

“From on Farm to Own Farm?”

The Role of Farm Worker Unions in Land Reform in South Africa

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May 2004

Report on a study commissioned by the Food and Agricultural
Organization (FAO)

This paper was prepared under contract with the Food and Agriculture Organisation of the United Nations (FAO). The positions and opinions presented are those of the author alone, and are not intended to represent the views of FAO.

Executive Summary

This report forms the South African Country Study of a comparative regional study being undertaken by the Food and Agriculture Organisation (FAO) into 'strengthening the role of agricultural workers unions in West and Southern Africa'. The focus is on the *role of agricultural workers unions in land reform*.

This emphasis has been developed within a broader FAO mandate aimed at establishing an improved set of support arrangements and actions for farm workers and unions - as a relatively neglected set of agents- and seen as capable of making, and participating in, a deeper and more sustainable agriculture and wider rural development. This is inherently desirable, both in the context of large scale structural changes in African rural and agricultural economies, (where farm workers are increasingly subject to evictions and engage in the occupation of farm lands), and in a history of neglect with regard to appropriate support relative to that provided to other, dissimilar interests in African Agriculture.

The aim of the study is to understand the circumstances and organisation of South African farmworkers and unions, the legislative environment which influences or supports their actions, and their actual or potential participation in policy making and implementation, particularly in the unfolding of the country's land reform programme. The constraints, limits and prospects in the manner in which they currently engage with the farm labour community, with farmers and with the various spheres of government, and the outcomes of their operations, are the focus of the study.

The objective is to develop concrete policy recommendations, project ideas and proposals which assist agricultural farmworkers unions and governments to identify those ways to effectively collaborate with each other in order to avoid the negative impact of land reform on agricultural workers, as well as to improve livelihoods.

The report *begins* by locating farm workers against the broad context of conditions on South Africa's largely commercial farms, of comparable minimum wage determinations, and against trends in employment and labour changes in agriculture. Large scale labour shedding has occurred over the last decade in response to the effects of a rapid liberalisation, to similar global trends in 'modernisation' and in mechanisation. Skilled and semi- skilled labour, while decreasing on the commercial farms in aggregate terms, is coming to comprise a larger component of the workforce at the expense of rapidly diminishing reliance on 'casual' or informal workers, in contrast to many other agricultural economies.

The post apartheid legislative response to these conditions has been dramatic, with an impressive suite of job security, tenure rights based and livelihoods based protective measures in support of farm labour, labour tenants and farm occupiers, and for land reform and unions. Unions are however circumscribed by restrictions on accessibility to farms via a Protocol recently developed in response to the rapid increase in farm attacks and murders, and on the lack of a legislated collective bargaining forum, and to relatively weak enforcement of legislation by government.

The farm worker union response over the decade has been consolidating, but constrained by the legacy of a post 1994 proliferation of small, ineffective and short lived union operations which tended to seriously alienate workers, farmers and officialdom. Presently 5 major unions, affiliated to different federations or non-aligned, promote farmworker interests. Some are more strongly based in food processing and retail, currently with an expanding farmworker outreach. Recruitment rates and membership levels are not generally high and outreach work is hard, with a 'double bind' in the legislation (see 3.2 below). and poor resourcing of organisers being the major constraints. An appendix provides background information on the unions approached, covering annual budgets, the number of organisers and members as well as addresses and contact numbers.

The farming community –and agricultural public sector- reception to unions is improving in places, particularly on the larger farms and in agribusiness, with smaller farmers following these examples, but the tendency remains for them to view unions with deep suspicion, and to divert them off the farm while mediating the statutory processes of engagement via a growing legion of expensive 'expert farm labour consultants'. Despite these trends, union organisers maintain that where they develop positive support relationships over time (and particularly through networks of farm workers who are related or who communicate member benefits across farms), there is a growing acceptance of the benefits of the roles they play by both worker and farmer.

South Africa's Land Reform Programme has a changing and highly contested framework of priorities, with three sub- programmes supporting different priorities viz; restitution for those forcibly removed from their lands, tenure security for those presently on farms, and land redistribution. The latter is the vehicle considered most appropriate for investigation, and for farm workers –through their unions - to access in pursuit of a more sustainable agriculture and rural development. Redistribution is grant supported via LRAD, based on a proportional beneficiary contribution on a sliding scale, and caters for food safety net projects, production for market projects, share equity schemes and schemes in communal areas.

Farm worker knowledge of the programme itself, and the constituent options is very limited and often nonexistent, and union engagement with land reform, both in support of members and for their own interests is sporadic, and based on individual support actions across the country. While there are instances of wholesale union support into land reform, there is also scathing criticism of the operation of schemes, (for example the operation of share equity in the Western Cape). Union organiser perceptions about new class and labour formations arise in the process.

The public sector and official Department of Land Affairs (DLA) engagement with farm workers in support of accessing the options available under the Land Redistribution for Agricultural Development (LRAD) programme options is limited - held back by staffing shortages and a less than rigorous approach to an 'on farm' local level engagement with farm workers, on the whole limited to farming towns. Quantitative information on the budget available to the DLA, the number of personnel employed overall and in the land redistribution sub-programme is provided in an appendix

Provincial agriculture's perceptions of the role of unions varies across different provinces-with some positive but many apprehensive or negative. Similarly, representative commercial agriculture associations vary in their perception of union significance and longer term roles. Nevertheless, there are many encouraging and positive outcomes in a growing collaboration. Numerous barriers of mistrust will however need to be broken down.

Most union organisers and unions wish to pursue active roles in support of land reform programmes on behalf of workers more vigorously, but clearly lack the training and knowledge of policies and programmes. Similarly, many spheres of government engage with unions and farmworkers in a limited way. It is within this arena that the reports recommendations are constructed, based on the premise that both 'sides' need to be more fully resourced, and to know what the available resources are.

However, the research has been limited by the unavailability of data on the land reform process in South Africa. In particular, disaggregated data on the beneficiaries of the land reform and land redistribution has not been compiled yet in the country and it is source of a controversial debate. These data constraints limits the scope of the conclusions and recommendations of the report.

Recommendations

Across the country there has been fairly rapid progress within the operation of land reform, with some 450,000 hectares transferred over the last few years. Many beneficiaries come from backgrounds very *dissimilar* to farm workers. Farm workers have -with some notable exceptions in share equity schemes in the Western Cape and large 'transfers' in Mpumalanga particularly -been excluded from the promise and potential benefits of entry into a more productive agriculture.

It is recommended that farmworkers unions should be extensively strengthened and supported by a combination of government, FAO, donor and appropriate NGO activities directed at four significant 'levels' or arenas. The recommendations are made in recognition of the following central tenet or organising principle which is held to promote a more effective incorporation of citizens into a deeper rural development and more successful and redistributive land reform, viz;

That both 'sides' have to be properly resourced, and both 'sides' need to know what the available resources are. Clearly, this basic tenet is absent in the unfolding of farmworkers unions and their support into land reform.

The forms of support should be debated, shared and designed with unions and central, provincial and local government in the relevant ministries over time.

The Farmworker Unions:

- A clear need exists to introduce capacity building programmes into selected unions to ensure a deeper understanding and more effective access to, and operationalisation of the policies, instruments, arrangements and options in land reform and in redistribution by union organisers. Such capacity building should be programme based, and devolved to a project based approach thereafter, in a phased manner.
- Broadening the base of services offered by unions to promote a ‘development agent’ or ‘broker’ role between the possible beneficiaries of the land redistribution programme and the programme itself (becoming a civil society based service provider to government –but not an NGO). This would enable the union to effectively offer its members a menu of choices when faced with eviction, retrenchment or any expropriation of their workplace. Detailed land reform options then become one of a suite of possibilities for members, supporting improved livelihoods.
- Unions should be supported to more formally address the nature of communication with actors in the agricultural sector, particularly at national and local government levels, with a view to broadening the base of discussions from labour issues to matters of common concern. The ideal would be that unions, while retaining their rights-based approach, should also be seen as ‘*social partners*’ by others in the sector and as stakeholders in the land redistribution process.
- The study has highlighted the need for settlement phase support in land reform projects. Given a serious negative potential for new class and labour divisions to emerge in land reform projects- as these become emergent enterprises- this is a seriously neglected aspect of land reform. Attention should be directed at formulating the detailed role of farm workers unions in such support, as but one agency providing either technical support, or, acting as an instrument of oversight (such as in M+E) for policy and programmes-or for both. This recommendation is sensitive –and would require very detailed and locally specific dimensions.

Government:

- At provincial levels of government, several provinces have already initiated forums under the aegis of the provincial MEC for agriculture. These meet on a quarterly basis, with participants usually including provincial commercial farmers’ associations, representatives from agribusinesses, representatives from the provincial departments of land affairs and agriculture, as well as other parties who have an interest in agriculture in the region. Sub-committees have also been instituted to allow matters of common interest in the province to be discussed regularly.
On a national level an agricultural forum has been established by the Minister of Agriculture and Land Affairs, and is attended by the national representatives of the organisations mentioned above and performs the same functions on a national level.

- Given the decentralised nature of farm workers' unions, commercial farmers' associations and the government departments involved in agriculture, there is no reason why this arrangement cannot be devolved to the third tier of government, namely local government. To this end, it is recommended that municipalities form similar forums involving all institutions active in agricultural matters in the particular municipality. The result should be a highly 'stimulatory' three tier system, encompassing all spheres of government, wherein all stakeholders (from local to national) would be involved in a cooperative process to discuss and design matters of mutual concern and manage conflict situations should they occur.

The Food and Agricultural Organisation:

- The FAO should firstly, provide its 'good offices' to facilitate contact between the leaderships of different farm workers' unions in South Africa and secondly, provide a forum where matters of common interest (such as access to farms, and the legislation regarding land redistribution) can be discussed and more formally introduced via programme and project based training (in line with recommendation one, above, for The Unions). This would encourage unions in the same sector to share knowledge and possibly cooperate in certain areas, such as gaining access to farms, presentations to government or communication with commercial farmers' associations.
- The FAO could take advantage of its regional infrastructure to organise a 'regional network' of farm workers' unions. Unions from different countries within the Southern African region could be brought into contact with each other and be provided with the opportunity to share experiences, identify areas of collaboration and explore possible 'best practice' lessons.
- The FAO can encourage unions to form partnerships with NGO's that provide training and technical assistance in areas such as farm management and agricultural techniques. This would enable unions to undertake a deeper "development agent" or 'broker' role covered in the second 'union recommendation' above, particularly to members who are interested in acquiring their own land or who have already entered the LRAD process (covered under NGO's below).
- With two prominent exceptions, the trade unions approached have no research capacity. Donor support for such capacity would enable the unions concerned to develop a better understanding of the legislative environment governing the land redistribution process, and make for unions to be informed partners in negotiations with the other relevant stakeholders.
- Conversely, donor organisations can provide funding to the DLA, through government channels, to establish educational and training sessions with unions as a component of the land redistribution programme. Significant precedent for donor support into aspects of land reform processes exists in many provinces. This support could also be provided to the NDA on a

decentralised basis to establish similar ‘learning’ between its extension officers and union organisers and members.

Non-governmental Organisations

- Relevant NGO’s (and the Farmers Associations noted below) with extensive track records need to be supported to play a strong role in the aforementioned capacity-building and training programmes.
- NGO’s should be supported to form partnerships with unions with a view to providing training to its members in the related areas of selecting best bet land redistribution options, the ‘economics of farming’ and in the areas of financial management and in effective farming techniques. These arrangements would find support from the DLA, since officials interviewed indicated that unions could play a helpful role in briefing applicants about the challenges that would face them after land has been transferred. Also, by virtue of receiving training *ex ante and ex post* the transfer of land, beneficiaries would be in a better position to improve their livelihoods.

Farmers’ Associations

- The study has shown that farmers’ associations and unions already engage in ad-hoc meetings around matters of common concern. It is suggested that farmers’ associations be supported to approach unions with a view to institutionalising such meetings and that land redistribution be placed on the agenda of issues to be discussed. Such meetings can be incorporated into the structure provided by the local government or provincial agricultural forums.
- Local farmers’ associations can be supported to begin to provide training to union organisers (and members) in both the financial aspects of farming as well as farming techniques. This would put union organisers in a better position to dispense advice to their members who want to enter the process of land redistribution.

List of Acronyms

Commission for Conciliation, Mediation and Arbitration	CCMA
Commission for Conciliation, Mediation and Arbitration	CCMA
Congress of South African Trade Unions	COSATU
Department of Land Affairs	DLA
Extension and Security of Tenure Act	ESTA
Federal Council of Retail and Allied Workers	FEDCRAW
Food and Agriculture Organisation	FAO
Food and Allied Workers' Union	FAWU
Growth, Employment and Redistribution Programme	GEAR
International Workers Union	IWU
Labour Relations Act No 66 of 1995	LRA
Land Redistribution for Agricultural Development	LRAD
Land Reform (Labour Tenants) Act	LTA
National Council of Trade Unions	NACTU
National African Farmers Union	NAFU
National Department of Agriculture	NDA
National Economic Development and Labour Council	NEDLAC
National Union of Farmworkers	NUF
Reconstruction and Development Programme	RDP
Settlement/Land Acquisition Grants	SLAG
South African Agriculture Plantation and Allied Workers Union	SAAPAWU
South African National Farm Workers Organisation	SANFWO
Member of the Executive Council	MEC
Terms of reference	TOR

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1. Introduction, Aims and Objectives and Approaches to the Study

This report is one of two comparative regional country studies commissioned by the Food and Agricultural Organisation (FAO) following discussions at the October 2000 “Land and Freedom Project” conference of the International Workers Union (IUF) in Cape Town. The aim is to investigate the positions, progression and the ‘engagements’ of the relatively neglected but significant set of interests within farmworkers’ unions, and their potential for a contribution to a more sustainable agriculture and rural development in a globalising African Agriculture.

It seeks to understand contemporary developments in the South African experience with regard to their present circumstances, their organisation and operation, the nature of their engagements on farm and off farm, their progress in accessing the opportunities available in present models for land reform in this country, while making strong recommendations for policymakers and project investments.

In August 2003, the FAO presented the Human Sciences Research Council (HSRC) with wide terms of reference (TOR) requesting that the following major themes and issues in the organisation, operation and engagement of South African Farm Workers Unions be investigated and analysed:

- whether agricultural workers issues are appropriately addressed in government policies for institutional reforms in land,
- the actual and potential impact of land reform on agricultural workers,
- the extent to which their unions have been able to participate in negotiations in policy and in the implementation of land reform,
- the successes, limitations and potentials of the roles played by agricultural workers unions in land reform processes,
- members needs regarding future government support in order to benefit from land reform, and
- the unions ability to articulate their needs and engage with municipal, provincial and national levels of government in all aspects of policy, planning and programmes, as well as in attaining funding and influencing the general polity.

FAO also asked the HSRC

- to interpret the effectiveness of government initiatives in reaching their constituencies,
- to consider the future prospects for promoting sustainable livelihoods via farmworkers unions and for their members, assessing the impacts of intergenerational issues, with the preferences for and the pervasiveness of survivalist activities either discounting or promoting future revenue flows, and
- to consider the potential roles unions could play in defusing current tensions around land conflicts,
- to propose recommendations regarding the strengthening of the roles and capacities of farm workers unions to deliver the interests of agricultural workers and to positively contribute to land reform processes as a stakeholder, and
- to prepare concrete project ideas for the FAO to strengthen the role of agricultural worker unions.

