

## NEWS & ANALYSIS

### **Passage of labour bills through NCOP appalling - SAFTU**

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09 August 2018

Federation says labour law amendments represent a frontal assault on constitutional right to strike

#### **The fight against poverty and attacks on workers' rights goes on! - SAFTU**

The South African Federation Trade Unions has noted with disgust the decision of the National Council of Provinces' select committee on economic and business development to adopt the National Minimum Wage Bill, the Labour Relations Amendment Bill, and the Basic Conditions of Employment Amendment Bill.

They were all adopted without amendment and will now go to the plenary of the NCOP for adoption and then forwarded to President Ramaphosa for his signature and enactment.

The federation is appalled, though not surprised that the African National Congress has bulldozed these bills through Parliament and ignored all the objections that SAFTU and numerous civil society organisations raised.

It is even more disgusting that the Congress of South African Trade Unions has welcomed these moves to entrench poverty wages and further undermine workers' rights as "an historic victory for millions of workers and their families".

Nothing could better illustrate the degeneration of this once mighty workers' organization than this statement that it enthusiastically supports laws which will condemn millions of workers to live in poverty and trap its own members in bureaucratic obstacles which will make it almost impossible for them to exercise their constitutional right to strike.

SAFTU will fight harder than ever for a living wage for workers and to frustrate the bid by employers and government to render the trade unions powerless. We are now joined by 147 community and civil society organizations, who, at the Working-Class Summit on 21-22 July unanimously resolved to fight these new laws.

#### **National Minimum wage**

The NMW Bill provides for a national minimum wage of R20 per hour, R18 an hour for agricultural workers, R15 for domestic workers and R11 an hour for Expanded Public Works Programme workers.

These are poverty wages on which nobody should be expected to live and which will legitimize the apartheid wage structure and widen what is already the world's widest gap between rich and poor.

This inequality was exposed dramatically by the City Press Wealth Index which showed that the top richest 50 South Africans could use their combined wealth of R329 billion to pay 1 million people the new national minimum wage for eight years!

That R329 billion is taken from the surplus value created by workers, who create enough wealth to pay their own wages within the first or two hours of working a day, while the rest goes towards their bosses' profits and executives' huge salaries. The poverty of the many creates the opulence of the few.

As we approach the sixth anniversary of the Mariana massacre, we should remember the long strike on the platinum belt in 2012. The executives of Lonmin, all of whom earned huge salaries brought not an ounce of platinum out of the ground, yet maligned the rock-drillers for demanding a wage of R12, 500 a month.

10% of the population earn more than 50% of the household income while 20% earn less than 1.5%. In 2014, the median salary was R3400, which means that 50% of workers earn below this level. The share of wages in the GDP has plummeted from 57% in 1991 to below 50% today.

This minimum wage will maintain the policy designed in the apartheid and colonial eras to keep black workers as a pool of cheap labour to be exploited in the farms mines and industries.

SAFTU reminds the members of the NCOP that not only was R20 an hour a poverty wage when it was first announced, but it is worth even less today, after the 7% increase in VAT and rises in the fuel and road accident fund levies, yet those condemned to live on this wage will have to wait a year before it may be increased.

The federation utterly rejects the argument that this bill should be supported because R20 an hour is "better than nothing". The scandalous fact that so many employers currently pay workers even less than this poverty wage in no way justifies a minimum which, if properly enforced, will still leave employees mired in poverty.

And not all workers currently earning less than R20 an hour will get an increase. Some employers have already indicated that they will simply employ workers for fewer hours and thus keep their monthly wage bill the same as before. The workers most affected by this will be those who are already vulnerable, those in atypical forms of employment such as part-timers who could find cuts in shifts to ensure wages remain the same.

Another huge problem enforcement of the law. A worker who is being underpaid will have to refer the case to the CCMA, where the average time for a case to reach arbitration is 60 days, but can take many months.

Even if a worker eventually receives a certified arbitration award, many employers will simply ignore it. If the employer still refuses to abide by the award the worker has to get a writ of execution, which is then served by a sheriff but often only after the worker has paid a deposit.

How many workers can afford to go through that process? By making the CCMA the primary enforcer of the NMW, the process is likely to become fraught with legal and practical difficulties, making the whole process unworkable.

The federation supports the principle of a national minimum wage but insists that it must be a living wage, on which workers and their families can live in security and comfort. Our demand, inspired by the martyrs of Marikana, is minimum wage across the board of R12,500 per month. Workers deserve no less!

### **Labour Law amendments**

The amendments to labour laws represent a frontal assault on the constitutional right to strike and to bargain collectively. They represent the worst attack on workers since the dawn of democracy and like those introduced in Britain by the late Margaret Thatcher and Ronald Reagan in the United States who sought to disarm and emasculate unions.

The labour laws already force workers and unions to jump through many procedural hoops to attain a certificate to allow a protected strike. The amendments will now force unions to navigate even more obstacles before they can go on strike, including stricter rules on balloting of members and picket regulations which will prevent strikers engaging with other workers and extending conciliation procedures, even after negotiations have deadlocked.

There is even a clause which will allow employers and/or government to request arbitration if they consider strikes to have been going on too long or causing an acute national or local crisis affecting the normal, social and economic functioning of the community or society. But a strike is called as a last resort when negotiations have deadlocked and its purpose is precisely to affect the employer.

This arbitration is defined as 'advisory' but it would enable employers to sit tight, make no attempt to negotiate, wait for the strike to last 'too long' or adversely affect their business and then go to court to get the strike declared 'unlawful'. In reality this amounts to 'compulsory' arbitration which will undermine workers' constitutional right to withdraw their labour, and turn them into slave labourers!

These amendments take no account of the way strikes frequently erupt when workers are confronted with unfair dismissals, racist abuse, health and safety violations. They quite justifiably want to respond immediately and effectively, by walking out of the workplace there and then. But under these laws, their union will often be unable to support them without going through long and difficult legal battles.

The new laws threaten to paralyse unions and frustrate angry workers who will be more spontaneous and unprotected strikes, as workers lose patience not only with the employers but also with their unions whose hands are tied behind their backs by these laws.

In particular they will hit the most vulnerable informal-sector workers, who cannot possibly comply with all the laws on compulsory balloting and picketing rules. Yet they have exactly the same right to strike as unionised workers.

Workers reject this attempt to emasculate the working class and demand that government should instead be looking at ways to improve and strengthen the position of super-exploited vulnerable workers, in the face of the increasingly dictatorial power of the employers.

SAFTU and its partners at the Working-Class Summit have agreed to hit the streets with even marches and stay-aways and mobilise for a three-day general strike and mass occupation of all the cities on a date to be agreed in October 2018.

As well as demands the repeal of the poverty NMW and the labour law amendments, and for a living minimum wage, we shall also be protesting against all the assaults on living standards and job security and the increasing arrogance of employers, government and union leaders who, instead of “returning the wealth of the land to the people” as the Freedom Charter promised, are grabbing more of it from the people.

*Statement issued by Zwelinzima Vavi, SAFTU General Secretary, 8 August 2018*