Brokered workers no more!
Client company accountable

Fees must fall
But wages must rise

End jobs! End poverty!
A basic income grant

Coal mining & water
Flowing badly

Islamic State terror
Devouring your own
Editorial

The new South African Federation of Trade Unions (Saftu) aims to organise casualised, migrant, informal workers and the unemployed. However Saftu unions mainly have experience of organising in the formal industrial and public sectors. It could take some tips from an innovative Advice Office on the East Rand.

Contrary to stories many unions tell the Casual Workers Advice Office (CWAO) believes the mainly labour brokered workers it services can be successfully organised. Indeed the article documents many victories.

The CWAO gives advice in person or on the phone to individual workers but also uses its office as a springboard from which casuals can organise themselves. Through advice and connecting them to state and other institutions, these workers become conscious of their rights and collective power.

Mimicking successful ways of organising in the 1980s, brokered workers come together fortnightly in the Simunye Workers Forum. It’s a worker controlled structure bringing together people from hundreds of different workplaces.

CWAO’s success is partly due to its communications strategy. Recognising that many workers can’t afford smartphones and airtime it relies on pamphlets, which are distributed widely in communities, to advertise its free service. Its The New Worker also brings news of struggles and discussions which other workers can learn from.

Another article shows how CWAO has used labour laws to good effect. A Labour Relations Act amendment in 2015 stipulated that brokered workers must become permanent after three months and enjoy the same benefits as other permanent workers. CWAO has used this law to insist workers are insourced within this period.

However confusion remained on who was the primary employer of these workers. A recent Labour Appeal Court judgment held that brokered workers are the responsibility of the client and not the broker who provides the workers. Workers can now demand to be insourced with the client company.

However employers are contesting the judgment but in a proactive manner the CWAO distributed pamphlets informing workers of their right to claim permanent status.

An interview with previously outsourced general workers at the University of the Witwatersrand (Wits) was a victory gained in a different manner. It demonstrates how power and solidarity can overturn a seemingly intractable situation where workers had long demanded the university become their primary employer.

The Wits’ Fees Must Fall movement included insourcing in their demands. When students won a no fee increase in 2015, they continued to support workers who were ultimately insourced with significant wage increases and benefits.

An article on the R20 per day minimum wage points to increased wages for thousands of workers in South Africa. However the authors outline that important issues, such as coverage and deductions, have not yet been settled despite the looming 1 May 2018 implementation date.

These are stories mainly of hope, but Liz Fouksman reminds us that many of us may experience some kind of unemployment in the future.

With increased productivity due to mechanisation and new technology, humans are making themselves redundant in the workplace.

But she sees this as an opportunity to introduce a Basic Income Grant (BIG) where the whole population gets a monthly cash contribution to meet basic needs and do whatever they choose with it. This could stimulate entrepreneurial activities, give time to enjoy sport and the arts or do caring activities in the community without fear of homelessness or starvation.

Did you think apartheid would ever end? Well isn’t this BIG utopia also possible? Thabang Sefalafala writes of research amongst retrenched mineworkers in Welkom and the alienation, humiliation, rejection and loss of masculine identity they suffer because they are workless. The BIG could provide an alternative for them if they are able to move beyond their wage worker identity.

Two articles speak to land issues one of which also raises unemployment. William Beinart argues for individual and family land tenure arrangements in rural communal land areas and in peri-urban areas. But land is rapidly being destroyed by mining, particularly coal mining, which cannot be rehabilitated. Will we have enough land to distribute and raise crops on, let alone deal with the mines poisoning our water?

We suggest Saftu who is organising the unemployed launch a joint campaign to introduce BIG and replace coal energy with renewables. This would offer much hope for the future of South Africans.

Kally Forrest
Guest Editor

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Guest Editor
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Casual Workers Advice Office

New forms of worker organisation and power

Casualised and brokered workers are usually unorganised and often ignorant of their rights. Anastasiya Ryabchuk examines an Advice Office on the East Rand offering a free information and support service while giving workers the space to organise collectively. It is a unique experiment that could well be mimicked elsewhere in the country.

The Casual Workers Advice Office (CWAO) started in 2011 to assist casual, labour broker and other precarious workers. It stands next to the Germiston railway station and taxi rank in a tradition of organising mainly metalworkers on the East Rand from the 1980s. CWAO director Ighsaan Schroeder recalls, ‘Germiston is where the shop steward movement started and it was the most vibrant section of the labour movement, uniting workers who came to the East Rand from different townships ... who became included in broader labour movement structures. The East Rand is where heavy industry is located. Even today this is Numsa’s (National Union of Metalworkers of South Africa) biggest region ...’

WHY AN ADVICE OFFICE?
Both in South Africa and globally, changes in labour relations have led to a weakening of workers’ power and, in particular, of their class unity and reliance on trade unions to defend their rights.

Labour under neoliberal capitalism has fractured and now includes more vulnerable groups, such as undocumented and informal workers, women, and transnational migrants. These workers are usually paid low wages, have less benefits such as pensions and health insurance, and suffer discrimination due to their gender, nationality, or legal status.

They also sometimes receive hostile treatment from permanent workers, who see them as lowering wages and labour standards. Such divisions among workers are beneficial to employers, and make it harder to organise workers and defend their interests.

Thus the CWAO focuses on the following principles:
• Offering advice and support to workers, individually or in groups.
• Promoting mass education on labour rights and social justice, mainly through community radio and workshops.
• Supporting other advice offices with essential resources to advise workers.
• Networking with other advice offices and institutions such as the Commission for Conciliation, Mediation & Arbitration (CMMA), the Department of Labour (DoL) and Legal Aid South Africa.
• Participating in campaigns and advocacy, in alliance with other social justice organisations.
• Supporting the emergence of organisation among precarious workers.

The Advice Centre gives workers free support and information but also assists in organising, with protests and in building collective power to defend their rights.

Most workers who come to CWAO are from the East Rand. Advice offices are more likely to service a particular geographic area and community than a specific industry or workplace. Its volunteers spread the word about the office in the community, for instance, by handing out flyers at taxi ranks rather than at the workplace.

INDIVIDUALS AND THE COLLECTIVE
CWAO assists individuals but also groups of workers, handling cases involving as many as 600 workers. Even in individual cases, Advice Office staff probe whether the problem has a broader application to other workers working for the same employer. Schroeder believes this provides more opportunities for organising, educating workers about their rights and advocacy. When
a single worker shows up with an individual problem, we ask if this is a common problem. Often a worker will come as a delegate on behalf of the group of workers and they are self-organised. We do lots of things with these workers that we wouldn’t do with an individual worker – for example, we have a lawyer come in to meet the group ... we can’t do a lot of education with one person, but can do a lot more with big groups.'

But even with a strong focus on organising and collective approaches, almost a third of CWAO cases are individual. It mainly refers and supports the worker through the DoL or CCMA processes. This includes help with form filling, copying relevant sections of laws or sectoral determinations, writing letters of support, and using informal connections with government agencies to help investigate issues.

With individuals, the Advice Office uses government institutions to address individual problems rather than using collective action. The CWAO brings institutional power to the worker’s grievance making the case more likely to be pursued. Schroeder explains, ‘We have good relations with Department of Labour, which helps explain our high success rate ... We call the inspectors or go down and see the manager and hold them accountable. We also phone the CCMA in Benoni and that has benefited workers a lot. We ... can bring ... pressure to bear because we know people personally and ... that there is another organisation can force the DoL and CCMA to behave.’

**SUCCESSES**

A successful Advice Office case was in KwaThema township in a retail store that employs 100 workers. A few were permanent, better-paid cashiers but the majority were casuals or employed by labour brokers. Their grievances included underpayment, no pay slips, no annual leave, and a flat weekly salary regardless of work hours. Schroeder recounts, ‘Most of the workers were members of a union and they came to us. We referred to DoL because they fall under a sectoral determination. We started going over there [the workplace] every Sunday ... across the street from the township. We started teaching the workers their rights and systematically taking them through this to figure out where there are violations. We did this for months ... we issued pamphlets in the community ... to tell what was going on. We looked up information about the company and threatened a consumer boycott. We won the fight and they employed everyone permanently except the workers who don’t have IDs [Identity Documents].’

In another case CWAO assisted with the unfair dismissals of workers at GenPack. The struggle began around a wage increase. Workers were paid R7 per hour and the employer offered R9, which workers were unhappy with. Sensing the workers’ anger and fearing property destruction, management expelled them from the factory and dismissed them, claiming they went on an unprotected strike.

There was a recognised union at the company and also many casual workers employed by different labour broking companies. Workers who knew about the CWAO from a pamphlet found on the street went to the office. One reason for contacting CWAO was its free advice, as workers could not afford a lawyer. Also they did not trust their union seeing it as allied to the employer.

CWAO helped them fill out forms and submit a complaint to the CCMA. The case has now reached the Labour Court. The Advice Office became a space for workers to meet, get support, and plan collective protest. This combination of using the law and collective action helped empower workers, even if some are still battling to return to work.

A dismissed worker, 26-year-old Jacob Potlaki, was so excited about CWAO’s work that he joined as a volunteer. He explains, ‘I love politics but I am a little bit shy ... But once I am in there [at CWAO] I get moving and keep working, meeting with other organisations working in the
community, learning more stuff for when I go back to work so I can be a strong worker. Today I am volunteering to follow-up on SMS and they have been training me on how to advise workers if they have a problem. We did help some other comrades who have problems or have been locked out ... I have to be involved.'

**HELPLINE & COMMUNITY-BASED**

Apart from assisting workers at the office, CWAO offers telephonic advice. The need for this service is clear when statistics on Jacob Zuma’s helpline show that 60% of calls are labour-related. As Schroeder suggests, ‘The intention is to work towards a ... national helpline, even if the kind of help you can provide on the phone is less than you can do in person ... There is an immediate educational component, and a longer term organising component. Even if you take the 253 cases, then we can resend information to via text messages about their rights or benefits or new minimum wage regulations. We now can do popular education that wasn’t open to us before; build a relationship with people we would never see.’

This also points to the importance of CWAO’s database as a tool for networking and outreach, as well as keeping in touch with workers who were previously assisted. Workers’ contact information is logged into a database, and the Advice Office invites them to campaigns or educational events.

CWAO recognises the difficulty of organising precarious workers, as many frequently change jobs and employers across sectors and regions. Unions tend to be workplace-oriented targeting permanent workers, so a core idea behind the Advice Office is to be community-based. This makes it easily accessible to workers living nearby, irrespective of where they work.

**WORKER-BASED ORGANISATION**

Although CWAO is hesitant to give an answer on what kind of organisations may emerge from workers’ engagement with the Advice Office, they are confident they will be ‘worker based organisations where workers are accountable to themselves’.

The more complicated question is how workers will get there. As Schroeder explains, ‘At this point we are only facilitators to something else, encouraging workers to fight back, organise, and help draw some information and their own conclusions.’

For many precarious workers organisation will also have to take up community issues. Sometimes organising around housing and electricity is a route for organising around labour issues at a later stage.

This was the case with workers from Bekkersdal and Freedom Park who were fighting over housing and basic services and approached CWAO on community issues. Now people are asking about workplace issues and want to set up worker advice centres in their communities. In response, CWAO trained these activists. Schroeder explains, ‘We want to start supporting these worker advice offices connected to community organisations that already have profile in the community. What is important about that is that there are big industrial areas nearby. They can organise in the community and across the industrial area or across employers. What these workers have in common is their labour status.

There is an old saying that the old forms have collapsed and the new has not yet emerged. We don’t feel any compulsion to figure out the new form now but let it emerge through action.’

This is not to suggest that CWAO has given up on union structures as one of many ways to build workers’ power. For example, a group of postal workers trying to form a new union at a big distribution centre behind the Advice Office used its support and resources, including for meeting and printing flyers.

CWAO is leading the way in experimenting how an Advice Office might help workers with nowhere else to turn. It is creating a space for workers to engage across employers and turn similar challenges and grievances into organisation, advocacy and collective action.

The idea is that through ‘doing these struggles’ new forms of organisation might emerge that will allow workers to exercise more power.

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Special thanks to Jesse Wilderman, who was a co-researcher with Ryabchuk in 2014.
The New Worker newsletter hits East Rand streets

In the tradition of Fosatu Worker News, the CWAO (see previous page) is distributing The New Worker on the East Rand streets.

The New Worker is a platform for workers’ voices and stories and a contribution to building an alternative media that serves working-class interests.

The CWAO organises mostly labour brokered workers from around Gauteng many of whom come together in the Simunye Workers Forum. It’s a worker controlled structure that meets fortnightly bringing together workers from hundreds of different workplaces. From this forum The New Worker will bring news of workers’ struggles and discussions which other workers can learn from.

It will also document news and analysis of community and worldwide working-class struggles. The newsletter aims to get workers taking pictures and writing their own stories and letters which it will publish. And in the long term it wants to develop a layer of worker journalists to report on struggles facing the working-class.

‘New workers have a leading role to play in building a new workers’ movement. They will have to break with some practices and traditions of the old labour movement and build new ones,’ the editorial declares. And this is what it seeks to reflect.
We are facing unemployment and a crisis of wage work. High rates of unemployment mean that millions of people searching for work will not find it. And those who are employed find their work increasingly precarious.

Despite evidence that wage work can no longer guarantee a decent life, it is still seen as a central source of attaining this. Drawing on research among retrenched Goldfields ex-mineworkers in the Free State town of Welkom, this article argues that insecurity, and psychological impairment among the unemployed engenders a deep sense of moral loss.

**UNEMPLOYMENT: ECONOMIC INSECURITY**

Globalisation of production has produced chronic economic insecurities for the working-class, both unemployed and employed. But unlike the working poor, the unemployed lack any meaningful prospect of a predictable income to meet basic needs. They go without basics like anti-perspirant because it is a choice between buying basic food such as bread and milk or roll-on.

The unemployed often depend on the goodwill of others for some income. With the ex-mineworkers double economic insecurity played out through the inability to live as before and the inability to currently look after themselves and their households.

Mineworkers’ experiences of economic insecurity was often shaped by the masculine gender identity associated with mine work including the role of a breadwinner. As Raseboko declared, ‘Unemployment has taken away my status as a man. A man gets his status from providing for his family. If I cannot provide for my family, what status is there?’

These men are unable to fulfil their social and economic obligations and so they lose confidence, and feel ashamed and worthless.

Family expectations do not adjust to these new challenges to their masculinity, leading to pressures and household tensions. Letsie declared, ‘You cannot provide for your family as a man. The pressure from my family was too much, I even thought about committing suicide. I felt that I was nothing, no one important to my own family. Useless. I cannot see what I am still living for.’

Economic insecurity releases other forms of insecurities. Men accuse their wives of having affairs with employed men because they can no longer provide for them. Molakolako stated, ‘When you work you can stand for yourself. You can do things for yourself. I was retrenched in 2002 and divorced in 2010. When I ran out of money, it affected my marriage. She was cheating on me with a working man. We decided to divorce because I was going to kill her. She left me when I was sick [with silicosis].’

New forms of financial and social envy emerge that have a polarising effect on good neighbourliness and threaten social solidarity. Ex-mineworkers experience envy when neighbours unload grocery bags while they have nothing in their homes. Their children reported deep hunger and worry about food. They sometimes eat *pap* (maize meal) with water or peaches and sometimes they just drink water before going to sleep.

Some ex-workers are given rotten food by their extended families. As...
Manketsi said, ‘My uncle brought rotten meat to come and give us here at home. Maybe in his eyes, we are dogs. He thinks he is better. Poverty brings a lot of disgusting things.’

Participation in community burial and saving schemes is also eroded. Ex-workers did not mention the Unemployment Insurance Fund as a source of economic security. This is not surprising given the high number of ex-mineworkers that the Department of Labour is trying to track down so they can submit qualification assessments.

According to their ex-trade union and the Southern African Miners Association high illiteracy among ex-mineworkers ‘hinders them to follow through on their benefits as they do not read and write’.

UNEMPLOYMENT: SOCIAL INSECURITY

Work plays an important role in bringing people together and providing social solidarity. Unemployment can dilute or break work friendships making it more difficult for people to meet or form friendships because of their isolation.

This is well documented in European contexts. In unemployment, there is a lack of defined activities that brings people frequently together. In Welkom, however unemployment was less isolating than in Europe.

Unemployment is widespread in Welkom so many workless people are around the community during working hours. Yet there is social isolation of a different type. There is a sense of social blemishing through stigma, insults and disrespect that ex-workers feel targets them because they are unemployed.

Stigma removes people from social acceptance and puts the moral status of a person in question. That unemployment is common does not de-stigmatise it because wage work remains central. Unemployment however also provides new possibilities for social solidarity.

A group of ex-mineworkers gather regularly to challenge mining companies to re-employ them or employ their children. The gathering also plays another important role. Ex-workers re-unite to share old experiences and humour, to give advice and tell what is happening in their lives, and to discuss politics.

These gatherings help them to overcome the social isolation they suffer. Bonds of reciprocity and mutual obligation make it possible for these men to imagine new forms of solidarities without wage work.

UNEMPLOYMENT AS PSYCHOLOGICAL IMPAIRMENT

Stress is a common experience of the unemployed. Economic and social insecurities contribute to the psychological distress of the workless. These men constantly worry about keeping alive and they experience social stigma through the lens of lost masculinity.

Loss of masculinity included the inability to provide for the family, a diminished sense of dignity and respect in the community; and an inability to ensure sexual satisfaction of the spouse. Some men felt that psychological distress and lack of confidence impacted negatively on their sex lives.

They used a Sesotho metaphor to make sense of this situation. They expressed that kgomo esa kgorang ba e tlolele (a bull that has not eaten properly and is dissatisfied is unable to mate). Seemingly, the distressed sex life was more pronounced with the spouse, than the nyatsi or girlfriend. They often relied on the pitsa or pot, a traditional concoction to treat ailments including sexual problems.

To make sense of why their sexual drive was in tact with the nyatsi, they said: Lapa le se nang Nyatsi lea shwa (A marriage without a third party will ultimately end or be doomed, or alternatively, a third party strengthens a marriage.) The reason they gave for the variation in sex drive between wife and nyatsi was that constant arguing, bickering and tensions with the spouse made the nyatsi more appealing because there was nothing to argue about. It was an easy and mostly sexual relationship.

Dreams are important to understanding unemployment. They are not just about an individual’s psychological, but are also collective and social because they are often based on social realities.

Ex-mineworkers who had similar experiences of wage work in the gold mines and abrupt mass retrenchments had similar dreams when unemployed. Dreams revealed things about the individual but also
about the social conditions in which they exist.

The nostalgia for work was revealed in dreams. Nostalgia means ‘loss and displacement’ and ex-mineworkers felt abruptly displaced from a world of employment, and lost in new forms of anxiety. Through dreams, solidarities forged in wage work underground, the ability to provide and a strong social status, were evoked.

**BODILY MEANINGS**

Two ideas of the body emerged in this research.

First, the black body has been an instrument of production to create wealth in the South African gold mining industry and economy. After it is used, injured and battered, it is disposed of. Yet, it continues to bear the brutality of mine work through deep scars inflicted by sharp falling rocks and occupational diseases like Phthisis. Yet, they have little to show for their toil.

Second, the black body is a metaphor to describe a fractured social and moral order. Ex-workers described their experience of unemployment through strong images of incomplete, unrecognisable and sick bodies with missing and injured parts. Sickness and disability were used to describe unemployment as a condition of moral dysfunction.

Through ideas of the body, it is possible to see unemployment as a symptom of a much deeper problem. Unemployment reflects a condition of loss, a moral loss.

Unemployment is a severe experience because it deviates from the dominant wage work moral world. Poverty, social isolation and psychological distress are not exclusive to unemployment, but moral debasement is.

Ex-mineworkers affirmed their commitment to wage work as the only way in which security, respect, pride and dignity can happen in society. Yet, increasingly, across the globe wage work can no longer fulfil that promise and those values.

What happens when full employment becomes impossible? How else can we ensure that the working-class meets its basic needs, attains a decent life and overcomes a moral abyss when unemployed?

One way to approach this would be through a Basic Income Grant (BIG) (see article ‘Universal basic income: A radical post-labour agenda’).

**RESPONSE TO UNEMPLOYMENT STATS**

Scrap metal collecting, men waiting for jobs at the side of the road, grants and family remittances were the three main responses to insecurity.

Scrap metal collecting and waiting on the road were often seen as humiliating and undertaken out of desperation. Remittances were an unpredictable source of income and it was also embarrassing to ask for money.

Participants challenged Stats-SA which define scrap collection and piece-jobs as employment or underemployment. They saw these activities as ‘hustling’ or ‘making a plan’.

Grants were often the only source of a predictable income. Ex-mineworkers often benefitted indirectly through child, old age and disability grants. They undertook various livelihood strategies to augment the social grant income. They survived through a combination of strategies, yet these were inadequate responses to economic and social insecurity and psychological distress.