Factors beyond the control of the team led to budget reductions during the course of the study. It was thus decided to focus attention on the more accessible and pertinent aspects of the farmworkers union experience in South Africa in relation to the TORs, from which key recommendations could be developed with the maximum utility for the relevant targeted interest groups in the unions, governments and the donor community.

These were:

- taken into account the constraints on data availability on the land reform process in South Africa to-date, a description of the main achievements of the process,
- the trends and implications of farm labour employment patterns under changing structural conditions in South African agriculture,
- the progressive development of legislation around farm worker and union rights,
- the organisation of unions and their outreach and engagement on farm and off farm,
- policy development and the operation and outcomes of past and present models in land reform, and
- the practice of union and farm worker engagement into the present land reform options.

1.1 Research Methods and Organisations Interviewed

During the course of the study, 5 provinces were visited viz; the Western Cape, Gauteng, Mpumalanga, North West and Free State. In the Western Cape, four organisers attached to the Food and Allied Workers' Union (FAWU) were interviewed. Two representatives of the smaller South African National Farm Workers' Organisation (SANFWO) were also interviewed. In Gauteng a personal interview was conducted with the coordinator of the National Union of Farmworkers (NUF). An organiser attached to this union was later interviewed in Mpumalanga. In North West province, an interview was arranged with an organiser attached to the SAAPAWU (South African Agriculture Plantation and Allied Workers Union). Another interview was conducted with the branch secretary attached to the Federal Council of Retail and Allied Workers (FEDCRAW). In the Free State, a personal interview was conducted with an official attached to the National African Farmers Union (NAFU) a body that represents African farmers.

Officials and formal agricultural representatives: telephonic interviews were conducted with the Executive Director of Agriculture Western Cape, which represents 4 800 commercial farmers (about 80% of the total in the province) and a telephonic interview was arranged with the Executive Chief Manager of North West Agriculture, representing about 42% of the 5 500 commercial farmers in the province. In the Free State interviews were held with the Chief Planner and District Manager of the Motheo Xhariep district of the Department of Land Affairs, as well as with the Member of the Executive Council (MEC) for Agriculture in the provincial government. Lastly, the Chief Executive Officer of Free State Agriculture was interviewed. This organisation represents about 80% of the 4 800 commercial farmers

in this province. (See sec.4 below). Extensive use was also made of contemporary available literature and websites (see the bibliography p.34).

1.2 Structure of the study

The report begins by establishing the context for the investigation through a general assessment of the rapidly changing circumstances of farm workers over the past decade against wage, employment and some economic trends in South African agriculture. This highlights the decline in patterns of employment and the changing composition of farm labour and associated skills patterns, with some associated explanations for this. It then moves to a description of the relatively recent and belated development of labour legislation which promotes farm labour rights and security of tenure, and proceeds to a description of some history and organisation of South African farm worker unions. This covers some relevant aspects of their experiences in organising 'on farm' and the hard terrain they have to manoeuvre in their engagements with farmers, corporate agriculture and with labour. The effects on their credibility and impact due to the proliferation of 'small unions' post 1994 is contextualised.

The operational climate for unions and farm workers covered above provides the context for a brief synthesis and charting of the well known policies and arrangements for land reform in South Africa. It provides focus on the land redistribution option, which is viewed as the model most capable of accommodating farm workers in a more sustainable agriculture and a deeper rural development. It establishes the very limited extent to which the various unions have been involved in land reform to date, the limits and constraints to this, and what opportunities exist for a deeper engagement and the promotion of more enhanced livelihoods 'off farm' for farm workers.

The report moves to detailed work on the perceptions of farm labour regarding accessing land reform options, on the perspectives of union officials re their role, and to opinions in organised agriculture regarding the utility and efficacy of unions as actors and facilitators in land reform. There is much variation of views in these regards, which is fully captured.

The report concludes that there is definitely a role for unions, given a growing impact in outreach, and that there are strong developmental synergies to be achieved with government, particularly at the provincial and local spheres of the operation of the programme. Donors and governments would do well to support capacity building programmes based initially on knowledge sharing, and move to supporting unions in enhancing their communication –and trust – with the major spheres and the commercial interests by supporting the development of regional forums –and in so doing developing unions as Social Partners in implementation and in settlement phases. The latter two aspects are roles which unions can conceivably undertake, within conditions to be negotiated.

2. Marginalisation and Modernisation: Farm Workers Conditions, Declining Employment Trends and Structural Changes in South African Agriculture

Farm workers and their families are amongst the most marginalized people in South African society.

Following a Sectoral Determination announced by the Minister of Labour in September 2001, formal wages earned in the sector remain low in comparison with other formal employment. The Determination stipulated the minimum wages to be paid in two categories of area, vis A (municipalities) at R 800. per month and areas B (semi-rural and rural areas) at R 650 per month. Minimum wages for those working 27 or less hours per week were set in Area A at R4.10 per hour and in Area B at R3.33 per hour¹. In contrast a Sectoral Determination over the same period stipulated minimum wages, in the wholesale and retail sector, to be no less than R1003 per month for a displayer and R1041 per month. for a clerk². In the private security sector minimum wages established via determinations are R1353 for a clerk, R1443 for a handyman and R2553 for Grade A Security Officer³.

Research shows that the quality of life enjoyed by farm workers is, in many instances not very high. According to the Dept. of Labour, children who live on commercial farms show a greater prevalence of stunting and underweight compared to others. The department also maintain that about 54% of farm workers work longer hours than the legal limit and generally do not receive compensation for overtime. Some 27% do not receive annual leave⁴. Different conditions attributable to gender differences amongst workers in the sector are notable. Women workers are generally 'worse off' due to perceptions amongst employers which tend to view male workers as permanent employees, with women seen as providing work to 'supplement' that of their spouses. Furthermore, women are also more likely to work as casual workers, who earn less than their permanent counterparts and receive fewer benefits⁵. Farm workers often live in remote areas and their access to schools, shops and health care is limited⁶. Often, the employer is the major provider of transport.

Statutory definitions of the characteristics of persons regarded as farm workers under South African law are contained in the Hansard, and are described thus:

'A person who works for or renders services to, any other person in farming activities is presumed, until the contrary is proved, to be a farm worker regardless of the form of the contract, if any one or more of the following factors is present:

- a. The manner in which the person works is subject to the control or direction of another person
- b. The person's hours of work are subject to the control or direction of another person
- c. The person forms part of the employer's organisation
- d. The person has worked for the other person for an average of at least 40 hours per month over the last three months
- e. The person is economically dependent on the other person for whom that person works or renders services
- f. The person is provided with the tools of the trade or work equipment by the other person

- g. The person only works for or renders services to one person⁷.

While these indicators suggest the extent of farm workers' overall marginalisation, an extraordinary dependency and relative deprivation, formal farm workers make an important contribution to the maintenance of local economies in rural areas. Recent surveys estimate that farm workers' wages contribute about 39% of rural incomes⁸. Much of these conditions can be located within aggregate economic and institutional trends in South African agriculture, and in associated patterns in employment, labour and incomes in the industry- both as a whole and on farms.

2.1 Some Structural Changes in the Sector

In 1951, 16.6% of South Africa's GDP originated from the agricultural sector. By 1979 this figure had dropped to 5.9% and declined further to 3.8% in 2002⁹. The recent past has seen a rapid liberalisation in agriculture, (along with many other important labour absorbing sectors) and a drastic elimination of protective tariffs in key food commodities. Historically the outgoing National Party, replaced by the ruling African National Congress in 1994, had maintained close ties with the white agricultural sector as an important political constituency. Through these linkages organised agriculture had subsidised access to credit, price support mechanisms were put in place, as were export rebates and statutory single channel marketing systems had been established. Farmers were represented by cooperatives originating in the 1930's, and along with the Land Bank, Department of Agriculture and Marketing Boards, presided over an environment that was tightly knit and inclined towards monopolistic practices. Prices of agricultural products were politically negotiated and calculated for set periods of time.

By 1993 government support for agriculture began to be reduced following the findings of the Kassier Commission that recommended that the statutory environment be deregulated. Thereafter Marketing Boards were phased out, allowing farmers to market their commodities themselves, and many of the cooperatives became public companies with their members as shareholders¹⁰. Agriculture was further deregulated in the years following 1994, in line with the government's induced liberalisation underpinning the Growth, Employment and Redistribution Programme (GEAR). As a result the sector has almost no protection from tariffs and subsidies. The relatively unbridled adoption of the 'Washcon logic', deemed appropriate to the reopening of South Africa's emergent democracy from the long period of protectionism and its limited privilege, has come in for severe criticism. At the time of writing the country has a 4% rate of tariff protection, compared to 22% in the United States and 45% in the European Union.

Under these conditions the number of commercial farmers has declined rapidly over the period, with a high percentage struggling to stay afloat financially. As a general indication, recent 2003 reports in Free State Province for example show that only 20% are 'truly secure financially', some 20% are 'secure', while a further 20% are 'marginal' and those in the lowest brackets are "seriously in trouble" or 'totally unviable'. Invariably employment and labour costs –both as a social wage and a proportion of total fixed costs-come under extreme pressure¹¹.

Presently the total contribution to GDP of the agro-food complex as whole –taking into account primary production, input suppliers and the agro-processing sector–is about 14%¹². In 1988, agricultural product contributed some 3.3% of the country’s exports, increasing slightly by 2001 to 4.1%.

2.2 Social Effects: Farm Workers and Sector Employment Trends

Obtaining reliable statistics –and interpreting the associated trends accurately– in South African agriculture is difficult. There are often major shifts and variances in the data. This is partly attributable to an omission–or neglect–by the outgoing government to properly include the ‘developing’ farm sector, to the lag in implementing new measures to properly include and record new data sets resulting from these original omissions, and due to different emphases placed on investigations by different ministries.

Nevertheless, Table 1 below shows that the number of *farm workers* on South African farms has been declining for more than a decade, at annual rates of some 3 to 3.5% over the 8 years to 1996, encompassing the period of rapid structural change indicated above.

Year	Total	Regular	Proportion of total workforce	Casual/ Seasonal	Proportion of total	Increase (decrease)
1988	1 219 648	724 439	59.4%	495 209	40.6%	-
1992	1 051 197	656 772	62.5%	394 425	37.5%	(14%)
1996	930 141	625 451	67.2%	304 690	32.8%	(11%)

Source: Stats SA

Evidence for the period shows that while the ‘on farm’ sector is employing less people overall, it is also employing proportionally far more permanent workers (which have declined significantly as a total) and has been reducing its complement of seasonal and casual workers. Farmers are showing a preference for more semi-skilled or skilled workers on a permanent basis as opposed to unskilled workers. A Dept. of Agriculture survey confirms this trend, revealing that the proportion of permanent employees on farms that could be described as skilled rose from 60% between 1994 and 1995 to 65% between 1998 and 1999 with the proportion of unskilled workers dropping from 40% to 35% over the same period (South Africa Survey: 2000/2001, p355)¹.

¹ No consensus exists between various agricultural economists consulted for an explanation of this trend. One school of thought contends that the extensive battery of legislation farmers have to contend with (to be discussed later), forms a disincentive to employ permanent workers. However, in accordance with labour legislation adopted between 1995 and 1997, many workers who had been employed as casual labourers had found their position formalised to that of ‘regular workers’ whose conditions of employment are set out in a contract between the worker and the farmer. At the same time the number of casual workers were minimised as a means of avoiding both labour legislation and legislation governing tenure security. On the other hand, other experts were convinced that the very same fears relating to labour legislation and tenure security prompted farmers to employ more ‘casual’

Year 2000 data from the Dept. of Labour captured a total 930 000 farm workers, with 625 000 of these permanent workers and 305 000 casual or seasonal workers, While this may have indicated some stability or ‘bottoming out’ in the overall trend, a recently published report by a development consultancy shows the total number of farm workers have shrunk to 746 000 in 2002, a decrease of about 20% from the 2000 figure¹³.

These negative ‘on farm’ employment needs to be contrasted against sector employment as a whole. According to Stats SA, the total number of people employed in agriculture more than doubled from 759 000 in 1996 to 1,526 000 in 2002. At least part of the explanation for this figure can be found in the better capture of information on small-scale and subsistence farmers, held to account for 66% of the people employed (formally and informally) in agriculture. In addition, the changing structure and composition of the agri- food processing sector as a whole, with any associated uptake of labour, has probably also impacted on the gross numbers.

These changes complement many global trends. The uneven effects of liberalisation, tariff reduction and the associated non compliance by regional trade blocs are, for example felt far more unevenly and more seriously in specific countries (and in specific commodities) in Africa and the South. Moreover the decline in on farm jobs and reduction in the ‘casualisation’ of farm labour in South Africa follows an established pattern observed in middle and high-income countries whereby mechanisation and modernisation takes place in response to changes in factor costs (and prices), resulting in less workers being employed. Historically agricultural mechanisation in South Africa was promoted/subsidised by government in the form of low interest loans and favourable capital depreciation regulations. While this initially resulted in larger areas coming under cultivation and therefore requiring more labour, in the longer run both the number of workers needed declined and types of work and level of skill needed to perform such tasks changed¹⁴.

Another major reason advanced for the decrease in workers employed is that non-economic factors are also at play. Simbi and Aliber (2000) suggest that farmers fear that current or future legislation might cause them to lose control of their land to resident farm workers. In addition, a perception exists that the state’s commitment to safeguarding human rights that has predominated since the 1994 elections has made managing farm workers more difficult than it used to be in earlier years. Farmers surveyed were all in agreement that agricultural employment had been on the decline in the ten years up to 2000, yet they also indicated that as an input cost labour had at worst been on par with other factors, but generally contributed less to rising costs¹⁵.

3. Belated but Embedded: The Legislative Environment for Farm Workers and Unions

The considerable work that has been completed over the post apartheid decade in pursuit of a more security, rights and livelihoods-based environment for farm labour reflects both the extraordinary omissions under previous governments, and the

workers and less regular workers. (Telephonic interview with Ms Anne Vaughn, Associate: Mac Intosh Xaba and Associates, 212/01/04; Personal Interview with Mr Leon Coetzee, Agricultural Economist, Department of Agricultural Economics, University of the Free State, 22/01/04).

dramatic gains made by the trade union movement within the overall ambit of the triparty alliance. The National Economic Development and Labour Council (NEDLAC), have described the 1995 Labour Relations Act (described below) as one of the most crucial pieces of legislation to be passed in post apartheid South Africa. It introduced sweeping changes to the labour environment and established the Commission for Conciliation, Mediation and Arbitration (CCMA) as well as the Labour Court. It also enshrined the principle of collective bargaining. Within the union movement it was widely viewed as a victory and the culmination of years of struggle within a highly inequitable legislative framework. Wide powers of enforcement have been given to government.

The rights of farms workers on the land that they occupy now enjoy far stronger protection. The Land Reform (Labour Tenants) Act (below) regulates how and when tenants may be removed from their homes as well as what land may be used for grazing, and protects tenants from unfair or arbitrary eviction. It also allows tenants to obtain long-term and independent tenure rights by purchasing the land they are using, or alternative land. The Act is intended to allow labour tenants to become owners of their own land.

