Can Social Protection Deliver Social Justice for Farmwomen in South Africa?

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Abstract

Farmwomen (women who live and/or work on commercial farms) in South Africa face vulnerability from several sources. They survive on very low incomes, their employment is erratic (often seasonal or casual rather than permanent), their access to housing is derived through their spouses, and they face the threat of eviction at any time. Social protection, which is intended to reduce vulnerability, derives from several sources. For farmwomen, three sources of social protection are most important: employers (farmers); government (social grants); and legislation (workers' rights). These three sources interact in complex ways – sometimes complementing and reinforcing each other, but often undermining and conflicting with each other.

This paper examines the sources of vulnerability and of social protection for South Africa's farmwomen, by presenting a series of narratives and counter-narratives. The conventional explanation for farm worker evictions and casualisation – that these are rational responses to economic pressures facing commercial farmers due to agricultural liberalisation and globalisation – is challenged by a counter-narrative showing increasing profitability and falling labour costs in the agriculture sector since the 1990s. A second narrative – arguing that farmers protected their workers in an informal "micro-welfare system" – is challenged by a counter-narrative exploitation and abuse of workers on many commercial farms. A third narrative asserts that the government's impressive expansion of the social grants system in recent years is an effective response to poverty and vulnerability among low-paid workers. While not denying the importance of social grants in partially compensating farm workers for low pay and loss of permanent employment, our counternarrative is that social grants are a necessary but inadequate response to the labour market 'flexibilisation' that is an inevitable consequence of the government's economic policies. Social grants underwrite the social costs of South Africa's neoliberal growth strategy.

This paper is structured as follows. Section 1 describes the sources and trajectories of vulnerability of South African farmwomen. Section 2 presents and critiques the idealised model of the commercial farm as a "micro-welfare system". Section 3 describes the social grant system, which has been massively expanded since 1994 to ensure a minimum income to all South Africans, and examines farmwomen's access to social grants. Section 4 discusses the progressive legislation introduced post-1994 to protect workers' living standards, jobs and tenure security, and the implications of this legislation for farmwomen. Section 5 presents the work of a civil society organisation, Women on Farms Project, in educating and organising farmwomen, and campaigning for their rights. Section 6 presents case studies of farmwomen from a small survey conducted for this paper. Section 7 concludes.

1. Vulnerability among farmwomen in South Africa

Farmwomen are located at the end of a chain of increasing vulnerability in South Africa. Commercial agriculture as a sector is under stress, and farm workers are feeling the brunt of this stress. Women farm workers and women farm dwellers are especially vulnerable, both to the effects of this unstable external environment on the sector and on the farms, and to (often related) domestic stresses within their households and communities.

South African farm workers have faced repeated waves of vulnerability. Initially constructed as a "marginalised and super-exploitable labour force" (Atkinson 2007: 8) in the Cape of Good Hope slave plantations during the 17th and 18th centuries – many farm workers can still trace their ancestry to slaves – farm workers became subject to legally enforced racial segregation and oppression following the formalisation of apartheid in 1948. In the late 20th century farm workers' livelihoods were threatened by an efficiency drive associated with deregulation and globalisation that accompanied South Africa's political transition and its reinsertion into the global economy following the lifting of sanctions against South African produce.

The decimation of farm worker employment in South Africa has been ongoing at least since the 1970s. The conventional explanation is that this is driven by both economic and political imperatives. On the one hand, the restructuring of the agricultural sector has been attributed to external economic pressures such as globalisation, which required a more 'flexible' workforce to enable South African farmers to compete on world markets. On the other hand, since 1994 the ANC government has implemented a political project to regulate the agricultural sector and promote workers' rights and working conditions, which (for reasons explored below) has often had perverse consequences for the very people it intended to protect.

Economic pressure on the agriculture sector has come from both inside and outside South Africa. Internally, white-dominated commercial agriculture, which had been heavily protected as a favoured political constituency during most of the *apartheid* years, has been much less favoured since the 1980s. Deregulation of the sector has included the abolition or scaling down of marketing boards, removal of subsidies and lowering of import tariffs that sheltered domestic producers against foreign competition. According to the OECD, government transfers to South African commercial farmers amounted to only 5% of gross farm receipts in 2003, considerably lower than the OECD average of 31% (OECD 2006: 4). Ironically, both agricultural subsidies and their removal contributed to farm worker vulnerability – when grants and loans were readily available, commercial farmers invested in mechanisation (e.g. combine harvesters) and farming became more capital-intensive, but when these grants and loans were removed farming became less profitable, and farm workers paid a heavy price under both scenarios.

In the external environment, after sanctions against South African exports were lifted in the early 1990s, commercial farmers were free to compete again in global markets – but in a context dominated by massive subsidies to North American and European agriculture and protectionist policies against imports from the global south. To compete, South African

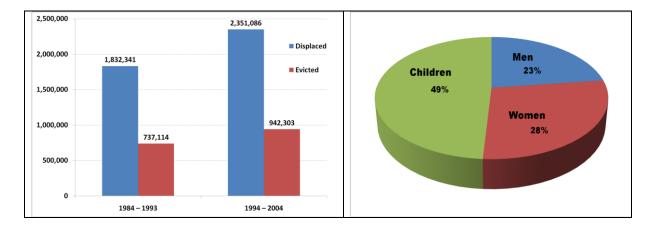
farmers had to become more efficient, which required cutting costs – at a time (as discussed below) when legislation was being introduced that substantially raised labour costs. Once again, farm workers were caught in the middle of adverse forces beyond their control.

The most direct consequence of agricultural restructuring in South Africa has been massive and ongoing job losses and casualisation of the workforce – a contraction of the 'core' workforce (permanent farm workers) and an expansion of the 'non-core' or 'peripheral' workforce (seasonal and casual farm workers). In 1971 there were more than 1.6 million permanent and temporary farm workers in South Africa, but by 2005 this figure had collapsed to 628,000. In 2007, the Agricultural Survey enumerated 432,000 full-time and 365,000 seasonal farm workers (Greenberg 2010: 16).

Disaggregating these figures by time period, between 1950 and 1980 an estimated 1.2-1.4 million people were evicted from commercial farms in South Africa (SA Parliament 2007: 3). A further 737,000 were evicted in the 10-year period before South Africa's first democratic elections in 1994, but even more – close to one million – were evicted in the 10 years immediately after the ANC came to power (Yates 2007: 11). Three-quarters of evictees were women (an estimated 470,000) and children (more than 800,000) (see Table 1).