**BIG: A DECENT WAGELESS LIFE**

Ex-mineworkers saw the positive impact of BIG to reduce the insecurity of unemployment. They however preferred employment as a way of earning a living rather than handouts. Handouts could not resolve social isolation and stigma. The partial rejection of BIG was underpinned by the moral commitment to wage work.

The BIG is a guaranteed unconditional amount of money given to all citizens to use however they choose. However, the findings affirmed the centrality of wage work. People want jobs, not grants. Yet jobs are unattainable for millions of work-seekers who struggle daily for basic needs. Grants were not an acceptable policy response to ex-mineworkers.

The challenge is that ex-mineworkers and various sectors in South Africa cannot imagine decent life outside of wage work. For BIG to become a viable policy solution, ex-mineworkers, policymakers and analysts would have to imagine a world where workers no longer rely on wages for basic needs.

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Solidarity Road: The Story of a Trade Union in the Ending of Apartheid
Jan Theron (Jacana/Fanele, Johannesburg, 2016)

Reviewed by David Dickinson

Jan Theron’s Solidarity Road has been a long time coming. The book includes an autobiographical strand that is woven through this history of the Food and Canning Workers Union (FCWU) and its African parallel union, the AFCWU.

Theron first began writing the book, or at least a book on the union, in 1988. Solidarity Road takes us back to the founding of the FCWU and forward to an analysis of the current ‘desolate’ state of South Africa’s labour market. But the primary focus is the period during which Theron served as general secretary of the FCWU, and for a while the AFCWU, between 1976 and 1988.

What has emerged, almost 30 years later, is part history, part analysis, part reflection and part regret for what South Africa’s trade unions have, with hindsight, failed to achieve. Strong on detail and brutal in its honesty, Solidarity Road is a stone cold sober account of unions’ struggles for workers’ rights and livelihoods, and the struggle against apartheid.

Theron’s painstaking narrative of events of the union’s revival, triumphs and failures pulls no punches (though he does shield vulnerable individuals with pseudonyms). Some are going to feel justified by what they read. Others are going to squirm and bridle at his meticulously referenced exposure of events.

It’s a book that should be welcomed. Honesty is always in short supply and no more so than in today’s South Africa. As George Orwell observed in Nineteen Eighty Four those who control the past control the future.

DECISION TO LEAD PARALLEL UNION

The rise of South Africa’s independent, black trade unions which eventually mostly became affiliates of Cosatu (Congress of South African Trade Unions), Nactu (National Council of Trade Unions) and now Saftu (South African Federation of Trade Unions), is dated to the Durban strikes of 1973. The FCWU and its African affiliate later merged and then join with other food-industry unions in 1985 to form Cosatu’s Food and Allied Workers Union (Fawu – now affiliated to Saftu).

However FCWU pre-dates the Durban strikes. Both the FCWU and its parallel African union, unlike most unions which challenged the white bosses of the apartheid economy in the 1970s and 1980s, were not new to the scene. It was established in 1941 and was a founding member of the, pre-Cosatu, ANC-aligned South African Congress of Trade Unions (Sactu).

It was registered under then labour laws which required unions to organise only one race, in this case coloureds, hence the parallel AFCWU that organised African workers. The initial driving force of the union had been Ray Alexander, a communist stalwart forced into exile in 1965. ‘Miss Ray’ (as she was known in the union) still retained influence from a distance, when Theron, a University of Cape Town law graduate, became the union’s general secretary at the age of 26.

Taking the job was not a career move. It paid less than he was already earning and he calculated he might last five years before he would be subject to a banning order. Nor was his taking up the position supported by the white left of which he was a part. He had come to realise that building black working-class power was critical to defeating apartheid and building a different society. Many on the Left saw registered unions as complicit in maintaining white and coloured worker privileges over Africans. But Theron took the job, as is evident throughout the book, he thinks for himself.

RACE, CLASS & WORKERS’ CONTROL

Theron charts how the union was rebuilt from what was left of its 1950s heyday.

The book takes us through the critical steps of building a non-racial, worker-controlled union. Contrary to the often simplistic historical accounts of independent unions under apartheid that too often end up as bland, slogan-heavy mush, Theron describes, rivalries, betrayals, petty fights, power struggles and corruption as well as successes, breakthroughs, sacrifices and solidarity.

From this detail emerge several important themes.

One is the intersection of race and class. Under capitalism, a union is, or at least should be, an organisation engaged in an economic struggle on behalf of workers over the distribution of resources between classes. But it’s rarely if ever possible to reduce everything to class.
CLR James put it in his account of the Haitian Revolution, *The Black Jacobins*, ‘to neglect the racial factor as merely incidental [to a class analysis] is an error only less grave than to make it fundamental’.

Theron’s account of the FCWU/AFCWU involves a complex racial cast. Coloureds who initially dominated the organisation, African migrant workers who increasingly flocked to the union, members of the white left who provided logistical support and technical skills, English and Afrikaner bosses, and, lurking in the shadows, apartheid’s Special Branch police. Theron describes the challenges of forging a non-racial union, one of coloured and African workers, with the additional tensions created by the role of whites in the union leadership.

*Solidarity Road* also tackles the question of what constitutes workers’ control of unions. The stock answer to this question is that union members direct the union via mandates or resolutions which union officials implement. But, often that doesn’t work in practice. Union officials end up controlling the union sometimes for their own benefit.

Theron outlines a different, more radical model of workers’ control, one practiced during his time with FCWU. This involves two key elements. The first is building class consciousness. To achieve this racial divides have to be spanned, and also the divisions that employment in different companies often creates between workers. Theron emphasises the importance of union branches, spanning different workplaces, as the way to create class rather than sectional consciousness.

But how can workers retain control of their unions? Theron’s answer is that branches should control membership subscriptions, employ union organisers and forward contributions to the running expenses of the union’s head office.

This is the opposite of how union finances are usually organised – in the period covered by *Solidarity Road* and today: Stop orders for union membership are generally transferred directly to the unions’ head office. Whether payments are made by electronic transfer or by cheque, it’s the same. Power is centralised in the unions’ head office and worker control often becomes little more than a slogan.

As Theron is at pains to point out, if branches directly pay the salaries of organisers and pass on what is needed to fund the unions’ head office then workers really do have power. If union officials start eating workers’ monthly subs, or fail workers in other ways, it’s easy to assert control by withdrawing contributions. By contrast when subs go directly to the unions’ head office, branches raising concerns can be swiftly silenced by cutting off finances. Theron is on the side of workers, not union officials, and he’s pointing to what gives control: money is power.

There is much more to this book of value that cannot be captured in a review. Especially for readers looking for an honest and frank account of past struggles and who are seeking solutions to the current crisis of South Africa’s trade unions. In short: essential reading!

David Dickinson is professor of sociology at the University of the Witwatersrand, Johannesburg.
In 2015 a confusing court judgment ruled that labour brokered workers were employed by both the broker and the client company. Lynford Dor tells how on appeal a new judgment states that only the client company is the employer. But this is contested.

On 10 July the Labour Appeal Court (LAC) ruled that after a labour broker worker has worked at a client company for three months they become the employee of the client company only. This overturns the 2015 Labour Court judgment of Acting Judge Brassey which said that after three months brokered workers become employees of both the client company and the labour broker.

This article explores the problems with labour broking and argues that the LAC judgment is a victory for labour broker workers. But to capitalise on this victory workers will have to organise and fight against bosses who are refusing to comply with the judgment. They will have to fight for themselves, because over the past two decades unions have not shown the willingness or capacity to organise them.

ECONOMY AND LABOUR BROKING

During the 1980s the capitalist labour process underwent massive restructuring throughout the world. Employers organised cheap labour through third-party employment arrangements which undermined trade unions globally.

In 1983 the apartheid government introduced provisions in the Labour Relations Act (LRA) which laid the basis for the use of labour broking. The amendments to the LRA in 1995 later ensured that labour broking remained legal post-apartheid.

Since the 1880s the South African capitalist economy has relied on the exploitation of cheap black labour. The growth of a militant workers’ movement in the 1970s and 1980s threatened the existence of this system, and played a leading role in bringing down the apartheid regime.

But the ANC’s negotiated settlement, which led to democracy in 1994, ensured that high levels of capital accumulation remained. Cheap black labour continued to be the foundation for economic growth. Labour broking became a central means through which to keep labour cheap.

UNIONS & LABOUR BROKING

Cosatu (Congress of South African Trade Unions) leaders, who played a central role in shaping the new LRA, soon recognised the disastrous effects of labour broking. Instead of employers buying labour power directly from workers, they now bought labour from other companies. This allows them to secure cheap labour without having to treat workers as their employees.

As a result, client companies don’t have to deal with labour laws as brokers hire, fire and move workers around according to the client’s production demands. Brokers sign a contract with the client company to manage its labour. In return the broker, or intermediary, is paid by the company and takes a portion of what should belong to the worker.

Most times the brokered workers don’t ever see this contract and so don’t know what has been agreed on concerning their conditions or wages. They generally earn poverty wages, have no benefits, no job security, and struggle to access their most basic rights.

Furthermore, broking has led to a fractured workforce. Despite both being exploited, brokered and permanent workers often advance their interests at the expense of one another. This causes deep divisions in the workplace. Within one workplace multiple labour broking companies may operate, creating further divisions.

But possibly most important for the Cosatu leadership was that the explosion of ‘precarious’ workers threatened to weaken it. The jobs of the permanent workers who they represented became more precarious as bosses turned to cheap brokered labour. Cosatu unions’ stop-orders decreased and worker unity collapsed.

Instead of organising labour broker workers, Cosatu by the mid-2000s undertook a top-down campaign calling for labour broking to be banned. It went this route...
because its ability to organise and mobilise workers had significantly diminished since its heyday in the 1980s, especially in the private sector. In contrast, its influence in the Tripartite Alliance was on the rise in the build up to the ANC's 2007 Polokwane Conference. This meant that the political arena was the site where Cosatu began to fight most of its battles.

The broader union movement followed its lead in denouncing labour broking but mainly avoided the task of organising brokered workers.

**INTERPRETING SECTION 198A**

Surprisingly, Cosatu’s campaign bore positive results.

In January 2015 new rights for labour broker workers in the LRA came into effect.

Section 198A of the LRA restricted the use of labour broking to work of a genuinely temporary nature. It limited brokered workers contracts to three months, after which a worker became permanently employed by the client company. The worker had to be treated ‘not less favourably’ than the client company’s other permanent workers.

But on 8 September 2015 these new rights were threatened when Assign Services, a labour broker, and Krost, the client company, took a case involving NUMSA (National Union of Metalworkers of South Africa) workers on review to the Labour Court. Acting Judge Brassey ruled that the brokered workers were employees of both the labour broker and the client. This became known as the dual employer interpretation and was binding on all labour broker workers in South Africa.

The Casual Workers Advice Office (CWAO) participated in an appeal against the Brassey judgment as a friend of the court with assistance from Lawyers for Human Rights (LHR).

The Casual Workers Advice Office (CWAO) participated in an appeal against the Brassey judgment as a friend of the court with assistance from Lawyers for Human Rights (LHR).

The CWAO had from early 2015 conducted a drive to help labour broker workers secure their new 198A rights (see article ‘Casual Workers Advice Office: New forms of worker organisation and power’). This was known as the ‘198 campaign’ and in two years over 5,000 workers became permanent.

But more significant is that through these new laws the CWAO created a platform for thousands of brokered workers to organise across Gauteng. Far from being impossible to organise, as unions long claimed, these workers organised themselves.

Due to its experience of the 198 campaign, the CWAO was well placed to comment on the effects of Brassey’s judgment.

The CWAO argued in the LAC that Brassey’s interpretation was wrong because it did not protect brokered workers in the way the law intended. It argued that the ‘dual employer’ interpretation continued the confusion and uncertainty for workers.

The LAC judgment confirmed this by stating that the intention of section 198A is to ‘free the vulnerable worker from atypical employment by a TES (labour broker)’.

The judgment has cleared up confusion over the meaning of 198A, saying it ‘unambiguously supports the sole employer interpretation’. This is a victory for brokered workers, who can now look to the client company as their sole employer after three months.

**BOSSES REFUSE TO COMPLY**

Many employers have refused to comply with the LAC judgment. They argue that the judgment is suspended because Assign Services has asked for leave to appeal to the Constitutional Court. The employer’s organisation, the Confederation of Associations in the Private Employment Sector (CAPES), stated: ‘The appeal will have the effect of the status quo remaining until the Constitutional Court finally determines the matter.’

In a letter to CAPES the CWAO and LHR warned them to withdraw the statement, which encourages employers to break the law: ‘We note with concern the statements made in your press release, in particular your advice to your members that the pending appeal to the Constitutional Court has the result that the status quo remains. This advice is being construed by your members to mean that the decision of Brassey subsists.’

The CWAO went on to insist that the LAC’s interpretation of section 198A is now the law and is
binding on all relevant role-players and institutions. Despite this, many employers have followed the advice of CAPES.

Management at Rema Industries in Krugersdorp have refused to meet with workers, saying they do not recognise the LAC judgment as law. It told their workers to continue negotiating with Staffcore, the labour broker.

Similar stories were recorded at companies like Toll Global and Procter & Gamble, where management told workers that the broking companies were still their employers, despite the LAC judgment stating otherwise.

At Shoprite Distribution Centre in Midrand, workers took an interesting approach and insisted that Adfusion make them permanent. Adfusion is a labour broker connected to the Adcorp Group - a massive chain of outsourcing and labour broking companies.

Adfusion management had previously told workers that it was the client company, and not Shoprite. The workers, although believing Shoprite to be the client, approached Adfusion to say that as the client company it must comply with the LAC judgment by making them permanent.

Adfusion management sent them away saying that they must wait for the Constitutional Court to rule on the matter.

Workers at Simba in Isando have made it clear they no longer recognise labour broker AdcorpBlu as their employer. Instead they approached Simba management with a list of demands. One was that Simba make them permanent workers.

In a strange turn of events, Simba, which uses around 400 brokered workers, sent a threatening letter to CWAO, claiming it was misleading workers on the LAC judgment. They complained that CWAO had produced a pamphlet that was ‘inflammatory and aggressive in nature’ (see next page).

In the letter Simba also expressed its concern over the workers’ list of demands, which was ‘not signed but it states that it is from the Simba workers’. It also said the LAC judgment was suspended and they had informed the workers that they must still report to AdcorpBlu.

In response to the CAPES press release and reports of non-compliance, another CWAO pamphlet declares, ‘The bosses are lying, the LAC judgment is the law’ and has been distributed in workplaces around Gauteng.

The LAC judgment is only suspended for Assign workers who work at Krost (the two companies involved in the Brassey/LAC case). For all other workers in South Africa the LAC judgment is now the law.

**SAFTU AND LABOUR BROKING**

Saftu (South African Federation of Trade Unions) intends to take the lead in a campaign to enforce the LAC judgment.

In a 24 August statement, Saftu spokesperson Patrick Craven wrote: ‘We will organise teams of recruiters in every town to walk in the streets of Johannesburg and every other town, industrial areas, shopping malls etc with Saftu regalia, enforcing that LAC judgement in every shop, searching for organised and unorganised workplaces and construction sites, farms, call-centres, private learning establishments etc.’

Saftu’s commitment represents a welcome departure from the usual union position, including that of some of its affiliates, of ignoring labour broker workers. But it needs to commit to a programme that goes beyond banners and membership forms. The only way to force stubborn bosses to make concessions is hard and consistent organising.

Saftu may find that it is not only the bosses that stand in the way of organising brokered workers, but also some of its affiliates. It will have to heal shopfloor divides caused by labour broking, and find ways to unite brokered with permanent workers. Although the hope is they will all soon be permanent.

In the meantime, workers need to continue with the process of self-organising in order to, once and for all, get rid of brokered forms of employment.

Lynford Dor is a volunteer at the Casual Workers Advice Office.
The bosses are lying
The Labour Appeal Court Judgment is the Law

Labour broker workers become the workers of only the client company after 3 months.

In July, the Labour Appeal Court agreed with CWAO that after 3 months, labour broker workers stop being the workers of the labour broker and become the permanent workers of the client company. They must then get similar wages and benefits as the client company’s permanent workers.

This is a big blow for the labour brokers, who make money from selling workers. It is an equally big blow for the client companies who benefit from the cheap labour of labour broker workers. So it is not a surprise that the bosses are asking the Constitutional Court to overturn the Labour Appeal Court decision.

The bosses say the Labour Appeal Court decision is put aside now that they have appealed to the Constitutional Court. They have started a big campaign in our workplaces and in the media that it is ‘business as usual’ until the Constitutional Court makes a decision.

This is not true. The Labour Appeal Court’s judgment is now the law.

The Labour Appeal Court judgment says the LRA means that labour broker workers are employed only by the client company after 3 months. This is the law. The law is not suspended while the bosses appeal to the Constitutional Court. What is suspended is only the implementing of the judgment for the Assign workers who work at Krost (the 2 companies involved in the Brassey/Labour Appeal Court case).

For all other workers, the Labour Appeal Court judgment is the law. The bosses must obey the law. The CCMA and the bargaining councils must now also implement the LRA as interpreted by the Labour Appeal Court.

Comrades, let us intensify our Equalisation campaign in our workplaces and force the lying bosses to give us our rights.

Phantsi labour broking, phantsi.

Issued by the Casual Workers Advice Office.

For more info, visit www.cwao.org.za or call: 082 812 1934
Fees must fall but wages must rise

Workers speak on student solidarity

With solidarity from the student Fees Must Fall movement in 2015 and 2016, outsourced general workers at the University of the Witwatersrand (Wits) won a longstanding demand to be insourced. Kally Forrest interviewed workers about the protests and what they won.

What was your work situation before the student protests?

Security worker, Cannesious Nete: I was an outsourced worker working for Fidelity Security posted at Wits.

Cleaner, Edward Modisenyane: As an Impact cleaner at Wits I was earning R1,500 a month. The majority of cleaners at Impact are women and they always complained about sex for jobs - sex with supervisors or managers. We were harassed there. You could be moved from Wits to another place overnight. They could move you anywhere to work, especially if they didn’t like you. If you complained and were strong you got fired.

How did you form an alliance with students in 2015?

EM: Before the student protests, on 6 October, Impact cleaners presented a memorandum of demands to Wits management to raise our salaries to R12,500 a month, like the Marikana demands. We also demanded an end to sexual harassment and that we wanted to be insourced.

Then the student protests started and we fought together. Students made good demands that I understood. They were paying high fees and they couldn’t afford this. I wanted to go to school but I could never afford it.

The students fetched us workers. And I was there with students marching and protesting. At first I didn’t understand their demands then we met with students and they explained why they were demanding free education and that Wits cleaners, security and gardeners must be insourced. They explained about power.

General workers marching and celebrating at the University of the Witwatersrand after electing their first union representative to the university council. K Forrest
CN: We liked the student demand for free education. We as parents understood. As parents being outsourced you don’t earn enough. We agreed we would support the students and they us. There was a mutual understanding.

**How did the protest unfold?**

CN: Students closed the gates. They stopped everyone. Nobody could get in and nobody could go home. We told them we support you but as security we must look after buildings, the residences. So we didn’t all down tools as we knew there would be theft from the students in residences and the university. So security monitored those who may steal but we wouldn’t let anyone in at the entrances.

This went on for a week and then there were negotiations. The police only monitored, they didn’t intervene. Students intensified the struggle to shut down all offices. There was consultation. One night Habib [Adam Habib, Vice Chancellor] was held and questioned by students all night in Senate House. Later the police forced their way in.

The cleaners did not join the protests. They were threatened that if they joined the company would take disciplinary action against them. In November the university complained to Fidelity saying we are your client how can you allow the students who continued to support us and sat on the ITT.

EM: During the protests we sometimes stayed late discussing with students and then we had to go far to return home. I live in Vereeniging [60kms from Johannesburg] so students would give us money to get back home.

**What did you win in negotiations?**

EM: There was an agreement to insource and that we become Wits employees. I was earning R1,500 with Impact Cleaning and Wits first topped it up to R2,700. Then in June (2016) to R4,500 and now in July (2017) to R6,600. We also won overalls, T-shirts, and safety boots.

We are still working out our medical aid as the current Wits one with a R3,000 contribution is too expensive for cleaners.

Unless there is a formal agreement to transfer us we will no longer be moved around.

We negotiate through our unions now. Nehawu [National Education Health & Allied Workers Union] member is useless. It only started marketing to us at Wits once we were insourced. I now belong to a new union, Numsa [National Union of Metalworkers of South Africa].

CN: Fidelity negotiated with Mpofu and the university and then came back to the 240 security workers.

The EFF [Economic Freedom Front] tried to hijack and take credit for negotiations especially as Mpofu is an EFF leader, but he was sent by students to chair the ITT so we accepted it.

We agreed that when contracts ended, workers would be insourced to Wits and get an increase. The cleaners from Impact and Ukweza were the first to be insourced in January 2017.

Security was insourced from Fidelity in July 2017 and we achieved three top-ups. We first got an extra R3,000-R4,000, then a further R3,000-4,500 which brought us to R7,800 and the final increase took us to R10,000 per month. Our hours of work were reduced from 12 hours to 8 per day.

