINING COUNCIL

Due to the hostile attitude of farmers towards unionisation, it will be extremely difficult to achieve the statutory required levels of representation to establish Bargain Statutory Councils for the Agricultural Sector. We therefore resolve that government must intervene and will have to legislate the establishment of a Bargaining Council for the Sector.

Given the level of unionisation and the industry bodies in place, the Fruit and Wine Industry must implement the first joint bargaining council.

The process of setting up bargaining councils and statutory councils must be streamlined to speed up these processes. All that should be required is to determine the level of representivity and thereafter the CCMA must facilitate the negotiating of the various agreements.

5.2.10 LIVING AND WORKING CONDITIONS

- (i) **R150, 00 per day (Original Demand)** During the strike, the clarion call was: “R150, 00 per day”. As a result, BFAB did research on a living wage and the affordability thereof. They found that even if two (2) people in a household earn R150, 00 per day, it still would not be sufficient to buy the essential nutrients that a household required. The strike was suspended due to an announcement by government that the Sectoral Determination 13 for Farm Workers will be reviewed. In March 2013, much to the dismay of the farm workers, the Minister set the new minimum wage for farm workers at R105, 00 per day and none of the other demands were addressed. Workers categorically rejected the increase and felt cheated and vowed to return to the streets when the time is ripe. Workers also rejected the inflation rate plus 2% increase for the next 3 years. In 2014, the minimum wage was raised to R111, 72 per day. The value of the increase was not even enough to buy a loaf of bread.

In 2015, it was once again raised to a meagre R120, 32 per day. In 2016, it was raised to R128, 26 per day and in 2017 it was R 138.52.

Subsequently, the demands of farm workers have increased to R250, 00 per day.

- (ii) **All housing contracts must include the other spouse to secure tenure rights in the event of death of one partner.** The ESTA Law is currently under review. This is one of the issues that we raised in our presentation in Citrusdal. We await the final draft of ESTA to see whether government has heard our voice.
- (iii) **40 hours work week:** No movement on this. This can be addressed within the Sectoral Determination (SD) 13 for Farm Workers, or alternatively, it can form part of Collective Bargaining. However, given the hostile attitude of farmers towards unionisation of their employees, and in the absence of a bargaining council, we are convinced that this must be dealt with within the Sectoral Determination (SD) 13 for Farm Workers.
- (iv) **Safe and decent worker transport to and from workplace:** Workers are transported in conditions worse than animals. The licencing requirements to transport farm workers must be reviewed to make traveling to and from work safer for farm workers. Trucks currently used are virtually trucks of death.

An investigation must be conducted into all the deaths in transit. It is our understanding that in terms of the law, when the driver is guilty the

owner of the truck is jointly and severally liable, but we haven't noted a single farmer being charged in such instances.

Safe and decent worker transport to and from work is imperative.

Workers continue to die, in these "Trucks of Death". It must be noted that death-in-transit is a national phenomenon, therefore we need a National Solution to the problem.

(v) **No deductions for rent of siblings and dependants.**

Deductions for rent is prescribed by Section 8(1)(b); 8(4);(5);(6) of the Sectoral Determination for farmworkers. It is very clear that in terms of the Section 8(5) that the employer may only make deductions in respect of ONE FARM WORKER residing in any house. All of these deductions for siblings and dependents are illegal and should be pursued criminally. We have tried for more than a year to get the Department of Labour (DOL) in the Western Cape to assist in bringing an end to these unlawful deductions, but without any success.

(vi) **No deductions for water and electricity:**

Our reading of Section 8(2)(d) is that the employer can't have his bread buttered both sides. He must decide what he is going to deduct. He can't charge for WATER, ELECTRICITY and REFUSE DISPOSAL. Once again, we need decisive intervention by the Inspectorate of Department of Labour (DOL) but as indicated earlier, we get no support.

We note with concern the increase in the cutting of water of farmworker households to intimidate the family to vacate the house. DOJ must consider easier access to court for applications for reconnection of water and electricity. Consideration must be given to grant right of appearance to union leadership and activists as it is done in Equality Court matters.

(vii) **Introduction of grading system:**

All other Sectoral Determinations, except for the ones that apply to farm workers and domestic workers reflect different pay rates for different categories of workers. Whilst one might, to some extent, be able to argue that domestic workers have basically the same duties, the same can definitely not be said about farm workers. We therefore propose that the Sectoral Determination for farmworkers be amended and different pay categories for workers be included. This needs to be corrected by the Department of Labour (DOL).

This can also be done through plant level negotiations as well as agreement reached at a bargaining council level. A grading system must be done in conjunction with career path planning and a Training and Development programme.

(viii) **Sanitation:**

On a number of farms, drains are blocked and flooded which create a very unhealthy situation due to the stagnant water. The conditions of toilets are often in such a bad state that they either don't work or have overflowing manholes.

(ix) **Quality of Drinking water:**

We note that there are farms where workers had to draw water with animals. This leads to diarrhoea and other intestinal ailments.

(x) **Burial on Farms:**

The rights of farmworkers to bury their deceased are often denied. This is extremely incentive to the bereaving family and we demand respect for the deceased and the wishes of their family.

(xi) **Keeping of livestock:**

Working on farms is a rural occupation we therefore consider the inalienable right of a farmworker to own livestock for which grazing and drinking water must be provided on the farm.

5.2.11 TRANSFORMATION AND STRUCTURAL CHANGES TO BE BROUGHT ABOUT WITH IMMEDIATE EFFECT

This is one area where there is a lot of activity e.g. Department: Rural Development and Land Reform (DRDLR) has programmes such as AgriParks; One Hectare: One Household; Strengthening of Relative Tenure Rights and District Land Reform Committee's (DLRC's). Department: Agriculture, Fisheries and Forestry (DAFF) has programmes such as the Value Chain Round Tables and Commodity Trusts that is funded by statutory levies. These trusts have transformation committees.

The Value Chain Round Tables have Working Groups which include Transformation Working Groups as well as Employment and Employee Welfare Working Groups. The Wine Industry and the Fruit Industry each have an Ethical Trade Association called WIETA and SISA; respectively. Through regular audits, these associations, at a minimum level, ensure statutory compliance which constitute +/- 80% of the reasons for conflict between labour and capital. However, it appears as if the producers in the Wine Industry endeavour to capture and manipulate WIETA and SISA. The latter is not yet inclusively representative. The Value Chain Round Tables (Fruit and Wine) are still in their infancy.

The NAMC has a major role to play in this regard. The direction of spend of the levy fund must be revisited. It is unacceptable that Industry bodies, whose beneficiaries are primarily white capital, receive 80% of the levy income.

Consequently, the commodity trusts and their trust deeds must also be revisited to ensure that it addresses the plight of the workers. Industry itself has a responsibility to make a direct contribution to eradicate the economic and social injustices of the past. Therefore, they must support transformation by paying their social responsibility budget into industry transformation structures and continue to make donations to organisations and individuals in the community in which they do business.

Furthermore, untransformed white monopoly capital and their untransformed institutions cannot be the drivers of transformation. Transformation must be inclusive and driven at grassroots level by credible initiatives by the oppressed and exploited. This would facilitate a bottom up process, rather than the current exclusive approach.

5.3 ACCESS TO LAND

- 5.3.1 We support the one household one hectare Government initiative with the proviso that Government provides adequate support for successful implementation.
- 5.3.2 We support the strengthening of tenure rights by virtue of the SRR or 50:50 (Strengthening Relative Rights Of People The Land Policy Framework), which ensures that farmworkers benefit from owning shares in the agricultural enterprises on farms on which they work, as well as providing them with security of tenure.
- 5.3.3 The Charter is also in pursuance of the objectives of the Land Tenure Security for Commercial Farming Areas (signed in 2013); the Extension of Security of Tenure Act (62), 1997 and its 2015 Amendment Bill, as well as various international agreements government has assented to.
- 5.3.4 We support the one household two dairy cows initiative, provided it is underpinned by Government assistance.
- 5.3.5 Fronting: A forensic audit and investigation into equity schemes should be launched in order to deal with the issue of fronting, the role of corrupt officials (as revealed in the media) and to deal with such allegations. Since the workers in such cases are facing two enemies: corrupt government officials and exploitative bosses.

5.4 TENURE SECURITY

5.4.1 OFF-FARM AND ON-FARM SETTLEMENTS AND SMART VILLAGES

There is an appetite for off-farm development (see De Doorns, 5.5). However, there is no appetite for the creation of on-farm settlements. It is imperative that Government should start focussing on on-farm development and cease funding off-farm developments.

The Public Protector should be called upon to investigate the allocation of RDP houses in e.g. De Doorns and Heidelberg (WC) and pronounce on these matters.

Housing in smart villages is envisaged to provide access to sustainable energy services, which in turn will act as a catalyst for development. It must enable the provision of good education and health care, access to clean water, sanitation and nutrition, the growth of productive enterprises to boost income and enhance security, gender equality and democratic engagement. Further engagement with authorities and Departments will have to be entered into before this concept can be endorsed.

5.4.2 EVICTIONS

- (i) Despite the Extension of Security of Tenure Act 62 of 1997, the evictions of farm workers have reached pandemic proportions. In 2005, Nkuzi Development and Social Surveys completed a national survey on eviction of farm workers. The survey found that between 1984 and 2004, 1.7 million people were evicted. It was found that the pace of evictions has not slowed down since the advent of democracy. The survey estimated that 942 303 people were evicted (1994-2004) compared to the 737 114 (1984-1994). In the short period between 2003-2004, 195 121 farm workers were evicted.
- (ii) These evictions cause serious hardships for evictees. Displacements not only affect the breadwinners who have contributed so much to the growth of the industry but entire communities and families. It is particularly disruptive to school going children and their development.
- (iii) As far as evictions are concerned we need to understand first and foremost, who the evictees are. In many instances, they are farm workers who have been living on the farm for the better part of their lives if not for all their lives. They are often semi-literate and sometimes totally illiterate.
- (iv) Evictions are also the cause of the breakdown in the moral fibre of our society, especially on farms and rural areas. Families are torn apart; they are robbed of the right to family life. We refer to the Ertjieskloof matter, as one case in point, where (7) seven families were sharing one space without being separated by walls. They have been robbed of their dignity as human beings; they have been robbed of the right to privacy and were forced to raise children under these circumstances.
- (v) What are the reasons mostly given for evictions? Dismissals; retrenchments; sale of the farm; and the farmer needs his house.