Such labour tenancy in South Africa is an extension of the racial division of land ownership that came to characterise the country under apartheid. The system may vary between individual farms, but three broad categories of tenants can be identified. The first is rental tenancy, where the tenant pays a form of rent to the farm owner. The second is sharecropping tenancy, where the tenants perform sharecropping duties in a certain part of the year in exchange for staying on the land¹⁶. The last is labour tenancy, whereby labour is exchanged for the right to reside on the farm

The Extension and Security of Tenure Act (ESTA) followed the LTA a year later, and the differences in their provisions make it clear that they are aimed at different types of farm dwellers. The LTA is intended to benefit land tenants while ESTA identifies a category of people it calls ‘occupiers’. This includes people who are residing on land that belongs to another person and who have or on 4 February 1997 or thereafter had consent or another right in law to do so’. The act goes on to specifically exclude people who are defined as tenants under the LTA¹⁷.

For the farm workers unions, there are obviously many limits. They have to contend with a number of acts that determine the working conditions of the member, as well as with the Agricultural Protocol recently introduced which influences their access to farms. In addition, there is no Bargaining Council—for agricultural workers—and no separate provisions for the organisation of casual labour. Instead unions approach employers, and the two parties negotiate through the third party directly about matters of concern.

3.1 Occupational Health and Safety Act No 85 of 1993 and Compensation for Occupational Injuries and Diseases Act no 130 of 1993

The Occupational Health and Safety Act obliges the farmer to establish safe systems in the work place and stipulates that a safety representative should be elected on farms that employ more than 20 people. The Compensation for Occupational Injuries and

Diseases Act lays down procedures for claiming compensation in the event of work related injuries or disease from a fund established by the act for this purpose¹⁸.

3.2 Labour Relations Act No 66 of 1995

This act provided trade unions with the right of access to farms provided they can show that they had recruited enough members to gain 'sufficient representativity'. This clause (defined as 50% plus one of the people living on the farm) is subject to contestation among union organisers. Unions are deemed to be allowed access to farm information. Furthermore, the act also lay down provisions for fair labour practice and the prohibition of unfair discrimination¹⁹.

3.3.1 Land Reform (Labour Tenants) No3 of 1996

The act is specifically aimed at labour tenants and differs from the ESTA, described below, in that in addition to placing restrictions on evictions from farms, it also allows tenants to lay claim to stronger rights (including ownership) to the land on which they have grazing or cultivation rights. The act does not aim to convert tenants into wage labourers but rather into owners of land²⁰. The law defines a labour tenant as someone:

- '(a) who is residing or has the right to reside on a farm;
- (b) who has or has had the right to use cropping or grazing land on the farm, referred to in paragraph (a), or another farm of the owner, and in consideration of such right provides or has provided labour to the owner or lessee; and
- (c) whose parent or grandparent resided or resides on a farm and had the use of cropping or grazing land on such farm or another farm of the owner, and in consideration of such right provided or provides labour to the owner or lessee of such or such other farm, including a person who has been appointed a successor to a labour tenant in accordance with the provisions of section 3(4) and (5), but excluding a farmworker.²¹

3.4 Extension of Security of Tenure Act No 62 of 1997(ESTA)

ESTA was enacted with a view to securing tenure rights of farm dwellers and to prevent illegal evictions. Furthermore, the act also provides the means to regulate the relationship between people who live on the farm and farmer. The act provides a series of rights and responsibilities to both parties as well as describing the procedures through which occupiers may be evicted. The act also makes provision for people who occupy the land to acquire it with state support and so secure long-term security of tenure²². Also, the act defines the category of 'occupier' as someone living on the farm with the owner's consent. However, should the owner wish to withdraw this consent, he or she cannot automatically evict the individual but must apply for a court order to do so.

According to Hall (2003) ESTA has four key provisions.

The first of these is that occupiers receive the legal right to continue to live on the land. This includes rights to services such as electricity, water and sanitation. Occupiers over the age of 60 who have lived on the farm for ten year or more and are

no longer able to work are termed ‘long-term occupiers’ and can only be evicted on condition that alternative accommodation is found or if they violate the terms of their occupation. Family members are also allowed to visit the graves of where their relatives were buried on farms, whether the surviving members still live there or not.

Secondly, occupiers have to comply with certain responsibilities should they not wish to be evicted. Grounds for eviction include damage to property, causing harm to other occupiers or assisting other with constructing homes on the farm without the owners consent.

Thirdly, the act stipulates the circumstances under which occupiers may be evicted. Evictions can only be carried out once a court order has been granted. The owner must be in a position to prove that consent for the occupiers to live on the farm has been withdrawn. Conditions for the ceasing of consent include if the occupiers right of residence arose from the nature of the employment relationship alone, if the owner can show that eviction is desirable for the operation of the farm, or an occupier has violated the terms of his her occupancy.

Lastly, the act makes it possible for occupiers to buy the land on which they live by means of government assistance. This includes applying for funds from the Land Redistribution for Agricultural Development (LRAD) scheme covered below, and administered by the Department of Land Affairs (DLA)²³.

3.4 Basic Condition of Employment Act No 75 of 1997

The act stipulates minimum standards to be upheld in the workplace, including working hours, provisions for overtime pay, sick and annual leave²⁴.

3.5 Employment Equity Act No 55 of 1998

This act stipulates that every employer must take steps to eliminate unfair discrimination at the workplace. The act prohibits discrimination on 19 grounds, including race and gender. When applied to farms, some of the following practices would need to be reviewed: advertising and recruitment for new positions, payment and remuneration, promotion procedures, job grading systems and training systems and access to services included in the remuneration package, such as housing. Furthermore, the act requires that all employers employing more than 50 people should engage in affirmative action to advance those who deemed to fall in ‘designated groups’ (black people, women and the disabled). Employers are also obliged to send detailed yearly reports to the Department of Labour explaining their progress in this regard²⁵.

3.6 The Agricultural Protocol

In the wake of farm attacks that have been increasing at an alarming rate, AGRI South Africa (an umbrella body that represents provincial farmer’s associations), negotiated a protocol with the then Minister of Safety and Security, Steve Vukile Tshwete in 2000. In 1991 there were 327 attacks on farms resulting in 66 deaths. In 2001 alone, 1000 attacks on farmers were reported, which have resulted in 145 deaths²⁶.

The protocol serves to provide a set of guidelines for farmers, government officials and representatives of other institutions regarding what people have access to farms and what procedures should be followed should someone not living on the farm desire to gain entry. Trade union organisers are described as ‘private persons without statutory rights’ by the protocol and should they want to gain entry to the farms the following stipulations apply:

- They should make an appointment with farm workers to meet at an appropriate public place away from the farm.
- Farmers will make it possible for their workers to attend such meetings and where possible provide transport.
- Only in ‘exceptional cases’ may the organiser enter the farm and then only with permission, as well as the conditions laid down by the owner or person in charge of the land²⁷.

It is significant that not a single union organiser interviewed mentioned the protocol, while commercial farmer’s organisations were all very much aware of its stipulations.

The legislation described above has radically changed the position of farm workers under South African law. Nevertheless, the Congress of South African Trade Unions (COSATU) -the largest union federation in the country has made it clear in a range of public statements that the organisation is of the opinion that farm workers still do not receive sufficient protection w.r.t purposes of guaranteeing their conditions of employment and personal safety. In a submission to Parliament in 1999 regarding minimum wages in the agricultural sector, they stated that farm workers still do not have sufficient access to the Compensation for Occupational Injuries and Diseases Act. COSATU has also called for ‘access’ of union organisers to farms to be guaranteed and for the agricultural sector to become subject to the system of collective bargaining. It also expresses doubts on the capacity of the Dept. of Labour to enforce legislation subject to it ‘on farms’. In June this year COSATU also indicated that it felt farm workers to be vulnerable to assault and other abuses from farmers.

4 Organisation and Engagement: Farm Workers Unions’ Structure, Operations and Outreach: Off Farm and On Farm.

South Africa’s agriculture sector unions can loosely and for convenience be classified as operating within three major sub- sectors in the industry as a whole (see the appendices for organisational information on the unions approached).

The Food and Allied Worker’s Union (FAWU) and the Federal Council of Retail Allied Workers Union (FEDCRAW) engage predominantly with the food, processing and supermarket sector. The former union has recently moved into the recruitment and organisation of farm workers, and is allied with the COSATU federation of unions, while the latter is allied to the Confederation of Independent Trade Unions.

The COSATU aligned South African Agriculture Plantation and Allied Workers Union (SAAPAWU), has engaged with the ‘corporates’ –those public sector plantations and farms as well as agri-business in the past, and has also managed a recent change of focus to include people working on farms belonging to commercial farmers.

The National Union of Farm Workers (NUF) recruits and represents farm workers only, and is aligned to the National Council of Trade Unions (NACTU), a federation second in size to COSATU. Similarly, the South African National Farm Workers Organisation (SANFWO) which is unaligned, recruits and organises farm workers only².

Union	Industry Sub-sector	Constituency	Membership numbers	Affiliation
Food and Allied Workers (FAWU)	Food/processing	Factory Workers/ now farm workers	85,069: with 17000 on farm in W.Cape	COSATU
Federal Council of Retail and Allied Workers (FEDCRAW)	Food retail and farms	Shop floor workers	6000: with 300 on farm	Confederation of Independent Trade Unions
SA Agriculture Plantation and Allied Workers (SAAPAWU)	Public sector plantations + Agri-business	State/agribusiness workers/ now farm workers	21,966: with 2,500 on farm	COSATU
National Union of Farm workers (NUF)	Commercial Farms	Farm workers only	5, 500 on farm	NACTU
SA National Farm Workers Organisation (SANFWO)		Farm workers only	3000 on farm	Non aligned

4.1 Some union origins, structures and forms of outreach to farm workers

FAWU's predecessor was established as far back as 1941 in the Paarl region of the Western Cape. Initially the union had a separate structure for 'coloured people' (the Food and Canning Worker's union) and black people (the Canning Worker's Union), which merged in 1983. It is the third largest member of COSATU with approximately 100 000 members nationwide. COSATU remains an alliance partner of the African National Congress. The core of its membership is still to be found in the food and canning industry and it only started to recruit farm workers after 2000²⁸ particularly in the Western Cape. According to organisers interviewed, the goal for each organiser is to have 2000 workers under him or her. Should the organiser surpass that number, a new organiser will be appointed and a new branch established. The union does not distinguish between farm and industrial workers and the number of 2000 to an organiser originated from the union's experience in industry²⁹. According to the organisers interviewed FAWU has about 325 farm workers as members in the Swartland area of the Western Cape, about 900 in Langeberg and between 300 and 400 in Worcester. The union does not keep count of farm workers separately and the number also varies as many are seasonal workers who are only represented by the unions during their time of employment³⁰.

² Details pertaining to the headquarters, number of staff employed, annual budget and contact numbers of the unions approached are contained in Appendix III

FEDCRAW was established in 1985 and has been particularly active in the North West region for about 8 years. Since March 2003 it has aligned with the Confederation of Independent Trade Unions, which claims not have any political affiliations. The Potchefstroom branch secretary claims it is active in towns such as Zeerust, Lichtenburg, Groot Marico, De La Reville, Swyzereke and a number of others. It recruits workers in both the retail as well as the agricultural sector. Each organiser is expected to recruit about 100 members, where after a new organiser is appointed. The local structures elect a branch executive and for every 100 members four people are elected to serve on the Executive Committee of the union. FEDCRAW has about 146 farm workers as members in the North West³¹.

The NACTU aligned NUF was established in 1986 with headquarters in Johannesburg, where its General Secretary and Treasurer is based (both of whom also do work as organisers if need be). According to a coordinator an ideal objective is about 100 members for each organiser. Should the number exceed that, a new organiser would be appointed. The union's provincial structures elect representatives to sit on its controlling body, the national executive council. At the time of writing, the union had two organisers in Mpumalanga, one in Limpopo with staff in Johannesburg recruiting members in the North West. One organiser was in charge of recruiting people in KwaZulu-Natal and the Eastern Cape but has since left the union. Moreover, NUF had experienced a financial crisis in 2000, which forced it to retrench some of its organisers. NUF reports a membership of about 2000 members in Gauteng, 1000 in Limpopo, 2000 in Mpumalanga and 500 in North West³².

SANFWO was established in 1998 and is not aligned to any trade union federation. It's national chairperson and president claim that it recruits in the Western Cape in the areas of Caledon, Phillipie, Stellenbosch, Paarl, Wellington and Durbanville. Organisers should reach at least 500 members before another one is appointed. At the time of writing, Phillipie and Caledon shares an organiser. The president and national chairperson also act as organisers³³.

SAAPAWU has been active in the North West since 1994. Two organisers are expected to serve the entire region as well as some parts of the Free State in the Viljoenskroon area. Every organiser is responsible for up to 1 000 members. The organiser interviewed claimed that the unions had about 1 600 members in the region (all farm workers) with another 700 joining shortly after their applications have processed³⁴.

4.2 Contact with members

As noted the Labour Relations Act No 66 of 1995 (LLA) makes provision for farm worker's unions to have the right access to farms should they recruit enough members (50% plus 1) to gain sufficient representivity. The difficulties experienced by unions in gaining access to farms to recruit members is covered elsewhere in the report. If the organiser does manage to recruit the proportion of members mentioned above, an 'agreement of recognition' is drawn up between the farmer and the union concerned. The agreement has two components. The first deals with the wages of workers, as well as with matters related to their bonuses and pensions. The second component concerns the relations between the union and the farmer. Visiting times to the farm by

organisers are regulated as well as the appointment of the shop steward from amongst the members. In some cases visits are arranged on Sundays, when the workers are not working. In other cases visits are arranged at night, for the same reasons. Organisers indicate that it is difficult to arrangement meetings where all workers are present, and that at times so few workers attend that meetings are rescheduled. However many meetings can run into the early hours of the morning³⁵.

As part of this agreement of recognition, methods by which the workers can contact the union are negotiated. More often than not, this covers access to the employer's phone, (where workers do not already have access to cellular or public phones). Such an agreement also stipulates that it is the farmer's responsibility to deduct the union's membership fee from the wages of the workers and deposit it into the account of the union³⁶.

Obviously, where unions fail to recruit the desired proportion of workers the union's powers of negotiation are severely circumscribed. "The farmer can lay down certain conditions", and decline to negotiate about certain issues, according to a union organiser. In such cases, the employer would decline to consult the union about issues related to wages or access to the farm and the agreement would be limited to discussing procedures around disciplinary hearings, the deductions of membership fees and general queries³⁷.

Many of the officials interviewed state that they are obliged to meet their members once a month on the farms where they reside, the exception being FEDCRAW (twice a month). In emergencies or cases where workers are threatened with retrenchment, more meetings are organised³⁸. The distances organisers are expected to cover are immense. Organisers attached to FAWU (probably the best organised union for farm workers in the Western Cape) are expected to cover areas with a radius of 100 km or more³⁹. All union officials indicated that the union provides a transport subsidy. SAAPAWU⁴⁰ provides around R400 a month for travelling purposes. Unions do not provide cars and should the organisers possess their own vehicles they should use those. None of the organisers believe that the transport allowance is sufficient to cover their petrol use, and the maintenance of the vehicle is as their own expense. In some cases the organisers do not have cars and then public transport or taxis are used⁴¹. In the case of SANFWO the union is 'supposed' to provide a transport allowance but its meagre resources prevent it from doing so. A NUF organiser, based in Nelspruit and one of only two in the entire province, no longer has access to a car and now depends in taxi's to transport him across half the province⁴². It is clear that the resources at the disposal of the organisers to visit their members are pitiful and the hours unattractive.