We got good benefits. Four months paternity leave, a medical aid of our choice into which we pay R800, and the Fidelity provident fund was converted into the better Wits pension fund. But some cleaners cashed in their provident funds to pay debts.

The university issued us with new uniforms and nice long coats and warm jackets as we often work outside. General worker unions and students also won representation on the University Council for the first time and we are currently electing representatives.

**What do you still need to negotiate?**

CN: The only mistake about which workers feel pain, is that 75 Ukwezi cleaners were not insourced. We drew up a list which excluded them as they were still in training and they were brought in after the 2015 struggle.

So there are still outsourced cleaners working alongside permanents. How can Wits management justify this? So the struggle is on-going.

I learnt from this and made sure all 240 security was insourced.

Fees Must Fall changed everything. We still meet with students. After the struggle we were so happy we formed a soccer team and compete against each other. As parents we were with the students in their struggle. I am a parent to them – that’s why they call me Ntate Ned.
Sugary drinks tax
Why trade unions can support it

The Treasury has proposed a tax on sugary drinks. This is opposed by sugar companies and some trade unions on the grounds of job losses. Tracey Malawana explains how the tax will save thousands of lives and that the sugar industry is in rapid decline and jobs are, and will be, lost for other reasons than the tax.

In one sense, the proposed tax on sugary drinks in South Africa is nothing new. The government, like many others, has long levied ‘sin taxes’ on products like tobacco and alcoholic drinks that are harmful.

But the sugary drinks tax is a first in this country. While government saw other sin taxes as primarily a means of generating revenue from bad habits, the sugary drinks tax was born as a public health measure.

WHY A SUGAR TAX?
The logic behind the sugar tax, also known as the health promotion levy, is that increasing the price of drinks with high levels of added sugar will reduce consumption. People will not be able to afford to buy them as much.

Reduced consumption of sugary drinks will show in lower rates of obesity and being overweight. Lower rates of obesity will help contain rapidly rising non-communicable diseases like diabetes and heart disease and people will enjoy better health and live longer.

South African research shows that a 20% tax on sugary beverages could reduce the number of obese people by almost a quarter of a million.

South Africa has a serious and growing epidemic of non-communicable diseases – such as diabetes, high blood pressure, heart disease, and strokes. These conditions affect the rich and the poor.

In 2015, diabetes became the second most common cause of death in South Africa, according to the last mortality report released by Statistics SA. Among women diabetes tops the list of causes of death. Living with diabetes is dangerous because it causes other illnesses like kidney failure, blindness and poor circulation leading to the amputation of limbs.

In South Africa, obesity looms very large. One-third of men and two-thirds of women are overweight or obese. What’s very concerning is that over 20% of children are overweight or obese. We are the heaviest population in sub-Saharan Africa.

Severe obesity is higher among women than men, and it increases as incomes increase. However, even amongst the poorest of women 12% are classified as severely obese (Stats SA).

There is no single factor which is solely responsible for obesity. Reducing the population’s intake of sugary drinks won’t solve the health issues but there is strong scientific evidence that eating sugar increases obesity, diabetes, liver and kidney disease, and some cancers. The World Health Organization recommends that we restrict added sugar to six teaspoons a day.

The average sugar content of a single 330ml fizzy drink is nine teaspoons. Some of these drinks contain even more sugar – the average energy drink contains 12 teaspoons and fruit juice, like Appletiser, contains 10 teaspoons.

Furthermore, people don’t count the calories in drinks as they count calories in food, and this can lead to overconsumption of sugary drinks and weight gain.

Large amounts of liquid sugar are especially harmful to the body because they are quickly absorbed. The concentrated sugar in drinks can alter the body’s functioning, affecting the chemical insulin, leading to fat build-up around the organs of the body. This causes high blood pressure in addition to diabetes.

The science is clear. But is South Africa’s consumption of sugary drinks high enough to make us worried? The answer is YES. As a nation, we are among the top 10 worldwide consumers of sugary drinks and about one-third of the added sugar in our diets comes in the form of beverages.
The sales of sugary drinks is rising at 3-4% per year. While higher income groups consume more soft drinks, the fastest growth in the fizzy drinks market is in the lower income groups. The beverage industry is targeting the poor as their growth market.

**WILL A SUGAR TAX WORK?**

Finally, we need ask: does money talk loudly enough to change people’s habits? And will more expensive sugary drinks encourage healthier living?

Government tax targeting certain products has been successful in changing behaviour that is damaging to health.

For example, heavy tobacco taxes have reduced smoking in many countries, including South Africa. Targeted taxes work best when they are combined with public education and other policy interventions, such as advertising bans and restrictions on smoking in public places.

A growing number of countries and cities have introduced a tax on sugary soft-drinks such as in the United States. In Mexico, which once had the highest consumption of sugary drinks worldwide, a 10% tax on sugary drinks from 2014 saw in the following two years a drop of 9.5% in soft drink consumption. The reduction was greatest among low-income groups.

In South Africa, public support for the government to reduce obesity has increased over the past year. A recent survey by Genesis Analytics showed that the tax on sugary drinks now has the support of 7 out of 10 South Africans in major cities. However, people want the tax revenue to be invested in programmes to benefit the public.

**ARE JOB LOSSES A BIG ISSUE?**

The big companies in the sugar industry oppose the sugar tax on soft drinks often on the grounds of job losses. They have used the threat of job losses to drive a wedge between government and the labour movement to try and stop the sugar tax. They also speak of the damage to the small sugar grower, from whom they buy, if the tax is introduced.

The truth is that sugar production in South Africa has declined substantially in the last decade. The majority of small-scale sugar cane growers have long stopped planting. This is not connected to the sugary drinks tax. Greater economic forces are at play reshaping sugar growing and processing.

The giants of the South African sugar industry, Illovo, Tongaat Hulett, and Transvaal Sugar Ltd, have remained profitable although production has shrunk. It has shrunk due to diversification of products, conversion of land into cash, and the moving of most farming and milling operations to outside South Africa’s borders.

The big threat to South Africans whose jobs depend on the sugar industry is climate change. The 2016 drought had a devastating impact. Also the domestic industry is dominated by multinational players that sacrifice worker and national interests in their quest for growth and profitability.

In fact the South African sugar industry is likely to benefit by diversifying into the ‘green’ industry and undertaking large-scale biomass processing. This will produce a range of products, including renewable fuels such as ethanol. This is a strategy that is fast gaining traction.

We are the heaviest population in sub-Saharan Africa ... eating sugar increases obesity, diabetes, liver and kidney disease, and some cancers.

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*The average sugar content of a single 330ml fizzy drink is nine teaspoons. Financial Times*
For example, Illovo Sugar has been investing substantially in downstream production of sugar by-products, such as ethanol and furfural. It controls three ethanol distilleries and it is expanding production into Zambia in 2018. These activities contribute more and more to the to Illovo Sugar’s profits. The company’s 2016 financial report noted these sugar by-products, accounted for 16% of profits in 2015 and 24% in 2016.

But will workers benefit? Only 8% of Illovo Sugar’s profit comes from South Africa, while 70% derives from Malawi and Zambia.

This shows that the fate of South Africa's 79,000 direct sugar workers lies less in a decline in sugar production due to the taxation of sugary beverages, and more in the fact that multinationals are working in countries where climatic and other economic factors are more favourable.

Tongaat Hulett has made huge profits by selling land in KwaZulu-Natal and investing in cane growing land elsewhere in southern Africa. Land restitution has featured in the company’s move. Between 2014 and 2016 Tongaat made R3bn from the sale of 488ha of land with good development potential and was negotiating the sale of a further 233ha valued at about R1.58bn.

This strategy enabled Tongaat to remain profitable through the 2016 drought, despite a drop of 85% in profits from sugar. The impact on workers and small-scale sugar farmers who supply the company is clear.

Transvaal Sugar has pursued a different strategy. It remains strongly invested in local growing, under irrigation, in the province of Mpumalanga, but has diversified through its merger with RCL Foods. RCL is one of Africa’s leading food producers and owners of Rainbow Chicken, Selati Sugar and Vector Logistics. Its sugar holdings remain profitable and recovered after the drought.

The cultivation and milling of sugar cane is hard work and producers are turning to migrant labour as local residents are less willing to work for the low wages. Cane cutting is more skilled and has largely been externalised by the major producers, with contractors providing seasonal labour. This arrangement makes workers very vulnerable. They are employed for only part of the year and are responsible for their own accommodation and subsistence between cutting seasons. Sugar producers shrug off responsibility for the working conditions of workers on sugar farms.

WILL SMALL GROWERS DECLINE?
Likewise, the concerns of the big sugar companies for the fate of small sugar growers if consumer demand for sugary drinks declines, are false.

The small-scale growers system was set up under apartheid so that major sugar producers could access land for cane growing in KwaZulu and KaNgwane Bantustans. It was illegal for them to buy or lease tribal land directly so they accessed it through local homeland farmers. Special financing, including big funding from Bantustan governments, as well as ‘extension services’ allowing companies to manage growers, was a profitable arrangement.

Between the 1970s and 1990s the number of small-scale cane growers increased dramatically from about 4,000 to 50,000 largely due to a change in registration requirements. At their peak, these farmers contributed about 14% of the total sugar crop.

But the system buckled under the rapid expansion and closed down. The majority of small-scale growers dropped out of the system. By 2012, fewer than 14,000 remained, contributing only 8.5% of the total sugar crop. Those who survived did so because they had significant non-cane sources of income.

Trade unions are understandably opposed to policies that may cause job losses, especially as the economy has declined. But they must question whether the big sugar companies are using the sugary drinks tax as a scapegoat to excuse industry for its role in job losses and the destruction of the small cane grower sector.

The sugary drinks tax is only one of several interventions government must make to reset the balance between corporate profit and the health needs of millions of people. The tax originally proposed for 2017 has now been delayed to April 2018. In the interim, hundreds of thousands of South Africans will suffer and die of obesity related diseases.

Tracey Malawana works at the Healthy Living Alliance.
Fawu’s position on sugary drinks tax

Food & Allied Workers Union (Fawu) has worries about Treasury’s proposed sugary drinks’ tax. Katishi Masemola argues the union’s position which does not deny the damaging health impacts of sugary drinks, but is concerned about the process and job losses.

The Food and Allied Workers Union (Fawu), after the announcement by government that it would introduce a Sweetened-Sugary Beverages Tax as a health policy step to deal with obesity and related diseases, has concerns on the process and impact of such a tax.

At the outset, Fawu wishes to state that we are in support of efforts to curb obesity and reduce the NCDs [non-communicable diseases] in our country and to realise a healthy nation and an obesity-free population. Our issue is the approach to achieving this and, importantly, the need for engagement in realising a broad agreement on the approach.

PROCESS & ENGAGEMENT
We wish to point out that in a country renowned for dialogue even on difficult matters, it can only be right for both the Treasury and health departments to meaningfully engage with affected labour unions, the industry and other interested players such as health sector non-governmental organisations. This is needed to avoid a democracy deficit.

We acknowledge that government has been elected to govern yet we cherish the value of meaningful dialogue as this may lead to win-win outcomes that are widely supported and easily implementable.

We believe in dialogue. We can have decent exchanges of ideas and proposed solutions to the national imperative for a healthy nation and deal with mitigating the issues of job losses and other negative socioeconomic impacts. This is the arguments we will be advancing on the pending issues of Tobacco and Liquor bills as well.

Therefore, the process of engagement at Nedlac (National Economic Development & Labour Council), legally sanctioned as an appropriate body, doesn’t make sense if the major union involved in the sugar value-chain (from the primary stage of sugar-planting and cane-cutting up to milling and refining and to manufacturing of sugar-based products) is not involved.

As a result we wish to state that a platform for this meaningful dialogue, such as recently created by the Department of Trade and Industry (DTI) on the Chicken Sector import crisis, should be established. We will make proposals that seek to still achieve the health outcomes that both the ministries of health and finance hope the sugar beverages tax will achieve.

JOBS LOSSES & SOCIOECONOMIC IMPACT
On the substantive content, there are concerns around several impacts if the bill is passed into law. Chief among these is that it will be in the minister’s discretion to increase the tax in future without having to consult in the same way that it happens with tobacco and liquor products.

Firstly, NCDs and obesity are health issues and not tax issues. In other words, if the state or fiscus wants extra revenue then tax is the immediate instrument at its disposal.

If government wants to address a health issue, something we agree needs urgent attention, then it must utilise health related policy measures and not taxes to dis-incentivise a particular lifestyle or to incentivise a particular health outcome, at the expense of existing economic benefits to the country.

Secondly, we are worried that an aggressive pursuit of positive health outcomes could have a negative impact on the economy through the loss of jobs in the manufacturing of soft drinks and the spill-over this may have along the value-chain.

The numbers of estimated job losses, which may run into tens of thousands, is no small number. Put differently, lost jobs mean more unemployment and increased poverty accompanied by widening inequality.

WAY FORWARD
Therefore, we submit that a process of meaningful engagement between government departments, industry players and labour unions and stakeholders should be initiated to find a resolution on this issue.

Katishi Masemola is general secretary of the Food & Allied Workers Union (Fawu), a South African Federation of Trade Unions (Saftu) affiliate.
A national minimum wage of R20 must be introduced by 1 May 2018. Yet, as Shane Godfrey and Mario Jacobs outline, there are still a number of important issues to be addressed at the National Economic Development and Labour Council (Nedlac) before implementation.

Three years ago the African National Congress (ANC) undertook to introduce a national minimum wage (NMW) with the aim of reducing inequality and poverty in South Africa. This led to the start of lengthy negotiations within the tripartite National Economic Development and Labour Council (Nedlac) with input from a panel of experts.

WHAT HAS HAPPENED SINCE?
In February this year an agreement was reached by Nedlac parties about key features of the NMW. The NMW will be introduced in a statute by 1 May 2018. A rate of R20 per hour was agreed and a new body, the National Minimum Wage Commission, will review the NMW annually.

The Nedlac agreement states further that ‘all sectoral determinations, collective agreements, bargaining council agreements and individual contracts of employment must comply with the NMW Act at the time of implementation, i.e. their minima must be no lower than the NMW floor ... In other words, that NMW will set a ‘floor’ wage across the country with which all contracts, collective agreements and sectoral determinations must comply. They cannot set a wage that goes below the NMW.

Although R20 per hour is low, it will push up the wages of the bottom grades in a number of sectoral determinations and bargaining council agreements, as well as for many workers who are not covered by wage regulations or agreements.

This throws up issues with regard to ‘fitting’ the NMW statute into the existing framework of labour legislation and wage setting mechanisms. Below are some of the more important issues which parties in Nedlac are grappling with.

NMW COVERAGE
The general approach to national minimum wages internationally is that they cover everybody who is working. To achieve that, it is important to look at the definition of an ‘employee’ in labour legislation.

The definition of an ‘employee’ in the Labour Relations Act (LRA) and the Basic Conditions of Employment Act (BCEA) excludes independent contractors – self-employed people doing work for someone else. Changes in the nature of work makes this exclusion problematic and provides employers with a loophole for avoiding the NMW. Policy-makers should consider widening the scope of the NMW Act to include independent contractors.

INCLUDING INDEPENDENT CONTRACTORS
Some sectoral determinations (SDs) have already included independent contracted workers such as the Domestic Work SD which includes contractors doing domestic work.

Furthermore, the BCEA gives the Minister of Labour (MoL) the power to extend the coverage of SDs to regulate home work, contract work and sub-contracting. This suggests that the time might be right to ensure all workers enjoy the R20 per hour minimum wage and not just ‘employees’ as defined in the existing laws.

PAYMENTS INCLUDED IN R20
A NMW of R20 per hour seems straightforward, but it raises complicated questions. Are overtime, commission, tips, and bonuses included in the R20? And can UIF, pension funds and union subscriptions be deducted from the R20? The Nedlac agreement does not clarify this issue.

So what does the BCEA tell us about this?

The BCEA makes a distinction between ‘wage’ and ‘remuneration’.

A ‘wage’ is the payment an employee receives for ordinary hours worked. If a worker gets R20 per hour and works a 45 hour week then the weekly wage is R900.
In the workplace

It does not include overtime, a shift allowance or a car allowance. However, contributions to UIF, pension funds, and union subscriptions can be included in the ‘wage’ and may be deducted. This means the worker will take home less than the weekly R900.

‘Remuneration’ includes all these other payments, such as a car allowance, and in-kind benefits such as accommodation and meals. If the R20 per hour NMW is defined as ‘remuneration’, then the ‘wage’ the worker takes home could be well below R20 per hour.

The issue is further complicated if you consider that R20 could refer to the ‘net wage’. This would mean the worker should take home the full R20 after all deductions and excluding other non-wage forms of payment.

So, there are three options. The ‘net wage’, the ‘wage’ as defined in the BCEA (which allows for deductions that are ‘required or permitted in terms of a law, collective agreement, court order or arbitration award’ such as UIF and union subscriptions), or a ‘gross wage’, i.e. ‘remuneration’.

Simplicity and the need to protect the full intended minimum rate for workers should be the main consideration. In other words, which option will employers and employees best understand and can be most easily enforced? Arguably it should be the ‘wage’ as defined in the BCEA with deductions allowed by the BCEA, because many employers and workers know this system best.

Adjusting & reviewing NMW

The Nedlac agreement states that a new body, the NMW Commission, must be established. The intention is that the NMW Commission will review the NMW annually. It will look at research and evidence on the wage and make a recommendation on its adjustment.

The question then is who will make the final decision about adjusting the NMW?

The BCEA sets out a process for introducing new SDs and reviewing existing SDs. The Department of Labour (DoL) has a role in this process, as does the Employment Conditions Commission (ECC), which makes a recommendation to the MoL on adjustments to wages. The MoL then makes the decision about increasing wage levels in the SD.

It seems that the NMW Commission may take over the functions of both the DoL and the ECC in the process to review the NMW. But will the MoL make the decision about adjusting the NMW? And should the MoL alone make a decision about adjusting the NMW?

Arguably, the NMW is economically and politically much more important and has wider implications than setting wages in a SD. This is reflected in the lengthy negotiation process to introduce the NMW. The adjustment of the NMW, we would argue, is bigger than one minister. A collective of ministers directly involved should make the decision such as trade and industry, agriculture, social welfare, public works, higher education and training, public administration and finance.

However, there need to be checks and balances. The recommendation of business, labour and experts, via the NMW Commission, must carry weight that cannot easily be discounted by the ministerial collective.

Sectors excluded from NMW

The Nedlac agreement indicates that the domestic and farm worker sector will initially be paid a lower rate than the minimum wage of R20 per hour, i.e. R15 and R18 respectively, and will be phased in to the NMW rate over two years. So they will be partly and temporarily excluded from the NMW.

But what about a minimum wage for workers in the Expanded Public Works Programme (EPWP), in learnerships and Youth Wage Subsidy employees?

A DoL roadshow on the NMW indicated that EPWP workers will be excluded from the NMW altogether. It is unclear why the DoL advocates exclusion. A deputy director-general of Treasury stated that the cost of phasing in the NMW to the EPWP by 2019 would be ‘modest’. So there seems no
reason why the EPWP cannot be included in the same way as the domestic work and farming sectors.

Problematically, other ‘sectors’ seem to have been ignored. Learnerships, which cut across sectors, are regulated by a SD. The wages stipulated in the Learnership SD, which vary according to NQF level and number of credits, are mostly below the proposed R20 an hour. Similarly, the eligibility threshold for a subsidy in terms of the Employment Tax Incentive Act (commonly known as the Youth Wage Subsidy) is well below the NMW.

Clearly discussion needs to happen on how to include these employees in the NMW.

NMW IMPACT ON SECTORAL DETERMINATIONS

According to the Nedlac agreement, the NMW Commission will replace the ECC and the NMW will set a floor with which all SDs must comply. Does this still leave a role for SDs?

It would be best to retain SDs, including a procedure for the introduction of new SDs and on-going revision of existing SDs. SDs are introduced in sectors where trade union organisation is weak and little or no collective bargaining takes place. SDs provide for a variation on minimum conditions in the BCEA to suit special circumstances in sectors like the farming and domestic worker SDs which deal with workers living-in accommodation provided by employers.

SDs also provide wage schedules which set minimum wages for multiple occupations in a sector. The Wholesale and Retail SD, for example, sets wage levels for 15 occupational categories of work in that sector, most of which are above the NMW. If SDs are discontinued these provisions will disappear.

The new NMW Commission should therefore take over the functions of the ECC so that the non-wage provisions in SDs are retained as will a procedure for reviewing and updating the wage schedules. This will ensure SDs remain a key part of the system of flexible labour market regulation on a floor of minimum standards.

This means the NMW Commission will be able to develop a coordinated wage policy for the South African labour market.

It appears the DoL is against this approach. In its roadshow on the NMW it indicated that wages in SDs that are above the NMW and other customised conditions for sectors will become schedules (appendices) to the BCEA without any procedure to review them. These conditions will become fixed in stone and the minimum wages will become outdated within a few years.