- (vi) Many of the houses on the farms were built with subsidies for the explicit purpose to house farm workers. Farm workers are facing evictions because farmers want to diversify. They want to convert the labourers' houses into self-catering units to accumulate bigger profits. Houses that were acquired to house farm workers are now used to generate profit as B&B establishments. Prime agricultural land is being rezoned for the development of houses for the bourgeoisie and middle class. As Labour and Civil Society we say NO to rezoning of Agricultural Land for housing developments for the bourgeoisie. These rezonings are a threat to job security of farm workers, food security and leads to homelessness of farm workers.
- (vii) Farmers, abusing the ignorance of farm workers in terms of the legal processes, push eviction orders through the courts, knowing very well that the victims don't have a clue about how to defend themselves. They are granted orders under the guise of an urgent application. Workers get evicted without the Land Claims Court ever having had sight of the eviction order, or having such an order ratified. Workers get evicted without alternative accommodation arrangements. Often when alternative accommodation is provided it is inadequate. Workers get evicted without the court being informed by a social worker concerning the situation and circumstances of the occupiers.
- (viii) On numerous occasions workers have found themselves at a loss often because they have not been informed of change of ownership. The previous owner has disappeared overnight without trace. The only thing that the new owner is interested in is for the workers to vacate his house, his argument being that he has no employment relationship with these workers. Their contract was not transferred to him as per Article S197 of the LRA, even though the farm has been sold as a going concern.
- (ix) Farm workers get dismissed by the farmer and are promised that they can remain on the farm. Three months later they would receive a notice from the farmer informing them that he/she is going to approach the court for an eviction order. The 30-day period of grace to refer the original dismissal to the CCMA would by now have expired and an application for condonation for a late referral must be made. (We must hastily add that such applications are almost always declined). The only other remedy available to the farm worker in such a case is the High Court, but due to the high cost factor it is not an option for them.

This is indeed a violation of their constitutional right of equality for all before the law. They are denied their rights because of lack of financial resources. There will always be an absence of administrative justice for

farm workers unless they have free and unfettered access to all the courts of our country.

- (x) Whereas Government has articulated all its good intentions in legislation such as the LRA, ESTA, the Sectoral Determination for Agricultural Workers; the Employment Equity Act and the Skills Development Act, there is no meaningful change. These laws are nowhere close to positively impacting on the lives of most of the farmworkers. The farmers are acutely aware that the Department of Labour lacks the capacity to enforce these laws; hence they simply ignore these laws and blatantly undermine the rights of the workers.
- (xi) However, what the farmers, through their consultants and lawyers have learned well, is to exploit the loopholes in these laws and use them against the farm workers. A classic example is the way they manipulate ESTA to “legally” evict farm workers.
- (xii) There is little or no justice for farm workers in the racially biased courts in the rural areas. Courts are granting eviction orders indiscriminately. Often no alternative accommodation is granted by municipalities. There are no social worker reports or no consideration of such reports that are supposed to deal with the impact that an eviction has on school going children; women; disabled and the aged.

Police are also being utilised to intimidate farm workers and coerce them to leave the farms. Farmers are guilty of terminating water supplies for months, forcing workers to leave the farms. Farmers are guilty of evicting farm workers illegally, which is a criminal offence, but to date, not a single farmer has been charged.
- (xiii) We cannot but reach the conclusion that; magistrates are in cahoots with the farmers. It is ridiculous and alarming that eviction orders are granted whilst the entire process is flawed. Farm workers get evicted whilst there is a CCMA case pending, or the order has no return date or no alternative accommodation was provided.
- (xiv) According to the law, the police are not supposed to be involved with evictions, but they are always at hand to intimidate the evictees and even threaten them with arrest.
- (xv) The practice of relocating retired workers to smaller houses must be outlawed.
- (xvi) Moratorium on all evictions: The Deputy President, has made a passionate call for a Moratorium on All Evictions, instead we have seen an escalation in the number of evictions. During the review of ESTA we pleaded that a Moratorium was required more than ever before, given our

experience when ESTA was promulgated. We have witnessed that more than one (1) million people were put off the farms during the first ten (10) years of democracy as per the Nkuzi Report. This is one area where Government has dismally failed farm workers. Third and Fourth generation farm workers are evicted by first generation farmers.

5.4.3 ALTERNATIVE ACCOMMODATION

During evictions, local Government institutions and officials are guilty of dereliction of duty. In terms of the law they should play a critical role in the provision of adequate alternative accommodation. Therefore we resolve that the Department of Rural Development and Land Reform must execute all its obligations pertaining to evictions such as provisioning of legal support and alternative accommodation.

5.4.4 PROTECTION FOR DEPENDANTS OF OCCUPIERS

Women and family members are rendered vulnerable by the inhumane clause in ESTA that stipulates that upon the death of the spouse who had an employment contract and who had acquired ESTA rights, the surviving spouse and the rest of the family must vacate the house within 12 months. We resolve that this clause must be scrapped and that tenure rights must be transferable to spouses whether they have dependent children or not.

5.5 ACCESS TO HOUSING

The applicable disqualification clause of joint income has resulted in the fact that farmworkers who do not stay on the farm do not qualify for an RDP house whilst they don't earn enough to get a bond.

There are instances where when workers applied for RDP houses, they qualified. But due to the fact that they were on the list for many years, the increases they received place them outside of the qualification bracket for RDP houses and they are then taken off the waiting list. Where are they expected to live?

A high-level investigation is required into the allocation of RDP houses to farmworkers who reside on the farm. These workers get those houses at the expense of back yard dwellers that had been on the housing list for ages. There is a clear corrupt relationship between some farmers and some municipalities. While visiting RDP houses in De Doorns, one will find that two or three streets are occupied by workers from the same farm. This holds true for many farms in the De Doorns area.

As Labour and Civil Society we want to caution government not to get overly excited and prematurely support the concept of Agri-Villages. This is a concerted effort by the farmers and certain political parties to get all Black workers off White owned farms. Very soon there not a single Black living on a White owned farm. In the Somerset West

District, we already observe very few farms with Black occupiers. Agri-villages will be labour reserves for cheap labour as well as poverty traps. We therefore resolve that the threshold for joint income must be appropriately adjusted.

5.6 VIOLATIONS OF HUMAN RIGHTS

In 2007, Nosey Pieterse did a presentation to the Human Rights Commission (see attached addendum 5), and in 2013 he did a presentation to the Deputy Minister of DOJ and a follow-up presentation to the current Deputy Minister (see attached addendum 6). In 2016 he made a presentation to the High Level Panel (see addendum 4) by former President Galema Mothlante. No feedback has been received until this day from the different forums or their conveners.

It is with great concern that we note the increase of human rights violations on farms. It is reaching pandemic proportions; farmer brutality has become the order of the day. Farm workers are being murdered, assaulted, sexually abused and maimed and even die on duty due to work accidents or in transit on their way to work or home in bakkies supplied by the farmer.

We therefore resolve that the HRC investigate human rights violations on farms especially in the following areas:

- (i) Easy access to farms related to the social needs of farm worker families such as admission for their visitors must be granted.
- (ii) Workers and their families should also have freedom to practice religion, arts, culture and sport. This must be addressed by the Department: Rural Development and Land Reform (DRDLR).
- (iii) The old Apartheid “Trespassing Act” and its implementation must be scrapped. The Department of Justice and Constitutional Development (DOJCD) must be involved and act on this.

5.6 PROSECUTION

ESTS treats employers with kid gloves. The law declares that a house cannot be bulldozed or people may not be evicted unless due process has been followed and any violation of the above constitutes a criminal offence. There is notably not a single farmer who has ever been criminally charged and yet thousands of people were and still are unlawfully evicted and their houses bulldozed.

We therefore resolve that farmers must be arrested, no ‘police bail’ be granted and that a formal bail application must be made. Such a transgression must carry a prison sentence without the option of a fine.

5.7 THE ROLE OF SAPS

We note with concern the current role of SAPS when it comes to evictions and their attitude when workers attempt to lay charges against farmers. Many times polices on duty refuse to accept charges against farmers and when they accepted it under duress they refuse to follow it up to its ultimate conclusion. On the other hand we note the enthusiasm with which police reacts when farmers lay charges against farmworkers.

We therefore resolve that the Minister of Police must send out a directive to all police stations that refusal to accept complaints from farmworkers are being seen in a very serious light and policemen who are found guilty of such will be dealt with severely.

6 MONITORING AND ENFORCEMENT OF LEGISLATION

It is unbelievable to note the levels of leniency that employers enjoy when the Department of Labour conducts inspections at their workplaces. They are afforded long periods to take corrective actions, they can appeal, etc. The red tape undermines the rights of workers.

We therefore resolve:

- (i) That inspectors must be given much more powers.
- (ii) That inspectors must be able to enter any workplace at any time to conduct an inspection.
- (iii) Any finding must be regarded as a violation and punishable with immediate effect.
- (iv) Much, heavier fines must be applicable.
- (v) Inspectors must have the power to withdraw workers from their workstations with full pay if they are found not to be equipped with the necessary equipment and protective clothing.

7 REVIEW OF THE FARMWORKER RIGHTS CHARTER

An inter-ministerial committee was established under the leadership of the Deputy President with Department of Agriculture, Fisheries and Forestry (DAFF), acting as the secretariat. This committee is totally and utterly dysfunctional. It last met in 2015 and should be revived.

Furthermore, a structure consisting of government; organised labour; civil society and the agriculture sector must be established to monitor and evaluate the implementation of this charter as well as reviewing the contents if and when it deems necessary.

8 EXPLANATORY NOTE ABOUT THE ADDENDUMS

The addenda are included to provide anecdotal, historical and contextual substance to the document.

9 CONCLUSION

The signatories to this document recognise that various research documents on farmworker issues such as housing, sectoral determination, evictions and safe transport for farmworker have been written and are being discussed in the public domain. We also recognise that some progress has been made to address the “21 Demands” of farmworkers. The Farmworker Rights Charter will be a dynamic document and as development progress is made, the document will be updated and amended accordingly. For example, the polemic around the concept of “agri-villages” remains a controversial topic and further discussion will be held on this issue to formulate policy and practice in this regard.

Signatories resolved that the Farm Worker Rights Charter should be discussed at trade union membership level, industry workstreams, leadership levels of the fruit and wine industries and the various spheres of Government.

Further meetings and imbizo’s with broader stakeholders and farmworkers will be held to discuss the recommendations in this document and to develop a plan of action.

The stakeholders also resolved to revive and strengthen the “Rapid Response Unit” (RRU) within the wine and fruit sector. The RRU was convened by labour and business in the wine industry on 27 May 2016 as a mechanism to resolve matters of conflict and labour disputes in the industry.

Meetings will be held with Government, Operation Phakisa and the Wine and Agricultural Ethical Trade Association (WIETA) and the Sustainability Initiative of South Africa (SISA) to become co-implementers of the recommendations contained in this Farmworker Rights Charter.

Fairtrade and other ethical trade organisation shall be enlisted to give impetus to boost the impact of the Charter.

