



NEWS FROM PARLIAMENT

Welcome

COSATU welcomes into its ranks Cde Elroy Paulus, formerly from Fair Share, where he had extensive experience in training communities on participation in budget processes, and around issues of local government. Comrade Elroy takes over as Research Co-Ordinator in the Parliamentary Office, and will bring important new skills and insights.

Parliamentary Highlights

The parliamentary session for 2003 opened with its customary fanfare on Friday 14 February. The highlight of the occasion was the State of the Nation address by President Thabo Mbeki. Twelve days later on the 26 February, Minister of Finance, Trevor Manuel presented the annual Budget Day address.

At the time of writing the second session for 2003 has ended. Highlights included public hearings on the Comprehensive Social Security Enquiry Report (Taylor Report), National Ports Authority, Immigration Regulations, as well as the long awaited Broad-based Black Economic Empowerment Bill and Strategy Document. The session ended on 27 June 2003.

Legislation Factory

At the time of writing, 33 Bills had been submitted to parliament for processing and 15 Acts were promulgated by the President for the current session.

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Contributors to this edition are:

- Joan Africa
- Neil Coleman
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- Sidney Kgara
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Final Report from the Truth and Reconciliation Commission

On Tuesday 15 April 2003 the President addressed a joint sitting of the National Assembly and the National Council of Provinces on the final report of the Truth and Reconciliation Commission. In his speech the president indicated that a once-off payment of R30 000 will be awarded to the victims of apartheid as indicated by the Commission. This undertaking was greeted by a mixed response. The President also indicated that there would not be a once-off wealth tax on companies to assist with the payments.

PARLIAMENTARY PROGRAMME FRAMEWORK 2003

FIRST TERM

20-01-2003 to 16-04-2003

- Committees 20 Jan – 7 Feb
- President's state-of-the-nation address 14 Feb
- Budget Speech 26 Feb

SECOND TERM

12-05-2003 to 27-06-2003

- Plenaries from 13 May
- NCOP provincial week 17 – 20 June
- Leave period 30 Jun – 11 Jul**
- Constituency period 14 – 1 Aug**

THIRD TERM

04-08-2003 to 26-09-2003

- Committees 04 Aug to 29 Aug
- Plenaries from 1 Aug – 26 Sep
- Constituency Period 27 Sep – 10 Oct**

FOURTH TERM

13-10-2003 to 14-11-2003

- Committees 13 – 17 Oct
- Plenaries from 20 Oct
- 2004 Medium-Term 11 Nov
- Budget Policy Statement
- Constituency period 17 Nov – 12 Dec**



EDITORIAL

"Deepening Democracy"

Welcome to the first COSATU Parliamentary Bulletin for 2003. With six intensive months behind us, we have a fairly clear idea as to what the rest of 2003 holds in store. For COSATU, 2003 promises to be one of its busiest yet in the policy arena. By the end of June, we had already made over 20 policy inputs on a host of issues.

This brings to 210 the total number of policy submissions COSATU has made since 1994, a huge body of experience on issues of governance which has helped to sharpen the Federations policy work, and shape some areas of Government policy. COSATU's 8th National Congress in September this year will need to reflect on the impact of COSATU's political engagement strategy, as it charts the way forward for the Federation.

Equally, as we move towards our democracy's 10th anniversary, the democratic movement as a whole needs to carefully scrutinize this experience of the last decade, and clarify our approach to the next period. This includes looking at ways to correct identified weaknesses, and ensuring a new approach to driving governance, and deepening democracy. Going into the 2004 elections with a 'business as usual' attitude, would create credibility problems with the electorate. Importantly, the Alliance must agree on a co-ordinated approach and platform on issues of governance. This is the central political issue which needs to be resolved in the run up to the 2004 General Elections, and the finalisation of the ANC's Election Manifesto.