RECOMMENDATIONS

The deadline for implementation of the NMW is 1 May 2018. To meet this deadline the social partners in Nedlac have a lot to do in a short space of time. Parties still need to agree on a number of important points. With regard to some of these we recommend:

• the NMW should apply to workers rather than more narrowly defined ‘employees’
• the NMW should exclude most additional payments (these would be over and above the NMW) and allow only deductions currently allowed by the BCEA
• the NMW Commission should review the NMW and make a recommendation to a collective of relevant ministers chaired by the MoL
• sectoral determinations must be retained and the NMW Commission should be tasked with the review of SDs and making a recommendation to the MoL.

Shane Godfrey (coordinator) and Mario Jacobs (researcher) work at the Labour and Enterprise Policy Research Group at the University of Cape Town. This is a shortened version of a report commissioned by the Friedrich Ebert Stiftung (FES). The full report can be obtained from shane.godfrey@uct.ac.za or mario.jacobs@uct.ac.za.
Unlocking labour laws deals with two very different workplace issues. One is to clarify the confusion about whether remuneration can constitute an Unfair Labour Practice benefit dispute and the other is whether using witchcraft in the workplace is a dismissable offence.

Can remuneration be a benefit for the purposes of an Unfair Labour Practice (ULP) claim?

The meaning of the term ‘benefits’ has been the subject of debate in terms of an ULP claim. The debate has revolved around whether remuneration or parts of remuneration constitute a benefit for a ULP claim. It also concerns the difference between disputes of interest (something the employee desires but does not have in a contract or law) and disputes of right (an employee’s rights which can be resolved by arbitration).

But what is a ULP? Section 186(2) of the Labour Relations Acts (LRA) says a ULP is any unfair act or omission between an employer and employee involving promotion, demotion, probation, training or benefits.

The Labour Appeal Court (LAC) reassessed a previous decision dealing with ULP benefit claims in the Apollo Tyres case.

The LAC rejected the rigid distinction in the LRA between remuneration and benefits and held that remuneration is wide enough to cover benefits. The judgment stated that the employer gives many extras to the employee for work done in the same way that wages are paid for work done. The extras are often important issues during the negotiation of contracts of employment.

For example, the employer and employee often agree to deductions from salaries or wages to contribute to benefits such as medical aid and pensions and provident schemes because this is a tax effective way of structuring an employment package.

In the light of the Apollo judgment bargaining councils or the CCMA (Commission of Conciliation Mediation & Arbitration) in a ULP dispute must determine whether the employee is trying to claim a new benefit, form of remuneration, or policy not previously provided for by the employer.

If the employee is claiming the right to a new benefit, the CCMA or bargaining council do not have the power to determine the dispute. In this case the employee must take industrial action in order to persuade the employer to grant the new benefit or new forms of remuneration or new policy.

However, the CCMA or bargaining council must adjudicate a benefit’s dispute in the light of the Apollo decision in two instances. Firstly, where the employer has failed to comply with an obligation that it has towards an employee. And secondly, where the employer has provided the employee with a privilege in terms of a company policy or practice subject to the employer’s discretion.

The LAC adopted this approach in the South African Airways case and applied the Apollo judgment. It made the broad finding that where the dispute is about existing rights it must be settled by adjudication. But where it involves the creation of new rights it must be resolved by industrial action or arbitration.

But can a public sector employees’ right to a fair labour practice be limited by an employer in terms of the Public Finance Management Act (PMFA)?

In the case of the Western Cape Gambling & Racing Board the judge ruled that it would be unconstitutional to deny public sector workers the right to claim a ULP with respect to a benefit. Public sector workers must have the same rights as those in the private sector. The Constitutional Court has held that the LRA applies to all employees whether in the public or private sector.

But how does an employee prove a benefit?
The employee must demonstrate the benefit is a right in terms of a contract, collective agreement or law. Or that it is an advantage or privilege granted to an employee in terms of policy or practice subject to the employers’ discretion.

If an employee cannot locate the claim in any of the above, the dispute is a dispute of interest and not one of right.

Advocate A Mosam, Maisels Chambers and Faranaaz Jossie, Patellia Attorneys Inc.

Can a person be dismissed for using witchcraft in the workplace?

Witchcraft is an emotive term, and it is a significant issue in South African society generally, and in the workplace specifically.

There is no single, precise definition of the word ‘witchcraft’, but in the South African context the word ‘witchcraft’ describes evil and/or criminal practices associated with ritual killings and misfortune in general. It forms a part of the belief system of many South Africans, whether they identify with other religions or not.

In communities where these beliefs hold sway, witchcraft is a fact of life. Individuals and families take steps, often with the assistance of sangomas or traditional healers, to escape becoming targets of people believed to have supernatural powers that cause harm and misfortune. In 2014, President Zuma told a rural community that he practiced witchcraft there, bewitching boers (Afrikaans farmers) during apartheid.

For many South Africans, witchcraft is not a fringe religion or superstition, but a real threat which provides an explanation for inexplicable misfortune, illness, or death. There is a belief that witches can harm others through the use of evil or ‘black’ magic, or through the use of medicines.

Witches can also provide people with the means to bewitch others by, for example, placing certain preparations near to where the target person will eat or touch it.

In terms of a western world view, the idea of the supernatural and witchcraft is often seen as irrational. Indeed, there is even legislation known as the Witchcraft Suppression Act 3 of 1957 although much of it is unconstitutional and overly broad. However, South African society is not informed solely by a western model.

In the workplace, witchcraft may manifest when employees seek to intimidate either their employer or their fellow employees.

In a reported case, an employee placed a black, slimy, gummy paste-like substance on his Human Resource (HR) officer’s car door handles and in the key hole, on the driver’s side. She had to use a serviette to wipe the paste off her hands when she opened her car door.

She testified that the moment she touched the substance she did not feel right and believed it was muti. Later she described the substance to her sangoma who told her that he also believed it to be muti not made for good. She testified that although she herself did not believe in muti, she knew that it did exist.

The HR officer said that when you are African you know what muti is. The sangoma, or traditional healer, said that from the description of the substance, and from the spirit within her, she knew that it was ‘stap-stap’. This is a type of muti designed to cause harm in the form of a stroke or other illness or misfortune. She testified that although she herself did not believe in muti, she knew that it did exist.

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The employee using the muti was charged with placing the safety, health and/or life of the HR officer at risk. The intention was, through the practice and belief in witchcraft, to cause spiritual, mental or physical harm to the HR officer. In so doing the employee had breached the relationship of trust and good faith with the employer and made a continued employment relationship intolerable.

The employee was found guilty and dismissed. He challenged his dismissal at the bargaining council, where the commissioner upheld that it was fair.

The commissioner found that the act of witchcraft did not need to achieve its purpose to be classified as misconduct. It was sufficient that the muti had been deliberately placed on the HR officer’s car to intimidate, scare and threaten her. It was an attempt by the employee to use a shared cultural heritage to cause psychological fear and panic within the HR officer.

The commissioner concluded that this sort of intimidation is regarded as serious misconduct and cannot be tolerated in the workplace. Thus the employee’s dismissal was fair.

Universal basic income
A radical post-labour agenda

In South Africa people are fixated on jobs. But what if we thought differently? Liz Fouksman proposes a basic income guarantee to liberate us from poverty and wage dependency.

Universal basic income: just give everyone some money to live on. Yes, everyone. No strings attached. Ideally, enough money to not worry about food or homelessness. Paid out every month or every year, the money never stops.

The idea of a universal basic income (UBI), also known as a basic income grant or guarantee (BIG), a negative income tax, or a social dividend, is simplicity itself. And yet it holds the seeds of a radical new post-labour agenda.

‘Radical’ because it promises power and liberation. Radical also because it runs against the grain of our thinking that everyone must sell their labour for an income. This sounds like madness to people when they first hear it.

And ‘post-labour’ because its promise of power and liberation is aimed at unionised, full-time workers, and also the unemployed, the precariously employed, informal workers, struggling entrepreneurs, students, unpaid careworkers, in other words, people overlooked by organised labour.

A RADICAL INTERVENTION
Giving everyone a basic income will dramatically decrease poverty. And if the basic income is high enough, it can end poverty altogether. It provides a social protection floor - a livelihood below which no one can fall.

In the early 2000s, South Africa was considering implementing a small basic income of R100 per person per month. Even this small amount would have decreased the poverty rate at the time by 70%.

A basic income can start a positive anti-poverty cycle. Giving poor people cash stimulates demand for goods and services in their communities. This in turn stimulates local business and the demand for labour, starting a cycle of growth. And with the security of a basic income, people can afford to get skills and training, migrate to find work where labour is in demand, or start businesses.

A basic income will also lower inequality. It is a redistributive policy. Everyone will get a basic income without costly and humiliating means-testing, but the well-off will return the income when they pay their taxes. Money flows via a basic income from people who have a lot of it, directly to people who need it.

But perhaps the most important benefit of a basic income is that it insures a basic livelihood for those who miss out on social grants in South Africa - the unemployed, the underemployed, the precariously employed and the informally employed.

THE CRISIS OF WORK
South Africa’s grant system is aimed at those who are physically unable to work – children, the elderly, and the disabled. This makes sense in a country with full employment, a strong demand for labour, or with labour shortages. This was the case in many countries after the Second World War, when such models of social welfare were first put in place. But South Africa is not such a country.

South Africa’s unemployment remains stubbornly high. The official expanded rate (which includes those who have given up looking for work) is 36.4%. This is not news: unemployment has been high for decades, despite job-creation policies. Amongst certain populations, such as young people, unemployment is as high as 75%.

This is a global problem. Even in countries where unemployment seems low (such as the US), labour force rates are declining, as they are world-wide. Ever more people give up looking for employment, and are thus not counted in the ranks of the unemployed.

And of those that are employed, 60% worldwide are in temporary, part-time or short-term work with falling wages. Unions largely do not help such workers because they are used to organising in a traditional workplace with full-time, permanent work.

A basic income guarantees a basic livelihood to the unemployed and the precariously-employed. It would empower anyone who sells their labour to bargain with their possible employers from a position of greater power and equality.
With a basic income the threat of starvation and homelessness would no longer force people into underpaid, dangerous or unjust labour contracts. Jobs that are dangerous or unpleasant will be compensated better. The poor will no longer be forced into low wages out of desperation.

Thus people’s ability to bargain on the labour market could finally equal that of corporations. They could wait for the right job and the right contract, knowing that meanwhile they will not go hungry or be unable to pay rent.

Those who are outside of the labour market because they care for children, the sick or the elderly would be guaranteed a livelihood. Much of unpaid carework is done by women, often in a position of economic disadvantage. A basic income promises such women security and some economic power.

These are some the radical possibilities of a basic income to transform labour relations. But even more radical is the possibility of a world beyond wage labour.

BEYOND WAGE LABOUR
Technological progress in the last century insured rapid productivity and growth. What took one worker 40 hours to produce in 1950, took only 11 hours in 2005 – and productivity keeps growing.

Our economies dealt with this growing efficiency by consuming and producing ever more goods, keeping employment steady. But spiralling consumption has led to an ecological crisis: pollution, waste, extinction and, critically, climate change. We cannot keep consuming more and more.

We might look back to the good old days of factory work, but those are gone. Factory work is increasingly done by robots, not people. Walk into a car manufacturing plant, and you’ll see very few people. Mining, a mainstay of South African labour, is experiencing growing pressure to automate to compete on the global market.

Some call this the Fourth Industrial Revolution – the age of automation, artificial intelligence and machine learning – which is mechanising away factory and mining jobs, service jobs, and even white-collar work. Driving, cleaning, selling, farming and accounting, medical diagnosis, and financial services can all be done increasingly by robots.

But is this really a problem? Or is it an opportunity for liberation, one that we are too short-sighted and too stuck in old ways to see?

Whether or not 40 weekly hours of wage work is going to disappear is the wrong question. Perhaps we can keep scraping together enough work to pretend that a 40-hour week for all is normal, and unemployment a deviation. We can consume more and more despite the environmental costs, rather than redistributing the overconsumption of the rich to the poor. We can create ‘make-work’, forcing humans to do what robots can do. Or we can take this moment as an opportunity for liberation, where productive activity and resource distribution does not have to be tied to wage labour.

LIBERATION THROUGH REDISTRIBUTION
If much of our work can be done by robots, why do we insist that we keep working as much as ever?

The answer seems obvious – because people need to work in order to get money. But what if they did not? What if we came up with a system where people did not have to work to survive?

A basic income is a step in that direction. It’s a way of insuring that people are not forced by threat of starvation into a market where there is too much labour for sale and not enough buyers.

The fruits of automation and productivity are currently captured by a small elite, while wages stagnate and full employment decreases. This is why inequality has spiralled around the globe. A basic income is one step to correct this, redistributing the gains of productivity growth down to those suffering most from its effect on the job market.

Beyond that, a basic income could enable us to think creatively about reorganising wage labour.

One way to take advantage of automation is to decrease the working week. This would spread wage work that remains more equitably, but also give people more time and freedom. Freedom to engage in productive activities that capitalism does not pay for such as carework, political organising, the arts, sports or civic engagement.

Productive activity is not limited to wage labour. We could move beyond wage labour, and towards occupying our time in meaningful and socially productive ways, regardless of compensation.
INCOME FREEDOM OR MORE SLAVERY?
FINLAND IS CONSIDERING GIVING EVERY CITIZEN A BASIC INCOME

But shorter working hours will not happen automatically. The labour movement spent a half-century fighting, often through violent protests, to win a 40-hour work week. Shortening the work week further will take another organised struggle. And a basic income will insure that workers and the unemployed can struggle for it from a position of economic strength.

MONEY FOR NOTHING, WORK FOR FREE
When South Africa considered a basic income in the early 2000s, the African National Congress (ANC) rejected the idea because of worries that a basic income would lead to dependency, laziness and moral decay, that no one would be productive without being forced.

In my own research in South Africa and Namibia, I discovered a deep resistance to radical redistributory ideas like a basic income among the unemployed poor – even those currently receiving social grants from the government. They too carry deeply ingrained ideas that getting money without working leads to laziness and free-riding.

But decades of experiments around the world with cash grants to the poor show that this is not the case. In fact, economic participation increases with a basic income.

The evidence is around us. The well-off don’t stop working, even when they have enough to live on. After all, people work not just to insure a basic livelihood, they also work for a sense of identity, social status and personal meaning. If this is the case, why blackmail people with starvation and homelessness to get them into the workforce or to engage in productive activity?

The wealthiest 1% already get a large chunk of their money passively through capital income. They receive income from stock dividends, capital gain and renting out properties, yet no one worries about their dependency or moral decay. We also don’t worry about encouraging dependency with free schooling, hospitals or roads. A basic income could become an accepted part of our social infrastructure.

FUNDING A BASIC INCOME
There are different proposals for funding a basic income. One is to tap into some of the passive capital income from rents and investment going to the rich, and use it for a basic income instead. Another is a wealth tax, a VAT on luxury goods, or dividends of a national wealth fund, based on natural resource wealth, or capital assets. Proposals also vary depending on the size of the basic income.

It is critical to remember that a basic income is a redistributive proposal. Many cost estimates forget that while the income goes to everyone, the rich give it back when they pay taxes. The true cost is not the size of a basic income multiplied by the population. It is the size of the basic income multiplied by the number of people who need it, because those who don’t need it return it. This makes it eminently affordable.

The cost of a basic income is dynamic. Since it would stimulate growth in poor communities, this would generate tax revenue and move people from being users to contributors to a basic income.

In the face of inequality, precarity, high unemployment and poverty, it is time that South Africa put a basic income back on the agenda – not as a welfare provision, but as a basic right. Basic income could be the first step to a new political imaginary, one that radically reimagines the future of work and distribution.

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Planning a people’s health system

Where is labour and civil society?

It is a dangerous moment for National Health Insurance (NHI) which promises improved healthcare for all people. Louis Reynolds tells how nominations for most NHI implementing committees are from the private sector and government holding the danger that corporate interests may divert funding into profit-making.

Eight years ago, on 11 September 2009, the National Minister of Health established a ministerial advisory committee to advise on policy, legislation and implementation of the National Health Insurance (NHI). The Government Gazette that announced the advisory committee laid out the reasons for the NHI:

‘The introduction of a National Health Insurance System is founded on three principles. Firstly, that it is a Constitutional right that the public has access to affordable and acceptable quality health services; secondly, that it is the responsibility of the State to ensure the progressive realisation of the right to health for all South Africans that is premised on the objective of universal coverage; and thirdly, that it is important for health services to be funded in an equitable manner that promotes social solidarity.’

EXCLUDING CIVIL SOCIETY

In the eight years that followed, the National Department of Health (NDH) released a Green Paper and two White Papers on the NHI to give the people of South Africa an opportunity to comment and make recommendations.

Many organisations analysed the Green and White Papers including civil society, organised labour groupings, academic institutions, health professional associations, and business coalitions and groupings. All made substantial inputs and recommendations that reflected their own interests and issues.

One week after releasing the last White Paper, the NDH announced that it was establishing a set of seven committees, commissions and governing bodies to help with the implementation of the NHI.

The department announced these implementation structures without informing key interested groupings. Even some who are known to have a strong interest in health and who took time, resources and effort to respond and make submissions to the Green and White Papers were not informed. These included the Treatment Action Campaign (TAC), Section 27, the People’s Health Movement, the Department of Paediatrics and Child Health, and the Children’s Institute at UCT.

In different ways these civil society organisations are in the struggle for better health and healthcare for all. None have any vested material or financial interests in the NHI. They would like to monitor the implementation of the NHI and influence it in the direction of being a People’s NHI that provides Universal Health Care (UHC) for everyone in the country.

The NDH knew these civil society organisations were key stakeholders because they had submitted detailed responses to the Green and White Papers. The department has all their contact details. Yet it failed to inform them, so they only became aware of the new bodies around mid-August. And the deadline for nominating people to sit on the structures expired on 31 August 2017.
IMPLEMENTATION STRUCTURES

Here is a brief overview of the structures and what their main tasks will be.

1. The National Tertiary Health Services Committee
   To deal with specialist health services.

2. The National Governing Body on Training and Development
   To deal with the governance and education of health professionals.

3. The National Health Pricing Advisory Committee
   To deal with the pricing of health services such as tests, treatments and hospital admissions.

4. The Ministerial Advisory Committee on Healthcare Benefits for National Health Insurance
   To advise on the establishment of the NHI fund and how it will be paid out. It will decide which services will be provided and which health facilities will be accredited to provide the services, and strengthen the health systems at district level.

5. The National Advisory Committee on Consolidation of Financing Arrangements
   To be responsible for advising on the ‘consolidation’ of health system financing with the eventual aim of putting all the healthcare money into a single pool. The money to pay for all our healthcare will be paid out of this pool. This is known as a ‘single-payer system’.

6. The Ministerial Advisory Committee on Health Technology Assessment for National Health Insurance
   To make recommendations on choosing the best methods and technology to promote health, prevent and treat disease, and restore people to health.

7. The National Health Commission
   This is the only group with representation from civil society and organised labour. Its key task is to address the main reasons why people become sick or unhealthy. These are known as the social determinants of health. They include inequality, poverty and unemployment, lack of housing, inadequate sanitation, low levels of education, and unhealthy diets. They can only be addressed though coordinated action by all government departments (intersectoral collaboration).

The National Health Commission is therefore a very important structure and it is good that labour and civil society are included.

PROBLEMS WITH STRUCTURES

There are two sets of problems with these implementation structures. The first is that civil society is represented on only one of the seven. All the others are dominated by the state, professional bodies, academics and the private sector. This problem is fixable, but it will require action by the labour movement and civil society.

The second problem relates to their Terms of Reference (ToR). We will focus on the ToR of Group 5, The National Advisory Committee on Consolidation of Financing Arrangements. Our special focus is on how, or whether, it can successfully move towards a single-payer system for health. But first we must look at why a single-payer system is important.

SINGLE-PAYER SYSTEM IS KEY

Experience in many countries shows that equitable UHC improves the whole population’s health. It should be funded by government through taxes and administered by a single payer.

In a single-payer system the government pays for all health services from a single pooled fund for everyone, irrespective of their position - whether they are rich or poor, whether they have jobs or not, whether they are black or white and so on.

The money comes from progressive taxation. This means that the rich pay a larger share of their income into the pool than the poor, and those who earn below a certain income don’t have to pay at all. But it is compulsory for everyone to join the system, rich as well as poor, and everyone gets the healthcare they need.

No one has to pay out of pocket for healthcare. It is paid
upfront by taxpayers. From each according to their ability to pay, to each according to need. Health professionals are paid salaries. They don’t get paid for each treatment they prescribe or each operation they do.

In this way a single-payer systems helps develop social solidarity, not just healthcare for individuals. Countries that see healthcare as a human right use single-payer systems.

In a multi-payer system, employees or their employers buy cover from a medical scheme or an insurance company. They use private healthcare, and pay health professionals for each procedure. These systems often produce doctors who do more procedures than the patient needs. This makes it very expensive and inefficient. They also widen social divisions and reinforce and reproduce inequality.

In contrast to single-payer systems, employees of big business, employees of small business, and civil servants.