Table 1. People displaced and evicted from farms in South Africa, 1984–2004

Period	Displaced	Evicted	Evictees	%
1984 – 1993	1,832,341	737,114	Men	23%
1994 – 2004	2,351,086	942,303	Women	28%
Total	4,183,427	1,679,417	Children	49%



Source: Yates 2007: 11

However, this standard narrative – which asserts that the displacement of farm workers is an inevitable consequence of commercial pressures beyond the control of farmers – can be challenged by examining evidence on the profitability of agriculture and on labour costs. In the wine sector, for instance, exports have increased almost 20 times since 1992 and have trebled since 2000 (Table 2). In 2007, exports outstripped domestic sales for the first time ever (Wines of South Africa website [www.wosa.co.za]; accessed 4 September 2010).

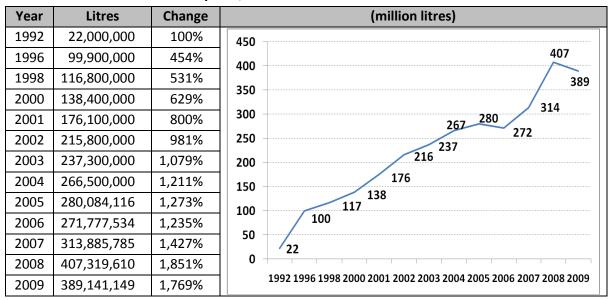


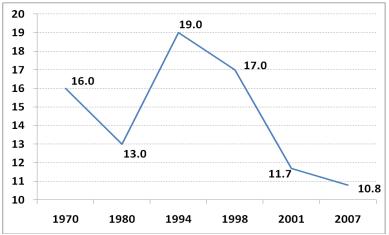
Table 2. South African wine exports, 1992–2009

Source: Wines of South Africa website [www.wosa.co.za/sa/stats_sa_industry.php]; accessed 4 September 2010

Horticultural farmers, who employ a high proportion of farmworkers for pruning, picking and packing fruit, have actually benefited enormously from globalisation, in particular from growing European demand for fresh fruit and vegetables all year round. Unlike field crops such as wheat and maize, which can be stored in granaries for months or even years, most fruit and vegetables must be consumed within days or at most weeks of being harvested. South Africa, along with a handful of other southern hemisphere countries (e.g. Australia, Argentina and Chile) has profited from counter-seasonal production and export of fruit for European consumers under preferential trade agreements, benefiting also from falling costs in transportation and improvements in cold storage technologies in recent decades. "Even where labour-intensive horticultural production expanded to take advantage of new export opportunities, the trend was towards consolidating a smaller core of permanent workers and increasing the number of casual workers" (Greenberg 2010: 16).

Labour costs in agriculture have fallen dramatically, from a peak of 19 cents per R1 (=100 cents) of total output value in 1994, to just 10.8 cents in 2007 (Vink and van Rooyen 2009: 13; see Figure 1). At the same time, real agricultural wages have increased – jumping by 65% between 2001 and 2005, the largest rise coming immediately after the introduction of the minimum wage in 2003 (Hlekiso and Mahlo 2006, cited in Vink and van Rooyen 2009: 26). This asymmetry in agricultural wages and labour costs suggests that cost savings have been achieved mainly by reducing employment.

Rather than farm worker evictions and casualisation being an unfortunate but unavoidable by-product of the harsher neoliberal economic climate prevailing in the 1990s and 2000s, therefore, these trends can be interpreted as cynical and opportunistic responses by commercial farmers to incentives to maximise profits at the expense of their workers.





Source: Derived from Vink and van Rooyen (2009: 13)

Note: The unit cost of labour is the ratio of the total cost of labour to the total value of output

Women might appear to be beneficiaries of this restructuring of the agricultural labour force, since one way that employers have cut costs is by 'feminisation' of the workforce replacing permanent male workers with temporary female workers. Women were already strongly represented among farm workers, partly because there is a gendered division of labour on farms - women are preferred for 'nimble fingered' tasks, such as picking and sorting fruit, while men are allocated heavy manual tasks such as fencing and operating machinery – and partly because there remains a gendered wage hierarchy (in defiance of equity legislation) with women earning less than men for performing the same tasks. But seasonal or casual employment, being temporary, is lower paid and less secure than permanent employment. Also, the perception that men are the breadwinners and women work only for supplementary income contradicts the reality - that women are very often the primary or sole income earners. Many farm women are *de jure* or *de facto* household heads, and losing permanent employment has both lowered their income and made this income more variable and unreliable. Women living off-farm who were interviewed for this study told us that they spend months during the farming season looking for work, which is no longer guaranteed, or as predictable as it was in the past.

The deregulation and liberalisation of agriculture pre-dated the democratic transition in South Africa, but accelerated after 1994. Intriguingly, state withdrawal from the economic sectors was mirrored by increasing state intervention in the social sphere. Within the agriculture sector, the destabilising effects of market forces were transmitted to commercial farmers and, through them, to farm workers. However, the negative consequences of this destabilisation on farm worker livelihoods were partly absorbed by the state in the form of increased social grant spending.

Also after 1994, the state intervened in the labour market, with progressive legislation and regulations aimed at protecting the living standards and employment conditions of workers. Many of these interventions were specifically designed to support farm workers. As will be seen below, failure to enforce these regulations, and the ingenuity of farmers in evading them, meant that they failed to provide the intended protection for farm workers – and in some senses, left farm workers more vulnerable to eviction and casualisation than before.

2. <u>Employers as social protection? The "micro-welfare system" on</u> <u>commercial farms</u>

Farm workers and farm dwellers in South Africa have been described as an "invisible class" or a "rural underclass" (Atkinson 2007), not only because of their material deprivation and disempowerment, but also because of their rural location, physical dispersion and isolation – which makes them difficult for government to reach with public services or to enforce employment legislation, and difficult for civil society to mobilise and unionise. In this context, relations between employers and employees on farms assume additional dimensions of significance.

According to some commentators, until relatively recently the relationship between South Africa's commercial farmers and their workers was benign and paternalistic – in a positive sense. Apart from providing employment, the farmer cared for all the basic needs of the workers who lived on his farm, enjoying 'free' access to housing and even a small piece of land for cultivation, access to credit at the farm shop and concessional loans for family emergencies, farm schools for farm children and transport to clinics when needed. To celebrate Christmas or a good harvest, the farmer would slaughter a sheep and distribute the meat among the appreciative workers.

According to this view, which du Toit (2005: 11) has aptly labelled "the implicit moral economy of racialised farm paternalism", this complex and largely unwritten relationship amounts to an informal social protection system operating on commercial farms, where the farmer substitutes for the state in providing for the basic needs of farm workers and farm dwellers. Atkinson (2007) sketches an idealised, romanticised view of this "micro-welfare system" on commercial farms as a benevolent social compact between farmers and farm workers, where farmers provide for the needs of their workers that the government does not reach them with. Beyond the reach of government, too dispersed to be unionised, the worker depends on the benevolence of the farmer – and of the farmer's wife, who often plays an important role in this "micro-welfare system" (see Box 1).

