



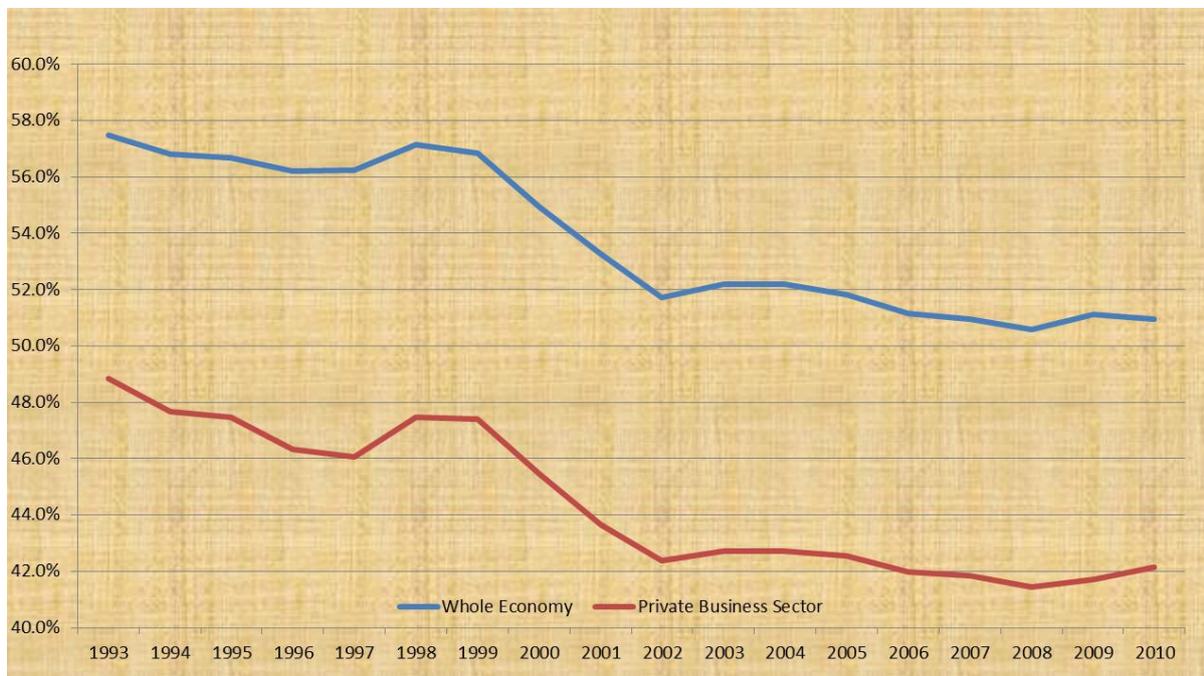
NUMSA submissions to the Portfolio Committee on Labour on the National Minimum Wage Bill; LRA Amendment Bill, The Accord and Basic Conditions of Employment Amendment Act (BCEA) Bill

16 March, 2018

INTRODUCTION

For more than two decades the workers share of the National Income has been going down and the legacy of Apartheid continues. All hard won gains secured during the dark days of Apartheid have been under attack.

**Falling wage share of GDP in SA since 1994, Remember $W+P = GDP$:
Which is the whole national income
'Imveliso Isizwe lyonke'**



Source: Forslund, D (2012)

It is important to state that since the Union of 1910 between English and Afrikaner Capital, South Africa's Capital accumulation strategy has been at the back of the super exploitation of Black and African labour.

The very formation of the ANC in 1912 was to challenge this super exploitation, but fundamentally it was to deal with the class question, which was a struggle to ensure that Black people in general, and Africans in particular form part of ownership and control of the economy, as the only fundamental mechanism to change relations of production and to uproot and destroy the racist structure of the economy in order to defeat racism in the country. And do away with the centralization and concentration of wealth in the hands of White Monopoly Capital in the country.

NUMSA wants it to be on record that for the past two decades the structure of the South African economy, under the ANC government has not changed. In fact, the conditions of the Working class and their families have worsened back to Apartheid fault lines, and we view the current amendments, as nothing less than a right wing political onslaught which can be compared to Margaret Thatcher's attack on the working class in Britain.