Mr Albertus Olivier, a FAWU organiser in the Ceres region in the Western Cape, has an area of responsibility of over 130km. In one case union members live on a farm about 90km's away from his home. On most of the farms around Ceres, meetings with union members have to be held at night as not to intrude on working hours. Workers are often tired and do not attend, and so that meeting has to be rescheduled. *'Wanneer hulle almal tog opdaag dan wil hulle als bespreek, dan loop ek eers 2 uur in die oggend daar uit. Om werkers te organiseer is night-shift job'*. (When they all can attend, then they want to discuss everything. Sometimes I only leave at 2am, to organise workers is a nightshift job). He continues: *'mens moet 'n roeping hê om plase te dien as jy hierdie werk wil doen'* (You must have a calling to serve on farms if you

want to do this job).

4.3 Contact with farmers in the context of labour relations

Interviews with organisers –and the MEC for Agriculture in Free State province– clearly reveal a trend whereby farmers are making extensive use of labour consultants when dealing with trade unions. Farmers insist on having a labour consultant present when negotiating an agreement of recognition with the union organiser as well as when the union initiates talks about wages and working conditions. There is no bargaining council in the agricultural sector that concludes collective agreements that bind the sector as a whole. Instead, unions approach employers, and the two parties negotiate through the third party directly about matters of concern. Union organisers are under the impression that farmer’s unions recommend consultants to individual farmers and employers⁴³. According the Chief Executive Manager of Free State Agriculture, a commercial farmer’s organisation affiliated to AGRI SA, the body does employ two labour consultants to assist farmers. Farmer’s organisations seem to work with labour consultants on an informal basis and individual farmers are free to employ them⁴⁴.

According to Mr Innus Delpont, a FAWU organiser in the Langeberg region in the Western Cape, the use of labour consultants has become issue of amusement amongst union officials. *‘Hierdie konsultante is duur en hulle vra die boere geld by die uur. Ons begin onse self sê dat ons job creation doen vir die konsultante’*.

(These consultants are expensive and they charge farmers by the hour. We are beginning to think that we are in the business of creating jobs for consultants).

These thoughts are echoed by Mr Tseleng Tao, a SAAPAWU organiser in the North West: *‘Ons vra vir die boere, vir wat spandeer julle duisende rande as julle die wet julleself kan lees. Ons sê dan vir hulle, ‘chief dis jou plaas, nie die konsultant sin nie’*.

(We ask the farmers why they spend thousands of Rands on consultants when they can read the law themselves. Then we tell them ‘chief its your farm, not the consultant’s’).

5 Farmers’ Attitudes and Workers’ Dues: The Working Environment of Unions and Organisers

The section elaborates the difficulties unions encounter in the farmer’s attitudes towards unions, and the legacy of the proliferation of small, ineffectual and short lived unions post 1994. Similarly workers perspectives, similarly circumscribed, are covered along with some physical barriers that unions face when trying to recruit members.

5.1 Attitudes of farmers toward trade unions

‘They (commercial farmers) see unions organisers as trash’ stated a representative from SANFWO when asked how farmers regarded trade unions⁴⁵. All organisers report that when they initially started to recruit in an area they were regarded with suspicion and hostility. According to one organiser ‘they were thinking prior to 1994’⁴⁶. Another commented that farmers saw union’ as organisations capable of causing ‘disputes, strikes and toyi-toyi’s’⁴⁷.

Interviews reveal that a large part of farmer attitudes to unions and organisers are due to the proliferation of small farm workers unions in the middle 1990’s. Most of these had very short lifespans. Heads of agricultural unions of the Western Cape, North West and Free State all mentioned that these smaller organisations operated in their provinces, only to have ‘melted away’ a few months after starting operations. The Executive Chief Manager of the North West Agricultural Union notes that such organisations ‘managed to scare the farmers-and workers - quite badly, with some deducting their membership fees from the workers wages’⁴⁸. Such organisations were known to concentrate on single issues, such as the implementation of ESTA, or on insisting that farm workers have contracts⁴⁹. Some managed to disappear in less than six months⁵⁰. The MEC for Agriculture in Free State province is blunt about this part of early farm union history- and scathing about their competence in dealing with farmers and workers. The smaller organisations were held to have promised some workers in the province that they would receive entire farms, or else misunderstood the relevant legislation. According to the MEC such wrongful information caused workers involved to be retrenched- in a number of cases. They tended to ‘project a radical message’ to farm workers and it was held in many cases that the organisers could not represent their members when they were faced with legal action.

Notwithstanding these attitudes, a number of organisers report that on the farms where they have established a presence, relations become tolerable. They ascribe the initial reaction of farmers to ignorance of the role of trade unions: ‘farmers grew friendlier once they understood the role trade unions’ commented a FAWU organiser in the Cape⁵¹. In Gauteng, a NUF official believes that bigger farmers led by example and that once the union managed to recruit a substantial number of members on bigger farms, smaller farmers felt more at ease in allowing union organisers access to their farms⁵². ‘We would say that on the farms where we are active, the farmers have realised that we are their social partners’ commented a FAWU organiser in the Western Cape⁵³, ‘they are getting better’ said a SAAPAWU organiser in North West⁵⁴.

The Executive Director of Western Cape Agriculture indicated that unions organisers in that province frequently failed to visit their members and to participate in a meaningful fashion when the organisation approached all stakeholders to draft an agricultural code of conduct for the Western Cape: ‘They appeared with great political fanfare and then disappeared again’ he said⁵⁵.

5.2 Attitudes of workers toward farm worker's unions

A high-ranking official in NUF commented that 'after 1994 the number of unions mushroomed' and many of the smaller organisations recruited members and subsequently disappeared. This caused workers to 'become sceptical of unions'⁵⁶. Another union organiser claims to have encountered organisations offering legal aid to farm workers, but whose representatives rarely visit the farm⁵⁷.

Mr Zacharia Mohane, Coordinator of the National Union of Farm Workers, is very concerned about the influence the smaller unions had on the willingness of farm workers to trust union organisers. He mentioned a case where an organiser attached to his union narrowly escaped assault by enraged farm workers. The organiser had entered the farm to discover that most of the workers were from Mozambique. They were approached by a gentleman a few months earlier, who claimed to be able to secure South African identity documents and passports. They all indicated that they were interested in his proposal. It was only after they inquired with their employer why a monthly amount was being deducted from their wages that they realised that had joined a trade union..

Most organisers report that farm workers are normally not very eager to join unions when approached. They ascribe this to a not unfounded fear of the employer's reaction, as the next section describes. A representative from FEDCRAW stated 'these are illiterate people, they will believe anything the farmer tells them'⁵⁸. Organisers from the both Western Cape and North West report that they achieve success recruiting amongst workers, if they know others such as friends or family members on adjacent farms who have joined the union⁵⁹.

Fear plays an important role in the decision of farm workers not to join unions. According to Mr Titus, President of SANFWO '95% of farm workers want to join unions, they see us liberators. They know they are not being treated well, but they see that man as some type of god. They feel inferior to him. In one instance we were talking to a group of workers, and when they heard to the farmer's bakkie coming, they all jumped up and ran into the bushes'.

5.3 Catch 22: Access to farms

Despite the progression described in establishing useful working relationships with farmers or employers where they have been active for quite some time, gaining access to farms and convincing workers to join proves a harrowing task. This section describes how initial access to farms was in some way denied to organisers, as well as other forms of persuasion used by farmers to discourage workers from joining.

According to the LLA, unions must have sufficient representation to gain rights to access to a farm. Two union organisers reported that they contacted employers who refused them entry on the grounds that the union does not have sufficient representation. The dilemma presents itself that in order to gain this representation they must be able to enter the farm to recruit⁶⁰. In cases where the organisers have made an appointment to see the workers during their lunch they arrived to find that

the farmers had moved the allotted time for the meal on that day and that there was no workers to be found during the time of their visit⁶¹.

A number of union organisers reported being subject to the threat of physical injury. This usually happens in the form of a farmer either threatening the organiser with a firearm, dogs or chasing the organiser in a *bakkie* (pickup truck). ‘We end up sneaking into farms’ commented one union official.⁶²

According to an official attached to Free State Agriculture, a SAAPAWU organiser visited a farm without an appointment. The farmer used the radio system on the farm to alert others, and the representative was chased off the farm. However, during the chase the organiser lost control of his vehicle and damaged it irreparably. Being without a car, he has taken to asking other farmers for transport, as the taxis do not always visit the areas where he is required. When they are going in the same direction, the farmers oblige.

Farmers are also held to have withdrawn formerly free goods and services in reaction to workers joining unions. Some farmers run informal grocery stores in their farms to supply workers with basic goods without having to resort to go to town⁶³. They can also buy on credit in these stores. Workers who joined unions have found that are no longer allowed to buy on credit or that the amount they owe to the store must be paid immediately. Transport and free goods such as food can also be denied to them⁶⁴. Organisers in the Western Cape report that farmers have tried to establish alternative structures, such as farm committees, when unions have began recruiting⁶⁵. Moreover, farmers may also lodge personal appeals to workers and distribute favours amongst them as to persuade some not to join⁶⁶. In this case the union won’t be able to recruit the desired number of members to enable it to appoint shop stewards⁶⁷.

Unions have resorted to novel means of recruiting workers where access to farms has been denied to them. In the Phillipie area the president and national chairperson of SANFWO have taken to stopping under a bridge outside the town. ‘*Almal weet ons kom Saterdag onder die brug stop, so die werkers kom ons nou al daar soek*’. (Everybody knows that we stop under the bridge on Saturdays, so the workers finds us there).

Representatives from FEDCRAW adopt a similar approach. ‘We recruit people from the local tavern on weekends and we also wait outside the church on Sundays’.

Farmers in turn accuse unions of not being able to organise properly. According to the Chief Executive Manager of Free State Agriculture, letters from union organisers requesting a meeting with farm workers often arrive late. This may be because it was posted late or because the farmer concerned simply picked up the post later than usual. The tone of the letter is also often aggressive and simply orders the farmer to transport the workers to certain venue in a nearby town. At other times, the letter demands that the farmer arrange a meeting on pains of being challenged at the Commission for Conciliation Mediation and Arbitration (CCMA)⁶⁸. The Executive Director of Western Cape Agriculture accuses unions of often not making appointments at all and thereby breaking on the conditions of the agricultural protocol. He suggested that organisers who fail to follow the conditions set out in the protocol would be removed from the farm. Furthermore, he also accused unions of

being untruthful. According to him, a union attached to COSATU issues a press statement in middle 2003 requesting that farmers in that province refrain from raping their workers and threatening that should this type of behaviour continue, the union would organise a boycott of the farmers' produce overseas. The union concerned could not furnish any proof of these allegations when requested to do so⁶⁹.

6 From 'On Farm' to Own Farm? Farm Worker Land Reform Options

The changing terrain of land reform policies and associated programme options in South Africa is well documented and widely known. This section of the report provides a brief overview focusing especially on those 'arrangements and instruments' within the processes supporting *land redistribution*, since this option is considered most amenable to a more effective engagement by farm worker unions and farm workers. It begins with necessary context describing the availability of land held within different public and private interest groups, establishes the three major land reform options, and describes the intricate requirements for farm workers to access any of five 'farming options' via a grant based system called LRAD.

6.1 Land availability and interest group occupation

South Africa covers a total area of 122.3m hectares, of which about 82.3% is agricultural land. Of this some 82.6m hectares (or 85.6%) belongs to the predominantly white commercial farmers and 14.1m hectares (14.4%) is situated in the former homelands. Only around 14.1m hectares (13.5%) of all commercial agricultural land is arable. The remaining land (68.4% of the total) is more suited for grazing purposes. According to AgriSA, only 4% of all agricultural land is considered to be high potential land⁷⁰.

The state itself owns about 27m hectares or 22%, held in three 'domains'. The first of these is public works land, which includes land used for domestic functions such as policing or defence amounting to about 6.8m hectares (25.2% of state land). The second is land owned by the Dept. of Land Affairs (DLA), which amounts to 15.8m hectares or 58.5% of state land. About 14.5m hectares are located inside the former homelands. According to the Dept. 11.7m hectares are already 'beneficially occupied' by black communities. Tribal authorities are the de facto owners of this land. Lastly, South Africa's provinces own a further 4.4m hectares (16.3% of state land) which includes parklands.

The stated policy goal in Land Reform of redistributing a third of the agricultural land owned by white farmers would therefore amount to about 25.9m hectares⁷¹. At the time of writing it seems that the most of the land that is to go to black farmers under the process of redistribution will come from commercial farmers. The DLA aims to transfer 1.2m of land under its ownership to black farmers under the redistribution process⁷².

6.2 Models in Land Reform

The overall programme has been designed into three distinct programmes with differing objectives. The first, *land restitution*, is aimed at giving land back to victims

of forced removals that took place under apartheid after June 1913 under various acts that forced people to abandon their land (the Natives Trust and Land Act of 1936, the Group Areas Acts of 1950 and 1956).

The second *is tenure reform*, which seeks to strengthen the security of tenure of farm dwellers. This issue is addressed by both ESTA and the Land Reform (Labour Tenants) No3 of 1996 described above.

The third part of the programme, and the focus of this study is *land redistribution* which aims to provide black people with their own land by way of the Land Redistribution for Agricultural Development (LRAD) sub-programme. LRAD is sliding scale grant based method predicated on proportional contributions in kind, cash and assets into four major 'farming' options covered below.

At the time of writing South Africa's land reform programme has functioned under the principle of 'willing buyer, willing seller', where the DLA acquires land at market related prices from farmers who are looking to sell their land. The country's constitution does make provision for the expropriation land (with a 'just and equitable' compensation to be provided to the owner), but until now the DLA has not been inclined to pursue it as a policy option.

The early post-1994 Minister of Agriculture Hanekom combined the two separate ministries of Land Affairs and of Agriculture into a single one under his control, and promoted large-scale land redistribution as a way to right an historical injustice and as a strategy to alleviate rural poverty. To facilitate this, people looking to acquire their own land could apply for Settlement/Land Acquisition Grants (SLAG) up to R15 000 per household⁷³.

During the same period, the country adopted the Reconstruction and Development Plan (RDP), a policy that sought to improve the living conditions of black South Africans and which envisaged considerable government involvement in this process. In the way of land reform, the RDP accepted a programme developed by the World Bank, which set a target of redistributing 30% of agricultural land in 5 years through a market-led approach (from 1994-1999)⁷⁴. The RDP was replaced by GEAR, a neo-liberal economic policy, in 1998.

After elections in 1999 Hanekom was replaced by Ms Didiza as Minister, who moved away from the previous emphasis and made the creation of a class of black commercial farmers a priority⁷⁵. The LRAD instrument was unveiled in late 2000, and it was envisaged that the scheme would allow 30% of South Africa's agricultural land to be redistributed to black farmers by the year 2020. Initially this policy was the subject of confusion regarding what exactly the Dept. meant with the phrase 'agricultural land'. Subsequently the phrase was tightened up when the minister explained that she was referring to a third of agricultural land owned by white people, the date for the completion of the process was also moved up to 2015⁷⁶. The appendix provides more in-depth information on the budgetary constraints faced by the DLA and the number of personnel employed.

The stated policy goal in Land Reform of redistributing a third of the agricultural land owned by white farmers would therefore amount to about 25.9m hectares⁷⁷. At the time of writing it seems that the most of the land that is to go to black farmers under the process of redistribution will come from commercial farmers. The DLA aims to transfer 1.2m of land under its ownership to black farmers under the redistribution process⁷⁸.