Despite the failure as yet to resolve this question, COSATU continues to pursue its approach of active political engagement. We have identified certain developments in the policy process, some of them welcome and some problematic. These trends are identified in the COSATU General Secretary's report to Congress, and include:

- increasing interaction, and sometimes detailed engagement, with many Government Departments in the earlier phase of the policy process, with requests to comment on draft policies and legislation;
- at the other end of the policy chain, a growing emphasis on the need to interact with 'secondary legislation', to take forward implementation of enabling legislation. In some instances robust interaction has been required to ensure that Regulations don't undermine the enabling Act;

- a growing role for Nedlac in ensuring that major stakeholders engage on proposals on key socio-economic and labour issues, including greater support from within government and parliament for the important role Nedlac is playing;
- a problematic trend for some Departments to attempt to push legislation through, before the relevant policy is finalized. We have raised our concern, with support from MPs, that this undermines the consultative process, and leads to bad legislation, since Bills are enacted before key policy questions are settled;
- a disturbing trend for big business to attempt to hold government hostage on key transformative legislation, such as the Community Reinvestment Bill. This leads to legislation being kept out of the public domain, while business obstructs, delays and attempt to alter it. This undermines the democratic process, and excludes key voices from interacting meaningfully with the relevant issue;
- inadequate attention by our unions to ensuring that gains achieved in legislation are effectively implemented on the ground.

This Parliamentary Bulletin demonstrates the wide range of policy challenges. These fall into three broad categories: On the labour front, we will see amendments to consolidate existing labour legislation, and comprehensive overhaul of our law relating to insolvency. Economic restructuring issues include important interventions around Black Economic Empowerment; legislation to regulate the financial sector; ongoing budget reform; restructuring of State owned enterprises, particularly in the Energy and Transport spheres; and interventions to harness mineral resources for broader national development. Social policy interventions include policy and legislation on water delivery; land reform; health; legislation governing the role of traditional leaders; and social security restructuring.

As the articles in this Bulletin show, these interventions are a mixed bag. Some have the support of COSATU. Others are the site of intense contestation. Yet others embody conservative economic policies, and do not promote workers and the country's interests. Whatever the nature of the particular issue, we will continue to engage vigorously, explain our positions, and try to find solutions which move us forward.



BEE – who will benefit?

By Sidney Kgara

The roots of the concept of Black Economic Empowerment (BEE) can be traced to the civil rights struggle in the United States following the turbulent 1960s. BEE is a concept which has only recently found expression in the liberation movement, and is not accorded prominence in its historical documents. Instead, the time-tested Freedom Charter, amongst many others, articulates a perspective of the transfer of the country's wealth to the people as a whole, as opposed to advantaged individuals. It identifies the commanding heights of the economy as strategic levers that a people's government is enjoined to deploy in the cause of the social emancipation of the urban and rural poor.

BEE was forcefully thrust to the mainstream discourse of transformation by the 1997 Black Management Forum Conference, through its resolution on the Black Economic Empowerment Commission. Meanwhile, since the late 1980s and early 1990s, white capital had already begun to embark on its own version of affirmative action as it drew some black professionals into its hierarchy, predominantly in the public relations and human resource management areas. As in the USA, the concrete manifestation of BEE in South Africa since its heady years of 1996-1998 has been largely about black male representation in established, highly centralised and concentrated hierarchies of big white business organisations.

Following the release of the BEE Commission's report, and the subsequent discussion document in 2002, the Department of Trade and Industry (DTI) released *A Strategy for Broad-based Black Economic Empowerment* in March 2003, followed by the Black Economic Empowerment Bill. The government has committed itself to broad-based BEE, purportedly different from the experience of the 1990s. Government intends to finance BEE off the fiscus from the expected R10 billion levied from the repatriated funds of the illegally orchestrated off-shore investments through the proposed prosecution amnesty.

Despite claims about a broad-based BEE, the details

of the proposed policy instruments, financing strategies and monitoring mechanisms categorically sets its perspective within the predominantly "Big Black Business BEE" mould. Already the formation of the interim steering council, which is a precursor to the statutory Advisory Council, is predominantly big business dominated. It is questionable whether this strategy document has adequately distilled key lessons from the experience of BEE in the 1990s.

The document's strategy has been denuded of the Reconstruction and Development Programme's content, which the BEE Commission report attempted to reintroduce as a way of catering for the poor. Thus, the policy document is neither a broad nor an economic empowerment strategy as such, rather it reads like an enterprise development programme.

This narrow conception is particularly echoed in the document's definition of BEE. To begin with the espoused BEE definition treats black people in a generic sense. It fails to make a rigorous analysis that reflects the real and increasingly deep gender, geographic and class inequalities within the black population, corresponding to their differentiated location in the economy and society in general. Thus, the strategy outlined in the document has little if any relevance for the 28 million poor people of South Africa.