The following are the experiences of the working class, which unfortunately the current amendments and bills are worsening.

1. The adoption of the Washington Consensus by the ANC as well as all neo-liberal policies such as GEAR which liberalised trade, removed exchange controls, maintained high interest rates, as well as the hot pursuit of inflation targeting by the Reserve Bank, led to plant closures and caused serious levels of de-industrialisation. The working class has been on the receiving end in terms of job losses.
2. All of this has been pursued in the context of globalisation which was presented as a panacea within a gospel that says 'government has no business in business.' Basically doing two things: it prevented the democratic state from intervening in the economy, on behalf of the working class and the poor. But at the same time, it hollowed out the capacity of the state, replacing it with tenders that have destroyed the capacity of the state to create quality jobs that are paying a living wage. And what we ripped out of tenders, which NUMSA demands that we must do away with, is potholes and corruption.
3. At the point of production, companies adopted a Japanese lean production process which was a tool to restructure the workplace. This led to an increase in the work load. Workers are overloaded and this is called multi-skilling.
4. They attack the hard won gains of workers through outsourcing of what they call non-core production. They casualize workers; they introduce contract

work where permanence in jobs is completely undermined, and workers are subjected to precarious conditions, such as labour brokering

5. The government has refused to ban labour brokers, instead it decided to regulate them, and the precarious nature and exploitation that is experienced by workers continues. NUMSA took this to court and won at the Labour Appeals Court last year. However, employers still took this to the Constitutional court on review. We are waiting for an outcome from the court on this. But this is another example where government failed workers. Instead of banning labour brokers they regulated it and workers continue to suffer gross exploitation in the industry.
6. South Africa continues to lead globally in terms of inequality. The gap between ordinary workers and CEO's in 2010 was 1728 times and it has worsened since then. Furthermore Oxfam confirmed in the 2018 report that eighty- two per cent of the wealth generated last year went to the richest one per cent of the global population, *while the 3.7 billion people who make up the poorest half of the world saw no increase in their wealth.*
7. The macro-economic policies and the NDP that have been pursued by the ANC government have failed in the past two decades to stimulate economic growth. In fact the whole Washington Consensus has been globally discredited as it has caused a deep capitalist global crisis. In our country this has led to economic recession, and all of these policies have led to the country being downgraded, and it has worsened the conditions of the working class. This has led to plant closures, massive retrenchments and in South Africa, for every person who has a job, that person supports 3-7 extended family members on their pay check. Workers continue to be victims of the Apartheid colonial wage, spending at least 40 per cent of their wages on public transport.

It is against this background that NUMSA views the current Labour Amendment Bills, (NMW Bill, BCEA Bill and the LRA amendment Bill) as not just a declaration of war and an attack against the working class, but as a device to worsen the conditions of organised labour and the working class in general. Therefore NUMSA rejects the amendments to the Labour bills.

Below is our submission on balloting before a strike:

1. NUMSA rejects that the ANC government led by the Department of Labour (DOL) should tamper with the constitutional right to strike. The introduction of balloting before a strike is nothing else but an imposition on the limitation on the right to strike. We are calling on the ANC government to stop this vicious

attack against workers. This was a product of bitter battles against a racist Nationalist Party regime, and many workers died to secure such a victory.

2. As NUMSA we want to be on record that we view this as a declaration of war. We are left with no choice but to resist and to fight back, and we will leave no stone unturned in defending and protecting the constitutional right to strike.
3. The government must abandon all their efforts to put limitations on the right to strike, including the unconstitutional requirement to take a ballot before workers can embark on a strike.

NUMSA responds on the objectives of the Accord on Collective Bargaining and Industrial Action of Good Practice.