This narrative continues by arguing that the 'social compact' on commercial farms was undermined by government interventions post-1994. In a misguided attempt to provide stronger rights and protections for farm workers, government requirements that farmers provide fair working conditions, minimum wages and decent housing only succeeded in raising employment costs, creating incentives for farmers to avoid these costs and to withdraw the informal non-wage benefits that farmers had previously provided voluntarily. Defenders of farmers lament the passing of 'traditions' such as farmers slaughtering a sheep at Christmas for their workers, but this could equally be interpreted as government forcing farmers to pay workers decent wages in cash rather than in kind. A similar argument applies to the abolition of the 'dop' system, whereby farmers remunerated workers partly with wine or alcohol from the farm.

Box 1. The "micro-welfare system" in Viljoenskroon, Free State province

"Let us sketch a picture of a farmer who embodies the paternalistic ethos. One farmer in Viljoenskroon has initiated several improvements for the workers on her farm. She registered the mothers with the Department of Social development, so that they could access the child support grant. This, in turn, meant organising identity documents for the children. She also held an AIDS workshop in co-operation with the local hospice and a local cultural group. In addition, she planted a communal vegetable garden together with the farm workers and with the help of the Department of Agriculture. She taught farm workers how to pickle vegetables for use later in the year. She is actively involved in the farm school on their farm. She acquired books for the farm school library from READ, a literacy project. Furthermore, she has a school feeding scheme and has upgraded the school's infrastructure by placing stoves as heaters in the school and installing new toilets. She also arranged for 11 young people to be sent to an agricultural high school in the region. The farm has been chosen by Project Literacy and the University of South Africa as a pilot site to teach parents how to read to their younger children. She initiated a crèche on the farm, which opened in June 2002. Farmers like these give credence to the claim that a 'micro-welfare system' operates on many farms."

Source: Atkinson 2007: 93-94

It is certainly true that, when the government stepped between the farmer and the farm worker, farmers frequently found ways to ensure that farm workers paid the price. Forced to provide overalls to workers exposed to pesticides, farmers often require workers to pay for these, or deduct the cost directly from their pay packets. Similarly, the ESTA requirement that farmers who evict workers have to provide them with housing of comparable quality off-farm acts as a disincentive to invest in upgraded housing on-farm.

On the other hand, it is important to engage critically with this bucolic depiction of life on the farm before the government inadvertently destroyed the 'micro-welfare system'. Firstly, for every benevolent farmer and 'maternalistic' farmer's wife there were (and still are) any number of abusive and exploitative farmers who pay their workers as little as they can get away with, and treat them with appalling callousness. According to Women on Farms Project's (WFP) housing programme, housing conditions on many commercial farms are – and always have been – wholly inadequate, even deplorable (see Box 2).

Box 2. Middelpos fruit farm

Middelpos is a fruit farm in Ceres in the Western Cape, which has very poor housing and water and sanitation conditions for its farm workers. The walls and roofs have holes; there are no ceilings; the communal toilets are blocked and overflowing; the water supply from the communal taps is either irregular or not clean; the drains are blocked and the farm owner pays no attention to the complaints. One of the houses was burned a few years ago, and the owner has refused to repair it even though the woman who lives there still works for him. Although there is work on the farm, the owner does not employ the resident workers, many of whom need to find work on other farms. One woman worker alleges that the farmer still hits the workers; not long ago he hit her and dragged her through the vineyard.

Source: WFP case work

Several cases where farmwomen have experienced callousness and abuse – even rape – at the hands of farmers provide a powerful and moving counter-narrative to the dominant narrative of farms as the location of a safe and secure environment for farm workers – the fortunate beneficiaries of the compassionate and caring farmers' "micro-welfare system" (see Box 3 and Box 4).

Box 3. The story of Sarah Beukes

"My name is Sarah Beukes and I am 47 years old. I had 5 children, of which only two are still alive today. I also have two grandchildren. I am a farm worker from Rawsonville and I was born there. I never went to school. My mother, grandmother and great grandmother also worked in Rawsonville. As far as I can remember my whole family was farm workers in the Rawsonville area and I am now going to tell my story.

My husband and I lived and worked on a wine farm since 1996. My husband got sick in 2002. At first I thought it was TB, but in December he told me that it was the virus [HIV]. He died in January 2003. The day after he told me this, I went to have myself tested. This is how I found out that I also was positive. I later also contracted TB and got very sick – too sick to work in the vineyards – so I asked the farmer to work in his garden. He said no – I must just go and die somewhere else.

The farmer eventually went to court to have me evicted from his farm. The magistrate granted an order for him to evict me. I was given two months to leave the house and I had nowhere to go. In March 2006, I moved into a public toilet on a sports field with my two children and two grandchildren. There were also other farm workers that were evicted and who also did not know where to go. One of them was a pregnant woman. When she was in labour, I helped her with the birth of her baby.

In 2006, Women on Farms Project came to work in Rawsonville and they helped us to be strong and to stand together. Since that time, the farmers became angrier with us and began to treat the farm workers badly. It is not right that I had to work my whole life to build this farmer's farm and to be treated like a dog today. I am sick and I know that I will die some day. But no one deserves to die like this."

Source: Verbatim Testimony of Sarah Beukes in South African Parliament, 2007

Box 4. The story of Maggie Swart¹

Maggie is a seasonal farm worker who lived with her partner, a farm worker, on a farm in Rawsonville. One morning in 2008 after her partner had left for work, she asked the farmer, Pieter van Wyk, for a loan of R20. He refused and she returned to her house on the farm, where she started doing domestic chores. While Maggie was making the bed, Pieter entered her house without knocking, walked straight to the bedroom and raped her. On leaving the house, he left a R20 note on the kitchen table. When Maggie went to the local police station to lay a charge, the police actively discouraged her from pursuing the case, telling her that Pieter was a happily married man. and she could ruin his life. In fact, Pieter van Wyk had longstanding notoriety among female farm workers for his persistent sexual harassment, including touching and fondling them.

Source: WFP case work

¹ All individuals named in this paper (except for Sarah Beukes, whose testimony is on public record) have been changed to protect the identity of people involved.