6.3 Options offered by LRAD

The LRAD programme makes provision for land redistribution by way of the following types of projects:

- Food-safety-net projects: This allows applicants to acquire land for food crop production or for keeping livestock.
- Production for market projects: This component is aimed at those aspiring to be commercial farmer. A grant (described below) can be obtained and combined with a bank loan to purchase a piece of land or farm. It is foreseen that applicants will possess prior farming experience.
- Equity scheme projects: Participants in this scheme should be actively engaged in agriculture and the grant obtained should be used to buy shares in an existing agricultural enterprise. The beneficiaries will therefore become both employees and co-owners of the farm. In order to access this grant the applicants will have to make a contribution (whether in cash or labour) and will then receive a grant that is related to the size of their own contribution. The shares, or equity, is marketable in other words it can be sold by the beneficiaries) in order for it to retain value
- Agriculture in communal areas: This component is intended to assist people who already have access to agricultural land in communal areas but who are looking for funds to enable them to use the land productively⁷⁹.

The programme is only open to ‘members of previously disadvantaged groups’ meaning Africans, coloured people and Indians ‘who are willing to live near the land or operate or work on it, and who are committed to use the grant to purchase or lease land for agricultural activities⁸⁰’.

6.4 Accessing grants under LRAD

The programme provides access to grants under a sliding scale, whereby the applicants contribute a certain amount and then receive a grant based on the size of their contribution. A key feature is that the contribution does not necessarily have to be cash but can also be in labour or in kind, which can earn each individual applicant a grant of up to R 5 000.000. To obtain this grant the applicant must be in possession of a business plan that indicates that he or she will spend a significant amount of time towards the establishment and maintenance of the intended project. Contributions by beneficiaries in kind can be calculated by determining the value of assets possessed by the beneficiaries such as machinery, equipment or livestock. A cash contribution can consist of the applicant’s own funds, borrowed capital or possibly a combination of the two.

The applicants can the select the level of the grant they wish to obtain, aspiring farmers can apply as a group, with the intention of keeping the land in group

ownership or sub-dividing it later on. However, the programme makes it clear that ‘group projects’, will be discouraged⁸¹. The minimum contribution will earn a grant for R20 000.00 (the smallest grant available under LRAD).

From there, grants are calculated on a sliding scale whereby the larger the amount desired, the more beneficiaries will have to contribute proportionally. The largest grant available is R100 000.00, and to obtain this the applicants will have to make an own contribution to the value of R400 000.00. The programme is intended to function over the next 15 to 20 years and therefore grants will be indexed to the real value of the Rand⁸².

6.5 Applying for LRAD

The program places the burden for the necessary research on the applicants. ‘Once informed about the option available under LRAD’ states the DLA policy document, the beneficiaries will also have to decide whether to apply individually or as a group. Thereafter they will have to locate an available area of land with or without the assistance of an estate agent, DLA or agricultural officer.

According to the DLA ‘local-level officials’ and ‘local agricultural officers’ should provide assistance to the applicants by way of technical advice on the proposals compiled and on environmental assessments. Moreover, these officials are also required to have the necessary information at their disposal concerning ‘procedures for implementation’ and ‘and how to draw up a complete proposal’. If they are satisfied that the land has the necessary water rights (in the event that irrigation is contemplated) and that the price is fair, they can enter into a contingent contract with the seller with the understanding that the sale will continue once approval under LRAD is obtained. Next a farm-plan or land-use proposal must be prepared by the applicant that explains how the land will be used, projected cash-flow of the project as well what contributions towards a grant will be made. This phase can be completed with the assistance of a design agent, as LRAD makes provision that such an individual can be paid out of the grant. The application is then lodged with the local agricultural officer who, if satisfied, can send it to the provincial grant committee. This body, along with the provincial DLA director can then approve or reject the application⁸³.

Once the land has been transferred, the DLA states that ‘local level officials’ can provide training to the beneficiaries. The department further states that it would be responsible on a national level for the design of LRAD and monitoring of its impact. It is foreseen that the National Department of Agriculture (NDA) along with its provincial counterparts, will be responsible to provide post-transfer agricultural support and the LRAD policy document charges it to compile its budget accordingly. Moreover, both the NDA and DLA are responsible for providing training to beneficiaries, design agents and local land and agricultural officers, as well as to monitor and evaluate the outcomes of land reform. Political accountability for LRAD in any given province resides in the Provincial Executive Council and the DLA’s policy document provides for the creation of a provincial land reform coordination committee that would meet on a quarterly basis to review the activities of the provincial grant committee⁸⁴.

Along with the preceding section, it is clear that both labour legislation and legislation regarding land redistribution in South Africa is of a highly complex nature. Moreover the shifts in the premises of land reform policies –and in the ability of its mandate to meet particular demands in the country –have been deeply questioned. This report is not the arena to present these perspectives.

When taken in conjunction, farm worker unions have to deal with a staggering array of laws that affect the well being of their members. This burden falls on the organisers who not only represent the trade union to its members, but also have to represent its members' best interests according to the law. As will be shown, trade union organisers are coming into contact with land redistribution efforts and, by virtue of their members applying to join such schemes, have found themselves becoming involved in it as agents.

6.6 Progress to-date in the delivery of redistribution and restitution

The rate at which land has been redistributed has increased in recent years but still is well below the rate required to meet the official target. By mid 2003, 2.3 million hectares had been transferred under the redistribution programme – approximately 2.7% of agricultural land – now estimated to be about 3% (a lack of data renders the provision of an exact figure impossible). However, in order to reach the target of 30% of land redistributed by 2015, the rate would have to be increased by five-fold. However, since the launch of LRAD in 2001, the pace of land transfers, along with the resulting expenditures, have steadily increased⁸⁵.

According to the Director General of the Department of Land Affairs, Gilingwe Mayende, about 170 000 hectares of land have been transferred to emerging farmers under the redistribution process in 2003 (the figure for the previous year was 300 000 hectares).⁸⁶ Should the rate of transfer to emerging farmers stabilise at 170 000 hectares per year, it should take about 152 years for one third of the 25.9 m hectares of agricultural land owned by white farmers to be transferred.

Some 63,455 land restitution claims were lodged before the expiry of the December 1998 deadline. Of these, 41 claims were settled by March 1999, while a total 46,727 claims were settled at the end of 2003. The majority of these were urban claims that were settled with cash compensation. PLAAS, an agricultural research agency, indicated that of the settled claims 40,894 were urban areas and 5,833 in rural areas. Some 27,165 claims were settled with financial compensation, of which 23,950 were urban and 3,215 rural. Settled claims that involved the restoration of land to claimants amounted to 17,080, of which 14,467 were urban and 2,613 rural. Some 2,482 claims were settled by way of an "alternative remedy". Of this number 2,477 claims were urban and 5 rural. There were 590,880 beneficiaries involved in the abovementioned claims, of which 242,856 lived in urban areas 348,024 in rural areas⁸⁷.

A total of 810,292 hectares had been transferred under this programme by December 2003. At that time, there were about 80,000 claims in all. However PLAAS could identify only 185 rural claims (as lodged) that were settled with a transfer of land by March 2003, this means that the bulk of the rural claims are still outstanding – in the region of 10,000⁸⁸.

Moreover, the numbers have to be treated with considerable caution. In a planned restitution audit that was to be carried out for the DLA, the total number of projects that were given to HSRC by the department to investigate, involving rural and urban claims settled by means of land being restored or alternative land being allocated was 135 as of mid-2003. Some of these involved large clusters of individual claimants, particularly the urban claims (e.g. District 6, an urban area in Cape Town), however, it was difficult to link the provided data with the figures above for restoration claims. Moreover, data have to be interpreted with caution as it continues to report numbers of beneficiary "households" even though since the introduction of LRAD grants have been allocated to individuals rather than households. Redistribution data publicly available does not go beyond mid-2003. Some more data can be downloadable from the DLA website (<http://land.pwv.gov.za/>), but the non-restitution part of land reform is less well documented.

Furthermore, no data was available on the number of title deeds involved in the land reform process and it is difficult to infer it from the number of beneficiaries or the number of claims as these were grouped/clustered/aggregated into landowning entities in different ways. In fact, most urban restoration claims are likely to involve individual/family claims, so in this case there would be a closer correlation between claims settled and title deeds issued.

The information missing on restitution claims concerns the amount of land claimed, its market value and the total number of claimants to date. Only in some districts Regional Land Claims Commissioners and district councils have started to map out claims and explore more holistic local-level solutions rather than proceeding on a claim-by-claim basis⁸⁹.

As described earlier in Section 3, farm tenure reform is regulated by two Acts: the Extension of Security of Tenure Act (ESTA) and the Land Reform (Labour Tenants) Act (LTA). However, there is no reliable information on the number of farm dwellers that have been evicted legally or illegally. Some claim that illegal evictions in some regions outnumber legal ones by as much as 1 to 20. The ESTA programme has not included a developmental component to provide the means for an alternative livelihood to evicted dwellers. Also, the Labour tenant process is proceeding slowly. No information was available concerning how many of the 21 000 claims under this process had been settled, nor on how many hectares of land had been transferred to tenants⁹⁰.

7 The Accessibility of the Land Redistribution Process to Farm Workers

The section investigates the extent to which the LRAD process is accessible to farm workers. It shows that the DLA's offices are in many instances not easy for farm workers to reach and that farms are not visited to inform farm workers as to how the process works. It concludes with the results from a study conducted in the western and southern Free State amongst farm workers that illustrates that their knowledge on how to go about to acquire land is very limited indeed.

7.1 Accessibility of the offices of the DLA for farm workers

Union organisers interviewed are in agreement that the DLA has been unsuccessful in informing farm workers what options were available to them to acquire their own land (or to initiate share equity schemes) under LRAD³. The following reasons were mentioned:

- The offices of the DLA are usually located in town. In some cases workers were living on farms that were quite remote and where public transport was not available. This made reaching the offices very difficult for farm workers⁹¹.
- The offices are open during the week, when workers can't leave the farm because of their employment responsibilities⁹².
- Workers are isolated on farms and often do not even know where the offices of the DLA are located⁹³.
- Workers are poorly informed about the role and function of the DLA and have confused it with the Department of Labour, which performs inspections on farms to ascertain whether labour legislation is adhered to⁹⁴.
- In the Western Cape language is a problem as some officials in the offices in town and most in its head offices use English as a communication medium. Farm workers in this province is mostly Afrikaans-speaking and do not understand English very well⁹⁵.
- The DLA is perceived to be reactive and competent when dealing with individual cases but not 'pro-active' in informing people about its activities⁹⁶.
- There appears to be a high turn-over of staff at some of its offices⁹⁷.
- No visits to farms have been conducted by DLA officials to inform workers of what options are available to them under the land redistribution programme⁹⁸.

Senior officials in the DLA in the Free State indicate that the Dept. uses a number of methods to inform people about the land redistribution programme. In the beginning of the year, the department identified towns where 'officials think' its services are not widely known. These towns will be visited in the course of the year. Meetings are arranged in such towns and the municipal councillors are used to alert farm workers of such meetings. Because access to farms might be a problem for the councillors, the Dept. also alerts local schools with a view to persuading the children of farm workers to inform their parents of such meetings (usually scheduled over weekends). It also distributes pamphlets at the local church.

Personnel attached to the Dept. use the occasion to inform those attending of the entire gamut of land legislation, including ESTA, the LTA as well as LRAD. An attendance register is taken and according to the official interviewed, most of the attendees are usually farm workers. The Dept. also uses both regional SABC radio stations as well as community radio stations to inform workers of LRAD, a fact confirmed by union organisers in other provinces⁹⁹.

³ Quantitative information on the budget available to the DLA, the number of personnel employed overall and in the land redistribution sub-programme is provided in Appendices I & II

However, the official interviewed freely admitted that the department's offices, located in Bloemfontein were inaccessible to farm workers as transport was a problem. He also expressed concern that the LRAD policy document was only available in English. A summary was available in a local language, SeSotho. It was felt that the summary would contain enough detail should someone be interested in accessing LRAD. Furthermore, with only five people to service in each of two districts, the department was very much understaffed. Organisers were quite correct to note that the DLA did not visit farms to inform workers about LRAD, as the department did not conduct such visits. The interviewee explained the officials only visited farms once a call had been received from either a farmer or workers and that such visits mostly dealt with the threat of evictions. Staff shortages kept the department from organising farm visits and political considerations also had to be considered.

The official comments that 'farmers now regard the DLA as their enemy because of ESTA and the LTA'. He also noted that in some instances farmers had denied government officials access to their farms, or have at times confused his Dept. with the Dept. of Labour and accused its officials of 'trying to incite the workers'¹⁰⁰. The MEC for Agriculture in the Free State indicated that the Department of Agriculture's extension officers are also responsible for informing workers about LRAD and that they have been very effective in this regard¹⁰¹.

7.2 Current knowledge among farm workers of the LRAD process

The study conducted amongst farmers and farm workers in the southern and western free State in mid 2003 asked farm workers whether they would want their own land, and if so, what kept them from acquiring it and whom they would approach for assistance. The results were highly revealing.

Five farmers and workers were interviewed in Fauresmith, a sheep and cattle farming area. Three of the workers indicated that they would like to own their own farms but were obstructed from acquiring a farm by a lack of capital and experience. One farmer was assisting a worker to acquire a farm¹⁰².

In Jagersfontein, where the farmers also tended to farm with sheep and cattle, three farmers and workers were interviewed. Two workers stated that they would like to own their own farms but felt they did not possess the necessary capital to acquire one. One worker felt that it was the responsibility of the government assist him to attain a farm but had no idea which institution to approach¹⁰³. Eight farmers and workers were interviewed in Phillipolis. Sheep farms predominate this area, but horse, cattle and goat farmers are also to be found. With one exception all of the farm workers interviewed suggested that they would like their own farming enterprise. However, they have not attempted to acquire a farm because they lack the necessary capital, equipment and farming experience¹⁰⁴. Seven farmers and farm workers were interviewed in the Colesberg area. Like the other areas mentioned above, the majority of the farmers in this area own sheep, game and cattle farms. However, there are also a strong complement of irrigation farmers, who farm with lucerne and maize. Only three of the workers interviewed felt that they would want to own their own farming enterprises. They had refrained from trying to acquire a farm for the same reasons as mentioned above¹⁰⁵.

The findings are supported by information received from union organisers when asked what the biggest obstacles were to their members acquiring their own land. Organisers indicated that their members were in some cases living in very isolated areas where it was difficult to reach them with information¹⁰⁶. Another indicated that ‘workers know nothing about land reform or how the process works and because they have such little knowledge of it, people are not interested’. He went on to explain that some workers seem to suffer from an ‘*afhanklikheidssindroom*’ (‘dependency syndrome’) whereby they expect any changes in their condition to be initiated by farmers or other outside agencies. The workers that did express interest in owning their own land were also worried that they did not possess the necessary resources¹⁰⁷. These comments were echoed by another organiser who stated that ‘they (the workers) don’t know the channels, all they know is the farm’s back yard’. Based in the Western Cape, he also dismissed the chances of workers learning about such programmes by way of radio or even television, as ‘the news is in English and most people don’t understand it¹⁰⁸’. Lastly, an organiser based in the North West indicated that some workers were illiterate and did not know what procedures could be used to gain access to LRAD¹⁰⁹.

Significantly, organisers also indicated that there was some reluctance by workers who knew what procedures to follow and who wanted to acquire land to go through with the process. Farm workers in the North West have expressed concern about the level of support they would receive from government and their lack of farming equipment in the event that they acquired a farm. Similar fears were raised by farm workers in the Western Cape, ‘people ask what type of training they are going to receive. They perceive help from the government to be an ‘*eenmalige inspuiting*’ (a once-off injection of capital) and then they are left to fend for themselves. They also look at the price of farming equipment and ask how they are going to be able to afford it¹¹⁰’. The study suggests that knowledge among farm workers of the LRAD process is sorely lacking. The reason most often cited for why no attempt had been made to acquire a farm was the lack of necessary capital. Yet, the provision of such capital is one of LRAD’s primary goals and reasons for existence as a policy. No farm worker could even name the programme. This state of affairs casts doubt on the efficiency of both the DLA and the NDA to provide farm workers with the necessary information concerning land redistribution.