These five funding arrangements are seen as ‘transitional, as stages moving towards a single funding pool. But history shows that arrangements like this are almost never transitional. They set up new vested interest groups who want to continue benefiting from the status quo. And the cycle repeats itself.

A number of powerful and well-organised groupings have been involved in the NHI process, including private hospital groupings, professional bodies, medical schemes and their administrators, drug and equipment companies.

Health economists, public health experts and researchers show that multi-payer systems create or reinforce powerful groups with vested interests in the way things are. They do all they can to oppose single-payer systems because they can’t make profits out of them.

MULTI-PAYER INTO SINGLE-PAYER SYSTEM

We need some kind of transition from what we have now to a single-payer system. At present we have an unequal two-tier system where the private sectors caters for 16% of the population with medical schemes using almost half of total health expenditure. Meanwhile the public sector which caters for around 84% of the population has about the same amount of money.

The implementation structures described above will have to negotiate this transition and make sure that it becomes a true transition – a revolution in healthcare. This means that the balance of forces in these groupings is very important.

There are two key steps in this transition to improve the current public health system, and to remove the tax rebate on medical schemes. After many years of the government’s neo-liberal health shortages the public system is short staffed, under-equipped, poorly maintained, and very dysfunctional. It must be fixed for the NHI to work.

If Treasury cuts the medical aid schemes tax rebate, for example by reducing it step by step by a third per year over three years, it will save about R22bn. This can pay for public sector health improvements.

IS THE NHI BEING CAPTURED?

There is no proof that the planned NHI is being captured by those who want to undermine it. But it is very likely that lobbying by a well-organised and powerful corporate private sector is underway. Corporates lobbied intensely for the ‘transitional phase’ based on the idea of moving from a multi-payer financing system for health towards the single-payer system. And if civil society and labour are not well represented on the NHI implementing committees, corporate capture including taking over state resources for private benefit, is a real risk.

If we allow this to happen we can say goodbye to the idea of a fair and equitable health system which serves all of our people.

Dr Louis Reynolds is a member of the People’s Health Movement for South Africa.
Failed coal mining laws

Threat to water and food security

A study on coal mining’s impacts on water in Delmas, Mpumalanga, highlights serious issues around the destruction of agricultural land and water resources. Kally Forrest and Lesego Loate chart how failed laws and politics threaten South Africa’s food security.

Delmas, in the Mpumalanga highveld was the site of our coal mining and water study. It lies at the headwaters of the Olifants River catchment area, 65kms from Johannesburg. It is a rich agricultural area farming maize, vegetables, potatoes, soya beans, poultry, livestock and dairy. But in the last 12 years, it has given birth to 17 coal mines.

Delmas also lies in the principal power generating centre of South Africa and its coal mines feed Eskom’s power stations which generate nationwide electricity. But the rest of South Africa does not experience the harmful impacts of coal mining, which amongst other things, seriously pollutes water resources.

DELMAS’ WATER
Delmas is not water scarce. It has a higher than average rainfall of 600 to 800mm per annum and a number of tributaries that rise in its higher ground and flow downstream to the Bronkhorstspruit, Loskop and Gariep dams which feed the Olifants River. Ultimately the Olifants joins the Limpopo and flows into Mozambique’s river system.

Thus Delmas’ coal mining impacts have large footprints.

It is a dolomitic area with below ground drainage systems. This includes the large Botleng Dolomitic Aquifer (underground lake) which provides water to the town, and which feeds the boreholes of surrounding farms and smallholdings. It also boasts many wetlands and pans which filter pollutants and replenish outgoing streams and rivers.

Agriculture uses more water than mines although farmers mostly use rainfall to irrigate crops. Farmers rely on boreholes but since a 2005 outbreak of typhoid bottled, purified municipal water, or piped Rand Water is drunk.

All these water resources are vulnerable to the impacts of coal mining.

STUDY OUTCOMES: EXXARO MAJOR
The Delmas Leeuwpan opencast mine belongs to coal major Exxaro which emerged from a black empowerment deal. Leeuwpan began mining in 2006, but the DWS (Department of Water & Sanitation) only granted it a full water licence (WUL) in 2011 although it mined continuously in this period. In fact all extractives in Delmas had mined for long periods without water licences.

At the end of 2011 Leeuwpan dug a trench around the Weltevreden wetland about 6kms from its Leeuwpan operations. This was to prevent rain water from entering the wetland in preparation for mining. To drain the wetland Leeuwpan required a licence to ‘impede the flow of water’ as well as permission to extract in the pan.
Farmers relied on the wetland to irrigate maize fields and to water cattle. The wetland also supplied the Bronkhorstspruit River flowing out of the pan.

Farmers objected to Exxaro mining through the wetland on the grounds it had no water licence. Their complaints were ignored by the mine so they went to the Department of Water Affairs (DWA) which stopped mining in June 2012.

After a battle to get the water licence, the farmers found that the mine only had rights to mine the Leeuwpan wetland and not Weltevreden. The company then released a misleading statement confusing the two wetlands. The coordinates on the licence, which mines must supply, meanwhile were out in the Atlantic Ocean!

In September Exxaro began mining again. The DWA took it to court claiming that regulations prohibited mining within 500m of a wetland. The mine appealed to the Water Tribunal which was disbanded soon after by the water minister. Exxaro then successfully litigated on the basis that without the Tribunal it had no legal channel of appeal.

Leeuwpan continued mining the wetland as it does today. The only difference is that it now has a WUL for the Weltevreden section despite the DWA’s directive to stop mining remaining in force.

**DELMAS: JUNIOR MINES**

Delmas Coal is mainly an underground mine, owned by KI Kuyasa Mining. It’s a well-established BEE (Black Economic Empowerment) junior emerging from an empowerment deal. It provides coal to Eskom and is viewed by the Chamber of Mines as a BEE success.

Below Delmas Coal lies the Wilge River. But it is dammed up by a bridge built 15 years ago by a previous miner to create a reservoir of water. Companies contracted to the mine pump out water for mining operations. Across the bridge the Wilge had become a trickle in winter.

Damming is unlawful under the National Water Act (NWA) and it also breaks the mine’s water licence which states, ‘Structures must be designed to prevent the damming of river water’. The mine is responsible for activities performed by its contractors.

Farmer Schalekamp lives on the doorstep of Delmas Coal. Coal dust blows across his maize fields from five large dumps next to his fields which has a devastating impact on his crop. A wedge of thick black soil bears sickly plants and with each rainfall the dust seeps deeper into the groundwater. Schalekamp commented, ‘Over the last ten years it has got worse ... as they mine more intensively.’

About a kilometre away on the edge of his field lies the Haweklip railway siding. Mines such as Keaton Energy dump coal into railway containers here. Up to a 100 loaded trucks queue and create clouds of dust as the coal slides into containers. This dust leaches into the soil and has destroyed 2kms of his farmland. He has repeatedly complained to the mine without success.

The Delmas Vanggatfontein opencast mine started in 2006 with its BEE partner owning 26%. It supplies Eskom and applied for a water licence in 2008 but continued to mine without it until 2015. Eskom pressured the mine to be compliant but later pressured it to mine without a WUL in order to secure its coal supply.

Kangala is an opencast mine owned by Universal Coal with a BEE partner holding 29.5%. It’s registered in the UK and listed on the Australian stock exchange. It exports coal and supplies Eskom. It made record earnings before tax in 2015 of R138m.

Farmer Du Plessis complained to the DWS about fracturing and contamination of the aquifer chamber under his farm which supplies his borehole due to...
IN THE COMMUNITY

Kangala’s blasting. DWS officials visited but could not test the borehole water because they didn’t have equipment. The mine later tested it saying it was drinkable but Du Plessis commented, ‘When I asked him to drink it he refused’.

Kangala is authorised to channel specified amounts of dirty water from coal stockpiles but according to du Plessis DWS fails to monitor as biannual audits require.

The Tegeta Exploration and Resources’ Brakfontein mine began in 2006 as a subsidiary of the Indian Gupta family’s Oakbay Investments Group. It holds a 10-year contract with Eskom to supply the Majuba Power Station.

Brakfontein, according to its licence, should have 10 groundwater monitoring boreholes but Farmer Gericke contends, ‘There is no proof that they have boreholes on that mine. Instead they come to monitor groundwater quality from the boreholes of neighbouring farms which means if they are contaminated it cannot be proven that their mine is the source.’

Brakfontein lies next to the main road from Delmas to Leandra surrounded by farmland and a wetland. Rainwater flowing from the mine, runs past its Pollution Control Dam (PCD), down the road and into the Wilge River. Water and mud on the road could cause serious accidents but it also impacts on a farmer’s borehole next to the river, while people from an informal settlement and cattle drink the water downstream.

However, before 2016, the DWS had never performed a water audit despite farmers’ complaints.

UNREHABILITATED MINES

Abandoned mines are much in evidence in Delmas – the product of both junior and major mines. The abandoned Welgelegen mine is owned by Iyanga Coal held by Quinton van der Bergh Investments which opened in 2009 and closed in 2014.

Farmers complained to the DMR that Iyanga had no closure plan. Topsoil had mixed with coal discard making future crop cultivation impossible while windswept ash from a dump had destroyed the wetland. Rain flowed over the discard dumps into an outside dam which overflowed into the wetland and Wilge River below. The DMR ignored farmers’ complaints and told them to go to the mine. The mine admitted it had no disposal plan, that the dumps were burning, and that open pits were filled with ash.
At the time Iyanga invited the community to consult on a licence for a second mining project next to Welgelegen. Unable to get permission to go onto the mine farmers took drone images which they produced when the mine boasted about Welgelegen’s restoration. Iyanga admitted the wetland had been destroyed and that they would rehabilitate it in the dry season but the mine still lies abandoned in a contaminating state.

Farmers are concerned that the PCD wall has ruptured as it was not constructed to specifications to prevent future contaminated runoff. One farmer asked: ‘It has to last for at least 50 years but what if they have disappeared by then?’

Delmas Coal is also an offender. Unremediated workings from the 1960s onwards lie on its property. The previous owner, BHP Billiton, sold the problem onto Kuyasa.

**COMMENT ON STUDY**

The Delmas study shows that mines evade regulations without serious consequences. This included major and junior, black and white, and foreign and local mines. Mines adhere to water laws selectively depending on cost and difficulty of complying.

It can be seen that the cumulative impact of 17 mines is harmful to water and agriculture. Land cannot be restored to agricultural use post coal mining.

A municipal official estimates that in 15 years Delmas will be a mining town. Then when coal has been mined out mines will withdraw and Delmas will become a wasteland. Mine flooding will cause Acid Mine Drainage which will contaminate the downstream Olifants and other tributaries.

The DWS inspectorate was mainly absent in Delmas and when present officials lacked the knowledge or equipment to measure water pollution.

**REGULATORY CONFUSION**

Three main laws govern mining water use.

The Mineral Petroleum Development Act (MPRDA) makes mines responsible for cleaning harmful environmental impacts. It also states that in order to mine extractives must obtain a licence from the Department of Mineral Resources (DMR).

Delmas is mainly farmed by white commercial farmers who contend that government favours mining over agriculture. This is partly borne out by the DMR granting mining or prospecting licences on all except two farms in the Delmas surrounds.

The National Environmental Management Act (NEMA) also deals with mining’s environmental impacts and details harmful activities that mines must manage.
Delmas is not special. Mining’s destruction of land is happening across Mpumalanga. The European Union has threatened to withdraw agricultural exports from around Loskop Dam representing billions of rands in income and thousands of jobs in food production owing to toxins in the water.

Mines are also subject to the NWA on the use and disposal of water. Before mining they must obtain a WUL from the DWS.

A cooperative governance One Environmental System brings these laws together. The DMR issues mine licences and its inspectorate deals with compliance and enforcement. The Department of Environment draws up laws and hears licencing appeals, and the DWS issues water licences and inspects compliance to water laws. All licenses must be issued within 10 months.

Municipal spatial planning and national agricultural laws also govern mining’s harmful impacts. However, there is confusion about which laws trump which.

FAILURE OF LAWS

Delays in granting water licences meant mines simply mined without. At the same time the DMR granted huge numbers of licences. In 2012, in Mpumalanga, 250,000 hectares were under agriculture, while DMR licences covered 1-million hectares. ‘This is purely an administrative process. There’s no consultation. The DMR manages the process. But downstream irrigation schemes are impacted by acid mine water and we’re getting pollution of landscapes,’ commented an agricultural official.

The short licensing timeframe makes thorough assessment of mine’s impacts on water impossible. Moreover, the DMR is paradoxically responsible for both environmental enforcement and the promotion of mining.

A mining licence requires companies to deposit rehabilitation funds in a DMR Trust. However, funds are often inadequate leading to abandonment or shoddy rehabilitation. The DMR controls the Trust funds, side-lining the DWS so water concerns do not feature.

The appeal system has also failed. The water minister suspended the Water Tribunal and since its reinstatement it has failed to function. Communities wishing to object to mining have to resort to court action which is often too expensive.

Bi-annual audits of mines required by law are uncommon. Two DWS provincial officials have to check results at numerous monitoring points – in 2016 there were 239 mines in Mpumalanga. Enforcement is weak and prosecutions rare. In 2016 the DWS had seven mining inspectors nationally to investigate and recommend prosecutions.

MEANING OF REGULATORY FAILURE

There are some problems with laws but mine compliance and DMR enforcement are the major issues.

Politics, power and accumulation drive DMR officials. Kickbacks, jobs in mining, the possibility of becoming mining bosses, and the wielding of power in the regulation of big money often drive officials.

The DMR’s work is buttressed by BEE policies to promote mining entrepreneurs in the process of black elite formation. Water is simply a side issue.

Cooperative governance has failed and the DWS lies in the DMR’s shadow. Some officials attempt to check mines’ impunity but there are too many mines, competing mandates, and confused directives emerging from grey zone cronism and politics. In this environment it is difficult to enforce the law.

Delmas contributes to the provincial food economy, but in 2015 agriculture contributed 27% to the provincial economy and now contributes only 3% mainly due to mining.

Delmas is not special. Mining’s destruction of land is happening across Mpumalanga. The European Union has threatened to withdraw agricultural exports from around Loskop Dam representing billions of rands in income and thousands of jobs in food production owing to toxins in the water.

Yet the DMR is intensifying coal mining. Regulatory failure appears as a deliberate strategy to favour the extractives. Other departments are unable to promote alternative sources of power to protect water and land. And when white farmers complain to the mines or DMR they are mainly ignored.

The encroachment of mining forces white farmers to sell their land. They can buy farmland elsewhere but the real losers are food and water security.

This coal study is a microcosm of state priorities. The African National Congress (ANC) gives birth to transformative laws which it undermines. The short termism of the state and mines in pursuit of power and accumulation has serious impacts on people’s lives. The environmental and water damage done now is long term and life threatening.

Kally Forrest is a researcher at the Society Work & Development Institute and Lesego Loate a PhD candidate in the School of Geography, Archeology & Environmental Studies, both at the University of the Witwatersrand. A full report ‘Coal mining & water: flowing badly’ is available on www.swop.org.za
Land tenure in South Africa

A route forward

Tenure rights in South Africa need to be altered and extended. William Beinart and Peter Delius argue that individuals and families in peri-urban and former rural Bantustans should be granted land tenure rights in the law to counter possible exploitation of their land by traditional authorities and developers.

When the democratically elected government took power in 1994, led by the ANC (African National Congress), it announced three central elements of land policy: land restitution, land redistribution, and tenure reform. The focus here is on the question of land tenure.

At present the land rights of millions of South Africans who hold land in the former homelands, in informal settlements and on transferred land are uncertain. The 1996 Constitution, especially section 25(6) of the Bill of Rights, seemed to promise enhancement and upgrading of tenure. This has not been done.

Largely African landholders, who do not have title to their land, are amongst the poorest and it is important that their rights are not shouldered aside. For such families, their land rights are a major asset and they should be clearly recognised.

COMMUNAL TENURE IS INSECURE

Our approach is to move away from communalist and traditionalist policies and to focus on cementing individual and family land rights. We argue that all South Africans should hold their land in systems of ownership, and secure as ownership. Such ownership may facilitate investment and production as well as rural development more generally.

We also argue for an urgent new focus on peri-urban land and housing. The state and private sector should try to get ahead of this development. We suggest that there is a right to housing in such areas but not to agricultural land.

Our proposals take account of key social and economic processes in South Africa. Urbanisation continues at a rapid pace and land tenure strategies should aim both at facilitating urbanisation and creating benefits for rural families. A market for residential sites is evident in many parts of the country and land policy should work with these developments.

Communal or customary tenure does give some protection in access to land. However, most of the cases that we came across where landholders’ rights were threatened, arose when chiefs or other intermediaries negotiated with outside agencies. Such negotiations allowed land appropriation or chiefs and others benefited from the proceeds.

Private tenure also creates risks that poor owners will be tempted to sell their land for low prices because of their urgent need for cash. Yet it has advantages over a communal land system. Poor people who wish to move to town cannot reap the value of their property under a communal system and often arrive with little or nothing. Policy-makers need to weigh these costs and benefits and develop better solutions.

At the heart this proposal is recognition of very strong family rights to rural residential and arable plots. Such rights grow from customary practices. There is a great deal of evidence that families held their land securely and that their descendants inherited their land. This is, however, not securely established in law.

Our argument, unlike that proposed in the communalist agenda, is that these family rights should be recognised and formalised in court decisions and in land legislation.

GAPS IN LAWS ON FAMILY TENURE

We suggest a three pronged approach to upgrade tenure security.

Soon after the Constitution was finalised in 1996, the ANC government, through the Department of Land Affairs, passed three Acts of importance in protecting the land rights of those without formal titles.
The Interim Protection of Informal Land Rights Act (IPILRA, 1996) attempted to create laws aimed especially at the former homelands where the strength of customary rights and Permissions to Occupy was legally uncertain.

With respect to labour tenancy, which survived mainly in KwaZulu-Natal and Mpumalanga, protective laws took the shape of the Extension of Security of Tenure Act (1997). The Prevention of Illegal Eviction (PIE, 1998) was passed to ensure that those who occupied land informally in urban areas had protection from removal. The ANC government has largely been sympathetic and cautious in trying to deal with huge urban settlements, even when they are a result of land invasions and located in unsuitable areas. The ANC’s priority has mainly been to upgrade rather than remove settlements.

These laws have provided some protection and helped to prevent the undermining of informal land rights.

However government should strengthen IPILRA in particular, and back it up with administrative support that is currently lacking. Local officials do not take responsibility for enforcing the Act and poorer vulnerable families who face eviction lack resources to go to court.

IPILRA also gives community rights to deprive individuals or families of their holdings by a majority vote ‘in accordance with the custom and usage of that community’ with only limited rights to compensation. This seems to us unfair.

These Acts, however, do not give clear positive rights to land, so additional measures are needed.

**ENFORCING FAMILY TENURE IN LAW**

Another approach to upgrading land tenure security involves working through the courts and legal texts to get clear statements about the strength of family ownership of land in customary law. The Constitutional Court has begun to move in this direction.

In *Alexkor v Richtersveld Community* (2003), a court case to resolve issues that arose out of the implementation of the Restitution of Land Rights Act of 1994, the court accepted the restitution claim by the community over an area that had been seized for mining during the 1920s.

But the court went further and also described the nature of the community’s rights to that land. The judgment talked of rights and occupation as being the same as ‘that held under common-law ownership’. The court concluded: ‘We have found that the Richtersveld Community held ownership of the subject land under indigenous law.’ The Constitutional Court, however, dealt only with collective indigenous ownership. It did not give a judgment that covered the rights of families and individuals in this dispute.

In the *Hlolweni* restitution case in 2010 in Bizana, Judge Bam, went further and ruled that the chiefs and former tribal authorities did not have the legal power to remove land without the consent of those who had customary rights. The group of families claiming land had a form of ownership over the land that could not be undermined by a traditional authority.

However, again there was no clear statement in the judgment on the ownership of specific holdings by families or individuals.

Such decisions are important because chiefs are reasserting local political authority and in some cases claiming rights over land and development projects on behalf of communities. This includes attempts to remove land held by families in customary tenure especially in mining areas such as the platinum belt in North West Province. This same question is now also being tested with respect to mining on the coast at Xolobeni in Bizana, in the Eastern Cape.

Most customary systems gave very strong rights to families. Their residential and farming land, once granted, cannot be removed except in very particular circumstances. But the law should be developed, in line with the Constitution, so that courts view such customary rights as family or individual ownership.

Court cases need to be taken up to help cement and clarify such rights. Legal texts on customary law, such as AJ Kerr on the *Customary Law of Immovable Property*...
(1990), should be updated to emphasise family rights. A clear, newly set, judicial precedent would be very valuable.

**TENURE BILL MUST BE EXTENDED**

Thirdly, parliament has already passed an Upgrading of Land Tenure Rights Act (1991 – with amendments in 1996 and 1998). This allows for flexible extension of land titles but it has not been extensively implemented.