Secondly, even in cases where the "micro-welfare system" did provide some elements of social assistance, this is a narrow conceptualisation of social protection that ignores the realities of the unequal power relationship on which it is constructed. Broader definitions of social protection include empowerment and social justice, but everything about being a residential worker on a commercial farm conspires against empowerment and the exercise of agency. Farm workers and their families in this system are almost totally dependent on the benevolence of their employers for their jobs, their housing conditions, their access to land, and their social protection – and this dependence contributes to their vulnerability.

The fact that many farm worker families have lived on the same farm for generations has undoubtedly resulted in a unique bond between employers and workers on commercial farms, but this relationship is inherently unequal – it derives originally from slavery, and allows farmers to continue to treat "their" workers paternalistically at best, and as legal minors at worst. Within this paternalistic system, farmers are invariably male, and farm worker families are seen (often inaccurately) as headed by men who are primary income earners. Thus patriarchy and paternalism have interacted to marginalise farm women.

3. <u>Social grants</u>

South Africa has the most comprehensive social protection system in Africa. The social grants system – including the Child Support Grant, Disability Grant and Old Age Grant – was introduced in the early twentieth century on racially discriminatory lines, but equalised during the 1980s and 1990s, and substantially expanded since the transition to democracy in 1994. Social grants have been used explicitly by the ANC government as a tool for reducing poverty and redressing historical inequities, and the social grant system has been described as "the most effective anti-poverty intervention" in contemporary South Africa (Bhorat and Kanbur 2005: 8). Rising levels of pro-poor social spending have accompanied, and partly compensated for, rising levels of unemployment. In its first decade in power, social spending (education, health, housing and social security) rose from 12% to 17% of GDP, with spending on social security almost doubling. Social spending is equity enhancing, and the incidence of social grants in South Africa has been found to be strongly pro-poor – 61% of government social security spending in 2000 went to the poorest two deciles of the population (van der Berg 2006, cited in Bhorat and Kanbur 2005: 8).

In 2010/11, the South African government allocated 3.5% of GDP to social assistance (Black Sash 2010: 13). Of seven social grant programmes, the largest in terms of coverage is the Child Support Grant (over 9 million beneficiaries), followed by the Older Person's Grant (2.2 million beneficiaries), the Disability Grant (1.4 million) and the Foster Care Grant (500,000 children) (Black Sash 2010; McEwen *et al.* 2009). Smaller numbers of beneficiaries receive the Care Dependency Grant, War Veteran's Grant, and Grant-in-Aid.

One criticism often made of South Africa's social grants is that they target each end of the life-cycle – children and older persons – but overlook working-aged adults, who are supposed to be covered by social insurance schemes, but often aren't because they are unemployed or self-employed. This is an important oversight given the high rate of

structural unemployment in South Africa. The urgent need to extend social protection to unemployed and low-income adults has motivated the 'basic income grant' (BIG) campaign.

On the other hand, social grants that target children as beneficiaries have adults – parents or other care-givers – as grant recipients, so the grant is effectively a household transfer that is not necessarily spent entirely on the designated child. Also, grants targeted at older persons are often spent on other household members as well, so this becomes an informal source of social protection for working-aged adults. This 'dilution' or redistribution of public transfers from designated beneficiaries (mostly children, pensioners, and people with disabilities) to other family members extends their coverage, but hardly provides adequate social protection to unemployed or low-paid working adults.

Most farm worker families receive one or more social grants. the minimum wage for farm workers is below the means test threshold for the Child Support Grant (CSG), so most farm workers with children qualify for the CSG. Many farm worker families include members who qualify by disability for the state Disability Grant, or by age for the Older Person's Grant.

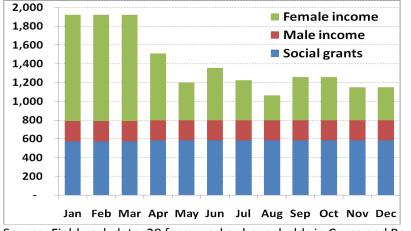
In order to assess the impact of social grants on farmwomen's lives and livelihoods, the authors designed and managed a small survey of farm women in the Western Cape and the Northern Cape. A semi-structured questionnaire of 20 questions was administered,² which collected data on:

- farm women's access to social grants;
- farm women's access to social insurance;
- the impact and use of the grants by farm women;
- farm women's realisation of their labour rights; and
- the role of civil society organisations in promoting farm women's access to grants and labour rights.

A purposive sample of 30 farmwomen were selected in three areas: Ceres and Klapmuts in the Western Cape and Kanoneiland in the Northern Cape. Ceres is a deciduous fruit-growing area, producing much of South Africa's export apples, apricots, cherries, peaches and pears. All ten farmwomen interviewed here live and/or work on fruit farms in Ceres. Klapmuts is a dormitory settlement, which supplies large numbers of seasonal workers to wine and grape farms on the 'wine route' around Franschhoek, Paarl and Stellenbosch. Our ten respondents who live in Klapmuts all describe themselves as "permanent seasonal farm workers", even if they were currently unemployed. In the Northern Cape, all ten women interviewed live and work on farms along the Orange River which mainly grow table grapes for the export market.

² In the Western Cape, the questionnaire was administered by Katrina van der Merwe, a former farm worker from Ceres and currently a volunteer at Women on Farms Project, while in the Northern Cape, the questionnaire was administered by Moerisian Thomas, an intern at Women on Farms Project.

The seasonality of agriculture is reflected in seasonal employment and seasonality of incomes for seasonal farm workers. Figure 2 shows how variable the income of seasonal farm workers can be, because they are only employed for some months of the year. Total household income is highest during the peak farming months of January to March, and lowest in off-season months such as May and August, when the demand for agricultural labour is negligible.



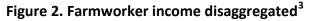


Figure 3 shows the percentage contribution of female and male waged income and social grants to total household income by month, in our small sample of 20 farm worker families. Women's earned income contributes more than half of household income only in January, February and March. In months when there is very little agricultural employment, such as August, November and December, more than half of total household income comes from social grants. Male earned income contributes relatively little to income in these households (in the range of 10-20%), because most of these households have no working men.

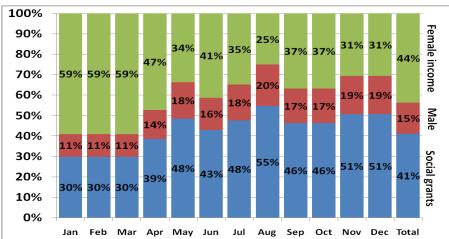


Figure 3. Percentage contribution of female income, male income and social grants to total household income

Source: Fieldwork data, 20 farm worker households in Ceres and Rawsonville, September 2010

³ Only 20 households are reflected here; data from the Northern Cape are still being analysed and will be included in the final version of this paper.