8 The Experience of Farm Worker’s Unions in Land Redistribution

This section investigates what experience, if any, farm worker’s unions have in the process of land redistribution.

8.1 Training

With one exception, none of the union organisers interviewed have received any training from the unions in regarding any component of the country’s land reform strategy. However, this does not mean that no learning has taken place. All the organisers have some knowledge of the process.

- FAWU provides extensive training for its organisers on labour-related matters but none on land reform. However its organisers have been involved in some aspects of the process and indicated that they are trying to come to grips with it. ‘I read what I can about it in the newspapers’ commented one, while another said that ‘I have started to go about the process from the bottom and I am working my way upwards’¹¹¹.
- FEDCRAW: This union has not trained its organisers in any aspect of land reform. The organiser interviewed does claim some knowledge of the process and claims ‘to have learnt by experience’¹¹²
- NUF: This union had two organisers who were ‘trained in land reform policy’ and who were busying themselves with establishing capacity within the union to deal with land related issues. However, after the union experienced a financial crisis in 2000, these two left¹¹³.
- SAAPAWU does not train its organisers in any aspect of land reform. However indications are that some of its senior officials have been intimately involved in helping some of its members to acquire funds to purchase a farm where the owner had died. The organiser interviewed indicated that the DLA had organised workshops around ESTA, but found these to be rushed¹¹⁴
- SANFWO does not provide training to its organisers in any aspect of land reform.

The next section will provide detail regarding exactly what parts of the land reform process unions have taken part in.

8.2 Previous involvement of trade unions in the land reform process

- FAWU organisers carry extensive knowledge of share equity schemes as well as of projects whereby groups of workers form a trust to acquire land. In one particular scheme in the Ceres region they became involved in the project after its completion, as the participants had fallen into poverty. The interviewees displayed scepticism regarding how the schemes are initiated and managed and are of the opinion that farm workers are at times not properly consulted and do not understand exactly what role they have to play. Its organisers have also been approached by members seeking advice on how to obtain land owned by the municipality concerned¹¹⁵.
- FEDCRAW provides the contact number of Land and Agricultural Bank of South Africa (‘Land Bank’) to members who are interested in acquiring their own land. The Land Bank is a para -statal that aims to assist both commercial and emerging farmers in their activities¹¹⁶.
- NUF :As mentioned, this union had tried to build the capacity to become involved in the process but subsequently lost it. However, in Mpumalanga the organiser interviewed does carry a great deal of knowledge of the complexities involved in land restitution. He is also in regular communication with a group of workers, who were formerly members of the union, who have bought a

farm near Nelspruit. Members who are interested in acquiring land seem to approach the organiser as their first port of call¹¹⁷.

- SANFWO representatives seem to be unclear as to exactly what land reform entails and mentioned that they were involved contacting the DLA to organise the provision of housing to workers in Phillipie in the Western Cape¹¹⁸.
- A SAAPAWU organiser interviewed carried knowledge of two farms in his area of duty that that were bought by workers using funds obtained from LRAD and the Land Bank. In one case the general secretary of the union, who was based in Johannesburg, was intimately involved in assisting the workers to gain access to both the institutions mentioned as well as in process of itself¹¹⁹.

Mr Albertus Olivier, FAWU organiser in the Ceres Region in the Western Cape has cynical view of share equity and schemes and workers' trusts. 'We have nine schemes like that around here' he says.

He recounts the story of the Morsouw Trust. A group of farm workers (most of them living in the Laastedrif farm) formed a group, with a view to applying for farm under the LRAD process. Funding was granted and the farm 'Morsouw' was sold to them for about R4m. The new owner and the trustees now want to occupy the farm. However, the farm still houses 38 families, none of whom were invited to join the trust. These families *'leef in haglike omstandighede, want die trust het nie die geld om hulle te betaal nie'* (they live in horrendous conditions because the trust does not have the money to pay them). Moreover the trust, composed entirely of former farm workers, have sent letters of eviction to the families remaining on the farm.

As for the rest of the nine trust schemes in the area *'daar is nie 'n manier waarop hulle kan oorleef nie'* (there's no way that they can survive). These trusts, he says, are usually initiated by *'slim mense wat nie op die plaas bly nie. Hulle ry uit na die plase toe en sê vir die werker 'luister julle kan ook 'n plaas kry'* (clever people who do not live on farms. They drive out to the farms and tell the workers 'listen, you can have a farm'). The individuals who initiate such schemes are usually urban professionals such as teachers or factory foremen.

According to Mr Olivier, the person who initiated the process (and who also becomes one of the trustees) also contacts consultants to assist with the process as well as the DLA. Farm workers have minimal direct contact with government officials as the consultant serves to regulate contact between them. Once a farm is acquired, says Mr Olivier, some of the trustees leave the area and resettle in urban areas. When asked after their well being, many workers (now co-owners) on these farms could not provide contact details for the trustees or even name the trust that they belonged to. The nine groups of emergent farmers in Ceres area, says Mr Olivier, have begun to approach commercial farmers to guide them under a 'mentor' relationship. This idea however, was born out the realisation that they stood in danger of losing farms because of inadequate cash-flow. People involved in these schemes had already sold most of their shares to outside financial institutions in order to keep the farm operating. *'n benoude jackals maak benoude spronge'* (desperate times call for desperate measures) he said.

The emergent farmers could not persuade commercial banks to provide financial/loan assistance. In desperation, one group contacted the Presidency. A Presidential team arrived in early 2003, followed by a visit from the Provincial Premier Mr Marthinus van Schalkwyk. The Dept. of Social Services subsequently became involved in putting in place poverty relief measures for the farmers concerned.

FAWU wants these measures to be expanded to another group of emergent farmers who are also in danger of losing their farm and have begun negotiating with the Dept. in this regard, according to Mr Olivier.

8.3 Farm workers' unions perceptions of their role in land redistribution

The representatives of the unions interviewed all felt that their organisations had a role to play in the process of land redistribution

- FAWU officials believe that by virtue of having regular monthly contact with farm workers they are in an ideal position to inform workers how to gain access to the process and how it works. This would prevent workers from 'blindly going into the process'. One official commented that the role of the union must shift from 'being a protest structure' to an organisation knowledgeable about the business and production side of farming. Referring to land redistribution schemes in the Western Cape, another official commented that 'unions must learn to distinguish between the rights of farm workers and what is in their best interests'¹²⁰.
- The FEDCRAW interviewee is of the opinion that the union access to farm workers that is at times denied to others makes them ideally placed to disseminate information - 'it could be our task to educate people and to give them the relevant information'¹²¹.
- NUF officials think that if the union can build some form of capacity regarding land reform it can assist workers in identifying land should they be interested in acquiring their own land. The union is also of the opinion that in a situation where the farmer or employer wants to sell the land, it could provide support for workers to enable them to buy it¹²².
- SANFWO representatives suggested that farm workers trusted the union and that it could play a role in informing them how they gain access to the process. 'Unions are the best partners to work through because they know how to handle the workers' said the organisation's president¹²³.
- The SAAPAWU interviewee thought that farm worker's unions should be knowledgeable about the process involved as well as about what individuals would 'qualify' to take part. The unions should therefore be able to inform those interested how land redistribution works and who to contact.

From the two preceding sections it should be clear that many farm workers are not at all well informed about what options are available to them under LRAD programme. It is notable that none of the trade unions interviewed provide any form of training to

their officials re land reform, yet all of the interviewees have in some way been involved in the process. The impression gained is that these officials are known and trusted by workers and that they are mostly approached for assistance in land redistribution because they are known to deal with the labour-related matters on farms. Although they are not officially in any way qualified to render such assistance, the social structure of the communities inhabited by the organisers have brought them into contact with various aspects of land reform, including land redistribution. Also, because the people who inquire after the process are at times their members, they are obliged to assist them. Officials believe they are well placed to disseminate information about what options are available to farm workers. Some have gone further to suggest that farm worker unions may even identify land and carry knowledge of farming as an industry to the workers.

However, the situation puts union organisers in very ambiguous position, as they are moved from representing workers to possible emerging farmers. Unions think that there are limitations to the role that they can play in land redistribution, It is enough to indicate that, given the state of ignorance among farm workers about LRAD, union organisers are undoubtedly in an ideal position to inform their workers about the programme.

9.2 Limits to the role of farm worker's unions in land redistribution

There is an inherent ambiguity in union organisation in the process of land redistribution. Organisers attached to FAWU in the Western Cape report former members shunning them after they entered into trust-type schemes. Contact was broken by the former members as an apparent symbolic gesture that the social status of the beneficiaries had changed. '*Hulle voel hulle is nou base van plase, en base sluit nie by unies aan nie*' (they feel that they are heads of farms and bosses don't join unions) commented one official¹²⁴. Their experience was that after workers had become landowners they let their membership lapse. This led one official to remark only partly in jest that in assisting workers to acquire their own land, the union could reducing its own membership¹²⁵.

All other unions officials interviewed were adamant that unions were not the appropriate vehicles to *represent emerging farmers*. An organiser attached to SAAPAWU suggested that emergent farmers could retain membership of the union initially, but once they have started to make a profit, they should leave to join 'their own union'¹²⁶. A senior official from the NUF was very clear on the subject of emergent farmers 'emerging farmers are on the side of employers and represent their own interests. Workers will always have to be vigilant about their rights. The NUF will cooperate with emerging farmers, but at the end of the day, they remain employers'¹²⁷. A representatives from FEDCRAW echoed these sentiments once an emergent farmer acquires land 'he will be an employer and we only consider workers. If someone has acquired land, he automatically ceases to be a member of the union'¹²⁸.

A senior official in the DLA thinks that unions face two distinct challenges should they want to become involved. The first is that unions will have to adopt a less confrontational attitude towards the DLA than they have so far displayed towards farmers. Their role should be clearly defined as a body that can assist applicants in a process managed by the DLA. In no circumstances should the impression be created

that applicants can leave the process in the hands of the union organisers. Secondly, in his opinion, unions do not have the capacity to deal with land redistribution at the time of writing. ‘They will have to do some planning related to staff, funding and skill. I don’t know where they are going to come up with the money for that’ he said¹²⁹. The views of the MEC for Agriculture on the staff capacity of unions have already been highlighted. It should be noted that he sees no role for unions in the process of land redistribution, partly because their past behaviour have made it unlikely that farmers will trust them and partly because he have found them ineffective in representing workers in labour issues¹³⁰.

The heads of commercial farmer’s organisations in the Free State and North West, while supportive of the farm worker’s unions playing a role in land redistribution, also have serious doubts about whether they have the staff and organisational capacity to engage in such a process. The Executive Manager of North West Agriculture has found that a certain union could not produce a membership list when requested and also claims that they have very little contact with their members¹³¹. The Chief Executive Manager of Free State Agriculture suggested that union representatives in the province are not very familiar with either labour or land legislation and they are organisationally ‘ineffective’¹³².

Also, it must be noted that the level of unionisation in the agricultural sector is extremely low. Out of the 250 000 full-time farm workers in the Western Cape, less than 3% belong to a trade union¹³³. In the Free State, about 2% of the province’s 40000 farm workers belong to a union¹³⁴. The North West province seems to have the highest rate of union membership amongst farm workers in the provinces where interviews were conducted. According to the MEC for Agriculture in that province, the North West is home to about 140 000 farm workers, of which commercial farmers estimate some 20% belong to a trade union¹³⁵.

9 The Views of Other Actors on the Role of Farm Worker’s Unions in Land Redistribution

This section discusses the views of other actors in the agricultural sector as to what contribution unions can make in land reform.

9.1 Farmer’s associations

The Executive Chief Manager of North West Agriculture is of the opinion that farm worker’s unions can provide farm workers with information about the LRAD process. However, the experience of NWA was that unions ‘tend to politicise issues’ instead of trying to find a constructive solution to current and potential problem areas. ESTA legislation was mentioned as an example of a situation where union intervention served to aggravate tension between farmers and workers. The interviewee further indicated that he didn’t see any role for unions to initiate share equity schemes or negotiate such schemes on behalf of workers because he doubted whether they had the capacity to engage in such negotiations in the North West¹³⁶.

In the Free State, the Chief Executive Manager of Free State Agriculture is of the opinion that, ideally, unions should be able to source information to their member on the workings of LRAD. He continued by saying that unions ‘play an intimidating role’ on farms at the moment and that they would need ‘a change of mindset’ to accomplish the above. He does not see unions playing a role when share equity schemes are initiated because in his experience they are too focussed on labour issues. In his opinion unions should also start to concentrate on the social conditions of workers and move beyond their current confrontational approach¹³⁷.

In the Western Cape, the Executive Director of Western Cape Agriculture was blunt when suggesting that unions have no role whatsoever to play in either providing their members with information about LRAD or in bargaining on behalf of workers when share equity schemes are planned. The organisation would much rather work with the DLA or NDA in this regard as the involvement of worker’s unions would ‘politicise’ the issue of land ownership. By this he meant that unions ‘would create unrealistic expectations’ among farm workers and ‘unions themselves do not understand land reform’. It should also be noted that the Western Cape Agriculture has a long standing and apparently very good relationship with a body called the ‘*Plaaswerkersvereniging*’ (Farm Workers Association). This is a non-political body that concentrates on social issues among farm workers, schooling for the children of farm workers as well as training. The organisation has also has representation on the board of Western Cape Agriculture. Moreover, the farmer’s association has entered into a number of share equity schemes as well as projects where worker’s acquire their own land in partnership with the ‘*Plaaswerkersvereniging*’¹³⁸. The impression is that the farmer’s organisation regards unions as irritants not to be taken seriously.

9.1.2 Government institutions

A senior official in the Free State DLA thought that farm worker’s unions could play a very valuable role in negotiating share equity schemes on behalf of farm workers. In his experience, many farmers proposed such schemes whereby they would own 70% to 80% of the shares. This would allow them to buy the shares back from farm workers at a later date. Unions could enter negotiations on such schemes on behalf of farm workers to ensure their interests are protected. With a view to future farm ownership through the LRAD process, the official also suggested that unions could train their members in areas such as farm management. Furthermore, once people are interested in accessing LRAD, unions could help their member fill in the necessary paperwork and thereby serve to lighten the workload of the officials of the department. Finally, he suggested that unions could start to prepare their members who had applied for funds from LRAD, for ‘the realities’ of farming. Hereby organisers would suggest to their members that farming required a fair measure of business acumen and management skills. According the official interviewed ‘unions could explain (to applicants) that farming is not like working for someone, there’s no monthly salary. You are going to have to work whether its cold or blazing hot. If you farm with crops you are going to have to wait until harvest time before you earn an income, and if you farm with cattle you are going to have to wait until they are ready to be slaughtered. You are also producing for a market and you have to compete in that market’¹³⁹.

