

# **Submission by COSATU on Debt Relief 2016**

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**Submitted to:**

**Portfolio Committee on Trade and Industry  
National Assembly  
Republic of South Africa**

## **1. COSATU Welcomes the Portfolio Committee's Trade and Industry's Efforts to Provide Debt Relief**

COSATU welcomes and appreciates the Portfolio Committee's efforts to find ways to provide debt relief for the poor and highly indebted.

Whilst Parliament and government have made significant progress in tightening our credit, consumer and financial sector oversight legislation over the past 22 years and in particular since 2013, much more remains to be done. The majority of South African working and middle class families are highly indebted. All too often consumers face abusive, exorbitant and exploitative charges by both the regulated and unregulated lenders. Despite our many progressive laws, the reality on the ground is often far removed from these progressive laws due to non-enforcement by government departments.

COSATU proposes the below categories of persons and areas of intervention by government to provide further relief.

## **2. Proposed Eligible Categories**

Whilst everyone would like debt relief, COSATU appreciates that this is not possible or practical. Any debt relief needs to target the most vulnerable, impoverished and exploited. There are several legally defined categories of such persons that COSATU believes desperately need to be targeted and prioritised for any possible debt relief. These should include:

### **2.1 Retrenched workers**

Many, if not most, loans do not have retrenchment insurance. The average worker takes about 2 years to find alternative employment after losing their job.

### **2.2 Social grant recipients**

Social grant recipients receive far too little money to survive let alone repay their debts.

### **2.3 Persons classified as indigent by municipalities and below the income tax threshold**

Municipalities classify social grant recipients, the unemployed and the extremely poor as being eligible for reduced municipal tariffs. This is a progressive policy to help the poorest and most vulnerable. This category should also be utilised for debt relief.

### **2.4 Highly indebted working and middle class students with student loans**

The recent crises at our universities have highlighted the massive student debt burdens facing working and middle class students. This is not a unique phenomenon affecting South Africa alone, but also more developed countries like the United States as well.

## **2.5 Home, car, small business and farm loan holders who have paid off a large portion of their loans and fallen in arrears due to retrenchments, financial emergencies etc.**

All too often families lose their homes and cars when they fall into a financial crisis. Despite having paid off the bulk of their loans and amounts equal to the value of their home, car or small business; they are repossessed by banks when they fall into arrears and auctioned off for amounts far below their value.

Often reports emerge of collusion between bank officials, auctioneers and the persons buying the property who later sell it at a higher price for a profit. In the meantime the family is left destitute, homeless or without their car or small business and black listed.

## **2.6 Persons who have been victims of illegal or reckless lending**

Persons who have been victims of illegal lending, claims and reckless lending should be considered for debt relief as all too often they did not understand what they were consenting too, their ineligibility for the loan was ignored by the lender, their desperation was illegally exploited or they were simply robbed and their ignorance taken advantage of.

## **3. Areas for Intervention**

Government has made numerous progressive policy interventions to seek to assist vulnerable and highly indebted consumers. However based upon the experience of workers, COSATU believes that there is an urgent need for further intervention by government. Areas needing intervention that COSATU would like to bring to the attention for the Committee include:

### **3.1 Debt Cancellation**

Debt cancellation should be pursued for consumers who have been the victims of grossly negligent reckless lending and in particular who have been the victims of grossly exploitative lending that was in clear violation of the law, charged interest rate payments far in excess of what is legally allowed, charged administrative charges that were nothing less than fraud and theft etc. In cases of criminal lending, reimbursements of excessive charges and fraudulent deductions should be provided and credit records cleared.

### **3.2 Debt Relief**

Debt relief should be provided for indigent consumers who are clearly not able to manage. In addition to possible debt right offs, provision should be provided for in law for highly indebted indigent consumers to appeal for extensions in their loan repayment periods and reductions in the interest rates and administrative charges charged to them.

Mechanisms for such appeals should be provided for in law compelling all credit lenders to consider such appeals from consumers. Further provisions should be made to allow consumers to appeal for assistance from the National Consumer Tribunal and Credit Regulator to intervene and provide binding orders where lenders fail to assist consumers applying for debt relief.

### **3.3 Student Loans**

Particular attention needs to be provided for working and middle class students battling with unaffordable student loans. Their periods to repay and interest charged should be reduced. Caps should also be placed upon how much universities etc. can charge students.

### **3.4 Home, Car, Small Businesses and Small Farms' Loans**

Specific intervention is needed with regards to consumers who default on their home, car and small business and farm loans. Whilst not condoning consumers who maliciously neglect their loans, action is needed to help thousands of consumers who have continuously paid their home, car and small business loans for years but then fall into arrears due to retrenchments, family emergencies etc. Frequently their homes, cars, small businesses and farms are then repossessed. Often these consumers have already paid for the actual value of their property and are left with a small portion of the loan outstanding.