BEE seems to have been conceived as a patchwork to the conservative orthodoxy that dominates the macro-economic and trade policies of the government, hence it will have no bearing on the existing policy straightjacket. Even more problematic, failing to see the strategic interventionist role that should be played by the state, including through its parastatals, the document advocates privatisation as a way to advance BEE.

The 1994 democratic breakthrough has opened possibilities for economic transformation of the South African economy and society in pursuit of the historical objective of social emancipation of black people and women in particular. COSATU sees no contradiction between the urgency to raise the



growth levels of the economy and the need to redistribute the skewed wealth ownership patterns in the society. Instead, these are mutually reinforcing imperatives, neither is sustainable without the other.

COSATU's response to DTI's strategy document calls for an active state interventionist role in steering the economy towards employment creation and poverty alleviation by, *inter alia*, deploying parastatals to expand the social wage, through substantial provision of lifeline allocations in electricity, water, sanitation, etc. as well as extension of comprehensive social security, particularly through a Basic Income Grant. Large scale infrastructure extension will also be part of the employment creation strategy as it draws more women, youth and the rural poor into projects supporting co-operatives and informal businesses.

An enhanced public works programme could be an important vehicle for the extension of infrastructure, absorbing women and youth in particular, as they are the worst affected by unemployment. Other youth programmes would involve internship programmes for matriculants and unemployed tertiary education graduates within the public sector where capacity is lacking such as administration in police stations, the courts, home affairs, etc.

COSATU believes the co-operative movement could be an important vehicle for BEE if sufficient resources are dedicated to this end, and enabling legislation is put in place to cover a wide variety of cooperatives. Examples of other best practices, eg in Cyprus, could be followed to devise a mechanism to finance and technically support co-operatives, such as through Community Banks.

Government's procurement policy must go beyond the targets stipulated in the scorecard approach proposed in the BEE strategy. Preference to companies fully subscribing to Proudly South Africa, including the country's labour laws, regardless of ownership or control would also have to be made. This is an approach lacking in the proposed BEE Bill, which does little more than establish the statutory Advisory Council. This would ensure that those 'newly empowered', including black businesses, are not beneficiaries of BEE at the expense of ordinary workers and communities, who find themselves victims of even worse exploitation by the few beneficiaries of this programme.

COSATU's position

COSATU made a submission on the broad-based BEE Bill and strategy document of the DTI to the Portfolio Committee on Trade and Industry on 25 June 2003.

It applauded the commitment by government to 'broad-based' BEE, though a closer examination of the strategy document and Bill revealed an interpretation that leans towards a narrower definition of BEE. This is a worrisome shift away from policies embedded in RDP principles.

Fast-tracking legislation from a strategy document to a Bill was raised as a disempowering process for Parliament, reducing public input. Another concern was the attempt to justify the sale of state assets in the name of BEE. The divesting of these assets into the hands of a relatively small number of private individuals, at the cost of ignoring the need to strengthen social capital, is an unacceptable trade-off.

COSATU proposes initiatives for ensuring broader overall ownership, reflected in more equitable access to assets by, among other things, the revision of criteria for the BEE scorecard, recommending points for areas such as employment creation and support for co-operatives. It also highlighted the lack of representativity on the BEE Advisory Council and guidelines to deal with the trade-offs between empowerment for the majority vs advantages for black business. COSATU's full submission can be accessed on the COSATU Home Page at www.cosatu.org.za/docs/2003/Bee.htm or requested directly from the Parliamentary Office, tel 021 461 3835.

This is a new series of debates on controversial issues arising around the policy and legislative process. Readers are invited to respond to this column, or to send in opinions on other policy and legislative issues of current importance. Articles can be faxed to 021 4614034 or e-mailed to joan@po.cosatu.org.za



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The current Shopsteward contains further articles on legislation related to – Traditional Leaders, Property Rates, the Social Security Agency, Exchange Controls.

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LABOUR LAW AMENDMENTS

The Department of Labour has indicated to Parliament's Labour Portfolio Committee that it intends to introduce various pieces of labour legislation in 2003. These include amendments to the skills development legislative framework and regulations under the Basic Conditions of Employment Act (BCEA).