4. Legislation

Since 1994, the ANC government has introduced an impressive array of pro-poor economic and social policies and laws, intended to reverse the discriminatory practices of the past and reduce poverty and inequality. These interventions include Broad-based Black Economic Empowerment (BBEE), land redistribution, statutory minimum wages, and rights for workers and women. While the expansion of welfarist social grants is a central plank in this strategy, the extension of justiciable rights to people who were previously disempowered and marginalised aims to tackle the structural causes of poverty and inequality, not only their symptoms and consequences. In this sense, South Africa's social protection system post-1994 can be described as 'transformative' in intent (Sabates-Wheeler and Devereux 2008), since it strives to promote social inclusion and social justice, while retaining a strong social welfare component.

The South African government is caught between two contradictory objectives, reflecting a disarticulation between its economic ambitions and its ideological predilections. On the one hand, as strong advocates of a neoliberal market-based economy, preoccupied with growth maximisation, the ANC supports employers' interests in minimal labour market regulation and maximum labour market flexibility – moving away from the 'standard employment relationship'⁴ towards 'atypical employment' (e.g. casualisation). On the other hand, as a socially progressive movement committed to redressing historical injustices of *apartheid*, the government supports workers' interests in job security, higher wages and better working conditions. Within agriculture, the government is caught between the interests of commercial farmers, on the one hand, and the interests of farm workers, on the other. The government wants to ensure food security and generate foreign exchange earnings through agricultural exports, but it also wants to ensure social protection and better living conditions for low-paid workers.

On the face of it, the government appears to have chosen the side of farm workers against their employers. Subsidies for commercial farmers have been removed, land reform processes have been initiated that threaten to transfer land to the 'historically disadvantaged' and dispossessed, workers' rights have been dramatically extended. The most important pieces of legislation affecting the employment conditions and tenure security of farm workers are the Labour Tenants Act No. 3 of 1996 (LTA), the Extension of Security of Tenure Act No. 62 of 1997 (ESTA), the Labour Relations Act No. 66 of 1997 (LRA), the Basic Conditions of Employment Act No. 75 of 1997 (BCEA), the Prevention of Illegal Eviction and Occupation of Land Act No. 19 of 1998 (PIE), and the Sectoral Determination of 2003.

On the other hand, land reform (tenure reform, restitution and redistribution) has been sluggishly implemented, and farm workers have been inadequately protected by laws that appear strong on paper. Many of the achievements in this regard can be attributed to civil society activism rather than government pro-actively following through on its

⁴ The 'Standard Employment Relationship' (SER) is "characterised by full-time employment, a single employer with an indefinite contract of employment" (Omomowo 2010: 2).

commitments.⁵ Debates around the relative ineffectiveness of these laws have been divided between those who argue that they are good policies but weakly enforced, and those who argue that they were badly designed or even misconceived.

Progressive labour legislation, regulating labour brokers, etc. is not being enforced strongly enough to protect farm workers against eviction and exploitation. In this context, where the government appears unwilling or incapable of enforcing progressive labour legislation, 'social protection' (in the narrow sense of social grants) has arguably become a second best substitute for effective 'workers' protection'. This can be shown by simply mapping trends since 1994 in casualisation and unemployment against trends in social protection spending. It might be argued that this is an outcomes that squares the circle for government – farmers are free to pursue profit-maximising practices because government has failed to intervene effectively to regulate the labour market, while workers who are adversely affected by these practices are (partially) protected by government handouts. In this sense, the extension of the government social grant safety net can be seen as subsidising the 'flexibilisation' of the labour market.

Conventionally, social protection divides into social welfare (e.g. social grants) for poor and vulnerable individuals who cannot work, and social security (e.g. unemployment insurance) for low-paid and vulnerable workers. A 'social justice' view of social protection might argue that for workers, social protection should be defined broadly to incorporate 'workers' protection' – specifically, job security, decent working conditions, and a living wage.

"Secured access to income and employment is fundamental to workers' protection; any attempt to undermine these will constitute a serious threat to protection. Working with the social justice paradigm, job security and living wage (capable of providing for needs) becomes a crucial hub of workers' protection. Working from the labour market approach, workers' protection could be linked to social protection in terms of job security and adequacy of income to meet workers' needs." (Omomowo 2010: 4)

From this perspective, the increasing 'flexibilisation' of the agricultural labour force in South Africa represents an undermining of social protection for workers: "atypical employment cannot guarantee social protection, rather, it generates a working poor population among the concerned workers" (Omomowo 2010: 4)

Those who argue that progressive labour legislation was misconceived believe that it is fixated on workers who are in 'standard economic relationships' – full-time contracts – and with retaining workers in these relationships. It is not well designed to meet the needs of 'atypical' (but increasingly common) un-SER work. Even worse, one of its consequences might have been to accelerate the trend from 'standard' to 'atypical' economic relationships.

⁵ Similarly, Proudlock (forthcoming) shows that most of the improvements in the Child Support Grant since its introduction in 1998 have been driven by pressure from civil society, using techniques that range from awareness raising to campaigning to litigation.

Hattingh (2008: 1) argues that: "ESTA's aim to protect the poor and vulnerable on farms is undermined by the courts and especially the Land Claims Court downplaying human rights values in favour of upholding common law property rights when interpreting the Act, and so doing reinforcing discriminatory practices against women and creating social injustices against farm dwellers and their children." The perverse consequences of ESTA are evident from case studies of how the law is interpreted in practice (see Box 5 and Box 6).

Box 5. The perverse consequences of ESTA in practice

"In this case [Landbounavorsingsraad v Klaasen] it was held by Judge Gildenhuys that the spouse of a farmworker occupies under or through the head of the household and that she is not an occupier as intended by the legislator, unless the landowner explicitly consented to her staying on his farm. It was made clear that a wife or partner does not derive occupier status on grounds of her family ties with the head of the household."

"The judgment succeeded in keeping the *status quo* as far as common law property rights and a continuing of a patriarchal system are concerned. The farm labourer derives his consent from the landowner's employment contract and: **"The labourer (as occupier) determines which family members will live with** *him* **on the farm**" (par 25). Judge Gildenhuys used fictional examples to illustrate that it could not have been the intention of legislature to give a wide interpretation to the concept "occupier", thus urging a narrow definition of occupier as a male farm worker (see paragraphs 28-36). The examples used uncritically accepts the assumption that a farm labourer is a man as the basic norm. The manner in which this judgment changed a gender neutral definition in a statute to a term with sexist meaning is unprecedented and on this ground alone can be questioned as unconstitutional."