ADDENDUM 1:**LOW HANGING FRUIT**

As Labour and Civil Society we have identified the following low hanging fruit which we believe can be implemented with ease and which will demonstrate the commitment of the captains of industry and government:

- 2.1 Awareness campaigns: “Know your Rights’ conducted by HRC and DOL.
- 2.2 Abet classes and programs to provide literacy and numeracy competencies.
- 2.3 Learnerships, workplace skills plans and job grading to increase upward mobility and productivity of workers via SETA accreditation.
- 2.4 Life skills programmes conducted on all farms.
- 2.5 Employee Wellness Programmes must be rolled out.
- 2.6 Introduction of Share Equity Schemes.
- 2.7 Rural sports council for the major codes: rugby; soccer; cricket; netball; athletics; karate and boxing.
- 2.8 Arts and Culture must be introduced and promoted, e.g. choirs; dancing; musical instruments, oral history and storytelling.
- 2.9 Leadership Development.
- 2.10 Establishment of a legal assistance trust fund to provide access to streamlined legal aid support.
- 2.11 Establishment of compulsory Value Chain Round Tables for every commodity.
- 2.12 The Minister and NAMC must note that all statutory levies must be administered by trusts, with equal numbers of ministerial trustees, of which no less than two (2), must be representatives of organised labour and one from Civil Society.
- 2.13 The provision of funding to develop a master implementation plan and specific business plans for the above projects and activities. These business plans must also identify by whom and how these activities will be implemented.
- 2.14 Child grants are to be made accessible to farm worker communities: This must be addressed by the Department of Social Development (DSD).
Please note that the services must include the services of the department of Home Affairs.

ADDENDUM 2:
WORKERS DEMANDS SINCE THE STRIKE ON 1ST NOVEMBER 2012
<i>Since the strike which broke out in De Doorns on the 1st November 2012, a list of demands was given to negotiate around the grievances of farm workers.</i>
1. The demand for R150 per day.
2. Full maternity benefits for all workers including seasonal workers.
3. End to Wage Discrimination and the principle of Equal pay for equal work are introduced.
4. That all housing contracts are entered into with both partners' names and that women in particular have rights to tenure in the event of a spouse or partner passing on, or losing his job.
5. 40 hours a week for farmworkers.
6. Safe and decent farmworker transport for farmworkers to and from work and town.
7. Freedom of association, stopping of anti-union activity and granting of unified organisational rights regime.
8. No deductions for rent of siblings and dependants over the age of 18 years.
9. No deductions for domestic water and electricity usage including gardening.
10. The introduction of job grading and pay scales for all workers.
11. That a provident fund be set up for all farmworkers.
12. The setting up of a bargaining/statutory council in the agricultural sector.
13. Moratorium on all evictions
14. A ban on the use of labour brokers as this form of employment undermines the regulatory framework of farmworkers employment conditions.
15. That a seasonal worker desk, be set-up by the DOL, that keeps a data-base, track and service seasonal workers' needs, i.e. to be registered for UIF and be granted permanent seasonal workers status.
16. The setting up of and inter-ministerial committee and define the role of agricultural sector in Nedlac that specifically look at farmworker and dweller issues, and that a fund be set up to support activities of unions towards unionization of the sector.
17. That the child grant be made accessible for farmworker communities.

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| 18. Create a fund to assist with alcohol and substance abuse, foetal alcohol syndrome and gender base violence. |
| 19. Access to farms related to social needs of farmworker families. |
| 20. Transformation and structural changes be brought about in the agricultural sector speedily. |
| 21. Free accessible Health Care for farmworkers. |

ADDENDUM 3:**2010 FARMWORKERS SUMMIT RESOLUTIONS****PREAMBLE**

We, the farm workers, farm dwellers, leaders of government, the private sector, organized labour and civil society, led by the President, came together on 30 – 31 July 2010 in Western Cape to discuss the critical need to build good working relations and living conditions for vulnerable workers within the Agriculture, Forestry and Fisheries sectors.

The discussions centered on the social determinants of health; working conditions; tenure security; and empowerment and training for vulnerable workers.

Regardless of our progressive laws, the workers in the Agriculture, Forestry and Fisheries sectors are still faced with the deprivation resulting from the Land Act, 1913 (Act No 27 of 1913) and to this effect the National Summit noted the following challenges.

In terms of the social determinants of health for vulnerable workers, the National Summit NOTED

- That the vast majority of workers in the Agriculture, Forestry and Fisheries sectors do not have access to basic services (water, electricity, housing, sanitation, and healthcare).
- The lack of access to socio-economic rights (Registration of Births / Deaths, Identity Documents, social grants and social security measures).

With regard to working conditions of vulnerable workers, the National Summit NOTED

- That the majority of workers in the Agriculture, Forestry and Fisheries sectors are not informed about their rights in terms of the Labour - and Basic Conditions of Employment Acts.
- The lack of infrastructure and access to new technologies.
- That the majority of workers in the Agriculture, Forestry and Fisheries sectors are unable to exercise their Constitutional rights (E.g. the right to belong; the opportunity and the means to organize themselves; use of Trespass Act, 1959).
- The lack of compliance with labour laws by employers
- The lack of enforcement of labour laws by government.
- Human right abuse against workers in the sectors (physical-, mental-, emotional- and economic abuse; gender discrimination).
- The continuation of child labour and unfair labour practices.
- The abuse of workers by Labour Brokers

In terms of security of tenure for vulnerable workers, the National Summit NOTED

- That the majority of workers in the Agriculture, Forestry and Fisheries sectors are not informed about their rights in terms of Extension of Security of Tenure Act (ESTA).
- That the majority of workers in the sectors do not have access to land to support their livelihoods and economic activities.
- The collective failure to implement the resolutions of the National Land Summit of 2005.

In terms of empowerment and training for vulnerable workers, the National Summit NOTED

- That the majority of vulnerable workers in the Agriculture, Forestry and Fisheries sectors do not have access to education and training (Basic education, Further Education and Training, and Adult Basic Education and Training).
- A non-responsive curriculum statement for the Agriculture, Forestry and Fisheries sectors.
- The lack of value addition opportunities at local level.
- The lack of transformation in the sectors.

Noting the above, the National Summit on vulnerable workers in the Agriculture, Forestry and Fisheries resolved the following:

In terms of the social determinants of health for vulnerable workers, the Summit RESOLVED that:

- Government and employers will work in partnership to provide basic services (water, electricity, housing, sanitation, and healthcare) to workers in the sector.
- In the interim mobile health and social services will be provided to workers.
- Access to health services for vulnerable workers to be included in annual district health plans.
- Training of workers to support health in their communities (Traditional birth attendants, home based care and ancillary health).
- Communicable and non-communicable diseases to be addressed through the provision of comprehensive programmes and workplace wellness policies.
- Renewable / alternative energy provision for workers to be explored.
- Food security for workers to be addressed through the establishment of food gardens and implementation of minimum wage.
- Community policing forums active on farms to be created and / or strengthened; establish mobile police stations.
- Access to burial sites and graveyards to be facilitated by employers.
- A simple SMS number for access to police and emergency services to be created.

With regard to working conditions of vulnerable workers, the Summit RESOLVED that:

- Intensify awareness raising to ensure workers are informed about their rights in terms of labour legislation.
- “Shared / common” infrastructure to be provided subsequent to spatial analysis and needs determination and aligned with the Comprehensive Rural Development Programme.
- Access to new technologies through agreements with Tertiary institutions and State Owned Entities.
- The right of freedom of association for workers will be realized and respected and support will be provided to enable them to exercise this right.
- Establish and / or strengthen Bargaining Councils for vulnerable workers in the Agriculture, Forestry and Fisheries sectors.
- Establish multi-stakeholder forums to discuss and address issues relating to working conditions and monitoring the implementation of resolutions.
- Human Rights Commission and other relevant commissions to participate in multi-stakeholder forum.
- Strengthen enforcement mechanisms and the powers of labour inspectors.

- Increase the governments' capacity to enforce labour legislation, the Basic Conditions of Employment Act and other relevant legislation.
- Employers will comply with sectorally determined minimum wage and basic conditions of employment.
- A code of conduct for contract workers and standard contracts to be developed and implemented.
- The quota allocation policy in Fisheries will be reviewed.
- Compulsory regular testing of workers exposed to chemicals will be enforced.
- The prohibition of child labour will be enforced.
- Regulate labour brokerage and outsourcing to deter abuse of worker.

In terms of security of tenure for vulnerable workers, the Summit RESOLVED that:

- ESTA provisions to be reviewed and strengthened.
- Moratorium to be placed on farm evictions.
- Tenure rights will be secured for workers and associated with that subsidized houses will be provided.
- Workers should have access to land to support their livelihoods and economic activities – Agri-villages to be promoted.
- National Land Summit of 2005 resolutions to be implemented.
- The “willing buyer – willing seller” principle be reviewed and the nationalisation of land be considered.

In terms of empowerment and training for vulnerable workers, the Summit RESOLVED that:

- Access to education and training (Basic education, Further Education and Training, and Adult Basic Education and Training) for vulnerable workers and relatives be facilitated.
- Mentorship programme to support the development of small scale and subsistence producers / users will be established
- Skills development programmes will be developed for each sector and sub-sector based on skills audits.
- The National curriculum to be aligned with broader government priorities.
- The implementation of the Comprehensive Rural Development Programme (value-addition opportunities) will be fast tracked.
- Prior learning will be recognised.

Overarching Resolutions:

- The Ministers of Agriculture, Forestry and Fisheries; Labour; and Rural Development and Land Reform agree to amend relevant and applicable legislation.
- Moratorium to be placed on privatisation of state assets.
- Implement Forest Sector Charter; Refine and implement Agri-BEE Charter and develop a Fisheries Charter to address transformation, skills development etc.

ADDENDUM 4:**PRESENTATION BY BAWSI PRESIDENT TO A HIGH LEVEL PANEL CHAIRED BY EX PRESIDENT KGALEMA MOTLANTHE****1. INTRODUCTION**

The challenges faced by farmworkers are numerous. Given their circumstances, they are in many instances completely at the mercy of the farmer. Their lack of education; their ignorance of their rights; their distance from the nearest towns; reliance on transport of the farmer to connect with the outside world; and the fact that they occupy the house of the farmer, renders them extremely vulnerable. Below follow some of the challenges face by farmworkers and some recommendations of RAAWU, which if address, will go a long way in restoring the dignity of farmworkers.