The MEC for Agriculture in the Free State didn't foresee union involvement in any part of the process whatsoever. The Dept. of Agriculture uses its own methods to negotiate share equity schemes in which unions have no role to play, in his view. Apparently, most successful farmers in the province are already in the process of initiating such schemes. Also, workers are rarely consulted when the department is in the process of negotiating such a scheme with farmers. The workers are only informed once the department is satisfied that the project would be in their best interests. According to the MEC, this course of action is pursued to prevent workers from developing unrealistic expectations about the scheme. In his opinion, and as noted elsewhere in this report, unions had proven themselves to be unreliable in the middle 1990s and unsuited for negotiations of this type. Furthermore, the department's extension officers already engage farm workers to inform them of their options under LRAD and therefore unions have no role to play in that regard¹⁴⁰.

9 Communication between Key Role Players

This section highlights in what way the various actors in the agricultural sector communicate with each other and with farm worker's unions.

Commercial farmer's organisations indicated that farm worker's unions had never contacted them in order to discuss land redistribution. The Executive Director of Agriculture Western Cape stated that their organisation met with unions on a formal level only during economic initiatives organised by the provincial government. In such instances the farmer's organisation formed part of the business delegation and the relevant unions part of the labour delegation¹⁴¹. There was no bi-lateral contact between the parties in that province. In the North West, farm worker's unions and the commercial farmer's organisation meet in two ways. Firstly, a forum was convened under the auspices of the Dept. of Labour with a view to discussing labour disputes originating on farms, and possibly even settling such disputes before it reaches the CCMA. The forum includes representatives from the Dept.s' of Labour, Agriculture, Land Affairs, SAAPAWU as well as the North West Agricultural Union. The forum meets in the town in Klerksdorp¹⁴². Secondly, North West Agriculture have arranged meetings in the past to discuss matters of mutual interest. Issues that have been discussed include ESTA, eviction of farm workers, the implementation of the sectoral determination and cases that could be passed on the CCMA. Such meetings are not regularly scheduled event, but seem to be organised on an *ad hoc* basis¹⁴³.

In the Free State, the provincial Dept. of Agriculture has instituted a forum where matters related to land reform and agriculture are discussed. Institutions included in the forum are Free State Agriculture, the Department of Labour, banks, NAFU and several businesses tied to agricultural sector. The forum meets on a quarterly basis and instituted several sub-committees to discuss particular issues on a regular basis. According to the MEC, farm worker's unions had shown no interest in involving themselves in this forum¹⁴⁴. However, the Chief Executive Manager of the Free State Agriculture suggested that the forum was not as active as it should have been and indicated that, at the time of the interview, the body had last met more than a year ago¹⁴⁵. The outside organisation that the Department meets with on a regular basis is a non-governmental organisation, the 'Free State Rural Development Association', which concerns itself with the implementation of ESTA and the LTA. This organisation is in turn affiliated to the National Land Committee, and the DLA has a

very close working relationship with them. 'They are like a part of the DLA'. The Dept. does not have close working relationships with NAFU, although the two have cooperated well on specific occasions. Furthermore, meetings are scheduled with trade unions when they request them. Mostly, department and farm workers unions cooperate in matters concerning evictions and the application of ESTA¹⁴⁶.

In the Western Cape, one organiser attached to FAWU had participated in a meeting with a local commercial farmer's union regarding murders on farmers in mid 2002¹⁴⁷. None of the other organisers interviewed had met with a commercial farmer's union on a basis. They have also never been approached by any union of that sort to discuss matters related to land redistribution. An organiser attached to SAAPAWU in the North West confirmed that the union met with farmer's associations by way of the forum mentioned as well as in a bi-lateral fashion. As an example the organiser mentioned that gaining access to farms was particularly hard in the Groot Marico area. With help from North West Agriculture, a meeting was arranged between SAAPAWU and the local farmer's association, after which union organisers found it easier to gain access. The organiser concerned indicated that the meetings had made communication easier and that he would like to see more in future '*dan kan ons mekaar op die pad vorentoe help* (then we can help each other on the road ahead)¹⁴⁸.

This section has shown that farm worker's unions do communicate with other role players in the agricultural sector, although in an unstructured fashion. Unions and some commercial farmer's organisations have begun to organise meetings to discuss matters of mutual interest. Although such meetings are organised around particular issues and not according to a particular time-table, it shows that commercial farmers are prepared to accept trade unions as a lasting feature in the agricultural sector.

9. Summary of Findings

Conditions and context:

Farm workers remain some of the most marginalized members of rural communities, while their formal incomes contribute significantly to the maintenance of local rural economies.

The South African agricultural sector has been subject to global trends in agriculture, including a rapid dismantling of tariff structures and of protectionist support mechanisms the sector had traditionally enjoyed. A reaction in the commercial farming sector has been a steady decrease in the number of workers employed in the sector, with the number of casual workers decreasing at a faster rate than permanent workers. Farmers prefer to employ permanent workers rather than casual labourers.

Union organisation of farm workers:

Organisers attached to farm worker's unions are in a very ambiguous position regarding issues related to workers interests and to land redistribution. Under difficult conditions with regard to resources, distances, access, negative farmer attitudes -and in instances worker attitudes- they have to get to grips with extensive and complex legislation impacting on the working and tenure conditions of farm workers.

By virtue of being in close contact with farm workers, they have been brought into contact with the land redistribution programme. Nevertheless no union has formulated a formal response to land redistribution processes and their potential role in it. Presently union representatives view their role as providing their members with information on the workings of the programme, in assisting them to gain access to it, and for example in negotiating terms for their members in some of the options, such as share equity schemes. Once land has been acquired, most organisers foresee the beneficiary's membership of the unions lapsing. A serious disjuncture for unionists in supporting land reform for farmworker members arises therefore in their perceptions and attitudes towards the beneficiary member - the emergent farmer. It appears that unionists see their role –or job –ending in accessing and supporting land reform, but not in supporting emerging farmers once active. Class issues come to the fore, and this has implications for the detailed recommendations below.

Despite these limitations, most parties interviewed would welcome a more robust participation in land redistribution processes. These preferences imply that organisers particularly, do not see the scope, need and desirability of engaging at a more central level of decision making about policies themselves.

Unions ability to influence –and participate in –policy formulation and in implementation

Farm workers' unions have not been able to influence the formation of policy in relation to land redistribution in any way. Neither do they train their representatives in existing policy. In as far as they have access to government channels, it is mostly limited to FAWU and SAAPAWU's membership of COSATU, through their participation in the tri-party alliance.

There is no evidence of unions participating in the execution of policies for land reform either on a national, provincial or local level, in a coherent manner. While individual union organisers carry knowledge of issues related to land redistribution, and have helped their members participate in it, these responses are the result of individual efforts. The formal response by trade unions to land redistribution issues and initiatives has been of a fragmented, ad hoc and local nature. The union role lacks central coordination by union head offices and formal cooperation with any of the country's three tiers of government.

There is insufficient communication between farm workers' unions and other role players in the sector regarding the operation of policy and programmes. Much of what occurs is reactive rather than proactive –in both labour issues and in relation to land reform, and in the detail of LRAD redistribution options.

The Union Engagement with Commercial Farming, Government (Provinces and the Local) sectors-and their perceptions of appropriate roles

An omission in this report has been an interpretation of the central government view of the union role in land reform.

At the provinces, available data shows that in the Free State a forum has been established under the auspices of the MEC for Agriculture, where land redistribution

as well as other issues relating to agriculture are discussed. However, unions in that province have not indicated a desire to join that forum. Two provinces have recently initiated provincial forums where labour disputes are discussed with a view to settling them without having to resort to legal means. On a more devolved provincial level, senior officials attached to the DLA have made it clear that unions could have a ‘brokerage’ role, for example in negotiating the terms of share equity schemes on behalf of their members. This role could be extended to an ‘educational’ role, in the technicalities and requirements of the LRAD process, and in a more ‘technical’ role in the ‘realities of farming’, or for example in managing capital flows. There is a large communication gap between unions and officials with a tendency for the unions and the DLA to talk only when the threat of evictions present itself. Despite the design of the DLA’s LRAD outreach to worker interests, focused on towns particularly, it is clear that union officials are (in unionised areas) in far closer contact with workers than government officials.

This indicates that on provincial level, strong differences of opinion exist between representatives of the provincial government on the one hand, and officials attached to a national department on the other. It is clear that there is no joint vision between these two tiers of government regarding the role of farm workers’ unions in land redistribution.

The opinion of commercial farmer’s associations as to what role unions can play in land redistribution differed between the provinces visited. In the North West and Free State, commercial farmer’s associations indicated that they would welcome trade unions playing a role in the dissemination of information to workers. However, both organisations were opposed to unions negotiating on behalf of their members when share equity schemes are initiated. Western Cape Agriculture was opposed to trade unions playing in any role whatsoever in land redistribution. Labour consultants used by individual farmers also mean less personal union contact with farmers. The divergence of opinion suggests that commercial farmer’s organisations have not adopted a single approach the potential role of unions in land redistribution and that it was an issue of discussion. However, it is notable that with the exception of the Western Cape, the two other organisations would welcome unions participating in the process.

10 Recommendations

Overall, the findings suggest that the roles that unions are most suited to play in ongoing land reform and in the land redistribution ‘processes’ are firstly:

- one of further learning and subsequently information dissemination to members regarding policies, legislation, outreach, available resources and best bet options and practices,
- secondly; acting as ‘development agents’ by assisting members to gain access to the LRAD process, and in undertaking a partially complementary role to the provincial and local DLA mandate in providing ‘technical assistance and support’ -particularly in pre settlement and settlement phases –ie; that unions could negotiate and

provide training -in the selection, design, and start up phases of the 'farming options' available (the latter being an aspect of programmes very badly developed in this country).

In so doing, it would also enable the union to effectively offer its members a menu of choices when faced with evictions, retrenchment or any expropriation of their workplace. Detailed land reform options then become one of a suite of possibilities for members.

- Thirdly , by acting as stronger 'social partners' in ongoing land reform- at each of the central , provincial and local spheres of government,

However, it is clear that most unions do not have the capacity to do these tasks within the current state of their operations. Therefore, four 'interrelated' areas of support emerge from the findings.

These are recommended within a framework which recognises the following central tenet, or organising principle, which is held to be capable of promoting a more effective incorporation of citizens into a deeper rural development and more successful and redistributive land reform, viz;

That both 'sides' have to be properly resourced, and both sides 'need to know' what the available resources and associated demands are. Clearly, this basic tenet is absent in the unfolding of farmworkers unions and their support into land reform and redistribution.

In order to more effectively address this central omission, the recommendations are 'broken down' here, and made for each of the four major 'domains' in land reform- vis the unions themselves, the three spheres of government, the FAO and donor community, and the voluntary or NGO sector (including farmers associations)

The Unions:

- **The first** is the need to build- through the introduction of capacity building programmes into selected unions- a deeper understanding of the policies, instrument, arrangements and options in land reform and redistribution for union organisers. Such capacity building should be programme based, and devolved to a project based approach thereafter, in a phased manner. Initial capacity building should be of a knowledge based/sharing nature.
- **Secondly**, given the lack of capacity for unions to influence policy formulation on a national level, the first option should be extended into a broadening of the base of services offered by unions to promote the 'development agent' or 'broker' role between the possible beneficiaries of the land redistribution programme and the programme itself (becoming a civil society based service provider-but not an NGO). It would also enable the union to effectively offer its members a menu of choices when faced with eviction, retrenchment or any expropriation of their workplace. Detailed land reform options become one of a suite of possibilities for members, supporting improved livelihoods.

- **Thirdly**, Such capacity building should clearly be designed to complement an expanded and more comprehensive role in the work of the DLA/ministries in taking the land reform options to farm workers. Considerable developmental synergies can be realised with complementarities between the public and labour sectors, but are conditional on the negotiated realisation of political feasibility, prior to the design of any (to be agreed) forms of capacity building (particularly to address a pervading lack of trust re unions in some government circles).
- **Fourthly**, Unions should be supported to more formally address the nature of communication with actors in the agricultural sector with a view to broadening the base of discussions from labour issues to matters of common concern, which include land redistribution. The ideal would be that unions, while retaining their rights-based approach, would also be seen as *social partners* by others in the sector and as stakeholders in the land redistribution process. The design of, and support for, social forums by donors and by Dept. of Lands' (given their own limits in addressing local matters), and associated agencies would be the ideal vehicle for support.
- **Lastly**, the study has highlighted the need for settlement phase support in land reform projects. Given a serious negative potential for new class and labour divisions into land reform projects- as these become emergent enterprises- this is a neglected aspect of land reform. Attention should be directed at formulating the detailed role of farm workers unions in such support, as but one agency providing either technical support, or, acting as an instrument of oversight (such as in M+E) for policy and programmes-or for both.

Government:

- At provincial levels of government, several provinces have already initiated forums under the aegis of the provincial MEC for agriculture. These forums meet on a quarterly basis, with participants usually including provincial commercial farmers' associations, representatives from agribusinesses, representatives from the provincial departments of land affairs and agriculture, as well as other parties who have an interest in agriculture in the region. Sub-committees were also instituted to allow matters of common interest in the province to be discussed regularly.

On a national level an agricultural forum has been established by the Minister of Agriculture and Land Affairs, and is attended by the national representatives of the organisations mentioned above and provides the opportunity to discuss identified problems or conflict situations that can not be addressed in a satisfactory fashion on a provincial level. It is strongly advised that the national leadership of farm workers' unions also be invited to participate in this body.

- Given the decentralised nature of farm workers' unions, commercial farmers' associations and the government departments involved in agriculture, there is no reason why this system cannot be expanded to the third tier of government,

namely local government. To this end, it is recommended that municipalities establish similar forums involving all institutions active in agricultural matters in the particular municipality. The result would be a three tier system, encompassing all levels of government, whereby all stakeholders (from local to national) would be involved in a cooperative process to discuss matters of mutual concern and manage conflict situations should they occur.

The Food and Agricultural Organisation:

- The FAO could provide its ‘good offices’ to facilitate contact between the leaderships of different farm workers’ unions in South Africa and provide a forum where matters of common interest (such as access to farms, and the legislation regarding land redistribution) can be discussed, and more formally introduced via programme and project based training (in line with recommendation one, above, for The Unions). This would encourage unions in the same sector to share knowledge and possibly cooperate in certain areas, such as gaining access to farms, presentations to government or communication with commercial farmers’ associations.
- The FAO could take advantage of its regional infrastructure to organise a ‘regional network’ of farm workers’ unions. Unions from different countries within the Southern African region could be brought into contact with each other and be provided with the opportunity to share experiences, identify areas of collaboration and explore possible ‘best practice’ lessons.
- The FAO can support unions to form partnerships with NGO’s that provide training and technical assistance in areas such as farm management and agricultural techniques. This would enable unions to undertake a deeper ‘development agent’ or ‘broker’ role covered in the second ‘union recommendation’ covered above, particularly to members who are interested in acquiring their own land or who have already entered the LRAD process (covered under NGO’s below).
- With two prominent exceptions, the unions approached have no research capacity. Donor funding for such capacity would enable the unions concerned to develop a better understanding of the legislative environment governing the land redistribution process, and make for unions to be informed partners in negotiations with the other relevant stakeholders, such as government representatives or commercial farmer’s associations.
- Conversely, donor organisations can provide funding to the DLA, through government channels, to establish educational and training sessions with trade unions as a component of the land redistribution programme. Significant precedent for donor support into land reform processes exist in many provinces. This support could also be provided to the NDA on a decentralised basis to establish similar ‘learning’ between its extension officers and union organisers.