"To uproot women who are working on farms, with their children, without even considering all relevant factors, is a violation of their constitutional rights. Even more so because farm evictions take place in the context of increasing poverty and illness. The hardship of women on farms, can be considered as the index case of human rights violations on farms. While PIE judgments are progressively focusing more and more on human rights issues, the same approach is lacking in ESTA case law.12 What is needed to address women's need for security of tenure in the context of ESTA evictions is a special provision in ESTA to provide for the tenure rights of women employees."

Source: Hattingh 2008: 3, 4, 7

Box 6. Case study of farm worker evictions

A couple, Pieter and Marie, both worked on a wine farm, Landskroon, outside Paarl in the Western Cape. After firing the husband, the farmer called Marie, told her the housing contract was in Pieter's name, and asked her to resign and leave the house and farm. Unfortunately she signed the resignation letter. He ordered other workers to remove the family's belongings from the house. Marie contacted WFP who immediately went to the farm, returned their belongings to the house and together with Marie, met with the farmer. We warned him that he was in contravention of ESTA. While he did not reinstate her in her job, the family is still in their house. However, given the limitations of ESTA, WFP suspects he will now simply follow the stipulations of ESTA and still succeed in evicting them. Marie is now doing seasonal work on a neighbouring farm and Pieter is receiving a disability grant.

Source: WFP case work

Vink and van Rooyen (2009) identify four consequences of the progressive regulation of the agriculture sector, all of which impact negatively on farm workers.

- 1. Substitution of permanent labour with temporary/part-time/seasonal labour;
- 2. Increased use of labour contracting;
- 3. Relative increase in the number of women farm workers employed;
- 4. Job shedding as a result of minimum wages.

5. <u>Civil society responses: Women on Farms Project (WFP)</u>

After 1994, progressive labour and tenure security legislation and policies were introduced which, for the first time in South Africa's history, aimed to protect the rights of farm workers. These specifically included the Sectoral Determination of Farm Workers (2003) and the Extension of Security of Tenure Act of 1997, while general labour laws such as the Basic Conditions of Employment Act (1997) and the Labour Relations Act (1997) were also extended to include farm workers. However, the introduction of these laws was often experienced as counter-productive by farm workers, for the following four reasons:

- a) 'Pre-emptive' evictions and dismissals of farm workers by farmers ahead of the promulgation of protective legislation.
- b) Non-compliance by farmers (e.g. paying less than the Minimum Wage), especially when no prosecutorial steps were taken against errant farmers.
- c) A lack of enforcement of the laws by government, specifically the Department of Labour: with fewer than 1,000 labour inspectors in total at any given time, the department has not had the will or capacity to ensure that labour laws are enforced on South Africa's approximately 40,000 farming units.
- d) Farm workers often lack knowledge of their labour rights and entitlements, largely as a result of the paternal relations with the farmer, poor communication by the Department of Labour, low rates of unionisation (less than 10 per cent), physical isolation and low literacy and education levels.

Thus, a perverse consequence of progressive legislation has been increasing vulnerability manifested by, *inter alia*, increased feminisation and seasonalisation of agricultural labour and growing evictions. As an NGO working with women who live and/or work on commercial farms, Women on Farms Project (WFP), has therefore partly focused its strategies and activities towards addressing these realities of farmwomen. In particular, the approach adopted by WFP has aimed to educate, organise, mobilise and facilitate farmwomen to act to improve their living and working conditions.

Educating farmwomen

Despite farmwomen's growing dependence on the state's social security grants, they experience various obstacles in accessing their social security entitlements, the most significant of which are a lack of information and the necessary logistical and financial means. A further constraint is government's incapacity and inability to deliver social security

effectively and efficiently, particularly in rural areas where the population is dispersed. WFP thus sought to provide farmwomen with rights information, advice and support on social security entitlements and private maintenance orders.

To this end, in August 2008, WFP established two Social Security Information Points at the Worcester and Stellenbosch Magistrate's Courts where trained farmwomen volunteers provided other farmwomen with advice and information about the application process, including eligibility criteria about the various social security grants, as well as practical assistance in completing application forms and following up on applications submitted by farmwomen. In the first three months of its establishment, the Information Points successfully assisted more than 400 farmwomen in accessing various social security grants. In addition, the programme also regularly holds information sessions on farms where it provides information and pamphlets to farmwomen about the social security grants.

Organising farmwomen

In addition to educating women of their rights and entitlements, WFP has believed in the equal importance of organising women into various farm-level structures which enable them to collectively assert their rights. In the early 2000s, WFP reflected on the sustainability of the Women's Rights Groups and farm committees which it had established on numerous and identified a number of limitations. Firstly, despite the fact that they presented farmwomen with their first collective space for developing a class consciousness and learning about their rights, they remained completely dependent on WFP, had limited reach, and had no political linkages to other structures. Moreover, they only operated at farm-level and had no organisational capacity to address structural issues, such as legislation, remaining both geographically and politically isolated.

Secondly, as an NGO, WFP was unable to represent farmwomen in labour disputes because the Labour Relations Act specifies that a worker can only be represented by a registered trade union representative. Furthermore, WFP realized that its interventions could only be made on behalf of individual farmwomen, with no structural impact on the broader constituency of farm workers. Finally, WFP was also reflecting on its own long-term sustainability - specifically, what would become of the atomised farm-level structures should donor funds run out? All these issues and questions led to a series of participatory discussions and workshops between WFP and farmwomen during which it was recognised that farmwomen's organisational ownership, control and collective action needed to be strengthened in order to ultimately challenge farmers and government to ensure the realisation of the rights of farmwomen. At a structural level, the question centred on the need to establish a membership organisation (e.g. a voluntary association, a trade union). After research and consultation with farmwomen, it was collectively decided to establish a trade union / social movement. Although not legally permitted to establish a women-only trade union, in 2004, all the existing farm-level structures were collapsed and WFP formed a women-led trade union/social movement, Sikhula Sonke ("we grow together" in isiXhosa).

In 2010, Sikhula Sonke has a membership of approximately 5,000, mainly seasonal farmwomen, and is the largest farm worker trade union in the Western Cape, bigger even than the COSATU-affiliated farm workers' union, FAWU.

In addition to organising farmwomen to know and collectively assert their rights, WFP has also emphasised the importance of advocacy and lobbying initiatives which are aimed at influencing legislative and policy decisions in favour of farmwomen.

Advocacy, lobbying and campaigns

WFP has undertaken important strategic campaigns which have included the active participation of farmwomen targeted at both the national and international levels.