- The guilt of an alleged criminal has to be proven beyond reasonable doubt, but the guilt of a transgressor in a labour matter must be proven merely on the balance of probabilities. The future of a worker is determined by who presents the most probable version. The sad part is that CCMA commissioners and judges almost always found the version of the employer to be the most probable, because according to them the employer has no reason to lie whilst the worker will lie to save his job. I have sat in hearings where the lies of employers would have made a dentist to blush. Employers lie at their best when they want to get rid of a shop steward or a worker who are not available for any form of abuse /or violation of their rights. The burden of proof in labour matters especially in cases which can lead to dismissal must be proven beyond reasonable doubt.
- The credibility of findings of CCMA commissioners are often questionable. There is sometimes no factual basis for it. In one instance the commissioner found that because the applicant cried, she was guilty of lying whilst in another case the commissioner found that because the applicant did not cry, she was not showing any remorse. Commissioners need to be thoroughly trained in this particular area.
- Commissioners are a law unto themselves because they are protected by the limited review provision in S145 of the LRA. As RAAWU we say that the basis for review must be expanded to include a review of the procedural and substantive fairness of a dismissal.
- It is often said that “justice delayed is justice denied”. It takes forever to get your case heard after you referred it to the Labour Court for review. By the time that your case is heard, you have lost your house and your car and you have been driven to the brink of suicide by your creditors, and in many instances people even went through divorces. There are time frames for referrals of unfair dismissals, unfair labour practices, issuing of arbitration awards etc. Labour Court reviews must also be subjected to a reasonable time frame of less than six months. More labour courts should also be set up.
- When employers realise that they are going to lose the case, they then argue that the relationship has been broken down beyond repair without leading any evidence to that effect. Employers generally don't want employees back whom they have dismissed, especially when they are union members and/or shop stewards. The primary remedy

for unfair dismissals in terms of the LRA is reinstatement and that is what must be pursued. Given the high rate of unemployment and the hostility towards unions, commissioners must be compelled to reinstate. They must abandon the argument that they were reluctant to return workers to a hostile environment. Employers must be taught that they cannot get rid of the union or the shop stewards through a cash pay-off.

- Our constitution declares that all are equal before the law. For workers in general and farmworkers in particular that is not true. Their reality is that we are living in a pay as you go democracy. Their matter can only be referred to the labour court if they or their union can afford it. The state must provide representation to all workers in the labour court. Lawyers should have right of appearance in the labour court. It does not make sense that a union representative or an ordinary worker has locus standi in the high court and the Labour Court but not an attorney.
- Many farms are in remote areas and workers are far removed from towns. The level of literacy is low and workers are ignorant in terms of their rights. Due to the hostility of farmers, there is an extremely low level of unionization amongst farmworkers. For these reasons the 30 day period for referring dismissals to the CCMA is utterly and totally inadequate. It militates against the notion of justice for all. There should be an extension of this period and the above mentioned factors must be positively considered during condonation hearings. Unfair labour practices have a 90 day time frame and the employee is still at work, but dismissed employees only get 30 days.
- The law treats employers with kid gloves. The law declares that a house cannot be bulldozed or people may not be evicted unless due process has been followed and any violation of the above constitutes a criminal offence. I don't know about a single farmer who has been criminally charged and yet thousands of people were and are still unlawfully evicted and their houses bulldozed. Farmers must be arrested and no police bail be granted and a proper bail application must be made. It must carry a prison sentence without the option of a fine.
- The levels of leniency that employers enjoy when the Department of Labour does an inspection at the workplaces, is unbelievable. They get long periods to take corrective action, they can appeal, etc. The red tape undermines the rights of workers. Inspectors must be given much wider power. They must be able to enter any workplace any time to do an inspection. Any finding must be regarded as a violation and punishable with immediate effect. Greater fines must be applicable. Inspectors must have the power to withdraw workers from their workstations with full pay if they are found not to be supplied with the necessary equipment and safety clothing.
- Intimidation and victimization by employers must be a criminal offence. Unions and workers must be able to lay criminal charges against union bashing employers. Workers are being criminally charge for intimidation during strikes and protest so why can't employers be charged criminally when they intimidate workers. Coupled to this is the issue of access and recognition. It must be made compulsory that within 3 days of receipt of membership forms, the company will engage the union in a verification exercise to limit the opportunity to intimidate employees to resign from the union. In the event that no verification exercise took place, the union will automatically enjoy the right of a sufficiently representative union. Unions should be granted immediately organisational rights in accordance within their level of representations.

- The process of setting up bargaining councils and statutory councils must be streamlined to speed up the process. All that should be required must be to determine the level of representatively and then the CCMA must facilitate the negotiating of the various agreements that ought to be put in place.
- Consultants and lawyers must not be allowed to participate in disciplinary hearings at plant level unless a union official is also granted the right to represents the worker.
- A contract can be declared null and void if the worker was not assisted by a trade union irrespective even if the worker has signed it in the presence of witnesses. Workers are powerless to negotiate with the farmer when presented with a contract to sign. In most instances they are intimidated and threatened with dismissals and eviction if they don't sign.
- Settlement agreements entered into at the CCMA should be declared null and void if the workers were not represented by a union and they afterwards realised they have been done in.
- Unilateral changes to conditions of employment may be arbitrated if the employee so wish.
- Employers must continue to pay workers their full salary who suffered an injury on duty until such time the worker is declared fit. Workers must be kept informed about the status of their claim and in the event that the claim is finalised, the worker must be given a clear and simple statement what is due to him/her.
- Employment equity must be applicable at every workplace irrespective of the number of workers employed. The same apply to Health and Safety. Here reference is made to the establishment of committees, the election and training of safety representatives, etc.
- The latest amendments to the LRA do not properly deal with seasonal workers. Seasonal workers must be given some form of job security such as a "permanent seasonal worker" which will guarantee the worker stability and certainty. Some worker work as seasonal workers of as long as 40 years.
- In the example referred to above, such a worker with that kind of service will retire without a cent unless an ex gratia payment is negotiated by unions and the amount a union succeeds in getting never amounts to more than R3000.00. Seasonal workers must be as said above, be granted permanent seasonal status with a retirement benefit made up by worker and employer contributions whilst at work during the season.
- Seasonal workers in most instances also do not have any insured benefit cover. We proposed that they must be covered even during the off season due to the fact of their limited opportunity to earn, because the employer pays for insured benefits of its permanent staff.
- Joint income has resulted that farmworkers who does not stay on the farm do not qualify for an RDP house whilst they don't earn enough to get a bond. The threshold for joint income must be increased.
- When workers applied for RDP houses, they qualified. But due to the fact that they were on the list for many years, the increases they received put them outside of the

qualification bracket for RDP houses and they are then taken off the waiting list. Where must they go to?

- A high level investigation is required into the allocation of RDP houses to farmworkers who reside on the farm. These workers get those houses at the expense of back yard dwellers that had been on the housing list for ages. There is a clear corrupt relationship between some farmers and some DA controlled municipalities. When you go to the RDP houses in De Doorns, you will find that two or three streets are filled with workers from the same farm. This is true about a large number of farms in De Doorns.
- As RAAWU we want to caution government not to get too excited and not to support the concept of Agri-Villages. This is a concerted effort by the farmers and the DA to get all blacks workers off white owned farms. Very soon there will not be a single black living on a white owned farm. In Somerset we already see very few farms with black occupiers.
- No unilateral reducing of the daily hours must be allowed. This is one of the tactics of farmers not to allow workers to benefit from the increase. Any reduction of daily hours must be negotiated with the union and where there is no union, only the Minister can grant a reduction. Such a reduction will only be for 3 months.
- Deductions for rent must be scrapped in the Sectoral Determination.
- Free transport must be granted for medical purpose and for weekly shopping as part of the conditions of Employment in the S.A.
- An investigation must be conducted into all the deaths in transit. It is our understanding that in terms of the law, when the driver is guilty that the owner of the truck is jointly and severally liable, but we haven't heard of a single farmer being charged in such circumstances.
- The licence issued to transport farm workers must be reviewed to make traveling to and from work for farm workers safer. The current trucks are nothing else than trucks of death. Workers are transported in conditions worse than animals.
- It is with great concern that we note the spate of human rights violations on farms. It is reaching pandemic proportions; farmer brutality has become the order of the day. Farm workers are being murdered, assaulted, sexually abused and maimed and even killed on duty in work accidents. We call on government to instruct the HRC to investigate human rights violations on farms.

ADDENDUM 5:**BAWSI PRESIDENT ORAL SUBMISSION TO THE HUMAN RIGHTS COMMISSION OF SA 20
SEPTEMBER 07 [Extract]****1. Background of BAWSI**

The objectives of BAWSI is to actively participate in the transformation of the wine and spirits industry so that it is truly representative across the whole value chain of the industry as well as in all decision-making structures within the industry.

BAWSI is a registered NPO, established with the primary objective of transforming the Wine and Spirits Industry so that it is representative of South African Society in terms of ownership, management, control, skills and to address all social evils that the poor rural are subjected to. At the A.G.M held on the 06 November 2004 a mandate was given to change the name to the Black Association of the Agricultural Sector but the acronym will remain BAWSI.

The Goals of BAWSI is to:

- Play a meaningful role in the empowering of people of colour that will enable them to become owners of the means of production.
- Organize entrepreneurs of colour with an affinity to the agriculture industry in an association of black agriculture business.
- Assist all members of the association on all structures in the Agricultural Industry.
- Mobilise for the representation on all structures in the Agricultural Industry.
- Agitate for the improvement of the living conditions of the farm workers.
- Contribute in ensuring the development and training of farm workers.
- Contribute in ensuring the formal certification of farm workers who have been performing tasks under the guise of unskilled worker.
- Advocate a culture of participatory management in the Agricultural Industry as whole.
- Agitate that all role players in the Industry make a meaningful contribution to the empowerment of farm workers in terms of their social responsibility.

- Promote property ownership for farm workers.

2. Evictions

2.1 Introduction

Despite the Extension of Security of Tenure Act 62 of 1997, the evictions of farmworkers have reached pandemic proportions. In 2005, Nkuzi Development and Social Surveys completed a national survey of eviction of farmworkers. The survey found that between 1984 to 2004, 1.7 million people were evicted. It was found that the pace of evictions has not slowed down since the advent of democracy. The survey estimated that 942 303 people were evicted between 1994-2004 compared to the 737 114 between 1984-1994. Just between 2003-2004, 195 121 farmworkers were evicted.

These evictions cause serious hardships for evictees. Displacements not only affect the breadwinners who have contributed so much to the growth of the industry but entire communities and families. It is particularly disruptive to school going children.

As far as evictions are concerned we need to understand first and foremost, who are the evictees. In many instances they are farmworkers who have been living on the farm for the better part of their lives if not for all their lives. They are semi-literate and sometimes totally illiterate.

Evictions are also the cause of the moral breakdown of our society especially on farms and rural areas. Families are torn apart; they are robbed of the right to family life. I refer to the Ertjieskloof case where 7 families are sharing one space without walls. They have been robbed of their dignity as human beings; they have been robbed of the right to privacy and are forced to raise their children under these circumstances.

What are the reasons given for evictions? Dismissals; retrenchments; sale of the farm; workers do not work on the farm anymore and the farmer needs his house.

Many of the houses on the farms were built with grant money for the explicit purpose to house farmworkers. Farmworkers are facing evictions because farmers want to diversify. They want to convert the farmworker houses into self-catering units to make bigger profits. Houses that were acquired to house farmworkers are now used to generate profit as B&B establishments.

Farmers, abusing the ignorance of legal processes of the workers, push eviction orders through the courts, knowing very well that the victims don't have a clue about how to defend themselves. They get the order through under the guise of an urgent application. Workers get evicted without the Land Claims Court ever having had sight of the eviction order for the purpose of ratification. Workers get evicted without alternative accommodation. Workers get evicted without the court being informed by a social worker concerning the situation and circumstances of the occupiers.