We argue that the Land Tenure Rights Act should be amended and extended. Government should support and expand institutions that underpin and oversee private land titles, such as the Deeds Office and Surveyor General’s Office. Forms of ownership are already varied, including co-ownership, and these can be developed to allow for family, rather than simply, individual ownership of titles.

Updating and expanding land titling in peri-urban areas is a priority.

The government tabled a new Communal Land Tenure Bill in 2017 that addresses some of these issues and aims to resolve security of tenure. It does allow for registration and titling of individual holdings in the communal areas. However, registered ownership will first go to a ‘community’ which is not clearly defined and the community will have to decide by a 60% majority whether to introduce private titles or to stick with communal ownership.

This planned legislation also puts a major burden on the Department of Rural Development and Land Reform to conduct detailed research in every community prior to registration of collective title. It is likely that this new Bill, if passed, will take a very long time to implement.

We suggest that there should be greater emphasis on family and individual rights at the core of new land tenure laws.

The Tenure Bill also allows for the expansion of communal tenure and this requires intensive debate in the light of evidence showing the limits of agricultural production and investment on such land. But insofar as the Bill offers some indication that the government wishes to upgrade land rights and land administration, it is welcomed.

Individual and family rights should also be cemented in the Communal Property Associations and Trusts that have become the major vehicle for extending land ownership after restitution and redistribution. Communal Property Associations now constitute a significant new form of landholding in the country covering about 9% of agricultural land.

**CONCLUSION**

Under President Zuma rural policy seems to be moving towards a form of traditionalism. He called on chiefs to take the lead in the new phase of land restitution. Zuma and Gugile Nkwinti, the Minister for Rural Development and Land Reform, have called for a pre-colonial land audit.

We argue that land policy must move on from romantic restoration or political tribalism. Traditional authorities have been an important pole of power in the countryside for more than 60 years, since the apartheid regime introduced the Bantu Authorities programme. Traditional authorities have presided over an economic decline in the former Bantustans. Their involvement as major claimants in a new phase of restitution or as owners under the new Tenure Bill could ignite ethnic and conflicting claims and facilitate elite capture of land and rural resources.

Once traditional authorities and elite groups control rural land, the likelihood is that tenure will be marked by rent-seeking (collecting rent from others who use the land such as for mining) rather than for pro-poor policies.

The best way to deal with injustices of the past is to move forward and not backward. Surely everyone in South Africa can support the ownership rights of poor rural families and individuals to specific pieces of land that they occupy?

William Beinart, University of Oxford (retired) and Peter Delius, University of the Witwatersrand (retired). Both authors have written on the South African rural areas over a long period and acted as researchers and expert witnesses in restitution cases.
Rioting and Writing: Diaries of the Wits Fallists


Reviewed by Malose Langa

Although this book is based on students’ experiences of the political and social struggle for fees to fall and the curriculum to be decolonised, activists involved in social movements for labour rights and access to basic services can learn lessons from this book about the importance of reflexivity.

Importance of Activists Reflecting

Audrey Kleinsasser defines reflexivity as looking back at one’s experiences and reflecting in order to identify victories, losses, mistakes and how to move forward for the total emancipation of humanity. Lack of reflexivity amongst political and social activists is a stumbling block to social movements’ ability to grow and develop new tactics for dealing with capital. Situations remain stagnant and dogmatic if activists do not continuously reflect upon their experiences of activism.

David Dickinson in the Wits sociology department encouraged student activists in the #FMF movement to meet every night after a day of protest to reflect on how it had gone and to plan for the next day. These meetings led to this book being conceptualised and written. In these reflective meetings, students who became involved in the book project started journaling their experiences. This included
their meetings with outsourced university workers who joined the student protests in solidarity, believing that an ‘injury to one marginalised group is an injury to all’.

STUDENT WORKER ALLIANCE
The chapter by Hlengiwe Ndlovu tells the story of Benita Msibi and the consequences of earning a non-living wage as an outsourced cleaner at Wits. For Hlengiwe, Benita’s story remained a political motivation even after students achieved the victory of a zero percent fee increment. Hlengiwe continued to support workers on the picket line until the university decided to insource them. However, the struggle for the rights of outsourced workers is not over, as many are still on the margins.

Morwa Kgoroba’s chapter highlights the tensions that existed between student protests and issues of outsourced workers and how things shifted after the zero percent increase was announced. Despite these tensions, through their alliance with workers, students were able to push the university to insource them. This is something that unions within the higher education field had failed to do since universities countrywide started privatising and outsourcing cleaning, gardening and security services in the early 2000s.

What lessons can be learnt from the student-worker alliance? The book provides insight in this regard, offering lessons that could be used in other settings to advance the struggle of marginalised groups. How does the struggle for fees to fall link with other struggles continentally and globally? This is the point that Crispem Chinguno raises in his chapter, ‘A comrade from beyond the frontier’, that solidarities amongst local and international students still need to be formed to demand free education as a basic human right.

HONEST REFLECTIONS ON TENSIONS
The book’s power resides in the honesty with which student activists share the tensions, ruptures and power struggles that happened within the #FMF movement. Some ruptures were centred along political lines between student leaders who were variably aligned to the African National Congress (ANC), the Economic Freedom Fighters (EFF) and other political formations.

Sello Mashibini’s chapter highlights contestations around ideas, space and leadership. These tensions were also gendered in nature, as highlighted in the chapters by Simamkele Dlakavu and Anzio Jacobs describing how female student leaders and gender-non-conforming activists were marginalised.

Patriarchal notions of leadership appeared dominant amongst male student leaders. These notions were critically challenged by radical feminist leaders, who asserted that female leaders also needed to be at the centre of the struggle and that their voices had to be heard and respected.

Some of these gender dynamics mimic national and global politics in that toxic hegemonic masculinities dominate political narratives within social and labour movements. This raises the question of where female leaders are within our movements.

Class differences were also implicated in the movement, as highlighted in Boikhutso Maubane’s chapter. She addresses the depiction of Tshwane University of Technology students as hooligans and barbaric compared to the richer bourgeois Wits students.

Over the years, black universities have been the site of multiple violent student protests, well before the #FMF movement in 2015 and 2016. Why did these protests not capture the public imagination in the way protests at Wits and the University of Cape Town (UCT) did? Is it because Wits and UCT are historically white universities? Is this book by Wits students further privileging their already privileged position, a criticism that may well be raised by other readers?

In the introduction the editors explain the processes followed in conceptualising the book. They articulate that it is about and by black students writing about their own experiences, rather than them being written about by white academics, which is a common tradition in western scholarship.

MARGINALISED POOR BLACK STUDENTS
In some chapters such as by Andile Mthombeni and Tebogo Molobye, contributors share their experiences of sleeping in the library due to lack of money for accommodation, or standing in long queues to apply for financial assistance or face exclusion because they cannot afford the fees. Many contributors assert that these experiences of humiliation and marginalisation within the corridors of Wits are unique to poor black students – a point the book wanted to highlight.

It is evident that higher education is commodified in South Africa, which goes against the ethos of the Freedom Charter’s stipulation that the doors of learning shall be open to all. This theme comes through in Bafana Masilela’s chapter which likens the #FMF movement to walking in the footsteps of 1976 Soweto youth, although it is open to question whether the two can be compared.

CONCLUSION
Although limited to Wits students, the book provides a rich analysis of the factors that drove the #FMF movement, and the ruptures within it. There is no doubt that #FMF has had a profound impact on student politics in the country. The movement achieved much within
a short time, through insourcing workers and raising public awareness about the need for free, quality, decolonised education.

A shortcoming however is the lack of workers’ voices. Rather than writing about themselves, workers in the movement are written about. This is a gap as workers need to stand up and be counted in order to take the struggle to the next level.

Lastly, the book could have reflected more on the differences between students in terms of needs and background and how this may have informed demands and strategy. Personal biographies such as by Molobye could have enriched the book even more in terms of what it means to be a black person in the ‘new’ South Africa. Blackness is unfortunately represented as a homogenous and uncontested identity, which is not true given class differences amongst black people post-1994.

Despite these gaps, this is the best book to read if one wishes to gain an insight into the workings of the #FMF at Wits.

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Review

*Rioting and Writing: Diaries of the Wits Fallists*


Reviewed by Prishani Naidoo

Produced by mainly first-time authors and editors, *Rioting and Writing: Diaries of the Wits Fallists* is an impressive collection of reflections on the 2015/2016 protests at the University of the Witwatersrand (Wits).

Consisting of articles written by students who identify as Fallists and an academic sympathetic to the protests, the collection provides some insight into the ways the individuals involved view their participation in and contribution to shaping the struggle against fees increases that grew into a movement for free education.

**SHARING THE BOOK’S PROCESS**

An important contribution by the book’s editorial collective is the sharing of the contentious process of writing and producing the book. It reveals a usually hidden story, that of fights over who gets to speak and write, who gets to reflect on and analyse events, and the place and power of funders. In this way, old debates are reopened about the decolonisation of knowledge production, and increased attention to questions of race.

At the same time, contradictions in this context are revealed, challenging us to move beyond easy declarations, in particular about race and power in institutions like Wits.

Ironically the collective thanks a white professor for initiating a process of reflection on the margins of the protests that led to the writing of the book. The book is restricted to black authors, who critique the Society Work & Development Institute (SWOP) embedded in the fabric of the very university that allowed for the production of the book.

**VALUE IN INDIVIDUAL REFLECTIONS**

But the greater value of the book lies in the collection of individual reflections on lived experiences that, as the editorial collective writes, ‘speak from the heart rather than being framed by academic conventions’. In this way, the book is a window into how individual black students, in particular African students (and an academic), feel about the protests, the movement that grew out of it, and how they experience the university today.

The book provides a rich set of unmediated, uncensored, and unedited perspectives of some of the individuals involved in #FeesMustFall. Also interesting is that most of the writers came into the protest as first-time protesters, without previous involvement in student struggles.

Many of them share their reasons for not participating in protest previously, including dismissing
traditional forms of student politics as well as the prioritisation of studying over political involvement. What draws them into the 2015 protests and becoming politicised provides important reflections on this new layer of activists thrown up by #FeesMustFall.

Read collectively, their stories stand as an important source for those wanting to understand the emergence and shaping of political consciousness in the contemporary context.

NEED TO RECOGNISE DIFFERENCES
It is important, however, not to shy away from raising more critical concerns and cautions about the book.

Firstly, differences appear across the articles. Differences about the dominant political traditions in the protests and the political orientation of the overall movement. Differences about leadership – who led and leads the movement, and the kinds of leadership necessary in the movement. Differences about gender, about race and the writings of Biko, differences about class and ideology including the need for it, and if there is a need which ideology should guide the movement.

Missed here is that while we might share a common set of experiences as black people, we do not all respond in the same ways. The difficulty with the book lies in the lack of acknowledgment of differences and so there is no debate about individual writers identifying collectively as a political grouping who have differences with each other even though they might share some common overall struggle goals.

So, for example, claims by different authors about race, leadership or gender stand side by side as ‘the truth’ in many cases without evidence or proper interrogation.

The question ignored by the book is ‘how do we bring these different positions into engagement with each other?’ This is a problem that has also faced the broader movement since the start of the 2015 protests (and even before). It’s a problem that has prevented the shaping of new approaches to struggle, and that has produced even greater fracturing of the student movement.

What the book reveals is difference amongst those with a great affinity towards each other. Rather than denying these differences, we need to open ourselves to having our positions questioned and debated. In doing this, we must not be defensive about our positions, but open enough to produce new ideas and approaches that allow for differences to shape new shared ideas.

NEED TO PLACE IN RECENT HISTORY
Another important task that the book sidelines is to situate the present history not only in relation to 1976 student struggles, but also to more recent struggles over higher education in an era of democracy and policy formulation led by the African National Congress (ANC).

It could be argued, for example, that the current demand for free education relates to earlier struggles in the 1990s and 2000s in which the student movement was defeated on questions of fees and outsourcing of workers. This history might also help to explain that the initial protests in 2015 were led by existing student formations like the Progressive Youth Alliance (PYA) consisting of the ANC Youth League, South African Students’ Congress, Muslim Students Association and the Economic Freedom Fighters (EFF) together with the Students’ Representative Council (SRC) whose members popularised the hashtag, #FeesMustFall.

This history also explains other initiatives like #October6, which grew out of meetings that brought workers, students, academics and activists from Johannesburg together across the campuses of Wits and the University of Johannesburg (UJ) in the months before the first fees protests.

Just a week before, on 6 October 2015, this group staged nationwide marches against the outsourcing of workers on campuses. At Wits, students had blockaded the Matrix (site of commercial activity on campus) to allow workers from outsourced catering companies occupying the Matrix to be released from work to participate in the protest. This was a precursor to the following week’s campus shutdown.

If there are different versions of this history, then it is important to acknowledge and bring them into conversation with each other.

The book does turn to history. For example, in the mobilisation of the memory of Solomon Mahlangu and black Consciousness as a force to address problems of racial oppression. However, it fails to provide any depth of analysis that allows for serious discussions about ideological orientations, and the histories we draw on to become more meaningful and productive in the present.

What does it mean that Solomon Mahlangu comes from the Congress tradition that is largely criticised by the Fallists? And, in relation to the return to black Consciousness, how do certain Africanist positions on race relate to Biko’s definition of ‘black’ – not as a matter of pigmentation but as a state of mind, political becoming and self-making in positive terms as opposed to the negation of black people by apartheid and colonialism?

We need to see this book as the beginning of a process of collective writing and stories of a movement still in the making, a movement that takes questions of representation and voice seriously. In this way, the book could become an important catalyst for a conversation about differences within the movement that has been lacking since its birth.

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Minning Charter shambles

New information, new vision

The various versions of the Mining Charter, tasked with delivering widespread black ownership, have all been a mess. Duma Gqubule shows how only a tiny black elite has benefited and suggests better ways for the equitable distribution of mining’s benefits.

In October 2002, mining industry stakeholders in South Africa, the world’s richest country in terms of non-oil commodity wealth, reached agreement on an ‘historic’ charter for the transformation of the mining sector.

There were hopes that The Broad-Based Socio Economic Empowerment Charter for the South African Mining Industry would make a contribution towards reversing over a century of exploitation of black workers under apartheid and colonialism. This includes the pitiful contributions that the industry made towards addressing the horrific living conditions in many mining communities and labour sending areas.

The Charter came into effect in May 2004, following the enactment of a new law. In the Charter, stakeholders agreed to transfer ownership of 26% of mines to black people by the end of 2014. They also made other commitments in areas such as increasing black representation in management and the development of skills.

MINING CHARTER SHAMBLES

The Centre for Economic Development and Transformation (CEDT) has conducted the first independent assessment of the Charter in a new publication South African Mining at the Crossroads: An analysis of the Mining Charter 2004 – 2014. It found huge gaps at the levels of policy and implementation and made recommendations on the way forward.

The Charter appeared radical when it was signed and an earlier leaked version resulted in a sharp fall in share prices on the Johannesburg Stock Exchange (JSE). But the Charter soon began to look primitive. It was overtaken by significant advances in the measurement and monitoring of Black Economic Empowerment (BEE) over the next few years, after the Charter was signed.

The government put in place a uniquely South African system of social accounting that was contained in the BEE Codes of Good Practice of 2007 and 2013.

Against this new BEE Codes benchmark, it became clear that the Charter was a shambles of a document that betrayed from start to finish every principle of empowerment that was contained in the Codes. The bar for empowerment was far lower in the mining sector than what was expected in the rest of the economy. The absurdities in the Charter are too long to analyse in detail. But in summary, it was littered with vague commitments that did not have the precise measurement principles of the Codes.

Inevitably, a dispute erupted between the Chamber of Mines and the Department of Mineral Resources (DMR) over the interpretation of the Charter’s ownership requirements. The dispute landed in the courts in 2015 over two major issues.

The first is whether a company can retain its empowerment credits after a black shareholder has sold its shares – otherwise known as the ‘once-empowered always empowered’ principle. The second is whether to consider the net value, after taking into account debt that was used to acquire shares, that accrues to black shareholders in calculating ownership credits. The mining industry’s position that the 26% ownership ceded by corporates must exist forever and that net value should not be considered is not reasonable. It is against the principles of the Codes, which apply in the rest of the economy.

2017 CHARTER WITHDRAWN

Since the original document was signed, the DMR has released three other versions of the Charter. It released an Amended Charter in 2010 after consultation with stakeholders. The period of the Charter expired at the end of 2014. In 2016, the DMR released a new draft Charter for public comment and a ‘final’ Charter in April 2017.
However, none of these new versions have addressed the original Charter’s shortcomings. Although the 2017 Charter made some attempts to align with BEE Codes, it did not address any of the difficult issues between the DMR and the industry. It had complex provisions relating to topping up black shareholding to meet the new targets, and the recognition of past transactions and transitional arrangements that are not in line with the Codes.

Almost every clause in the four pages of the 2017 Charter that deal with the issue of ownership is badly drafted and can be interpreted differently. It invites endless litigation. After an outcry from the Chamber of Mines, the DMR suspended implementation of the Charter pending the outcome of a court ruling on the recognition of previous empowerment transactions.

However, if the DMR had aligned the Charter with the BEE Codes, the industry would not have a leg to stand on. The solution to the stand-off between government and the industry is actually very simple. It is contained in the Codes. The Codes allow companies to keep up to 40% of empowerment credits after the exit of black shareholders under certain conditions. A speedy alignment with the Codes would create certainty in the mining sector.

This would also require an adapted ownership scorecard that takes into account unique industry issues such as the need to empower host worker communities.

NOTHING ON STATE OWNERSHIP

Benchmarked against other developing countries, it also became clear that another weakness of South African mining policy was that it had no mechanism for a direct government equity share.

The world’s top 20 mining countries, excluding Australia, Canada and the United States which follow the Anglo-Saxon model of capitalism, most developing countries such as China, India, Brazil and Chile have some level of state ownership of natural resources. In Africa, Botswana, Zambia, Ghana, the Democratic Republic of Congo, Mali, Burkina Faso, Guinea, Gabon, Namibia and Zimbabwe all have government shares of between 10% and 50%.

Also, the 2017 Charter does not separate government’s policy, regulatory and commercial functions. The DMR sets mining policy, awards mineral rights and monitors implementation. But it has limited commercial functions. There is an urgent need for a professionally managed super regulator for the mining industry.

OWNERSHIP BY TINY BLACK ELITE

The CEDT report found that there were about 40 BEE transactions worth almost R110bn ($8.2bn) within the top 25 JSE-listed mining companies between 1997 and 2014. At the end of December 2014, there was black ownership of R95.6bn ($7.1bn), which was equivalent to 16.1% of the value of South African assets within the top 25 JSE mining companies. The BEE net value was R57bn ($4.3bn), which was equivalent to 9.6% of the value of South African assets.

However, three black-owned companies, BEE Holdco, African Rainbow Minerals Exploration and Investments (ARMI) and Royal Bafokeng Holdings, had investments worth R45.9bn ($3.4bn), which was equivalent to 81% of the BEE net value created at the end of December 2014. Contrary to popular perceptions the major black business interests in the mining sector are not former or current members of the political elite.

This extreme concentration of ownership within a tiny black elite, in a country that tops the world inequality measured by the Gini coefficient, is not sustainable.

At the end of December 2014, there was zero net value for employee share ownership plans (ESOPs). Net value created for host communities was R15.2bn ($1.1bn), which was equivalent to 2.4% of the value of South African assets. However
two communities, with interests in platinum and iron ore, accounted for 92% of this figure.

Labour unrest on the mines has increased in recent years. In August 2012, South African police shot and killed 34 striking miners from Lonmin’s Marikana mine. Amnesty International has documented the ‘truly appalling’ living conditions of Lonmin employees. During the first six months of 2014, workers shut down the country’s platinum mines. In the light of this ESOPs and community schemes should each get allocations of 7.5% within the 26% that is allocated for BEE.

VISION FOR SHARING PROFITS

South Africa must develop a new vision for its mining industry. It must extract a fair share of natural resource rents and ensure that there is an equitable distribution of the proceeds of mining for the benefit of the public, worker host communities, black companies and other private investors.

South Africa could learn from Chile and Norway.

Chile shows how a strong state-owned company, Codelco which accounted for about a third of national production in 2015, can co-exist with a thriving private sector. The Norwegian model has two state-owned investment vehicles. The State Direct Financial Interest, recently valued at $97bn, is an investment company that mostly holds minority stakes in oil fields. Statoil is a company with a market capitalisation of about $60bn that has majority stakes in many investments.

Five years ago, the ruling African National Congress (ANC) responded to growing pressures within its Youth League (led by Julius Malema, now the leader of the opposition Economic Freedom Fighters) to nationalise the mines. It commissioned a report that found that nationalisation was unaffordable but this may not be true.

The CEDT’s research found that there is existing state ownership in mining through a public sector pension fund and a development finance institution, of about R85bn ($6.4bn) or 15% of South African mining assets. Based on a CEDT valuation of mining assets prices at the end of December 2016, a modest target of 25% public ownership would require an additional R50bn ($3.7bn).