A national lobbying campaign undertaken in 2009 related to the topical and emotive issue of labour brokerage. After completing research in 2008 into the relatively recent and growing phenomenon of labour brokers in the agriculture sector, WFP submitted a written and oral submission on labour brokerage to the Parliamentary Portfolio Committee on Labour, as well as facilitated the participation of two farmwomen who provided their own testimonies and experiences of labour brokerage to the Committee. While the written submission summarised the research findings and made recommendations based on these, the farmwomen spoke about their lived experiences as labour-brokered workers. One woman related how she had been expected to provide sexual favours to the labour broker who had brought her from the Eastern Cape and found her seasonal work on a farm, while the other recounted her total dependence on the broker when she first arrived in the Western Cape (including for accommodation and food), making her highly exploitable. Farmwomen not only learned about government's policy-making processes through their direct engagement in the process, but they also realised that their experiences are important enough to feed into the legislative process since the hearings will inform government's decision to effect legislation to either ban or regulate labour brokers. For women from a community which has been absent and voiceless for centuries, the importance of this consciousness cannot be under-estimated.

WFP has also been involved in a successful international campaign aimed at improving working conditions on certain farms. The UK retailer, Tesco, is one of the main European purchasers of South African fruit and has always claimed that all its products are sourced from ethical suppliers who uphold legal (labour) standards and conditions in their countries. Although WFP had informed Tesco between 2004 and 2006 of labour rights abuses on many of its fruit-supplying farms in the Western Cape, based on reports received from farmwomen, and had asked Tesco to intervene to ensure labour law compliance on these farms, Tesco had effectively dismissed WFP's claims, insisting that WFP name the specific workers and farms. WFP explained that farm workers would face severe reprisals from farmers if named, with the risk of losing their jobs and on-farm housing.

In 2006, a member of Sikhula Sonke, Gertruida Baartman, a fruit picker on a Tesco-supplying farm in Ceres, expressed her willingness to go on public record about the conditions on the farm. In partnership with the British NGO, ActionAid, WFP bought a share (for a few pence!) in Tesco for Gertruida; this gave her the right to attend the Tesco Annual General Meeting in London as a shareholder. Thus, in July 2006, Gertruida described, to a hall full of hundreds of Tesco shareholders, her labour and housing conditions on the Tesco-supplying farm, reporting that workers working with pesticides were not provided with protective clothes as stipulated by law; that women workers earned less than men for doing the same work; and that housing conditions were poor. Shareholders, many of whom were female retirees,

were shocked and said they were prepared to earn less dividends if it meant that the living and working conditions of farm workers like Gertruida were improved.

Immediately after the AGM, Tesco's CEO requested a meeting with Gertruida (WFP and Sikhula Sonke). A direct result of this meeting was an undertaking by Tesco to have all its supplying farms audited through a multi-disciplinary and developmental audit which not only describes labour and social conditions and actively includes farm workers' responses, but also includes an action plan which outlines any remedial actions and timeline to address areas of non-compliance.

6. <u>Case studies of farmwomen in Ceres</u>

In our small purposive sample of 10 farm worker households in Ceres, 2 farmwomen are seasonally employed for 3 to 6 months of the year; 4 women have permanent contracts; 1 is employed as a domestic worker on the farm; while another works in a farm crèche; 1 woman is unemployed, while another is disabled. The modal family size is 4, and the typical composition is 2 adults (woman and male partner) and 2 children.

In 7 households, both the woman and her partner are employed. (This includes the 2 seasonally employed women). In 1 household, only the woman is employed as her husband is disabled. In 2 households, only the man is employed as the women are disabled or unemployed. For the 2 seasonally employed farmwomen, other income sources are the male partner (who have permanent employment contracts on the farms) and the Child Support Grant (CSG).

In fact, 9 of the 10 households receive the CSG – in 6 households, 1 child receives the grant; in 3 households, 2 children receive the grant. This belies the notion that women are having many children in order to receive the CSG. Two women receive the Disability Grant; while 1 of these women also receives the CSG for her child, the other woman believes that receiving a Disability Grant precludes her child from receiving the CSG.

The only significant problem reported with accessing social grants was the fact that the SASSA office in Ceres only interviews 16 new applicants each day, meaning that people have to be at their offices by 5am. One farmwoman who lives about 20 kilometres away, returned to the office for 3 weeks before managing to arrive early enough to be one of the lucky 16 to have her application processed. Each trip to the office cost her money or meant her walking. 3 women had learned about the grants from WFP; another 3 from government (presumably SASSA or Social Development); and the other 4 women had learned about the grants from family and neighbours on their farms.

All 10 farmwomen are aware of the 'no school fee' policy. However, there was one instance of confusion or misinformation: a woman thought that she qualifies for exemption, but paid school fees anyway because she had heard that her CSG would be taken away if she did not pay school fees. A remaining problem is the fact that the policy does not cover high schooling which is when children are particularly vulnerable to being withdrawn from school due to the financial pressures experienced by parents. All the employed women, including the seasonally employed farmwomen, contribute to the Unemployment Insurance Fund (UIF).

Six women have informal loans or credit arrangements with farm shops and off-farm shops, where food is purchased on credit, or with individuals in town. A woman may have a number of different loans. *"I have a 'boekie' in several places. I must do that otherwise how I am I going to live through the month?"* In all instances, social grants are used to repay the loans – one woman actually gives her child's CSG card to the creditor until the day the grant is paid out and she repays her loan. *"Sometimes I have to give my child's card in to borrow money until the day I get my social grant". "If I pay my debts and buy food, there is nothing left [of the grant]."*

Individual loan sizes are between R120 and R250. One woman said: "Sometimes it [my debt] is R200 and I only have R50 for food for my child." Another woman said: "I have one 'boekie' with someone I know very well. She gives me food on the book. Sometimes it is R200, But I can pay it off when my money is not enough." As noted, besides food and clothes, the women mainly used the grant for repaying their loans or credit. With the CSG actually being used as a form of 'collateral' in one instance, it would seem as if the grant provides women with access to credit, as the creditor is guaranteed of monthly repayments.

None of the women were using the grant to generate an income. One woman used some of the 2 CSGs she received to buy seeds to plant a vegetable garden for household consumption. "We can't open house shops or grow food on the farm. The farmer told us if we do that, it is against the law." "We are not allowed to grow food or make business on the farm." "The welfare told us the grant is not for any others, only for the children." "We are not allowed to do that [growing food, making a business]. If the welfare finds out, they take the money away."

Although nearly all of the women with school-going children do not pay school fees as they know about and qualify for the 'no fees' policy, a few women acknowledged that the grant allowed them to meet basic necessities. *"Yes, because if that money was not there I couldn't manage holding them in school."* A second woman said: *"Yes, because he have to be clean at school [new clothes]."* A mother of a high school learner said: *"The school fees must be paid from that money."*

Before the CSG: *"The children didn't have food sometimes; no clean clothes."* Women who managed were said to be those in permanent employment, as were their partners.