On numerous occasions workers found themselves stranded because when they woke up one morning they learned that the farm has a new owner. The previous owner is gone. The only thing that the new owner is interested in is for them to vacate his houses. His argument is that he has no employment relationship with them. Their contract was not transferred to him as per S197 of the LRA, even though the farm has been sold as a going concern.

2.2. Security of Tenure Desk

The Security of Tenure Desk was established by BAWSI in late 2006, in opposing and preventing a white elite agricultural state, which is contrary to the transformation agenda of South Africa. Due to the rise in eviction in the previously disadvantage farming community in the agricultural sector, Western Cape and with no or little assistance from government and Industry structures, BAWSI in January 2007, appointed a fulltime attorney, as well as a Co-Ordinator to operate the Security of Tenure Desk in line with its strategic aims and objectives as outlined in the BAWSI Constitution.

The logistics of dealing with an eviction is overwhelming, farm workers are mostly dismissed employees, with almost no literacy level to understand the court documents served on them and have no means of income to deliver court documents to the offices. Usually request for these documents can be picked up and consultations usually happen on the farm. On the day of hearing farm workers again are picked up to attend to court and taken back to the farm moreover urgent evictions applications require immediate response, as opposition applications must be delivered to court, which cannot wait for the next day.

In most cases the evictions are approved on court procedure only and no consideration are given for the family in terms of accommodation, human dignity in terms of chapter 10 and socio-economic rights: housing, health care, food, water, social security and access to land in terms of chapter 27 (1), (a), (b), (c), which is enshrined in the Bill of Rights, the Constitution Chapter 26(1) of 1996, which states “everyone has the right to adequate housing” read with section 26(2) which states “the state must take reasonable legislative and other measures within its available resources, to achieve the progressive realization of this right”. See also (Government of the Republic of South Africa v Grootboom 2000 (11) BCLR 1169 (CC), also read with chapter 26 (3), which states “ no one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions. The different judgements by the Judges of the courts makes the Extension of Security of Tenure Act a piece of paper not worth writing on, as the Judges applies and interprets the ESTA act differently.

Numerous labour related cases have also been referred to the Security of Tenure Desk, whereby farm workers have been dismissed and only given a letter of notice to evacuate

the house in terms of section 9,(2),(d) such a letter is not an application to the courts for an eviction, but merely a procedure to proceed with the eviction procedure.

3. Violation of Farmworker Rights

3.1 Rights of the occupier

Section 6(2) states that the occupier has the right “to receive postal or other communication”.

In the Le Fut matter, the letter from the CCMA to De Water, the occupant, was not given to him because according to the farmer he was not given permission to use the farm as his postal address. Because Mr. De Water did not respond in time to the letter, his case was closed.

Section 7(2) states:” An owner or person in charge may not prejudice an occupier if one of the reasons for the prejudice is the past, present or anticipated exercise of any legal rights”.

The owner clearly prejudiced Mr. De Water when he deliberately did not hand him the letter from the CCMA in order for him to exercise his legal rights.

3.2. Assaults on Farmworkers

The manager of Le Fut farm assaulted the wife of Mr. De Water, a farmworker, because she refused to assist the sheriff to carry her furniture out during her eviction. It took some serious effort and pressure on the police to get them to charge Mrs. Joan Erentzen.

A 15-year-old boy called Anthony accompanied a woman who alleges that she was gang raped. He was beaten and seriously injured.

Previously a brilliant student, he must now receive special education due to the amount of brain damage he suffered during the alleged assault. It was alleged that the same men who was accused of rape, also assaulted him with an iron pipe and dragged him behind a bakkie through a riverbed. The farmers claimed that they did not assault him and that he was injured during an accident, but no accident was reported. According to our understanding, it is a requirement by law that all accidents in which people are injured must be reported.

According to Johannes De Water, he was instructed to spray pesticides without the necessary protection. When he objected, he was verbally abused and manhandled. He made it very clear that he will not tolerate such conduct and since then he fell out of favour. According to him, he got ill due to working with pesticides, was hospitalised for a long period, and thereafter was ill on frequent occasions. Upon submitting his sick certificates, the manager returned it to him. He was subsequently dismissed for absenteeism. He went from pillar to post for assistance and eventually an officer of the

Dept. of Labour facilitated a resolution to the dispute. He was given a fixed term contract of one month and was then dismissed again. It must be remembered that De Water is illiterate.

There are thousands of De Water's on the farms who are illiterate; who do not know their rights; who are not unionised; and who don't have easy access to the relevant institutions that can assist them. The Department of Labour are hopelessly understaffed in terms of inspectors on the farms.

BAWSI recommends that NGO's be accredited as inspectors by the department of Labour to regularly inspect the conditions on the farms.

3.3. Sexual abuse of Farmworkers

A woman alleged that she was gang raped by farmers and a farm worker. She later withdrew the charges, claiming that she was lying. The case was withdrawn under very questionable circumstances. A press conference was held in the house of one of the accused; she was not charged with perjury; and her original statement was far too graphic and detailed to be a fabrication.

Another woman also alleged that a farmer had raped her. She alleges that the same farmer is sexually abusing a number of women. She gives details of other incidents that involve the farmer. None of these has been followed up and the case has been thrown out.

Rawsonville is the area where the two farmworker women have allegedly been raped and where Anthony was assaulted. A number of marches took place to the police station in Rawsonville because of their poor policing. Recently the chief at the police station was charged with sexual harassment and was transferred and two police officers were investigated for intimidating a woman to make a false statement.

Saron is another police station where it is almost impossible to lay a charge.

BAWSI recommends that the Human Rights Commission hold public hearings in all rural towns and invite the community to testify about their experiences with the courts, Dept. of Labour and the police stations.

3.4. Health and Safety

Johannes Fransman died as a result of an injury on duty. He was crushed between the Wine Press and a Trailer. The quality of his spouse's life has deteriorated due to this. She is unemployed and has no income. It is alleged that no proper investigation in the matter was done and the spouse did not receive any benefits.

Jan Olyn also died on duty. His father was a witness in the case but was subpoenaed to appear two days before the hearing of the case. The farmer paid a fine of R3000.

John K. Gcanga, a worker on Louwsshoek Boerdery (Edms) Bpk is partially blind because, according to him, pesticide went into his eyes.

3.5. Alternative Accommodation (Section 10(2))

The courts do not ensure that alternative accommodation is available to the evictees. At Le Fut farm, the worker and his family had to sleep with their furniture on the side of the road under a tree. They have two small children.

At Bien Donne, the family had to stay in the bush next to the Stellenbosch/ Franschoek road. The sheriff evicted them whilst they were at work and only a little child was at home.

At Ertjieskloof, seven families were evicted, among them many children and elderly folk. They were dumped on a field opposite the Saron post office.

3.6. Demolition of Farmworkers houses

At Le Fut farm, an interim order was granted for the eviction of Johannes De Water, yet the farmer demolished his house. Section 26(3) of the constitution provides that no one may be evicted from their home or have their house demolished without an order of court.

Section 15(d) of ESTA makes provision that the court may grant an eviction order pending the outcome of proceedings for a final order if it is satisfied that “adequate arrangements have been made for the reinstatement of any person evicted if the final order is not granted.”

The final order, in the De Water vs. Le Fut matter, has not yet been granted, but the house has been demolished.

4. The BEE deals

This area is fraught with unethical behaviour. The most common of which is fronting. Where white businesses make use of black faces without any real form of empowerment. I was informed about instances where workers were not even aware that they were shareholders in the company.

In other cases where farmers or aspiring farmers get farmworkers together, and with the help of their LRAD grants, acquire a farm, once again without prior contractual agreements to protect their interest. We have examples where such farms went bankrupt and the farmworkers lost everything. In the end they were brutally evicted from the farm of which they were previously owners and employees.

A further example of unethical conduct in this field is when wine farmers and/or companies initiate a black vintner’s project. In many instances these projects are pseudo empowerment deals. It is a marketing ploy by the sponsor to draw foreigners and

domestic tourist to his business. A characteristic of these pseudo empowerment projects are the high level of dependency on the sponsor of the project. If the umbilical cord is cut, the project dies.

Ertjies Kloof:

The whole transaction needs to be subjected to a forensic audit. Workers claim that the farm has been sold without their consent. They were 20 workers who were recruited from various farms to go into partnership with the farmer to buy a farm. LRAD application was made on their behalf. They left their jobs and participated in the deal. Today they are seven families staying in a hall with no privacy and makeshift curtains are used as partitions.

Piketberg and Citrusdal Area:

BAWSI has been requested to investigate the so called “BEE deals” at Agtervlei, Harmony, and Bugler’s Post, Eikevlei, Brakrivier and several other farms.

The General Workers Association claims that the workers on these farms have been told that they are shareholders but, alas, they cannot produce the relevant shareholder certificates.

New Beginnings:

This project was heralded as a victory for empowerment but in reality, it is a sad story.

Recently a shareholder reported to one of our officials that the owner of the cellar, (allegedly the same person who started the project) informed them that they could not use the cellar at the time when their grapes were ready. As a result, the grapes were not harvested and turned to raisins on the vines. This constitutes a total loss of production and loss of their most recent vintage.

According to the shareholders they have allegedly been threatened with “legal action” should they communicate with the press or any outside party on the matter. Those allegations have to be investigated because the enslavement of our people cannot be tolerated.

5. Conditions of former Farmworkers

5.1 Lourensford

- At Boland Voere there are nine houses occupied by twelve families. The overall state of these houses is way below sub-standard and the water is unhygienic.
- At Lourensford 235 families were uprooted. Of that, 197 families agreed to stay in a coloured ghetto called Sercor Park, build by Christo Wiese. We implore the SAHRC

to research the devastating impact that uprootment had on that generation of school going children. Teenage pregnancies, drug abuse, gangsterism, crime and dropping out of school became the order of the day. They constitute the lost generation created by Wiese's ghettos. We further want to know whether the houses on Lourensford were not government subsidised and if Wiese can convert them into guesthouses and or demolish them.

- The uprooting of Lourensford families was in our opinion intended to prevent the occupier from acquiring rights in terms of Section 8(4). The majority of those uprooted worked on the farm for much longer than 10 years.
- Because an eviction on the above-mentioned basis would have been ruled illegal in terms of Section 12(6), the owner of the farm followed the route of uprooting the people instead.

As BAWSI, we concede that there are agreements, which were entered into between the relevant parties, but we challenge the legal status of the agreement. We are contesting it based on Section 25(3) because we argue that just because an agreement says that they are aware of their rights in terms of ESTA does not prove that they do know their rights. Bear in mind that we are dealing with a highly sophisticated party who is well resourced, on the one hand, and on the other hand a highly unsophisticated party who at best are semi-literate. The agreement is in English.