The skills development legislation will entail substantial amendments to the Skills Development Act and minor amendments to the Skills Development Levies Act, Mine Health and Safety Act and Unemployment Insurance Act (UIA). The primary aim of these amendments is to improve the functioning and governance of Sector Education Training Authorities (SETAs).

Significant amendments are to be made to the UIA. These include provisions aimed at addressing the position of state pensioners who currently do not receive unemployment benefits under the UIA; allowing workers with multiple employers to claim benefits should their income fall below a specified level as a result of partial unemployment; and bringing seasonal workers within the scope of the UIA.

The proposed BCEA regulations will be directed at regulating deductions from remuneration to prevent abuse by employers.

COSATU will be monitoring the progress of the proposed legislation and will report on any further developments in the next *Parliamentary Bulletin*.

DRAFT POLICY ON THE APPOINTMENT OF LIQUIDATORS

Parliament recently passed the Judicial Matters Amendment Bill, which will empower the Minister to make policies regulating the appointment of liquidators and trustees in respect of insolvencies. COSATU believes that the introduction of such policies has tremendous potential to counteract irregularities or abuses by liquidators who are biased to larger secured creditors such as banking and financial institutions. The Department of Justice recently completed a draft policy on the appointment of liquidators and trustees as contemplated in the Judicial Matters Bill. In order to co-ordinate affiliate responses to the Department's policy document, a consultative workshop was held at COSATU head

office on 6 May 2003, which proved to be very fruitful.

A written submission based on the input received at the workshop was forwarded to the Department. This was followed by a fairly positive meeting with the Department, which has indicated that it intends addressing most of our concerns.

Although not the main purpose of the workshop, participants raised concerns about the general insolvency law, both in relation to the failure to implement recent insolvency reforms and other legislative gaps adversely affecting workers. A process needs to be identified to deal with this in the proposed Comprehensive Insolvency and Business Recovery Bill.

IMMIGRATION

In the previous issue of the *Parliamentary Bulletin* we reported that the Department of Home Affairs was in the process of finalising transitional regulations in terms of the Immigration Act. After initially being suspended as a result of a court challenge, the Act and the regulations were put into operation in April this year. The Department subsequently published a second set of draft regulations for public comment for the purposes of making final regulations. COSATU has submitted detailed comments to the Department on the draft regulations. We will also be pursuing our options through the Home Affairs Portfolio Committee in Parliament to ensure that our concerns are addressed.

ELECTRICITY DISTRIBUTION INDUSTRY (EDI) RESTRUCTURING BILL

In June 2003, a joint submission was made to the Department of Minerals and Energy (DME) by COSATU, the NUM, NUMSA and SAMWU on the Electricity Distribution Industry (EDI) Restructuring Bill. The Bill aims to establish a national framework for the restructuring of the electricity distribution industry, including the creation of six regional electricity distributors (REDs).

As with earlier submissions, we reiterated that ESKOM, which demonstrates world-class efficiency and low cost of electricity provision, should continue as a regulated state monopoly empowered to pursue universal, affordable access to electricity. However, in order to address the problems of inequitable access and differentiated costing, there was agreement on the



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establishment of a single holding company for the regional distributors, with the proviso that it would effect cross-subsidisation to address the spatial and economic inequalities left by apartheid.

We called for detailed studies to be done on the impact of these restructuring initiatives and to defer the processing of this Bill until restructuring proposals can be formulated to improve the current vertical and regional cross-subsidisation.

The submission also raised the concern that commitments of the National Framework Agreement (NFA) were again ignored with the drafting of this Bill, and proposed that the Bill be tabled at NEDLAC. Finally, restructuring proposals have already led to increased household costs and the imminent loss of thousands of jobs at ESKOM and municipalities.

PLASTIC BAG REGULATIONS

The government's initial plastic bags policy was released in 2000, proposing that only bags of more than 80 microns be produced for consumer use. This would have meant overhauling the entire industry and losing thousands of jobs in the process. After mobilisation by workers a compromise was reached with government by CEPPWAWU and COSATU. Bags of no less than 30 microns would be produced for mass use in the retail industry. This was designed to prevent mass job losses and promote the recycling of used bags. Regulations giving effect to this were introduced in May 2003. Since the introduction of the Regulations, however, a number of assurances made during the negotiations have not been implemented as agreed. This has led to concerns in particular that undertakings by manufacturers that jobs will not be shed, are not being honoured. Further that government needs to take various steps to limit the negative effects of the dispensation on workers and consumers. COSATU has sought meetings with the Minister to address the above concerns. At the time of writing, these discussions were in progress.