The existing assets should be ceded to a new Sovereign Wealth Fund, an investment company that would own minority stakes in mines. A public mining company could develop the capacity to operate mines in the medium to long term.

The other mechanism to increase domestic ownership and control of the mining industry could be to set up a professionally managed South African mining champion. The government should investigate Anglo American becoming a South African mining champion, with 51% public, community, worker and BEE investor shareholding.

Anglo companies like Anglo, Anglo Platinum and Kumba Iron Ore were worth R257bn at the end of December 2016. This was equivalent to about 48% of the value of South African mining assets. With the unbundling of Anglo, the Public Investment Corporation, the asset manager of government employee pension funds and the current owner of 13.3% of Anglo’s shares, could end up with a 27% stake in the new company.

A century after it was established, the time has come for Anglo to come back home. At the end of December 2016, Anglo was worth the same, in US dollars, as it was when it listed in London in May 1999. It is unlikely that moving its head office to London has added value to its subsidiaries. They would operate better without its costs and interventions. The governments of South Africa, Namibia, Botswana, Colombia, Chile, and Brazil – where the company has mines – must ask themselves: ‘What value does Anglo add to its operations in our countries?’

Other possibilities that could emerge from a break-up of Anglo include the establishment of an African diamond champion, led by Botswana.

Finally, we propose that mining royalties should be re-directed to the Sovereign Wealth Fund, to worker host community development funds and the proposed super mining regulator.

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Hidden forms of resistance
Zimplats workers counter abuse

Mineworkers at Zimplats in Zimbabwe have few avenues of resistance as laws forbid gatherings without police permission. **Paddington Mutekwe** describes how workers still exercise agency through hidden forms of resistance which restores some sense of dignity and obstructs production targets.

Much writing on worker resistance in Zimbabwe suggests an authoritarian regime has stifled worker resistance. These works discuss why there have not been many revolts in Zimbabwe despite unparalleled repression, by commenting on the effects of the ZANU-PF’s authoritarian regime on political opposition and resistance in Zimbabwe.

Using J Scott’s idea of ‘weapons of the weak, a different view is presented here. Resistance has not been muted in Zimbabwe but rather the dynamics have changed and strikes have been replaced with hidden forms of workplace resistance.

According to Scott for the ‘… peasantry, scattered across the countryside and facing even more imposing obstacles to organise collective action, everyday forms of resistance would seem particularly important’. He lists the weapons of powerless groups that include, ‘… foot-dragging, dissimulation, false compliance, pilfering, feigned ignorance, slander, arson and sabotage.’

Some forms of this kind of resistance have been identified amongst workers in Zimbabwe.

A recent case study of Zimplats Mining Company, one of the largest platinum companies in Zimbabwe, inspired this argument. Located on the Great Dyke, south-west of Harare, the company began operations in 2001. Implats owns 87% of the company. Implats is one of the world’s largest producers of platinum and associated platinum group metals, and also has operations in South Africa.

The mineworkers at Zimplats work under poor conditions, receiving low wages which they are unable to contest due to the repressive nature of the state and the company itself.

Laws in Zimbabwe, such as the Public Order and Security Act (POSA) criminalise all gatherings conducted without police permission. Under POSA, trade unions cannot mobilise workers since in most instances they are denied permission. In line with this repressive law, Implats’ management strategies also tend to control the activities of trade union and workers’ committees. As a result, two strikes that miners at Zimplats attempted to engage in failed in 2008 and 2012. Workers claimed that the strikes resulted in some miners losing their jobs.

Workers did not give up. They went on to search for alternative and hidden ways of resisting.
the autocratic environment they found themselves in. Resistance at Zimplats took various forms which are described and discussed below.

**SABOTAGE TO CONTROL LABOUR PROCESS**

In order to escape the arduous work in the company Zimplats mineworkers either resigned or deserted. The study however had expected to find higher numbers of resignations and desertions as a result of the conditions at Zimplats such actions were minimal. One mineworker noted: ‘... we have those incidents but, you know in Zimbabwe right now the current situation is forcing all of us to be at work. People find it difficult to resign because there is nowhere to go. ‘

Clearly, resigning or going AWOL is not an option in the current Zimbabwe. Unemployment is high and there is nowhere else to go to find employment. With no job creation in the country, workers would rather stay on the job and engage in attempts to control the labour process.

Through sabotage and wasting time at work, workers feel they are gaining some control of the labour process. For them, this is seen as a way of fighting against management’s repression. One worker argued that sabotaging only happens if there is a bad relationship between supervisors and working teams.

He gave an example of sabotage, ‘The operator can lash while applying breaks and the machine will overheat and he will rest for about 30 minutes to an hour while the machine is cooling off. If he is a rig operator he can reduce the feed so that he drills slowly and the drill penetration will be low so he won’t be able to finish.’

Another worker also explained that the company expects them to save resources while at the same time as ill-treating them. Managers claim that the company is running at a loss and workers should aid the company by using resources responsibly. Instead, the workers throw away any usable resources since saving company resources does not benefit them.

When it came to time wasting techniques, workers indicated that they sometimes reported faults or breakdowns incorrectly. They claimed that technicians would spend time trying to figure out the actual fault and by the time this was done, wrong tools and spare parts may have been brought. As a result, time was wasted with technicians going up and down to get the correct parts.

In another example, the worker explained that the bosses enjoyed following workers and giving them instructions even when it was unnecessary. Because of this, workers resorted to sitting and not working unless instructed to do so. When they received an instruction, it would be done slowly with dragging of feet. As a result, workers failed to meet targets and supervisors who were answerable to management for achieving targets would not meet the expected results.

Sabotaging and time wasting techniques by workers at Zimplats showed that they possessed some level of agency as their actions indirectly controlled the labour process. Miners can tolerate oppression to some extent, but when it becomes unbearable, they set the limits through various sabotage and time wasting tactics.

**ABSENCES FROM WORK**

Sick note *kukanda* and absenteeism were the main tactics used by Zimplats workers to get a rest from work. *Kukanda*, a Shona word, literally means ‘throwing’ and is a practice where miners obtain a sick note to get a day off using their medical aid.

Mineworkers also used *kukanda* to justify absenteeism. For instance, after a night of partying and drinking, a worker would consider a sick note to avoid work since the company conducts alcohol tests which would test positive, and they would also be nursing a hangover dangerous for work activity.

Most mineworkers in the study had taken part in this practice and those that did not say it was because they were in positions that did not allow them to engage in *kukanda*, such as a Shift Representatives. Others who didn’t
practice *kukanda* felt that the company was better than other companies where workers went for months without pay.

The study found that levels of absenteeism were high when mineworkers received their wages because drinking binges were more common with money available. In one incident during the study, four mineworkers on the same shift were absent from work soon after pay day. Their absence slowed down productivity as a team of 19 was now short of four people. This shows how this kind of resistance challenges existing power relations by ensuring low production levels.

**RESTORATION OF WORK DIGNITY**

With low wages, poor working conditions and no opportunity to raise these concerns, workers felt that they had lost respect and dignity in the workplace. As a way to try and restore this dignity, mineworkers engaged in name calling by giving their superiors nicknames in accordance with how they treated them. One worker said: ‘Each and every senior person if he or she is not working with us properly we do have a good name for him or her.’

Names reported by the workers included: Satanist, Tollgate, *Gangemukange* (black ant), and Black Anaconda. ‘Satanist’ denoted a ruthless boss with no consideration for workers’ feelings.

The supervisor called ‘Tollgate’ often gave workers fines for petty crimes. Since no one passes through a tollgate without paying, no worker meets this supervisor without being found guilty of some crime.

*Gangemukange* is a Shona name for a big black ant, which when stepped on becomes angry and emits a bad odour. Its sting is also said to be very painful. Giving a supervisor the name *Gangemukange* highlights his reaction to workers if they oppose or do not achieve what he expects of them.

‘Black Anaconda’ referred to a supervisor who was tall, dark and ruthless towards workers.

Name calling allowed mineworkers to retaliate without consequences as they felt they were giving their bosses well deserved names. Name calling shows how miners draw a line between who is an ally or who is an enemy.

**CONCLUSION**

This article has demonstrated the effects of both state and management repression on workers which disallows them from organising and engaging in public, legal strikes. This restriction leads workers to resort to covert everyday forms of workplace resistance. This resistance offers participants some sense of power in the production processes both by obstructing work production targets and by restoring some of their dignity.

Scott argues that these forms of resistance are individualistic, but in the case of Zimplats collective subterranean action by workers was a shared action against management’s mistreatment and exploitation. This exploitation compelled almost all workers to find coping strategies in the workplace. Given the levels of repression in this kind of workplace, you may expect to find submissive workers but instead, everyday forms of resistance are the order of the day and lend Zimplats mineworkers’ some sense of agency.

The power struggles between employers, employees and the state points to possibilities for future worker organisation and struggles in Zimbabwe. The ability of mineworkers to devise ways of resistance in a repressive context suggests that the masses too will break with the despotic government in Zimbabwe. The future of Zimbabwe will probably be characterised by intense conflict if not bloodshed, with the masses fighting against a government trying to silence them.

This is already evidenced with signs of a new revolution against the ruling party (ZANU-PF) emerging in Zimbabwe as new political parties are being formed, as well as new and powerful citizens’ movements.

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Fees may never fall in the US or South Africa

Some South African responses to the tertiary education funding crisis have advocated a loan and ‘work to pay off loans’ model. Elizabeth Shermer gives the history of a disastrous US loan regime leaving students highly indebted. She contends that the focus on student assistance, rather than direct government support, lies at the core of this failure.

‘There is no such thing as free university education,’ professors Daniel Bradlow and Edward Webster have reminded South Africans in Business Day, ‘If students do not pay someone else has to, otherwise our universities will fail.’

That statement both rebukes the militant students who demanded fees must fall last year and justifies their ‘sustainable autonomy model’. Their autonomy model differs in degree not spirit from the Ikusasa Student Financial Aid Programme (ISFAP – promoted by Higher Education Minister Blade Nzimande) being tested at some universities. Both plans recognise that talented poor and ‘missing middle’ students (with an annual household income below R600,000) struggle to complete university because they cannot afford fees, books, and living costs.

ISFAP provides extra support for young people interested in much-needed fields like medicine, engineering and accountancy. It seeks financial support from businesses, foundations, individual donors, and government agencies that will oversee the administering of this plan on campuses and ensure loans are eventually repaid.

Bradlow and Webster applaud the insistence that many people should invest in higher education and, therefore, South Africa’s future. They also insist that student debt must be written off. Forgiveness can be done, they suggest, through public service and government perpetual bonds that only require yearly interest payments. They want universities to come together to manage this programme in order to protect academic freedom.

MODEL MIMICS US SYSTEM
Unfortunately, neither scheme ensures fees will fall or even remain the same. Both solutions alarmingly mimic the ways the United States expects students and parents to pay for higher education to provide services to the nation.

University authorities (or ‘schools’ in the US) confuse academic freedom with institutional autonomy, embrace complicated financing for national needs, and insist universities fundraise from a range of sources to provide for institutional independence.

US colleges and universities have never received enough government support to fully underwrite basic operating expenses. Law-makers have labeled such government support as un-American and many professors oppose it in the name of academic freedom.

US colleges and universities have always had to compete for revenue from businesses, philanthropies, government programmes and students. Many students now depend on federal loans – the largest source of government support for colleges and universities.

Most schools have struggled to find donors, entice investors, secure government resources, attract students, and remain solvent. In recent years, roughly five schools a year close. Shutdowns are costly. American colleges and universities, like elsewhere, provide vital research, job training, and support for businesses, non-profits, and government agencies. Many American small towns, sprawling suburbs, and big cities also depend on post-secondary schools for their economic livelihood. Colleges have attracted students, professors, and investors and also offer much-needed jobs to local residents.

Many working on college campuses are still paying off their tertiary education since 43-million Americans now owe more than US$1.3tn in student loans. Undergraduates generally leave college owing $30,000. Experts blame this debt for...
plummeting marriage, savings, and home-ownership rates among young people, who only have a chance at getting well-paying work if they have a degree.

US HISTORY OF FAILED FUNDING
This crisis can be traced back to another period of turmoil when American policy-makers decided, like many South African experts now suggest, to focus largely on student assistance.

During the Great Depression, many American schools were nearly bankrupt. Private schools taught elites and funded and governed themselves through donations and fees. Public institutions accepted upwardly-mobile Americans and begged for money from donors and local and state authorities in charge of them.

Public and private universities jealously guarded their hard-fought for academic freedom and feared federal control. This meant many college administrators opposed direct government support in the 1930s, which President Franklin Roosevelt and his advisors never considered.

So-called ‘New Dealers’ instead developed a work-study programme to indirectly aid schools, assist undergraduates, and ease pressure on welfare rolls and competition for jobs.

Students between the ages of 16 and 25 could apply to the federal government to work part-time while they went to college. Federal officials found universities willing to accept them leaving jobs on federal projects or in private businesses to older Americans. The government paid students’ salaries, covering basic living expenses and fees, which universities depended on.

Many Americans embraced this short-lived US$93m programme in the 1930s and early 1940s, which helped colleges to stay open and educated more than 600,000 people.

Post graduates put their learning to use during the Second World War, when the Roosevelt Administration dedicated the country to building democracy. It once again tried to find ways to indirectly fund cash-starved colleges to enable Americans to study and to keep unemployment down.

Policy-makers prioritised this programme because they predicted that the country would soon need better educated citizens and a more skilled workforce. They also feared another economic downturn at the war’s end, when war-production workers and returning soldiers would be looking for jobs.

Leading educators still fought off such government programmes in congressional hearings. Some feared the loss of academic freedom but others openly insisted that poor and working-class veterans (GIs) had no business getting higher education since they’d turn universities into ‘hobo jungles’.

Such statements enraged veterans who demanded Congress pass a ‘GI Bill of Rights’ in order that government continued to give financial assistance to students and not universities and colleges. Government policy-makers handsomely rewarded universities with high tuition fees if they were willing to accept GIs.

Federal tuition stipends were much higher than top private university fees in order to encourage higher education institutions to increase student rates. Officials hoped more fee revenue would fund the expansion of higher education to accommodate veterans and other students without direct federal support, or encourage more investment from donors or state legislators.

Unfortunately, colleges still struggled to accommodate the many veterans who wanted to study. They found themselves in overcrowded classrooms, run-down dormitories, and unable to enroll in oversubscribed colleges close to home. Civilians were also crowded out of universities or unable to afford sharp fee increases.

Federal officials still celebrated that 2.2million veterans went to college but refused to further fund higher education, even though few doubted its value by the early 1950s.

Administrators and departments at top private, religious, and all-white institutions also remained opposed to government funding as they feared state interference would dictate that they open their doors to every American, regardless of race, ethnicity, religion, sex, or class. They found support from business executives who feared government’s growing influence in the 1930s and 1940s.
Public insistence for more higher education funding secured the 1958 National Defense Education Act. But law-makers still hesitated to offer money to directly support colleges. Universities had to instead compete for grants to help finance science, maths, and language programmes considered necessary for national defence.

The new loan programme to support undergraduates studying these subjects also hurt, not helped, universities. Students applied for federal assistance through universities. Universities however, struggled to administer this government programme because of the many provisions for waiving the debt on 10-year loans where post graduates taught or worked for the government or defaulted.

**LOANS DISCRIMINATE & COMPLICATE**

This federal lending scheme did nothing to ensure every American had access to education or a way to pay fees. Laws still discriminated against loan applicants based on their race, religion, class and sex. As a result, civil rights activists continued to protest to force staff to end segregation.

The 1964 Civil Rights Act ensured all-white schools would no longer receive indirect aid but that law still did not solve the need for more support for schools and students. Neither did the 1965 Higher Education Act, which included some provisions for direct federal assistance.

Politicians remained far more invested in indirect support through complicated, difficult to administer student financial-aid programmes, like the Guaranteed Student Loan Program. Law-makers loved this lending scheme which they did not have to directly underwrite (accept liability for basic costs and debt) universities and colleges. It was a way to cheaply, indirectly, creatively, and non-invasively finance colleges since federal officials promised to negotiate 10-year bank loans for students who were expected to pay the fees to fund schools.

The federal government covered undergraduates’ interest charges on loans while they studied but did not guarantee help with repayment. Only lenders received assurance that the government would repay them if a borrower defaulted.

Policy-makers never imagined the difficulty students would have paying back loans or how much fees would rise. Congress continued to approve new borrowing programmes, instead of giving direct support for schools.

In the 1970s, law-makers encouraged more bankers to participate in student loan programmes by easing their ability to buy and sell student debt. Financiers embraced the opportunity and even began to offer private unregulated student loans. Lenders could risk a student default since the loan programme guaranteed that a portion of loans would be repaid by government.

This student loan programme became an integral part of a profitable financial sector solely devoted to student lending that grew as voters and law-makers advocated tax breaks and federal spending limits. Now, the more than US$1.3tn owed is equivalent to roughly 6% of US gross domestic product (GDP).

Students and parents have clearly borne the brunt of almost four decades of subsidy cuts. Administrators often make up for revenue shortfalls through tuition hikes since undergraduates could easily get federal, state, and private loans for educational expenses. In fact tuition hikes rose far faster than federal lending maximums and average household incomes from the 1980s.

The only relief state and federal officials offered students came in the form of partial debt relief for students working in the public sector and tax breaks first passed in the late 1990s. Such help still disproportionately favoured the wealthy and also reduced state revenue. That money would have been better spent on direct higher education institutional funding to keep fees down.

The government also ended up repaying a lot of defaulted loans. Widespread under- and unemployment, periodic economic downturns, and stagnating wages for low- and middle-income Americans have left many borrowers unable to finish school and stand a chance of finding a good enough job to pay off debts. Some retirees have even found their pensions’ garnished to ensure repayment.

**CONCLUSION**

Americans have started to openly complain and even protest about unaffordable college fees, though not as forcefully and successfully as South African students. Many American activists recognise, like Bradlow and Webster, that someone has to pay for schools. But these Americans are now armed with the research that shows complicated ways of funding higher education have proven disastrous.

Academic freedom is now really in jeopardy from corporate donors who dictate what is to be studied and advocated. Moreover, complex assistance and financing schemes have ended up costing students, parents, and taxpayers more than the tax increases needed to underwrite universities.

As such, few American experts think real change or relief will come from the kind of ideas being suggested or tested in South Africa. Eighty years of similar well-intentioned ideas have left many universities and Americans cash-starved and indebted while fees have steadily soared, not fallen.

Elizabeth Shermer is an assistant professor of history at Loyola University Chicago. She is currently writing a history of the US student loan industry.
Islamic State terror
War without end?

Part 1: What is ISIL?

Battles for cities like Aleppo, Ramadi and Mosul have flashed across our TV screens. But what is Islamic State terror all about? Peter Hain, known to South Africans for waging an anti-apartheid sports boycott, turns his attention in this three-part Labour Bulletin series to the barbaric ISIL terror organisation.

Has the Middle East been engulfed in a war without end unleashed by the barbarism and terror of Islamic State or ISIL/DAESH? The region is beset by inter-nation, inter-Muslim and inter-ethnic conflict, with Russia and the United States of America (US) fighting together against ISIL, and supporting groups fighting each other on the ground.

ISIL’S BARBARISM
ISIL has executed thousands of Syrians, Iraqis and foreigners. It has sold women and children into sex slavery, crucified boys, and videoed a captured Jordanian airman while he was burnt alive trapped in a cage. Moments before their own executions, victims have been forced on camera to kiss the heads of the recently beheaded. Eyes have been gouged out of defeated enemies, and minority groups are hunted for sport according to eye-witnesses reporting to the United Nations Human Rights Council. Family members have reportedly been forced to eat the corpses of loved ones.

Acts of unspeakable brutality and terror like these are deliberate. It helps ISIL create the myth that it is all powerful. For most there is disbelief that human beings can behave in this way. ISIL groups have mounted attacks across the world, ‘industrialising martyrdom’ and ‘militarising suicide’. There is no end to ISIL inspired or organised suicide attacks across the world, such as in Manchester and London in mid-2017.

ISIL’s ignorant destruction of ancient objects and architecture
has demonstrated a disrespect for other cultures and an ignorance of its own culture. The Islamic world has lost its precious history to its sledge-hammers and crowbars, in territories rich in rare traces of former civilisations. We can find the origins of Islam, Christianity and Judaism in the deserts and mountains of the Middle East.

At one point it seemed that nothing could stop ISIL’s onslaught. But then, from September 2014, after the Iraqi government and the Kurdish authorities requested help from Britain, European nations and the US, assistance was at hand to resist ISIL’s advance. This saved minorities from extinction, and.

Kurdish Iraq was bolstered in its fight back. Nevertheless a seemingly never-ending cycle of war has intensified with the ancient city of Mosul now reduced to rubble, and Raqqa soon to be.

Last year’s brutal offensive by the Syrian Army, aided by Russian bombing, to drive ISIL out of Aleppo reduced this wonderful city of peaceful mixed religions to sectarian divisions and rubble. In the same way the Iraqi Army, with the help of US bombing, drove ISIL out of Ramadi between July 2015 and February 2016.