We want to bring to your attention that the following people: Klaas van Wyngaard; Karl Moses; Dolf Tulane; Jakobus Christiaans; Isak Theunisen(sr); Jan Sass; Jakobus Solomons and Edward Tsolo had Section 8(4)(a) rights, whilst Stoffel Matthews and the late Magrieta Herandien had Section 8(4)(b) rights. They "signed that away" for a smaller house for which they had to pay. In fact, the majority of the uprooted families were given smaller houses.

The families were divided in different categories. Those who were permanent workers at Lourensford, those who worked there previously but still reside on the farm; and those who were in the process of being retrenched.

Firstly, Lourensford applied for housing subsidies on behalf of the workers. Secondly, those who were permanent workers got a loan from Southfin and Pep bank, whilst the rest of the workers got loans from Lourensford. Thirdly, money was also deducted from the Provident fund payouts to the retrenched workers. This was done unilaterally. Those who were still in the permanent employ of Lourensford received a contribution of R5 150.00 from Lourensford.

Serious questions have to be asked about this transaction:

- 1) The deductions of Southfin and Pep bank constitute more than 1/3 of the employee's income. Is it legal to grant loans like that?

- 2) The farmhouses are used as self-catering units. Was this houses built with government subsidies? If yes, is Lourensford within their right to do this?
- 3) Is the agreement of waiving ESTA rights legally acceptable given our constitution?
- 4) Restoration of those with Section 8(4) rights and a repayment of monies spent.
- 5) Restoration of the ESTA rights of the rest because it can be classified as avoidance of ESTA rights in terms of Section 12(6).
- 6) Declaring the home loan agreements null and void because the workers are suffering undue hardship brought upon them by loan agreement, which in our humble opinion is illegal.

5.2 Knorhoek

At a farm called Knorhoek in Stellenbosch, it was reported to BAWSI that the farmer, Hannes van Niekerk, to move to Idas Valley in Stellenbosch, coerced 12 households. They moved against their will and without consulting anybody with regard to the technicalities and legalities of such a step. The workers now do not have occupational rights or ownership of the houses. In doing so, they forfeited their "ESTA" rights.

5.3 Le Fut Farm

Johannes De Water, formerly from Le Fut Farm is now residing in Happy Valley near Blackheath. Those in the know say that there is nothing happy about Happy Valley.

6.1. Case Studies

JOHANNES DE WATER / LE FUT WINES (PTY) LTD

Applicant is Le Fut Wines (Pty) Ltd trading as Le fut Wine Estate situated at Sonstraal way, Paarl. An urgent application in terms of section 15 of the ESTA was brought by Mrs.Joan Ernstzen requesting an urgent eviction at Paarl, Magistrate Court under case no. 1331\07, pending a final decision by the Magistrate Court, which still have to be confirmed by the Land Claims Court

In and during the 15th May 2006, Respondent started working on the farm, as general worker. The terms of this employment contract he and his family acquired the right to reside on one of the houses on the farm.

On the 14th December 2006, was the employment contract concluded and terminated by Applicant, as Respondent was absent without leave, due to incapacity for not using protective clothing.

A new employment contract was concluded on the 26th January 2007, for a period of one month where after it was alleged that Respondent terminated the said contract with the respondent.

This is however, disputed by the Respondent, as he avers that the Le Fut Farm

owners made the working environment so intolerable and prejudice himself that he was forced not to return to work which amounts to constructive dismissal in terms of section 186 (1),(e) of the Labour Relations Act.

It is further alleged that in and during March 2006, the Respondents began to verbally abuse the Applicant. They also put stones and rocks in the entrance to the farm disturbing the Applicant access to the farm.

This is all denied by the Respondents who alleges that the Applicant offered to pay him R 5 000.00 to move from farm, which was not accepted by Respondents, which led to the relationship deteriorate to the under mentioned extent.

It is also alleged that Applicant threatened the Respondent and his family. She even went so far as to break the windows of their house and disconnected their water supply, which is a direct violation to their right to human dignity in terms of section 5 (a) of ESTA, read with chapter 10 of the Constitution, which states “that everyone has inherent dignity and the right to have their dignity respected and protected; read with section 6 (2),(e) of the ESTA which states “that no occupier will be denied or deprived of access to water”, which water had been disconnected by the Le Fut Farm owners to the house of the De Water family, who had to obtain water from the adjacent farm.

On the 10th April 2007, the Applicant demolished part of Respondents house with a bulldozer making it unsuitable for living purposes, which is also a direct constitutional violation terms chapter 26 (3), of the Constitution, which states “no one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions”, in this instance the court order was never made final, as the application is still pending.

Applicant brought an urgent application for eviction in the Paarl magistrates court which was granted on the 05th April 2007, in which the sheriff was authorized to immediately evict the family, without considering section 11 (c) of ESTA which states “ In deciding whether it is just and equitable to grant an order for eviction in terms of this section, the court shall have regard to – whether suitable alternative accommodation is available to the occupier” which was never considered by the court.

However, this particular section is in direct violation of the right to housing in terms of the Constitution chapter 26 (1) which reads “everyone has the right to have access to adequate housing” which the courts and the constitution had failed the very vulnerable that needed its protection.

A pending case of unfair dismissal in terms of section 186 (1),(a) of the Labour Relations Act no. 66 of 1995, under the auspices of the Commission for Conciliation, Mediation and Arbitration (CCMA), further referral to the latter in terms of section 136 (1),(a) of the Labour Relations Act, request for arbitration had been forwarded to the CCMA, which will be handled by the trade union Western Cape Agricultural and Allied Workers Union

(WCAAWU) which arbitration will be held on the 25th September 2007, which did not deterred the court to issue an eviction order.

The right to “receive postal and other communication” had been violated in terms of section 6 (2),(c) of ESTA and the right to family life in terms of section (d) of the same Act, which letters send by the CCMA to Johannes de Water by post has been withheld by Le Fut Farm owners.

Also the right “not to denied or deprived of access to education or health service” in terms of section 6 (2),(f) of ESTA was also violated, as the De Water minor children had been uprooted and could not go to school, also read with section 28,(1),(c) their right to basic nutrition, shelter, basic health care services and social services and 28 (1),(f), of the Constitution which reads “ that every child has the right not to be placed at risk their wellbeing, education, physical or mental health or spiritual, moral or social development” which was clearly transgressed or not considered by the Court.

Respondents accommodated first in a tent by the Drakenstein Municipality, then transferred to Paarl resort, where they were again evicted by the Drakenstein Municipality and now lives in squalor in a squatter camp in Paarl, with no socio-economic protection afforded by the Constitution, as mentioned above.

A case for assault against the Joan Erntzen had been laid for assaulting Mrs. De Water which is a crime had been committed, but to date no response from South African Police Services had been forthcoming.

ANTHONY MTONZENI \ RAWSONVILLE

Mr. Mtonzeni was assaulted by farm workers and farmers in and during April 2006, he sustained head injury and was admitted to various hospitals including Eben Donges, Tygerberg and Lentegeur Psychiatric hospitals.

A criminal charge of assault was laid at the Rawsonville Police Station under case no. CAS 30/06/2006.

The criminal charge was not properly investigated, alternatively intentionally not fully investigated which led that the Senior State prosecutor at Worcester magistrate court decided not to prosecute.

The court docket was referred to Advocate Nicolette Bell at the National Prosecuting Authority, who referred it to the Independent Complaints Directorate for enquiries to ascertain if there were any gross irregularities on the side of the South African Police Services, Rawsonville.

It is clear that the right to equality of Anthony Mtonzeni has been violated, as he was not treated equal before the law or the protection afforded to him by section 9 (1) of the Constitution which states that “ everyone is equal before the law and has the right to equal

protection and benefit of the law”, read with section 9 (3) which states “ the state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture language and birth” one can only assume that because of the above Anthony Mtonzeni are being discriminated against, as the protection that the Constitution provides failed him dismally.

GERT BOKS & THEUNISSEN CAROLUS \ LEEUWENHOEK TRUST

Applicant is Leeuwenhoek Trust, the registered owner of the property. In and during June 1999, Mr. Boks was granted permission to live on the farm, a written contract of employment was concluded in terms of which the right to occupy the property was granted to Mr. Boks and his family. Application for eviction in terms of section 15 of ESTA brought at Tulbagh Magistrate Court under case no. 347\06.

On or about the 20th July 2006, a disciplinary hearing was held in which Mr. Boks was found guilty of threatening a manager and was accordingly dismissed. At the time of his dismissal had not been a trade union member. A unfair dismissal dispute in terms of section 186 (1),(a) of the Labour Relations Act, no 66 of 1995, had been referred to the CCMA.

The sheriff was authorized to immediately evict the family, without considering section 11 (c) of ESTA which states “ In deciding whether it is just and equitable to grant an order for eviction in terms of this section, the court shall have regard to – whether suitable alternative accommodation is available to the occupier” which was never considered by the court, taking into account the dispute in terms of section 186 (1),(a) of the Labour Relations Act.

The section 15 of ESTA, urgent eviction was granted on the 23rd November 2006, without the possibility of offering alternative accommodation in terms of section 10 (3), (a) of ESTA.

However, this particular section is in direct violation of the right to housing in terms of the Constitution chapter 26 (1) which reads “everyone has the right to have access to adequate housing” which the courts and the constitution had failed the very vulnerable that needed its protection.

Also the right “not to denied or deprived of access to education or health service” in terms of section 6 (2),(f) of ESTA was also violated, as the Boks minor children had been uprooted and could not go to school, also read with section 28,(1),(c) their right to basic nutrition, shelter, basic health care services and social services and 28 (1),(f), of the Constitution which reads “ that every child has the right not to be placed at risk their wellbeing, education, physical or mental health or spiritual, moral or social development” which was clearly transgressed or not considered by the Court.

MARTHA ADAMS & 9 OTHERS / SHARP MOVE TRADING

The Applicant is Sharp Move Trading (126) Pty Ltd a company duly registered. An urgent eviction application in terms of section 15 of the ESTA, was brought at Tulbagh Magistrate Court under case no. 86\07.

The respondents were part of 20 beneficiaries of the Siyanqoba Trust who hold 55% share in the Siyanqoba Farming Enterprise (Pty) Ltd. A Mr. Hugo Lambrecht held 45 % share in the said company.

The 20 beneficiaries acquired the share in the company by way of a subsidy from the Department of Land Affairs and loans from the Land Bank.

It is alleged that a Resolution was passed that Mr. Isak Brinkman (one of the beneficiaries) was granted the necessary authority to sell the said farm to Mr. Boet Immelman. This is however, disputed as the rest of the beneficiaries avers that their signatories was obtained fraudulently, as they were advised that a document had to be signed to restore their electricity supply which was disconnected for the past six months.

The Respondents made a criminal charge of fraud under CAS no: 148/11/06 which is currently being investigated. The farm was registered into the name of Mr. D. J Immelman on the 22nd March 2007 at the Deeds office.

An urgent application for eviction was launched in the Tulbagh Magistrates Court on the 28th March 2007, which matter was remanded till the 03rd April 2007, for attorney and argument. On the 03rd April 2007, the court granted the Interim Order, as the court found that the Respondents posed a danger to the Applicant and his business.