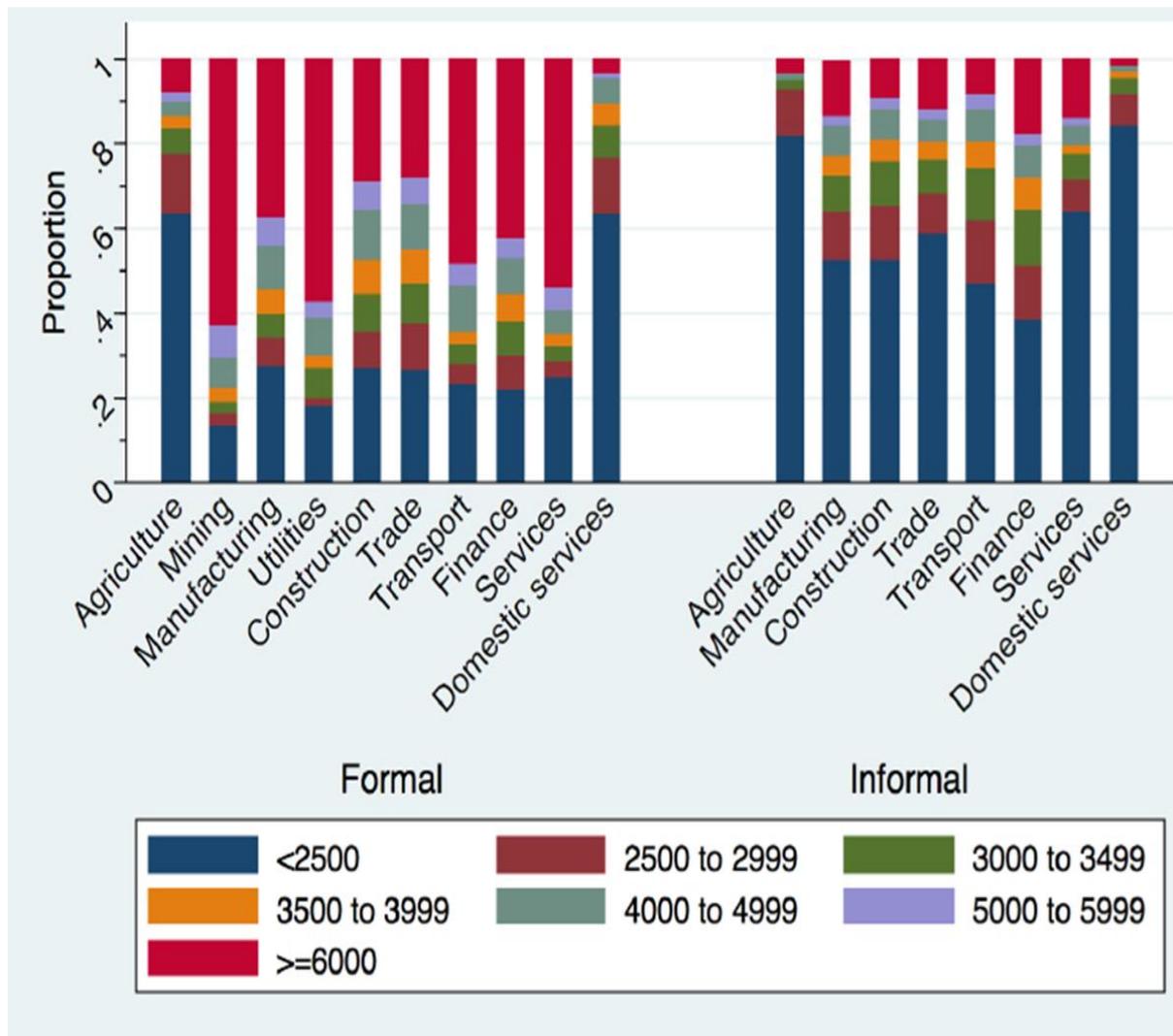
1. NUMSA has always maintained its working class ideological clarity that post-1994 corporatism regimes such as the Labour Relations Act and NEDLAC have been a good device to demobilise the working class. These structures have also been used to co-opt the working class leadership, which is not vigilant. They have become institutions that are there to promote class harmony in a class divided society. NUMSA is warning government, business, and co-opted leaders of trade union federations that workers are not fooled. They can see this class collaboration agenda, which is embedded as an objective in this Accord, and we reject it with the contempt it deserves.
2. We reject the Accord on Collective Bargaining and Industrial Action Code of Good Practice on the grounds that it places the blame for violence during strikes on workers. It is based on the racist assumption that African workers are violent, but it does not acknowledge the brutality of the capitalist system on the working class and the role it plays in brutalizing the working class and the poor. In essence the Code blames workers who are victims of a violent capitalist system, the same way some sectors of society blame women for being victims of rape.
3. For the past two decades, we had strikes where both business and labour discussed picketing rules that constitute a Code of Good Practice during a strike. As NUMSA, we see absolutely no role in the need for police during a strike. During the strike the police must keep their distance. Our experience has been that where the police get involved, as they did in Marikana, the workers are brutally massacred. In fact, in most instances the police are often the reason that strikes become violent.