The Iraqi Army with US, British and Iranian support has retaken Mosul, Iraq’s second largest city. It had been under ISIL’s occupation since June 2014 when Iraqi troops underwent a humiliating retreat.

ISIL leader Abu Bakr al-Baghdadi then announced a new caliphate (an Islamic state) at the Great Mosque of al-Nuri and an end to the Iraq-Syria border. Russia claimed he was killed in the assault in June 2014 but this has not been confirmed. At the time in an act of defiance, ISIL blew up the 800-year-old Great Mosque with its famous leaning minaret.

**BUT WHAT IS ISIL?**

Although in 2014 ISIL seemed to spring from nowhere, its emergence from Al-Qaeda in Iraq to its current form had its origins in Syria. In 2011 Syria’s President Assad repressed, then unleashed a campaign of butchery against Syrian protestors peacefully demanding the democratic values of the Arab Spring.

ISIL contains many foreign fighters from across the Arab and Islamic world. But its leadership included several senior ex-Saddam Hussein army and intelligence officers of legendary cruelty. It was a powerful mix of extremist ideology and professional military expertise.

Yet within Iraq, when ISIL and ex-Saddam Sunni Baathist leadership came together, it was a marriage of convenience. This alliance soon deteriorated as ISIL aimed for an Islamic State stretching from Iraq to Syria and opposed keeping Iraqi borders.

By contrast, its Sunni Iraqi allies wanted to overthrow the Shia dominated government and regain Sunni supremacy which they lost when Sadaam was removed in
2003. The Iraqi Sunni’s favoured a semi-autonomous region, like the Kurds want.

ISIL is medieval both in its barbarism and in its fanatical religious zeal. But, at the same time, it is a product of a deep-seated disenfranchisement by Sunni dictators in the region. Unless this political problem is addressed, ISIL – and groups like it – will continue to feed off popular resentment.

According to US intelligence in September 2014, ISIL commanded between 20,000 and 31,500 fighters. Today its numbers have nearly halved from between 2,000 to 15,000 fighters in Iraq and Syria. At its height ISIL commanded a huge area of land the size of Britain straddling Syria and Iraq. It accounted for 40% of Iraqi wheat production, with around 6-million people living under its rule. Now its area of control has been hugely reduced.

ISIL’s members believe that the sole truth is possessed by the conservative Wahhabi sect dating from the 18th century within the Sunni strand of Islam.

ISIL labels non-Wahhabi Muslims, even fellow Sunnis, as apostates (non-believer or heretic) justifying their extermination and any other religious group blocking the way to its caliphate. It aims for an Islamic State, encompassing all Muslims and led by a caliph, or successor to the Prophet Mohammed. Consequently ISIL has a chilling certainty of its rightness.

Although the rise of a new caliphate has long been the stated aim of global Jihadi terrorist groups like Al-Qaeda, the extreme Wahhabism specific to ISIL makes them an even greater threat than Al-Qaeda. Jihadi see the world as a confrontation between their way of life and that of the West. This was reinforced by US President George W Bush who had a similar binary world view.

The hope that the Arab Spring could bring democracy and secularism in the region, has instead resulted in the collapse of several states that were allies of the West. This has left a power vacuum and the opportunity for Jihadis with deep anti-western aims to take the space and establish authoritarian control.

ISIL denies the existence of a border between Iraq and Syria, countries created from the Sykes-Picot agreement of 1916. This is an agreement that ISIL and Al-Qaeda believe was imposed on Arab tribes by imperialist ‘crusaders’.

The overwhelming majority of Muslims, Christians and Jews are not considered by ISIL as ‘people of the book’ that must be protected, but as infidels (non-believers). This justifies forced
**ACROSS THE GLOBE**

Conversions on pain of death. This is an ideology rejected by moderate Sunnis and by Muslims the world over.

For ISIL, fighting to establish the caliphate is mandated by divine law and should be achieved through physical, largely violent, means. Although its sacred duty to the caliphate may appear primarily anti-western, its real purpose is to conquer the Islamic region and defeat what it condemns as infidel Muslims.

**ISIL WORSE THAN AL-QAEDA**

The Global Terrorism Database states that ISIL is the most deadly terrorist group in numbers of fatalities ever recorded. Yet for a Sunni group, the main fatalities of their bloodlust have been other Sunnis. Indeed across the world, Sunni Muslim extremists of all types have killed more Sunni Muslims than westerners, Shia Muslims, or any other group.

Reports of ISIL’s barbarity usually come from their own press office. They publish an English language magazine called *Dabiq* which has detailed ISIL’s justification for the capture, enslavement, and sale of Yazidi women and children.

The degradation of women and children as a primary tool for creating terror defines ISIL and is a policy imposed from the top.

ISIL turns the clock back to slavery, having already sold 14-year-old girls into sexual slavery. Their social media posts project a category of ‘lesser humans’. For example: ‘Enslaving the families of the [infidels] and taking their women as concubines is a firmly established aspect of Sharia that if one were to deny or mock, he would be denying or mocking the verses of the Quran and the narrations of the Prophet.’

Unlike Al-Qaeda, ISIL has run a state in areas they have captured. It established courts, schools, and some welfare support for the elderly and infirm. This has brought some local people who are used to an unregulated, chaotic, violent power vacuum onto its side for a period.

Al-Qaeda is a secretive, cell-based and fragmented movement, while ISIL is highly centralised and highly vocal. ISIL supporters have successfully built up a brand which is strong, recognisable, clear and direct and ideal for recruiting, especially young disaffected people.

This is partly because ISIL runs an expert and highly effective social media campaign. ISIL fighters use Twitter and Facebook among other platforms to circulate images and videos of sectarian massacres. This creates hysteria before ISIL’s arrival in new towns and provinces.

By February 2015 ISIL controlled 46,000 Twitter accounts according to an analyst from the Brookings Institution. Hundreds, sometimes thousands of users, will repeatedly tweet an ISIL hashtag in order to get it trending. Global corporations hire social-media-marketing gurus to produce this scale of impact!

Aside from being the bloodiest, ISIL was also, allegedly, the world’s richest terrorist organisation. In 2014 it had reserves of over US$2bn according to British Intelligence. The money was a combination of illegal oil exports from refineries they controlled in Syria and Iraq, extorting non-Muslim Iraqi and Syrian protection money, and the theft of goods along their destructive path.

ISIL’s fighters are paid, another factor which has featured prominently in its recruitment material. The payment is a flat rate for themselves, for each wife and for each child, and payments are supposed to continue to the family if the fighter dies. A clear example of how ISIL emulates the functions of a state. All of these transactions are made in cash.

**Part 2 in the next SA Labour Bulletin will look at sectarian and geo-political divisions in the battle against Islamic State.**

Lord Peter Hain is a British anti-apartheid leader who spent his childhood in South Africa, was a British MP responsible for the Middle East, and a cabinet minister. He is currently a Visiting Professor at Wits Business School. His memoirs ‘Outside In’ were published in 2012.
Emma Mashinini was no ordinary person. A colleague Alan Fine remembers her fine and feisty qualities and gives us a glimpse of why the Commercial Catering & Allied Workers Union (Ccawusa) was feared by employers and won so much for workers, including their dignity.

Emma Mashinini, who passed away on 9 July 2017 aged 87, played a significant part in the development of South Africa’s contemporary trade union movement.

She was central in the founding of Cosatu (Congress of South African Trade Unions), and in many ways her role was unique. This was due to her independent perspectives. She was uncompromising in the pursuit of workers’ – and particularly women workers’ – rights. However she was never tied, and did not allow herself to be tied, to any particular ideological position or faction.

We can see this from her union career path, which she recorded in her autobiography Strikes have followed me all my life first published by Women’s Press in 1989 and republished in 2012 by Pan MacMillan.

NOT TIED TO ANY POSITION
She joined the National Union of Clothing Workers (NUCW) when a worker at the Henochsberg clothing factory in Johannesburg, and soon became a shop steward. The African NUCW was not a militant union as one of the first ‘parallel unions’ established by a whites-only ‘parent’ union with the right of veto. These black unions were supposed to be docile counterweights to the new militant unions which grew out of the 1973 Durban strikes. Yet Mashinini worked tirelessly to ensure workers’ dignity in the workplace.

She was approached in 1976 by the leadership of the National Union of Distributive Workers (NUDW) to establish a parallel union for African shopworkers. But this Commercial, Catering and Allied Workers’ Union (Ccawusa) did not follow the conventional parallel union path. This was partly due to the force of Mashinini’s personality. It was also because NUDW’s Witwatersrand operations were run by Morris Kagan, a long-time communist, part of the Joe Slovo generation of immigrants from the Baltic states. Mashinini always acknowledged the part he played in supporting the development of Ccawusa.

Unlike other parallel unions, she did not lead Ccawusa into the conservative Trade Union Council of South Africa, which later became Nactu (National Council of Trade Unions). Ccawusa was initially most closely associated with this group which also founded the National Union of Mineworkers (NUM).

However, as with the NUM, she and the union developed closer relationships with other independent, militant unions – most notably the Food and Canning Workers’ Union (FCWU). They would later join the Federation of SA Trade Unions (Fosatu) which went into Cosatu a few years later. With the assistance of the FCWU and its leader Oscar Mpetha a Cape Town branch of Ccawusa was established.

UNKNOWN ROLE IN BLACK MUNICIPAL UNION
Mashinini also played a brief but critical role that has never before been documented in the development of the Black Municipal Workers Union, BMWU, another parallel union. It revolted against its parent union Tucsa, and brought Johannesburg to standstill in July 1980 when 10,000 workers
Emma Mashinini, who passed away on 9 July 2017 aged 87, played a significant part in the development of South Africa’s contemporary trade union movement. She was central in the founding of Cosatu, and in many ways her role was unique.

staged one of the biggest strikes by black workers South Africa had experienced at that time. Led by Joseph Mavi, it was disowned by its parent union, many of its leaders had been arrested, and it lacked financial and other resources.

Mashinini was travelling to Botswana at the time to a meeting of the International Union of Food and Allied Workers to which Ccawusa was affiliated. While there she made contact with Jeanette Schoon, an official of the ANC’s union wing, the SA Congress of Trade Unions (Sactu). She was given a briefcase full of R10 notes that she smuggled through customs and handed to Mavi on return to Johannesburg. The cash helped to grow the union that became a significant part of the SA Municipal Workers’ Union (Samwu) after the formation of Cosatu.

DETENTION & UNION POWER
In late 1981 Mashinini was detained under the Terrorism Act, part of a swoop on over 40 of the Indian and white Left and the non-affiliated, politically committed unions. Among the detainees was FCWU’s Neil Aggett with whom Mashinini had a close relationship and who died in detention three months later. Also detained was Alan Fine (the writer) who had worked with Mashinini for almost four years.

The six months of detention and security police interrogation caused Mashinini severe psychological trauma. Indeed, she was persuaded by a close friend Betty Wolpert to write her book as a form of therapy.

After her release and a period of treatment, Mashinini returned to lead Ccawusa. Within about eight years, Ccawusa had grown from an idea to a union of some 80,000 members. It represented the majority of workers in the major retail and wholesale chain stores. It staged recognition strikes at almost every one (other than Pick ‘n Pay which recognised the union and granted access and stop orders from the outset).

There followed large-scale collective wage and other bargaining in the sector, with the union testing its power, and displaying the extent of that power to employers.

WHAT DROVE MASHININI?
If Mashinini’s ideas and actions were not based on one of the political ideologies of the day, what were they based on?

Union officials and leadership covered a wide swathe of ideologies. There were Congress movement supporters and Black Consciousness and PAC-leaning groups. For a long time she held the show together. She did this by demanding that officials were organisationally effective and strategically sensible and would advance the interests of members. She had no time for sloppy work, unpunctuality, thoughtlessness or failing to service members effectively. This was more important than pursuing an ideological position.

Essentially, her focus was dignity. Her own dignity was critical to her. This is why she found the indignity of detention, and of being under the control of the security police in 1981/2 so difficult to handle.

But it was not only her own dignity that mattered. It was the dignity of all people, and particularly the dignity of the workers she represented. And she fought for that dignity with remarkable wisdom.

She exercised wisdom with subtlety. Not for her, at the outset of negotiations, heavy-handed radical rhetoric. She spoke calmly and deliberately, often intentionally trying advantage of her adversaries’ prejudices, leaving them confused and forcing them to think about the agenda she pursued. She accepted that if they couldn’t see reason through verbal persuasion, there was always the last resort of organised workers. This Ccawusa used often and effectively.

And this is why, again using subtle wisdom and humour, she titled her autobiography, Strikes have followed me all my life.

IMPORTANCE IN COSATU’S FORMATION
Mashinini and Ccawusa became important cogs in the process leading to the formation of Cosatu. Ccawusa was often asked to chair and host meetings of the feasibility committee through which unity was developed to make Cosatu possible. Both of the main protagonists – the ‘workersists’ and the ‘populists’ trusted her and the union as honest brokers.

In recent years I made a point, whenever possible, to take along young colleagues to meet her when she and I went out for our regular lunches. Without exception every person was bowled over by her. Each would say what a privilege it was to meet her and how much they had learned. As it has been for those of us who were fortunate enough to know her.

By the end, like many of that generation, she became troubled by the instability in the union movement and the corruption in government. The current generation could well emulate her wisdom and integrity.

Alan Fine worked with Emma Mashinini at the Commercial Catering & Allied Workers Union (Ccawusa) between 1978 and 1984.
Some Emma Mashinini quotes

Cawusa sometimes worked with Fosatu (Federation of South African Trade Unions), but did not join it:

“We weren’t tempted to federate with them because the Fosatu leadership was dominated by white intellectuals, and although we valued the support of its unions we did not want to be swallowed up by their way of thinking ... Black people were emerging as leaders and capable of doing things that were done for them in the past.”

On the launch of the Commercial Catering & Allied Workers Union (Ccawusa):

“... 300 workers packed into the hall like small sardines. You could feel the excitement in the air ... We elected Mr Rampeba from Checkers as chairperson ... I was elected organising secretary. The treasurer was a woman, Mrs Nkomo, from OK Bazaars. In between speakers, workers sang songs. I particularly remember one of the songs ‘Ccawusa yethu si yo ilandela – Asijiki! (We will follow Ccawusa wherever it leads us – We will not turn back). The song proved to be so true – workers in the commercial and catering industry never turned back.”

Women were important in unionising the shopfloor even if often opposed by male partners:

“... a certain gentleman walks in. ‘I’ve come to enquire about my wife who wrote to you six months ago that she wants to resign from the union. But each time I look at her payslip there’s a union deduction on it.” But neither I or my colleague could remember receiving this letter. Now what clearly dawned on me is this. The lady wants to be a union member but her husband objects. And this lady just to protect herself, must have said, ‘I’ve written a letter and they continue. “So who doesn’t want to be a union member? It is the man.”

For Mashinini the union: “Opened my eyes and made me strong. It was not just me but “us”. I see people as equals however powerful.”

Mashinini saw that some men were reluctant to elect women leaders but also women held back:

“Up until a year ago there were equal numbers of men and women on our executive but we had our elections and now there are eight men and four women. But who’s responsible for that? It’s the women themselves. I don’t know why. It’s the women who will always elect a man.”

Some see trade unions as having limited political goals with a narrow concern with money but Mashinini pointed out: “The money is important, and we should never forget that, much as we might be fighting for injustices and claiming human rights for each and every black person. The money must always be seen as a part of that injustice, and that right. Equality is important. And the money stands for that.”
IN THE PAST

Review

Apartheid Museum Special Exhibition
Resistance in their Blood: The Naidoo-Pillay family: pacifists, protestors, prisoners, patriots

Reviewed by Kally Forrest

A special exhibition at the Apartheid Museum in Johannesburg, pays tribute to the contribution of two astonishing South African Indian families in the struggle against apartheid – the Naidoos and the Pillays. Their struggle reaches far back into the 1800s – a fact we tend to forget when confronted with the immense violence of the dying days of the apartheid state.

These families’ histories, interlinked by marriage, remind us that apartheid’s defeat took over a hundred years. It was waged by different fractions of the oppressed in a multifaceted way against different authorities, laws, dispossession and gross exploitation. What is remarkable is that these families were present at every stage of this long struggle.

Their rich lives allow us to glimpse beyond the family into the lived experiences of South African Indians, and how over the generations they began to engage directly with South African national non-racial struggles.

**THAMBI NAIDOO – FIGHTER FOR INDIAN RIGHTS**

The story begins in South Africa in the 1880s with the marriage of Veeremal Pillay and Thambi Naidoo who lived at the time of the mass arrivals of Indian indentured labour to work in the Natal sugar fields. They were visited by Mahandas Gandhi and Thambi was greatly influenced by his philosophy of satyagraha, a form of non-violent resistance meaning ‘holding onto truth’.

Thambi fought the discrimination against Indian traders in favour of Europeans which he experienced in places like the Newtown Market in Johannesburg. His outraged sense of justice led him to take direct action, not once but on multiple occasions and he was frequently imprisoned and severely beaten.

His whole family were drawn into protest over issues like the three pound tax on indentured labourers and he was able to mobilise large numbers against unjust colonial laws.

**MOVING INTO A NON-RACIAL STRUGGLE**

The next generation carried the same fighting spirit but expressed this through more formal structures. Roy Naidoo, for example, was active in the trade union movement, deputy president of the Natal Indian Congress and a communist party member.

This period marks the start of a non-racial struggle as Roy and other family members, notably his wife, Ama, linked up with members of other classes and races.

They engaged fiercely in the Indian Passive Resistance Campaign including demanding the vote for Indians and the repeal of segregationist laws. They continued Gandhi’s tradition of non-violent resistance, and their struggle tactics became more militant.

The Naidoo and Pillay families protested and were arrested and imprisoned in the first non-racial 1952 Defiance Campaign, spearheaded by the ANC and the...
South African Indian Congress. Thousands defied apartheid laws and moving images of these families’ involvement testify to their yearning for a shared, non-racial South Africa.

SATYAGRAHA GIVES WAY TO VIOLENCE
The next generation carried the families’ resistance into an era of mass struggle in which South Africa was engulfed. Some in the family abandoned the satyagraha tradition and joined the ANC’s Umkhonto we Sizwe with heavy cost. Indres Naidoo, an early MK recruit, was shot, arrested, tortured and imprisoned for 10 years after blowing up a railway signal box in the veld outside Johannesburg.

Their commitment to freedom took a huge toll on these families which at times fractured and were separated in the period between 1960 and 1990. Throughout these decades its members suffered incarceration for defying, protesting and resisting draconian laws, and at times complete lawlessness. This is so persistent that one diagram in the exhibition is dedicated to listing the families’ different periods of detention.

Family members were also forced into exile and lived with one foot in the host country and another in the country of their birth. Children impacted by these upheavals were automatically pulled into family protest activity, and some later entered the anti-apartheid struggle in exile themselves.

POWERFUL WOMEN
What is striking about all the generations in these families is the active role of women. They are not bystanders who passively support their men in struggle but take strong, strident, well considered positions and expose themselves to considerable danger. They march in pregnancy, carry anti-apartheid placards across the world, are arrested, imprisoned and forced to abandon their children.

These women reconcile this activism with a more traditional nurturing role, so during the 1959 treason trial they cook abundant food to serve up to trialists during breaks. Lending support for them was also about ensuring creature comforts to keep strong bonds of solidarity alive.

Their homes seemed to be eternally open to visitors, friends, discussion and a refuge from the hostile political world outside. This generosity was something that Gandhi remarked upon.

CONCLUSION
This review is inevitably sketchy and very few courageous family members have been highlighted. However, throughout the exhibition their warmth, integrity, mutual support, hospitality, love of food and life shine through.

This is accompanied by genuine non-racial friendships in struggle and in their social lives. Their struggle is a response to oppression they see around them and the solidarity bonds this creates, and not a commitment to cold ideological positions.

Strong text and images support this narrative. Careful research has
unearthed some wonderful images of people, places and protests. Quotes from literary and political figures lend a universal quality to their struggles such as, ‘I slept and dreamt that life was joy. I awoke and saw that life was service. I acted and behold, service was joy’ (Rabindranath Tagore) or ‘Exile is a dream of a glorious return. It is an endless paradox: looking forward but always looking back’ (Salman Rushdie).

Quotes from family members themselves also bring their voices into the exhibition room and imbue the observer with a kind of awe for these families. The exhibition is a powerful reminder that a truly non-racial struggle lived in all its forms at one point in South Africa. This is a fact we may forget in the nationalist Africanist history narrative that predominates in daily life in present-day South Africa.

The hope is that someone will write a book and take this exhibition forward. It is in the nature of an exhibition that it is fragmentary and can only give a taste of the subject at hand. Gaps and question marks remain. This is sometimes due to a lack of historical knowledge but is also due to the brevity of a museum display which unlike a book cannot give more extensive explanations. But this exhibition is certainly a wonderful start.

Ramnie Naidoo (centre) at a demonstration in London outside South Africa House in the 1970s. Dulcie September (later assassinated) is on her left. Naidoo Family Collection/Liliesleaf

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