Banks are far too fast in repossessing and auctioning off these properties. This has a devastating impact upon these consumers and their families who are now left homeless or without transport or their means of earning an income. Many of these properties are then sold for the balance of the loans outstanding and far less than their real value. All too often these have involved collusion between the bank officials, auctioneers and the persons buying the property at the auction. Shortly afterwards these properties are then resold for a profit.

Intervention is needed to stop these inhumane practices. The repossession of homes, businesses and farms should not simply be left to banks to decide. They should require the approval of a higher authority e.g. the National Consumer Tribunal. Consumers should be allowed to appeal to the NCT for an extension in the credit loan period, temporary suspension of payments if retrenched or a reduction in interest charges.

### **3.5 Interest Rates**

Banks base their lending rates upon the interest rate level set by the South African Reserve Bank. Whilst the SARB is mandated to guard against inflation, ensure financial stability etc., it should also be engaged to assist consumers and the economy at large battling high levels of indebtedness. Many of the SARB's actions, e.g. interest hikes, have managed to keep inflation under the 6% target level, but they have done so at the expense of consumers struggling to cope with increasing debt levels. To add salt to the wounds, the main beneficiaries of these repeated interest rate hikes, have been the commercial banks who have seen the profit levels instantly jump with each hike.

Assisting consumers with affordable interest rate levels and avoiding unnecessary repeated interest rate hikes needs to be part of the SARB's mandate as well.

### **3.6 Lending Institutions**

Government needs to crack down on unlicensed unscrupulous money lenders who have thrived off exploiting the desperation of the poor with reckless lending practices. Loan sharks of the type seen at Marikana simply need to be banned. Government needs to strengthen its capacity to enforce the many progressive credit laws on the ground. Simply put these kinds of loan sharks need to be put out of business.

Commercial banks need to play their role. They need to be more accessible towards consumers. Frequently they make it impossible for poor consumers to access credit and hence the flight towards loan sharks who do not have such stringent credit requirements.

To make matters worse one large commercial bank owns a major credit lender which targets consumers who cannot access credit from commercial banks.

Banks need to be forced to end their anti-competitive collusion. Capitalism is supposedly based upon competition and supply and demand. Yet our banking industry is one based upon price collusion and monopolies. These unfair banking practices need to be broken up and consumers be allowed to benefit from actual competition and competitive pricing between banks.

Banks need to be seen to be patriotic. Banks make obscene levels of profit of the backs of highly indebted consumers. Yet these same banks have retrenched 1000s of poorly paid workers over the past few years. They have increasingly outsourced key banking functions, e.g. call centres, at the expense of workers' wages and job security. At the same time the CEOs of our banks are paid exorbitant salaries, same as high as R30 million per annum. Banks must end these retrenchments, outsourcing and excessive profiteering. Bank managers must reduce the massive wage gaps in the banking sector.

### **3.7 State Bank**

The state needs to act with speed with regards to its long awaited and promised state bank. A post bank would be an ideal vehicle for government to provide affordable credit to the poor. This would help consumers with manageable credit levels and be a lifeline for the post office. It could further generate funds for infrastructure and developmental purposes.

### **3.8 Consumer Education**

Many consumers, court officials, human resource practitioners and banking staff are not aware of the recent progressive changes to our credit and consumer legislation.

Frequently consumers lack sufficient knowledge to give meaningful consent to lending agreements or court judgments.

Courts remain inaccessible and intimidating for most working class consumers.

Consumers are frequently not provided with legal representation or assistance when appearing before court. They are often intimidated, ill informed and misled with regards to their rights.

Consumers are often misled with regards to applications for debt consolidation leading to being placed under debt administration.

Court officials and human resource practitioners are often still unaware of what the law allows with regards to garnishee orders. More work will need to be done with the pending Courts and Debt Collectors Amendment Bills.

#### **4. Conclusion**

COSATU appreciates the Portfolio Committee's efforts to assist the most highly indebted and to in particular pursue badly needed debt relief. COSATU welcomes the various progressive legislative interventions that Parliament and government have adopted in the past few years. More needs to be done. Such interventions should target the poorest of the poor, especially retrenched workers, social grant recipients, students, the indigent and others badly in need of help. Legislation and administrative action is needed to provide for debt cancellation and relief, reduce interest rates, a state bank, ensure commercial banks are accessible, shut down loan sharks, change our banking culture and educate the public about their consumer rights.

COSATU would like to thank the committee for the chance to share its thoughts and suggestions on this important matter. We hope that our contributions will assist the committee in its important work.



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