The court ordered that the Sheriff of the Court evict the Respondents by the 23rd April 2007, however, after mobilizing the community the Sheriff indicated that he could not execute on the 23rd April 2007, and after negotiations the Sheriff decided to call on the South African Police Service for assistance which assistance was only available 26th April 2007.

However, this particular section is in direct violation of the right to housing in terms of the Constitution chapter 26 (1) which reads “everyone has the right to have access to adequate housing” which the courts and the constitution had failed the very vulnerable that needed its protection.

Also the right “not to denied or deprived of access to education or health service” in terms of section 6 (2),(f) of ESTA was also violated, as the Martha Adams & 9 other families with their minor children had been uprooted and could not go to school, also read with section

28,(1),(c) their right to basic nutrition, shelter, basic health care services and social services and 28 (1),(f), of the Constitution which reads “ that every child has the right not to be placed at risk their wellbeing, education, physical or mental health or spiritual, moral or social development” which was clearly transgressed or not considered by the Court.

JOHANNES ABRAHAMS JULIES / ECOGROW KWEEKHUISE

Applicant is Ecogrow Kweek Huise (Pty) Ltd a company duly registered and the owner of the Farm Brookefield in the district of Grabouw. Application for eviction section (9),2,(d) notice in terms of ESTA brought at Grabouw Magistrate Court under case no. 1012\06.

Respondent and his wife started working on the farm in and during January 2003. On or about the 01st February 2004, the Respondent, his wife and children moved into one of the houses on the farm. It was an express term of his employment contract that housing was provided as long as the Respondent was in the employ of the Applicant. Applicant did not belong to a trade union during his time of employment.

Applicant alleges that Respondent was absent without leave from the 26th August till the 11th November 2005. Respondents dispute this as he alleges that he obtained permission from Applicants son in law, Mr. Desmond Steyn to visit his brother in prison. This was only for one day.

On the 17th January 2006, a disciplinary hearing was held in the Respondents absence in which he was found guilty and dismissed.

When Respondent found out about the dismissal he never referred the matter to the CCMA for unfair dismissal in terms of section 186 (1),(a) of the Labour Relations Act, as he never had the knowledge about it, nor was he informed of same, as required by the employer.

In and during June to August 2006, Applicant started removing Respondents doors and windows from the house. The electricity was also disconnected. As a result thereof there was continuous harassments, arguments and threats between the Applicant and the Respondents` wife, which is also a direct constitutional violation terms chapter 26 (3), of the Constitution, which states “no one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions”.

Criminal charges were laid in which the Applicant was found guilty and got a suspended sentence. Respondent approached the Court for an urgent interim relief for the restoration of the door, windows and electricity supply, which was granted.

On the 25th April 2007, the matter was set down for hearing. The court found that the relationship between Applicant and Respondent has irretrievable broken down and of the

past conduct of both parties an order for eviction was granted. It was however, agreed the order should only be executed on the 14th October 2007.

Also the right “not to denied or deprived of access to education or health service” in terms of section 6 (2),(f) of ESTA was also violated, as the Julies minor children will be uprooted and would not go to school, also read with section 28,(1),(c) their right to basic nutrition, shelter, basic health care services and social services and 28 (1),(f), of the Constitution which reads “ that every child has the right not to be placed at risk their wellbeing, education, physical or mental health or spiritual, moral or social development” which will clearly be transgressed, as it was not considered by the Court.

STINKFONTEIN FARM

Applicant is Stinkfontein Farm t\ a Modderfontein situated in Citrusdal. Notice of an application in terms of section 9 (2),(d) of the ESTA , Michael Myburg Schuurman – Stekhoven the owner, informed Angeline Mjoli with 1 minor child, Freda Manewe with 3 minor children, Freddy Manewe with one minor child, Mncedisi Philani, Roline Dick, Mtabele Tabece, Moses Philani, Patricia Stefaans, Koos Mxanse, Coenraad Carolus that they should vacate their houses and issued them with notices to do so failure will result in the above.

The above families had been working on the farm since 1996 and had been subsequently dismissed in 2005.

However, on the 20th August 2007, the owner broke their dam which they have built to store water that is coming from the mountains, their only source of water supply, with no sanitation facilities available.

The occupiers then made a hole in the ground to obtain water. The owner then observed this and then decided to let his livestock in the camp where these houses are situated for his livestock to drink the water from hole.

Presently, the above families are drinking unhygienic water with livestock, with no sanitation or assistance from the municipality.

Is a right “not to denied or deprived of access to water” in terms of section 6 (2),(e) of ESTA which clearly are being violated, by the owner destroying their water holding dam.

The constitution clearly states “that everyone has inherent dignity and the right to have their dignity respected and protected”.

The right to “receive postal and other communication” had been violated in terms of section 6 (2),(c) of ESTA and the right to family life in terms of section (d) of the same Act,

which letters send by family and organizations who want to assist by post has been withheld by owners.

Also the right “not to denied or deprived of access to education or health service” in terms of section 6 (2),(f) of ESTA was also violated, as the above families minor children could not go to school, also read with section 28,(1),(c) their right to basic nutrition, shelter, basic health care services and social services and 28 (1),(f), of the Constitution which reads “ that every child has the right not to be placed at risk their wellbeing, education, physical or mental health or spiritual, moral or social development” which was clearly transgressed.

EVICCTIONS CASES

	APPLICANT / RESPONDENT	AREA	DATE OF COURT	ACTION
1	Adam Luyt	Piketberg	19 April 07	File opposing papers
2	J.A Julies/ Ecogrow	Grabouw	25 April 07	Arguments
3	Lionel Nel/ Antwerpa	Grabour	11 May 07	Arguments
4	C. Bruintjies / Wendlee	Paarl	25 May 07	Arguments
5	F. Joubert/ ARC	Paarl	15 Feb 07	Settled
6	G. Jacobs/ Canter Place	Paarl	01 March 07	Settled
7	P. West/ ARC	Paarl	15 Feb 07	Settled
8	Frans Erasmus/ J.A Clift	Paarl	08 Feb 07	Accepted LHR to representation
9	A. Leibrantdt/ Erfurt Landgoed Paarl	Paarl	15 March 07	Eviction notice received
10	Sercor Park	Strand		Letters to authorities/ under investigation meeting 19 April 07 with Respondents
11	Anthony Mtonzeni	Rawsonville		Obtaining medical reports/ Awaiting on Tygerberg Hosp
12	M. Adams/ Sharp Move	Saron		Interim eviction order granted for execution by Sheriff on the 23.04.07
13	G. Boks/ Theuns Carolus	Saron		Spandament of Spoliation applicant to restore tenure
14	Lea Jacobs/ Fairview	Paarl	02 April 07	Eviction notice received
15	Gerald Papier	Paarl	21 Feb 07	Eviction notice received
16	Johnson/Willie	Paarl	31 Jan 07	Eviction notice received

17	Swarts / Donier Wines	Stellenbosch		Letter requesting to vacate and eviction notice received
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6.2. Cases Reported

- 1) Occurrence : Case of Fraud
 Complainant : George Blackenberg obo Nine Trustees
 Date of Occurrence : Sometime in November
 Case no. : MAS 148\11\2006

Overview

Mr. Mtonzeni was assaulted by farm workers and farmers in and during April 2006, he sustained head injury and was admitted to various hospitals including Eben Donges, Tygerberg and Lentegour Psychiatric hospitals.

The criminal charge was not properly investigated, alternatively intentionally not fully investigated which led that the Senior State prosecutor at Worcester magistrate court decided not to prosecute.

The court docket was referred to Advocate Nicolette Bell at the National Prosecuting Authority, who referred it to the Independent Complaints Directorate for enquiries to ascertain if there was any gross irregularities on the side of the South African Police Services, Rawsonville.

Advocate Niehaus of the National Prosecuting Authority will investigate the matter further and relay his findings.

The accused claimed that Mr. Mtongezi was injured as a result of an accident. However, no accident was reported. Failure to report an accident constituted an offence.

- 2) Occurrence : Rape
 Complainant : Ms. Tessa Williams
 Date of Occurrence : 11th August 2006
 Case no. : CAS 103 \ 12 \ 06
 Reported to : Rawsonville Police Station (Insp. Snyman)
 Date Reported : During August 2006
 Allege Perpetrator : Farmer Hennie du Preez

Overview

It is allege by the Ms. Tessa Williams that the Farmer Hennie du Preez had raped her in her home. A charge of rape had been laid and it is allege that due to not following proper procedures in the investigation the matter has been withdrawn by the State Prosecutor.

3)	Occurrence	:	Intimidation
	Complainant	:	Ms. Tessa Williams
	Date of Occurrence	:	06th April 2007
	Case no.	:	CAS 184 / 12 / 2006
	Reported to	:	Rawsonville Police Station - (Insp. Nc Niel)
	Date Reported	:	In April 2007
	Allege Perpetrator	:	Farmer Hennie du Preez

Overview

As a result of reporting the rape Ms. Williams had been intimidated, also reported the matter to the SAPS, matter was withdrawn by State Prosecutor, due to insufficient evidence, but had witnesses that confirm that Hennie du Preez called her a “sleg teef, `n hoer en `n naaier”.

Ms. Tessa Williams also assaulted by a Mr. Gert Maton of Excelsior Farm, was charged under CAS 179 \ 01 \ 2006, but only paid a R 200.00 admission of guilt fine or a suspended sentence.

4)	Occurrence	:	Dead of Mr. Johannes Fransman (Id. no. 621011 5942 087)
	Complainant	:	Katrina Sauls en Jacob Afrika
	Date of Occurrence	:	08 March 2006
	Case no.	:	Cause of death = UNNATURAL CAUSES WDR 113 / 06
	Reported to	:	RAWSONVILLE POLICE STATION
	Date Reported	:	08TH March 2006
	Allege Perpetrator	:	Unknown (Was on duty at the time of death)

Overview

It is allege that Mr. Johannes Fransman had been on duty when caught in machinery, taken home by the farmer, upon which he died when the ambulance arrived.

To date the family is still in the dark, as to the cause of his death or no investigators came to them for questioning.

Recommendation

A full scale investigation into death of the deceased and if it is criminal to remove a body from the scene of an accident.

Should irregularities be found those involved should be disciplined accordingly.

Family representatives to be consulted of the outcome of the investigation in order to give the family feedback.

5)	Occurrence	:	Rape
	Complainant	:	Ms. Annaline Davids
	Date of Occurrence	:	06 April 2006
	Case no.	:	Unknown
	Reported to	:	Stellenbosch Police Station
	Date Reported	:	06 September 2006
	Allege Perpetrators	:	Riaan Huysamen, Hentie Huysamen, John Le Roux, Kallie Le Roux, Nico Steyn

Overview

A statement under oath has been given by Ms. Annaline Davids that she had been raped by the above named farmers and individuals on a farm called Wit Rivier Farm on the night of 06th April 2006, and her nephew Anthony Mthongeni was severely assaulted.