Non-governmental Organisations

- Relevant NGO's with extensive track records should be supported to play a strong role in the aforementioned capacity-building and training programmes.
- NGO's can be supported to form partnerships with unions with a view to providing training to its members in the related areas of the 'economics of farming', of financial management and in effective farming techniques. This arrangement would also find support from the DLA, as some of its officials interviewed indicated that unions could play a helpful role in briefing applicants about the challenges that would face them after land has been transferred. Also, by virtue of receiving training *prior* to the transfer of land, beneficiaries would be in a better position to improve their livelihoods.

Farmers' Associations

- The study has shown that farmers' associations and unions already engage in ad-hoc meetings around matters of common concern. It is suggested that farmers' associations be supported to approach unions with a view to institutionalising such meetings and that land redistribution be placed on the agenda of issues to be discussed. Such meetings can be incorporated into the structure provided by the local or provincial agricultural forums.
- Local farmers' associations can also be supported to provide training to union organisers in both the financial aspects of farming as well as farming techniques. This would put union organisers in a better position to dispense advice to their members who want to enter the process of land redistribution.

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- ³⁴ Personal Interview with Mr Tseleng Tao, Organiser North West, SAAPAWU; 13/11/03
- ³⁵ Personal Interview with Mr Albertus Olivier, FAWU Organiser: Ceres Region, Western Cape, 29/10/03
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⁴¹ Personal Interview with Mr Titus, President of SANFO and Mr E Nanitise, National Chairperson, SANFWO, 31/10/03

⁴² Personal Interview with Mr Nyalang English, NUF Organiser, Nelspruit; 12/11/03

⁴³ Personal Interview with Mr Nyalang English, NUF Organiser, Nelspruit; 12/11/03; Personal Interview with Mr Jessiah Louw, FAWU Organiser: Worcester and Mr Innus Delpont, FAWU Organiser: Langeberg Western Cape, 30/10/03; Personal Interview with Mr Tseleng Tao, Organiser North West, SAAPAWU; 13/11/03

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⁴⁸ Telephonic Interview with Mr Willie Auret, Executive Chief Manager, North West Agricultural Union, 24/11/2003

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⁵⁰ Telephonic interview with Mr Henk Opperman, Executive Director, Agriculture Western Cape

⁵¹ Personal Interview with Mr Jessiah Louw, FAWU Organiser: Worcester and Mr Innus Delpont, FAWU Organiser: Langeberg Western Cape, 30/10/03

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⁶⁴ Personal Interview with Mr Tseleng Tao, Organiser North West, SAAPAWU; 13/11/03; with Mr Titus, President of SANFWO and Mr E Nanitise, National Chairperson, SANFWO, 31/10/03

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- ⁶⁹ Telephonic interview with Mr Henk Opperman, Executive Director, Agriculture Western Cape
- ⁷⁰ South African Institute of Race Relations, *Fast Facts*, No 6 June 2001
- ⁷¹ South African Institute of Race Relations, *Fast Facts*, No 6 June 2001
- ⁷² South African Institute of Race Relations, *Fast Facts*, No 6 June 2001; South Africa Survey 2002/2003, 2003, p 379
- ⁷² South African Institute of Race Relations, *Fast Facts*, No 6 June 2001
- ⁷³ South African Institute of Race Relations, *Fast Facts*, No 5, May 2002; ⁷³ Hall & Williams G, 2000, Land Reform in South Africa, Problems and Prospect, p1
- ⁷⁴ Presentation by the Programme for Land and Agrarian Studies (Plaas), 'Progress and Problems in Land Reform', delivered at a Howard Wolpe Memorial Trust conference, 'Conference on the Land Question in South Africa', 25 March 2004.
- ⁷⁵ <http://www.oxfam.org.uk/landrights/HallWill.doc>
- ⁷⁶ <http://archive.mg.co.za/nxt/gateway.dll/PrintEdition/MGP2003/31v00224/41v00325/51v00376.htm>
- ⁷⁷ South African Institute of Race Relations, *Fast Facts*, No 6 June 2001
- ⁷⁸ South African Institute of Race Relations, *Fast Facts*, No 6 June 2001; South Africa Survey 2002/2003, 2003, p 379
- ⁷⁸ South African Institute of Race Relations, *Fast Facts*, No 6 June 2001
- ⁷⁹ <http://www.nda.agric.za/docs/redistribution.htm>
- ⁸⁰ <http://www.nda.agric.za/docs/redistribution.htm>
- ⁸¹ <http://www.nda.agric.za/docs/redistribution.htm>
- ⁸² <http://www.nda.agric.za/docs/redistribution.htm>
- ⁸³ <http://www.nda.agric.za/docs/redistribution.htm>
- ⁸⁴ <http://www.nda.agric.za/docs/redistribution.htm>
- ⁸⁵ Presentation by the Programme for Land and Agrarian Studies (Plaas), 'Progress and Problems in Land Reform', delivered at a Howard Wolpe Memorial Trust conference, 'Conference on the Land Question in South Africa', 25 March 2004.
- ⁸⁶ Email communication with Human Sciences Research Council Information Services, Statement issued by the Department of Land Affairs, 25/11/2003
- ⁸⁷ Presentation by the Programme for Land and Agrarian Studies (Plaas), 'Progress and Problems in Land Reform', delivered at a Howard Wolpe Memorial Trust conference, 'Conference on the Land Question in South Africa', 25 March 2004.
- ⁸⁸ Presentation by the Programme for Land and Agrarian Studies (Plaas), 'Progress and Problems in Land Reform', delivered at a Howard Wolpe Memorial Trust conference, 'Conference on the Land Question in South Africa', 25 March 2004.
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- ⁹⁹ Personal interview with Mr Pane Matsenyane, Chief Planner and District Manager for Xariep and Motheo Districts, Department of Land Affairs, 25/11/03; Personal Interview with Mr Tseleng Tao, Organiser North West, SAAPAWU; 13/11/03; Personal Interview with Mr Nyalang English, NUF Organiser, Nelspruit; 12/11/03
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- ¹⁰¹ Personal interview with Mr Mann Oelrich, Member of the Executive Committee of the Free State, 1/12/03
- ¹⁰² Pienaar D & Van Schalkwyk K, in Atkinson A, 'Urbanisation of Farm Workers: Volume 1: Locality studies in the Karoo livestock areas', 2003, Human Sciences Research Council.
- ¹⁰³ Pienaar D, & Van Schalkwyk K, in Atkinson A, 'Urbanisation of Farm Workers: Volume 1: Locality studies in the Karoo livestock areas', 2003, Human Sciences Research Council.
- ¹⁰⁴ Pienaar D, & Van Schalkwyk K, in Atkinson A, 'Urbanisation of Farm Workers: Volume 1: Locality studies in the Karoo livestock areas', 2003, Human Sciences Research Council
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- ¹³¹ Telephonic Interview with Mr Willie Auret, Executive Chief Manager, North West Agricultural Union, 24/11/2003
- ¹³² Personal Interview with Mr Pieter Muller, Chief Executive Manager, Free State Agriculture;24/11/03
- ¹³³ Telephonic interview with Mr Henk Opperman, Executive Director, Agriculture Western Cape
- ¹³⁴ Personal Interview with Mr Pieter Muller, Chief Executive Manager, Free State Agriculture;24/11/03
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- ¹⁴⁸ Personal Interview with Mr Tseleng Tao, Organiser North West, SAAPAWU; 13/11/03

Appendices

Appendix I :Budget and personnel information on the Department of Land Affairs

Appendix II: Addresses contact numbers for the Department of Land Affairs

Appendix III: Organisation detail and contact numbers of the farm workers' unions approached

Appendix I: Budget and personnel information on the Department of Land Affairs

In years 2002/2003 the Department of Land Affairs had a budget of R1, 09 billion (US\$ 148m). This presented a 5% increase over the 2001/2002 budget of R1,04 billion. In 2002/2003, R394 901 000 was allocated to the land restitution programmes and R 417 632 to land reform (36% and 38% of the total budget respectively). In the course of the same year, the department had spent some R1,07 billion, or almost 99% of the amount allocated to it. The department's annual report showed that it started the year with an opening balance of R23 658m worth of foreign assistance. Donors involved included the Danish government (R 5 784m) , the European union (R9, 374m), the Netherlands Government (R3, 875m) and the Department for International Cooperation of the United Kingdom (R4, 535m). The closing balance at the end of the year for foreign assistance was R3, 777m.

The Department's annual report for year 2002/2003, notes that total current expenditure amounted to R440 879m and total capital expenditure to R655 998m. In a report to the South African Parliament on 31 March 2003 the Auditor General notes that 'The department did not maintain a complete fixed asset register during the year under review. The management of the movements is ineffective as not all assets were uniquely numbered for identification purposes.'

The department employed 2 781 people at the end of 2002/2003, although 3 580 posts are available. The department described the remaining number as 'vacant'. The largest number of employees could be found in the deeds registration programme (904). The land restitution programme employed 336 people (12% of the total number) and the land reform programme 399 (14%). The department's annual report suggested that 97 vacancies existed in the former programme at the end of 2002/2003 and 128 in the latter. About 30% of the department's total expenditure (or R371m) was devoted to personnel costs. Of this amount, some R5, 966m were spent on training personnel. The department further indicated that the average personnel costs per employee for lower skilled employees (on salary levels 1 and 2) of which there were 237, were R47 000 per year or 3% of the total personnel cost. Skilled employees (on levels 3 to 5) represented 14% of personnel costs (R81 000 per year). Highly skilled production employees (levels 6- 8) represented 37% of the total costs (R115 000 per employee). Lastly, the annual report indicated that department employed 617 highly skilled supervision employees at an average cost of R134 000 per year (38% of the total personnel cost)¹⁴⁸.

Appendix II: Addresses contact numbers for the Department of Land Affairs

National Office of the Department of Land Affairs

Postal Address

Department of Land Affairs

Private Bag X833

Pretoria

0001

Physical Address

Cnr Paul Kruger and Jacob Maree Streets

Pretoria

Tel: 27 21 312 9811 Fax: 27 21 323 7124

Internet: <http://land.pwv.gov.za/>

Contact Details: Provincial Land Reform Offices

Eastern Cape Tel: 27 41 586 3565 Fax: 27 41 586 0195

Free State: Tel: 27 51 400 4200 Fax: 27 51 430 2392

KwaZulu-Natal Tel: 27 33 355 4300 Fax: 27 33 394 9272

Gauteng: Tel: 27 12 310 6500 Fax: 27 12 324 5813

Mpumalanga: Tel: 27 13 755 3499 Fax: 27 13 755 3529

Northern Cape: Tel: 27 53 831 4090 Fax: 27 53 831 4095

Limpopo: Tel: 27 15 297 3539 Fax: 27 15 297 4988

North West Tel: 27 18 387 6400 Fax: 27 18 384 2804

Western Cape: Tel: 27 21 426 2947 Fax: 27 021 426 2702

Appendix III: Organisation detail and contact numbers of the farm workers' unions approached

Food and Allied Worker's Union (FAWU)

The union has two sources of revenue. The first is subscriptions fees (membership fees) that come to R30m. Secondly, by joining the union members automatically become part of a burial scheme administered by Old Mutual plc, a financial services group. FAWU receives a commission on each member entering the scheme from this institution. The value of the commissions received comes to about R2m a year. The union's total budget for 2003/4 is R32m (Telephonic communication with Mr Abdul Rachman Solomon, Head of Finance, 15/1/04). The union has about 85 069 members (http://www.labourguide.co.za/trade_union_guide.htm#fawu). The union was unwilling to provide additional information regarding the number of organisers in its employ and the physical addresses of its various branches.

Physical Address

Head office:

Vuyisile Mini Centre
Cnr NY1 and NY110
Guguletu
Cape Town

P O Box 1234
Woodstock
7915

Tel: 27 21 637 9040 / 9044

Fax: 27 21 638-3761

E-mail: fawu@wn.apc.org

National Union of Farm Workers (NUF)

The union has 5 organisers (including Mr Mohane, the Coordinator who also works as an organiser based in Gauteng). It has two organisers in Mpumalanga, one in Limpopo and two in Gauteng. The organisation has about 6000 members. The union's main (and only) source of revenue is subscription fees. The budget for 2002/2003 amounted to R60 000 (Telephonic interview with Mr Zacharia Mohane, Coordinator NUF, 16/1/0).

Physical Address

Head Office

His Majesty's Building
5th Floor

53 Eloff Street
JHB
Gauteng
2113
Tel&Fax: 27 11 939 1277

Representative: Mr Zaharia Mohane
Tel: 27 082 321 8377

Regional offices:

Nelspruit

PO Box 5861
Nelspruit
Mpumalanga
Tel: 27 13 755 3116

Representative: Mr English
Tel: 27 073 173 4868

Tzaneen

27 Penle Street
Groundfloor
Prosperitas Building
Tzaneen
0850
No telephone installed in office

Po Box 6071
Tzaneen
0850

Representative Tzaneen: Mr Vinaf
Tel: 27 083 976 0085

Federal Council of Retail and Allied Workers (FEDCRAW)

This union has nine organisers (for about 6 000 members). This number includes branch secretaries, who also work as organisers. The union has one branch in each of the following provinces: Northern Cape, Eastern Cape, Gauteng, Limpopo, KwaZulu-Natal, and North West. The union's main source of revenue is subscription fees (Telephonic Interview with Mr Siphon Chabange, Branch Secretary: Potchefstroom, FEDCRAW, 16/1/04). The Branch Secretary for Potchefstroom indicated that the union had an annual budget of about R50 000.

Physical Address
55 Potgieter Street

Potchefstrom Central
Potchefstrom
2520

PO Box 2256
Potchefstrom
2520

Office tel no: 27 18 297 8062

Contact Person: Mr Sipho Chabanga, Branch Secretary Potchefstrom
Cel: 27 72 151 8962

SA National Farm Workers Organisation (SANFWO)

This union has seven organisers (including the president and national chairperson). The union's only source of income subscription fees and it refused to divulge any details relating to its budget.

154 Allied Building
Second Floor
Vooortrekker Road
Parow
7500

Office: 27 21 939 4769

Contact person: Mr Edwin Nantise, National Chairperson
Cel: 27 72 494 7109

SA Agriculture Plantation and Allied Workers (SAAPAWU)

This union employs 23 organisers for 21 966 members (http://www.labourguide.co.za/trade_union_guide.htm#saapawu). The Deputy General Secretary indicated that they are dispersed in South Africa's provinces in the following fashion:

Eastern Cape	3
Free State	4
Gauteng	3
KwaZulu-Natal	5
Limpopo	4
Mpumalanga	3
North West	2
Northern Cape	No organisers in this province
Western Cape	2

The union's only source of income is subscription fees and these amounted to a budget for 2002/2003 to the value of R200 000. According to the Deputy General Secretary, the union operates out of the offices of a trade union federation, COSATU in the following provinces: Eastern Cape, Free State and KwaZulu-Natal. In the case of the remaining provinces (excluding Gauteng) the organisers operate out of the offices of other COSATU-affiliated unions. However, he indicated that the organisers

have not made fixed arrangements with these unions, but rather operate out offices that are closest to the business at hand. They also operate from their places of abode. It was therefore not possible for him provide physical addresses for the provincial branches of the union. (Telephonic Interviews with Mr Pukwana, Deputy General Secretary, SAAPAWU, 15/01/04, 16/01/04).

Physical Address
Head office

5th Floor
1 Leyds Street
Braamfontein
Johannesburg

P O Box 1019
Braamfontein
2017

Tel: 27 11 403-2934 /7
Fax: 27 11 403-2934 / 7
E-mail: saapawu@mweb.co.za

Representative: Mr Pukwana (Deputy General Secretary)
Tel: 27 82 570 7274