RESTITUTION OF LAND RIGHTS AMENDMENT BILL

The Department of Agriculture recently published a Draft Bill that seeks to amend the 1994 Restitution of Land Rights Act. Currently under the Act the Minister may only acquire or expropriate land for restitution purposes if a Court order has been granted to do so or

there is an agreement with the land owner to sell it. This has considerably slowed down the land restitution process. The Draft Bill seeks to address this by removing the need for either the Court order or the agreement with the land owner. The proposed amendments have raised substantial concerns, especially amongst opposition parties, who argue that this is in violation of property rights under the Constitution. COSATU is currently considering the Bill and will be submitting a written submission to the Department.

ANTI-TERRORISM BILL

COSATU has submitted written comments on the Anti-Terrorism Bill, currently being considered by the Portfolio Committee on Safety and Security in Parliament. We believe that prior to enacting new security legislation, a comprehensive review of existing security legislation should be conducted to assess compliance with the Constitution, the adequacy of existing legislation to deal with legitimate concerns about threats posed to public safety and the extent to which reform is required. Taking into account the wide ranging human rights implications and political significance of the Bill, we believe that such a review should be conducted by the South African Human Rights Commission (SAHRC) and should involve a Parliamentary Committee specially set up for that purpose.

Further, we are seriously concerned about the implications for constitutional rights and freedoms, especially those related to freedom and security, association and freedom of expression. This combined with the broad definition of what constitutes a "terrorist act" poses a serious threat to our hard won democracy, allowing for *inter alia* legitimate mass action by workers or other social movements at some time in the future to be demonised and categorised as 'terrorist'.

Accordingly, we have called for the withdrawal of the Bill and the suspension of the current Parliamentary process pending the outcome of the proposed review.

PETROLEUM PIPELINES AND PETROLEUM PRODUCTS AMENDMENT BILLS

On 27 June 2003, the Portfolio Committee on Minerals and Energy held Public Hearings on the Petroleum Pipelines Bill. COSATU and CEPPWAWU made a joint submission on the Bill. The Bill seeks to establish the Petroleum Pipelines Regulatory Authority and promote competition in the construction and operation of the



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petroleum pipelines, loading and storage facilities which will be overseen by the regulator as part of the government's "managed liberalisation" of the sector. This would potentially entail the privatisation of existing pipelines, something that has been opposed by COSATU. The Committee undertook to make further investigations before finally deliberating on the Bill.

The Petroleum Products Amendment Bill will be deliberated on during the 3rd quarter. It deals with government's downstream micro-reforms in the petroleum industry. It amends the Petroleum Products Act of 1977. It provides for a licensing dispensation that includes refiners, wholesalers and retailers in order to promote competition in the petroleum industry. It retains the current dispensation of limiting the sale of petrol to petrol stations, and rules out self service, thereby protecting the jobs of petrol attendants. It also seeks to extend the Minister's powers to determine the price of petroleum products.

SABC DRAFT EDITORIAL POLICY

Following our 1998 submission on the Broadcasting Bill and our ongoing campaign to transform the South African Broadcasting Corporation, on 18 June 2003 COSATU made its submission on the Draft Editorial Policy of the SABC. COSATU's submission raises concerns and proposals regarding the SABC's commercially-driven programming at the expense of its mandate on language policy, coverage of labour issues, cultural diversity, gender representativity and portrayal, and editorial accountability and independence. Some of the recommendations in the SABC's Draft Editorial Policy are part of its current policy, but are hardly implemented. COSATU will remain vigilant to make sure that the SABC Public Hearings are not public relations road shows.

INSURANCE AMENDMENT BILL

In early April, the Portfolio Committee on Finance held public hearings on the Insurance Amendment Bill of 2003. Some vested interests, namely the Life Offices' Association (LOA) which represents the major insurance companies, sought to take advantage of this opportunity to roll back the gains which were made through the Long-Term Insurance Act of 1998. In particular, the LOA sought to exempt the insurance industry from application of the *in duplum* rule, supporting an amendment contained in the 2002 Bill as piloted by the Financial Services Board (FSB).

