



Centre for
**CONSTITUTIONAL
RIGHTS**

*Strengthening the Relative Rights of
Farm Workers: An Analysis*

Phephelaphi Dube
20 June 2014, Muldersdrift

Centre for Constitutional Rights

- Unit of FW de Klerk Foundation – a non-profit organisation dedicated to upholding the Constitution, the rule of law and constitutional democracy.
- Seeks to promote all values, rights and principles provided for in the Constitution on behalf of everyone.
- Monitors developments, including actions, policy and draft legislation, that might affect the Constitution and the values, rights or principles provided therein.
- Informs people and organisations of their constitutional rights and assists them in claiming those rights.

Introduction

- Aims of paper
- Why equity and not land?
- How far can the right to fair labour practice be extended?
- Is this in line with the Constitution?

Background

- Living conditions in Commercial Farming Areas
 - destitution
 - low literacy levels
 - low income levels
 - mass evictions etc
- Why the need for new policy
 - balancing interests of owners against farm-workers

Why Equity and not Land?

- Farmer cedes 50% ownership to workers
- Depending on length of service, workers acquire equity shares in the farm
 - 10 years – receive 10% of workers half of business, that is, 5% shared amongst however many workers there are
 - 25 years get 25% of the workers half i.e, 12, 5%
 - Less than 10 years work are not included

Why Equity and Not Land?

- What use is 50% equity share?
- Can DL&RD afford it?
- Does equity share play a role in socio-economic advancement?
- Are share equity schemes feasible – eg Solms Delta Wine Farm

The Right to Fair Labour Practice?

- Section 23 (1) of the Constitution:
 - Everyone has the right to fair labour practices.
- What does this right entail?
- *National Education Health & Allied Workers Union v University of Cape Town & Others (2003) 24 ILJ 95 (CC)*

Is the policy in line with the Constitution?

- The policy states that sections 25, 26, 27, and 36 are the key considerations
- Section 25: property clause – balances interests of existing property owners against the interests of the society as a whole
- Section 26 : the right to access adequate housing
- Section 27 : the right to access healthcare, food, water and social security.

Recommendations

- Strengthening of existing legislation *viz.* Extension of Tenure Security Act.
- Inclusion of farm workers in other land reform branches eg land redistribution.
- Impracticality of policy might impact food security.

Thank you

Phephelaphi Dube

Legal Officer

www.cfcr.org.za / @theCFCR

Promoting and upholding the Constitution



Centre for
CONSTITUTIONAL
RIGHTS