4. NUMSA is extremely irritated and angered that the ANC government has the guts to take away the constitutional right to strike, which is the last weapon that workers can use to defend themselves against conservative and brutal employers. The right to strike has been used to improve the benefits and conditions of workers. It is a tool to uproot the Apartheid colonial wage, and eradicate the super-exploitation of workers which continues unabated in the South African economy. The very same ANC simultaneously with attacking the constitutional right to strike, is imposing and setting a terrible precedent in the interests of untransformed, racist employers by imposing a fake so-called National Minimum Wage (NMW) which is an insult to the majority of workers who are super-exploited and oppressed across all sectors of the economy. Capitalism in South Africa grew and thrived off the back of the super-exploitation of Black and African labour. There was conscious decision that African labour can never be part of owning the economy. Their role is to build the economy they continue to be paid starvation wages even today. They will not be paid a living wage so that their dignity can be restored.
5. The workplace in two decades of our democracy remains completely untransformed and undemocratic. It is Black and African workers who deliver quality competitive production, through sweat and toil. Workers in the mines, in the construction sector, in small SMME's which are extremely profitable continue to be paid starvation wages. This is the real reason workers in Marikana died with their boots on and got massacred by the state. They were furthering the aims of the volunteers who assembled in Kliptown in 1955 to develop the Freedom Charter, which made clarion call and demanded that there shall be a national minimum wage. The struggle for a minimum wage was a struggle to end economic exploitation and in our case, to do away with super exploitation of black and African labour by introducing a minimum wage which is a living wage. Its purpose is to restore dignity of the immense majority who are economically marginalised and dispossessed.
6. It is NUMSA's submission that the ANC government has failed to address this very important demand of the Freedom Charter. We refuse to be hoodwinked by the Minister of Labour who is using sectoral determination to address the plight of vulnerable workers by defining the improvements to this group of workers as a national minimum wage. A wage of R11 per hour for EPWP workers, R18 per hour for farm workers, R15 per hour for domestic workers and then R20 per hour for the rest of the economy is not a National Minimum Wage.

7. Rather than offer farm workers the incredibly insulting R18/hour “Minimum Wage”, government must put together measures which must restore the dignity of farm workers first and advance a genuine National Minimum Wage for this sector. Such measures must include the following:
 - a. Farm workers must own land.
 - b. Farm workers right to form, join and organise into trade unions must be fully protected, and special measures must be undertaken by the government to monitor this right.

Any National Minimum Wage for farm workers must take into account the full cost of production of the life of farm workers and their families. Such a determination must take into account variables such as the cost of food, water, clothes, housing, education, leisure, health, and so on. The aim must be to restore the humanity of farm workers.

8. The following graph reflects this bleak picture:



Source: Own calculations from LMDSA 2014 dataset.

Source: Lotta Takala-Greenish and Maphefo Sipula

This graph demonstrates the extremely low wages of workers across all sectors:

- They earn substantially less, and have higher levels of low-wage persistence.
- They are less likely to transition to high-wage work
- In agriculture over 82% and in domestic services 87% of workers working a minimum of 35 hours/week earn less than R3000
- High proportions earning below the poverty line in agriculture (89.6%), domestic services (95.16%) and trade (60.23%).