The minimum wage for farm workers is currently set at R303 per week. Of the 8 employed women, 4 earned below the weekly minimum wage (R125; R285; R300; R300), while 4 earned more than the weekly wage (R320; R335; R350; R360). Significantly, even permanent workers do not always earn the legal minimum wage, suggesting that it is not only seasonal workers or those employed through labour brokers who do not comply with the minimum wage. (The woman who earned R125 per week worked in the crèche, but should still be paid the minimum wage according to the Sectoral Determination for Farm Workers.) *"I had to take jobs with labour brokers. Sometimes we worked 3 days a week. If we worked, we earned R60/day." "For three months, I worked for the farmer and then for a labour broker. It*

is not every month that I worked." 8 women had learned about the Minimum Wage from civil society organisations, either Women on Farms or Sikhula Sonke.

Two families on two farms were threatened with eviction by the farmers. However, the union intervened and, on investigation, found that they were linked to unlawful dismissals, successfully challenged both, which led to the reinstatement of the workers and the retraction of their eviction orders.

In eight households, there were housing contracts in place. Significantly, however, in all but two cases, the housing contract was always in the name of the male partner. *"On farms, women don't sign housing contracts, only men."*

The women were asked if they have benefited from the activities of Women on Farms Project, such as its campaigns around the minimum wage and social security, and if they are members of Sikhula Sonke, the farmwomen's trade union.

- *"If we are part of their programmes, we are the targets of the farmer."*
- "The farmer doesn't want us to be part of anything."
- "They teach us about our rights."
- "It helps a lot. In previous days, the farmer wants us to work in rain, but now we told we can't work in the rain without rain clothes."
- *"I am a member of Sikhula Sonke. I am grateful for the union that help us on the farm. Most of our people really struggled and have hard times."*
- "They help us by giving us training about our rights and then we come back to the farm and talk to other people."
- "Sikhula Sonke helped us with the problems on our farms."

Box 7. A farm woman in Ceres

Lettie Solomons is a seasonal farm worker who is employed for about 7 months of the year on a vegetable farm in Ceres; for the other six months, she is unemployed. Her husband is a permanently employed farm worker; he earns R295 per week. For her seasonal work – thinning, picking and sorting fruit – she earns R360 per week. The CSG adds R250 per month.

The couple have two children, but receive a CSG only for one child. "The day I go to apply for the grant, they took 16 people for the day. So I must go back home. I was going for 3 weeks and at last in the fourth week, I was early, so they helped me. I took a month before I got the grant for my child."

She does not use the grant to generate an income, but relies heavily on it to generate credit. "I have a 'boekie' at the station shop. Sometimes it is R300 and when I get the grant, I must pay the debt, then it is also less, so they have to wait for the next month to get the other money." Presumably, with seasonal employment and a seasonal income for only 6 months of the year, she would otherwise not be in a position to secure such basic household credit. "We did not get out with our less money [before the grant]". With the grant, Saartjie is able to buy basic school necessities for her children. She says: "The teacher expects the children must have new clothes and shoes. They don't know our circumstances on the farms." "I only contribute to UIF when I am working."

"I didn't know [about the Minimum Wage] because all the time we took the money the farmer gave us." Saartjie is paid R360 per week, calculated on a 'piece rate' basis – this is higher than the current Minimum Wage of R303 per week.

Saartjie and her family do not have a housing contract with the farmer. "Never on our lives, we sign a contract. The reason is the farm was left by the owner and nobody knows who is the new owner of this farm."

"WFP helped us stand up for ourselves in the sense all the time we just accepted things as it came to us."

Source: Fieldwork in Ceres, August 2010

7. <u>Conclusion</u>

Before 1994, farm workers in South Africa had little or no social protection. On some farms they received informal transfers from farmers, but on an *ad hoc*, paternalistic basis. On many other farms they faced violations of workers' rights and basic human rights. On the surface, much has improved since 1994, in two distinct areas.

After 1994, the government introduced a range of (1) social grants and social security, and (2) laws and rights, that provided social protection and rights for workers. The social grants and UIF were important but they were palliative – they helped tide people over. The laws extended labour rights, the right to join trade unions, minimum wages etc. however, farmers responded by evading these rights – evictions and casualisation and feminisation of the workforce accelerated. The government lacked the capacity to enforce these laws – there are only 500-600 labour inspectors in South Africa, responsible for monitoring all farms, factories, retail outlets, service sector, etc. At the same time the government is pursuing a neoliberal pro-big business economic policy, so their commitment to enforcing workers' rights is also questionable. So there are three sets of stakeholders: (1) farmers, who hold the economic power, (2) government, that holds the political power, and (3) farmworkers, who are economically and politically powerless. Civil society – WFP, Sikhula Sonke, intervenes to support farm workers, believing that workers themselves must be empowered to claim their rights.

Is this enough to help farm workers overcome their structural poverty and inequality? We would argue not – even if social grants are extended and claimed by all eligible South Africans, this is a palliative measure. And even if civil society campaigns succeed in raising the minimum wage to R1,600, or stopping evictions if ESTA gets reviewed, this does nothing to transform the structures that entrench and reproduce poverty and inequality. These measures are introduced within a neoliberal economic policy framework; challenging this approach is *tersprake* in South Africa. Structural change can only happen if there is a fundamental change in the institutions that created poverty in the first place – which requires real commitment to land reform and land redistribution – and if instead of giving a little more money and rights to the poor, the rich relinquish some of their wealth and property.

Accordingly, this paper concludes by suggesting two sets of interventions that are required to ensure that social protection and related policies become more effective in overcoming inequality and structural poverty among South Africa's farmwomen.

Firstly, assuming the current neoliberal paradigm remains the driver of government policy:

- 1. the achievements of social grants must be defended;
- 2. social insurance (eg UIF) must reach seasonal workers;
- 3. labour rights legislation must be strengthened;
- 4. tenure security must be ensured for farmwomen, including independent housing contracts;
- 5. land reform must be accelerated, fast-tracking women and providing postsettlement support;
- 6. unionisation of farmwomen must be prioritised.

Alternatively, if a paradigm shift is possible, a shift away from market-led neoliberalism is a precondition, and the following sets of actions would be required to radically reduce poverty and inequality for farm women:

- 1. Mobilisation: Militant organisation of rural women eg strikes at harvest time.
- 2. Radical redistribution: Expropriation of second farms; equitable redistribution of farm profits to workers.
- 3. Politicisation: Recognition of farmwomen as a priority political constituency by those in power.

Addressing unequal power relations is the key.

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