The criminal charge was not properly investigated, alternatively intentionally not fully investigated which led that the Senior State prosecutor at Worcester magistrate court decided not to prosecute, due to insufficient evidence.

Recommendations

A proper investigation to be held and the file be obtained at the previous investigating officer to investigate if proper procedures had been followed.

A full investigation report to be forwarded to BAWSI.

6)	Occurrence	:	Murder of Mr. Abraham Fortuin
	Complainant	:	Mrs. Fortuin
	Date of Occurrence	:	22 December 2006
	Case no.	:	Unknown
	Reported to	:	Saron Police Station
	Date Reported	:	22 December 2006
	Allege Perpetrators	:	Abraham Fortuin and Thys van Niekerk

Overview

It is allege that farmer Mr. Thys van Niekerk of De Denne Farm gave to a fellow farm worker a shot gun and instructed the farm worker to shoot the birds in the farming fields.

The farm worker then returned to his place of residence and allegedly, shot by accident his Mr. Abraham Fortuin, his uncle, when he enquired why his uncle is still sleeping.

The worker has been arrested and accordingly charged. However, the farmer who gave the fire arm to the farm worker had not been arrested.

Recommendations

The matter to be investigated, as to why the farmer had not been arrested, as he gave a fire arm to a person with no licence or papers to handle a fire arm.

7. General

Government with all its good intentions included in the LRA the farmworkers, promulgated Esta, the Sectoral Determination for Agricultural Workers; the Employment Equity Act and the Skills Development Act. These laws came and went, without it even getting close to touch the lives of the majority of farmworkers. The farmers are very well aware that the Department of Labour lacks the capacity to enforce these laws and so they just simply ignore it. However, what they, through their consultants and lawyers have learned well, was to exploit the loopholes of these laws and use it against the farmworkers. Classical example here is the ways they use Esta to so call legally evict farmworkers.

8. Conclusion

BAWSI recommends:

- 8.1 Immediate moratorium on Evictions.
- 8.2 Review of Esta.
- 8.3 Training of police and judiciary about ESTA; PIE and LAND REFORM ACT.
- 8.4 Review all evictions that have taken place over the last 10 years.
- 8.5 Restoration of ESTA rights of those who have been found to be wrongfully evicted.
- 8.6 Evicted children to return to farms.
- 8.7 Embark on a "know your rights" campaign.
- 8.8 Accreditation of NGO's as labour inspection agencies.
- 8.9 Forensic audit on BEE Deals.
- 8.10 Public hearings in rural towns on conduct of police stations, courts and Dept. of Labour.

ADDENDUM 6:**WHO MURDERED MICHEAL DANIELS AND OTHERS?****[A SUBMISSION BY THE PRESIDENT OF BAWSI]**

AgriSA and Afriforum as well as other organisations always refer to “plaasmoorde en plaas aanvalle”. They demand police and human rights investigations, they conduct research, and threaten to take it to international forums. Who are the victims of these “plaasmoorde en plaas aanvalle” that they are referring to? Obviously not those farm workers who died at the hands of farmers, or those who died in the trucks of the farmers, or those who died as a result of the unsafe working conditions created by the farmers. Some of these deaths have almost occurred a decade ago and yet the families did not receive any satisfactory answers in order to have closure. We haven’t heard of a single farmer or police officer or security guard that has been sent to jail as a result of these deaths. We heard rumours of drivers that went to jail but the law is very clear that the owner of the vehicle is jointly and severally liable in the case of an accident.

We had meetings with Department Of Justice in the Western Cape as well as with the current Deputy Minister of Justice and his predecessor, but still we cannot get any answers. We were informed that the report on these cases has been completed and the department awaits the deputy minister’s approval and yet we are still waiting.

Cases:

1. Micheal Daniels, a 27 year old farmworker, was shot and killed by the SAPS on Wednesday 14 November 2012. Micheal was allegedly shot by a member of the SAPS. The matter is currently being investigated by IPID. What come as a real shocker was when the police was found not guilty of the murder of Micheal Daniels whilst the evidence is that the police was issued live ammunition and they did not return all the bullets that was issued to them and that the bullets that caused the death of Michel Daniels was of the same calibre that killed him.
2. Bongile Ndleni, a 40 year old farmworker from Prince Alfred Hamlet near Ceres was allegedly shot by the SAPS on Wednesday 14 November 2012 and died at his home on Friday 16 November 2012 after being released form Ceres hospital. The matter is currently being investigated by IPID.
3. Letsekang Tokhwane, from Stofland, De Doorns was allegedly beaten and shot in the head by police. Jo-Ann Otto confirmed that Tokhwane died on Monday 14 January 2013 as a result of rubber bullet injuries.
4. Ricardo Zempie, a 23 year old from Avian Park, Worcester was shot and killed on 10 February 2012 by Johan van der Merwe at Moordkuilsdrift close to Worcester. Johan van der Merwe who is a local lawyer and the owner of Alfalfa-Melkery was arrested and

charged with murder on 11 February 2012 but was released later the same day. He was killed a year before Oscar Pistorius has killed his girlfriend Reeva Steenkamp. Oscar was found guilty, sentenced and released on parole. The case of Zempie is still being investigated and no one has been charged yet.

5. Abraham Malgas (Apie), of Cloetesville, Stellenbosch died in hospital during May 2012 after a farmer from Stellenbosch drove over him twice with his 4X4. According to eye witnesses and Dillon Kayster, a 18 year old, who was with Mr Malgas at the time of the incident, the farmer drove over Mr Malgas after they threw a rock at his vehicle. No arrests have yet been made but the police have opened a murder docket. The investigation is continuing.
6. Jannie Andreas & Thandikaya Matrose, this incident occurred at 05H45 on Bosplaasmilk farm near outside Gouda on 14 April 2011. According to the facts of this matter Jannie Andreas and Thandikaya Matrose died while trying to load feed into a feed mixer. Both farm workers were killed after 3 bales of hay collapsed and caused Jannie Andreas to fall into the feed mixer and then landed on Thandikaya Matrose who died on impact due to the enormous weight of the hay.

There are 2 theories as to the cause of the accident; the first is that the 2 workers failed to follow work protocols involved in the loading of feed mixers and the second being that the accident was a direct result of bad lighting of the site which rendered the workers task unsafe.

7. Selwyn Johannes, he was shot dead by a well-known wine farmer in the Western Cape whilst he went to the farm to beg for food for his family. Johannes was a former employee and had allegedly been dismissed for stabbing a fellow worker to death.
8. Adam Pieterse, a 32 year old farmworker in Lutzville, family found his decomposing body in a shallow grave. He worked at Dassiesfontein.
9. David Conradie, died on a farm called Gelukshoop in Resiesbaan, Hessequa, during the early hours of 29 April 2015 whilst working with a "saaikas". The farm belong to the twin brothers Johan and Piet Willemse. Paul was the driver of the laaikas and David assisted him. No statements have been taken from Paul or the owners yet. It was indeed a gruesome death to die in the "saaikas".
10. Colin Cloete, a 50 year old whose body was badly beaten was found on 27 March 2015. It was alleged that he was beaten to death when he and a friend went to pick some tomatoes. According to his co-workers they normally went to pick tomatoes once harvest was done.

CASES AND CASE NUMBERS:

1. Micheal Daniels
(Wolseley)

Case Number : CAS 191/11/2012

GDO 77/02/2012

Investigating Officer : Captain Botha

2. Bongile Ndleni

(Hamlet, Prince Alfred)

Case Number : CAS 268/11/2012

Investigating Officer : W/O G Kasper (IPID)

3. Letsekang Tokhwane

(De Doorns)

Case Number : CAS 161/01/2013

Investigating Officer :

4. Ricardo Zempie

(Worcester)

Case Number : CAS 361/02/2012

GDO 77/02/2012

Investigating Officer : W/O Damens
Worcester Detectives
023 348 6100

5. Abraham Malgas (Apie)

(Stellenbosch)

Case Number : CAS 285/05/2012

Investigating Officer : W/O JG Nel
Stellenbosch Detectives

6. Jannie Andreas & Thandikaya Matrose

(Gouda)

Case Number : CAS 225/04/2011

Investigating Officer : Constable Cupido

New Cases

7. Selwyn Johannes

8. Adam Pieterse

9. David Conradie

10. Colin Cloete

Deaths in Transit

(i) 30 JANUARY 2012

CAS :

AR :

A Truck transporting 56 people collided with a Caterpillar 631D tractor on the R44 between Gouda and Saron.

8 people were killed in this accident.

(ii) 14 APRIL 2011

CAS : 125/04/2011

AR : 23/04/2011

Truck transporting 51 people collided with a bus on OuKaapseWeg in Grabouw.

2 people were killed

The reason for the accident was overloading.

(iii) 11 MARCH 2011

CAS : 75/03/2011

AR : 16/03/2011

Overloaded bakkie transporting farmworkers overturned outside Stellenbosch.

1 farmworker was killed and 11 were injured.

The reason for the accident was overloading.

(iv) 16 FEBRUARY 2011

CAS :

AR :

3 farmworkers were killed on their way to harvest grapes when the truck transporting them collided with a tractor in Paarl. Two workers were seriously injured.

(v) JUNE 2008

CAS :

AR :

Truck transporting farmworkers collided with another truck on Simonsvlei Road in Klapmuts.

6 Farmworkers were killed.

(vi) 11 NOVEMBER 2007

CAS :

AR :

6 farmworkers were killed in an accident involving a truck on the N1 between Worcester and De Doorns. 10 people were sustained serious injuries.

(vii) 9 NOVEMBER 2007

CAS : 78/11/2007

AR :

10 people were killed in an accident in Piketberg.

(viii) 11 NOVEMBER 2006

CAS :

AR :

19 farmworkers were killed when the train collided with the truck transporting them at a railway crossing in Faure.

ADDENDUM 7:**SIGNATORIES TO THE CHARTER**

ORGANISATION	AUTHORISED REPRESENTATIVE	SIGNATURE
Agricultural Food Fishing And Retail Industry Workers Union (AFRIWU)		
Agricultural Workers' Empowerment Trade Union Council (AWETUC)		
Black Association For Agricultural Sector (BAWSI)		
BAWSI Agricultural Workers Union of South Africa (BAWUSA)		
Centre For Rural Legal Studies (CRLS)		
Federal Council of Retail and Allied Workers (FEDCRAW)		
Food And Allied Workers Union (FAWU)		
Green Pastures South Africa		
Industrial Health Research Group (IHRG)		
National Union Of Food Beverage Wine Spirits And Allied Workers (NUFBWSAW)		
Society Development Trade Union (SDTU)		
South African Clothing And Textile Workers Union (SACTWU)		
South African Parastatal And Tertiary Institutions Union (SAPTU)		
South African Wine Industry Trust (SAWIT)		
Wine Industry Development Association (WIDA)		
Witzenberg Rural Development Centre (WRDC)		