9. It is NUMSA's submission that the ANC government is not just attacking workers by introducing the national minimum wage, but it has decided to take side with the vicious, ruthless Bosses who have been attacking all the hard won gains of workers. Such a move sets a good precedent in the interests of the bosses who have been demanding a downward variation of conditions. This time around, they have on their side a democratically elected government speaking unequivocally, stating that black and African workers deserve to be paid R20 per hour and less. Last year during the Engineering Wage talks the impact of this was made clear. Employers tried to impose the NMW of R20 per hour as a minimum rate in the sector, after we have successfully fought for a rate of R43 per hour. Furthermore, there is nothing in the law to prevent employers from embarking on mass retrenchments, so they can begin hiring staff at a lower rate.

10. If the ANC government was serious about introduction a national minimum wage, they would have gone sector by sector, company by company, mine by mine, factory by factory, and demanded full disclosure of annual financial profits and the actual disclosure of salaries and bonuses of CEOs versus the wages of ordinary workers. It is only in the theatre of those results that a fair national minimum wage can be determined in South Africa. In light of the ANC government refusing to take such a step workers and revolutionary unions who are determined to end economic exploitation have no choice but to pursue class struggle for a real national minimum wage. In the immediate, NUMSA is demanding that the ANC government should embark on calling on the above financial disclosure in order to determine a living wage. What we can tolerate in the meantime, which does not necessarily qualify as living wage, is R12 500.00. If they expect us to go company by company to ballot, then we expect them to go company by company to do proper research on how much profit each company is making.

Challenges in Collective Bargaining

Collective Bargaining Councils such as MEIBC and MIBCO are under attack. A particular group of employers led by NEASA and the RMI are doing everything to sabotage the extension of agreements. They frequently go to court to prevent workers from getting wage increases. These individual groups of employers who form part of these associations, approach the CCMA to re-demarcate themselves to a bargaining council that pays starvation wages as a minimum rate. What is surprising is that NEDLAC is collaborating with this agenda. Bargaining councils are determined by where the final product ends up, and not on process. For example, manufacturing of glass traditionally belonged to the Chemical Bargain Council. But because that glass ends up in a car, the company can register with a bargaining

council of component suppliers like MIBCO. This is done so companies can pay workers low wages.

Section 32 Amendments

NUMSA notes the proposed amendments to Section 32. It facilitates the extension of collective agreements properly reached by the majority parties in a bargaining council. What is unfortunate is that a lot of anxiety and misunderstandings were created by communications received from the Department of Labour which incorrectly created the impression that Section 32(1) of the Act is also amended to create a situation where minority parties can request the extension of a collective agreement reached between minorities. That is clearly not the case in that Section 32(1) of the Act remains intact and likewise Section 32(3)(a) of the Act remains intact. As such a prerequisite for a request for extension remains a collective agreement properly concluded by majority parties (on both employer and employee sides) in the bargaining council. It is entirely incorrect to contend as some does that the amendments envisage that only a majority on one side is required to conclude a bargaining council agreement and then to seek an extension.

Based upon the aforesaid understanding NUMSA accepts the proposed amendments to Section 32.

In addition it is once more reiterated that should NUMSA elect to pursue a legal challenge to any or all of the proposed amendments such legal challenge shall not necessarily be confined to what has been dealt with in NUMSA's submissions nor should any of the submissions made be construed as limiting NUMSA's right to expand upon or amend any of its submissions.

What is to be done?

To the extent that we are here to submit that the working class is under attack, the immediate expectation of workers from a democratic government that claims to care about their interests, are that the ANC government should move with speed and act on the following:

1. The government must ban all labour brokers and all other abusive exploitative practices.
2. They must guarantee a 45 hour week
3. They must abandon and guarantee that there shall be no limitations to the right to strike.
4. They must ban employers from being able to use scab labour during strikes.
5. They must guarantee benefits like paid annual leave; sick leave, maternity and paternity leave.

6. They must abandon the insult of the current proposals for a National Minimum Wage and pave way for a truly genuine Living Wage.

Conclusion:

History teaches us one fundamental lesson: the working class shall always be victims of the ruling class unless they learn to see the class interests behind all phrases, proclamations and political processes. This includes these public hearings on the Labour Bills.

In our demands we have sought to unearth the true class intentions and origins of the public hearings. It is time to unite the working class behind the demands for a living wage and the demands of the Freedom Charter, for they are inseparable.

Issued by Irvin Jim

NUMSA General Secretary