The *in duplum* rule is a common law principle

protecting debtors against powerful financial institutions. It operates in an instance where the debtor has not been repaying the amount owed to a financial institution to the extent that the simple or compound interest charged equals or exceeds the original amount of the debt. At this point the *in duplum* rule provides that interest stops accumulating.

When it was introduced, the Long-term Insurance Act of 1998 was hailed as an important milestone as it enhanced consumer protection against the big insurance companies.

The Act brought into law a suite of measures designed to protect the policyholders whose rights were hitherto by and large neglected. These measures include, amongst others:

- a choice for an insurer and financial intermediary if a new policy is needed;
- an option of an endowment policy instead of a life policy; and
- the right to be informed and consent to a policy in writing instead of being coerced.

Unsurprisingly, yet regrettably, the LOA attempts to roll back these gains was reinforced by the largely unreconstructed Financial Service Board (which is supposed to act in consumers' interests). The FSB used the public hearings to advocate for the abrogation of the *in duplum* rule, thereby advancing the interests of the insurance companies.

For some working people life insurance is the main investment they have or are able to make. Life insurance policies are assets that could be leveraged for their economic empowerment as well as improvement in their standard of living.

Exemption from the *in duplum* rule would have led to inequity between consumers or debtors in the insurance sector and the commercial banking sector, which would have been constitutionally unsustainable. It is unfair that a consumer taking a loan through the commercial banks should enjoy the protection of our common law, whereas such protection was going to be unavailable in the insurance sector.

Exercising its majority in the Portfolio Committee, the African National Congress voted in support of COSATU, Black Sash and the *in duplum* Association proposal that the exemption of the insurance sector be removed from the Bill.



The food crisis time for a regulatory framework

In February 2002, the maize price soared to more than 280% higher than it was in August 2000. This compounded the food security crisis under which the poorest 53% of the South African population has been languishing. Since 2001, the 1 million households that have an income of less than R500 per month, 70% of which is spent on food, have despaired at the unremitting escalation of the maize price and other basic necessities, including municipal services.

The exponential growth in the maize price precipitated a flurry of activity on the part of the government, leading to the establishment of the Food Price Monitoring Committee (PFMC) in which both labour and business were represented. For its part, the Portfolio Committee on Agriculture and Land Affairs held Public Hearings in March 2003. COSATU and the Food and Allied Workers' Union (FAWU) made a joint submission at the hearings.

Since the 1990s agriculture, like all other sectors of the economy, has been the subject of liberalisation or deregulation in line with the orthodox dictates of the Growth Employment and Redistribution strategy. Inspired by an apparent faith in the market's efficiency, the government introduced free-market reforms, despite the fact that the industry was characterised by monopolies throughout the value chain.

The marketing co-operatives were summarily privatised, enhancing the immense power of the larger farmers as they now entered storage and trading. At the same time, ownership concentration in milling and retailing was consolidated. These reforms worsened the vulnerability of workers in the sector, inducing capital-intensification, helping to maintain low wages and leading to massive retrenchments. Concentration and centralisation in the industry has already become a potential obstacle to the entry of emerging small-scale farmers.

The reforms, occurring as part of broader industrial and trade policy liberalisation, disposed maize producers increasingly towards the export market. The domestic maize price was kept at about a third higher than the export price. Taking transport costs

into account, the export price is around R600 lower than the import price. Where the country does not import much maize and markets are not perfectly competitive, the export price acts as the floor under domestic prices, since it is the next-best price for farmers.

From the middle of 2001, notably between July 2001 and January 2002, the maize price drifted up to the higher import price. The price rose originally because of reports that there would be a maize shortage. In that case, domestic farmers could charge the same price as for imports. As it turned out, there was a surplus on the maize crop – but the price remained at the import price level, rather than falling back to the export price. Since January 2002, the domestic maize price has remained at or above the import price. When the Rand depreciated (weakened against the dollar), the price rose, leading to substantial increases. More recently, when the Rand appreciated (strengthened against the dollar) the maize price fell – after a few weeks' lag. But the price still has not come down to the export price or pre-July 2001 level.

COSATU and FAWU have long proposed that government intervene directly to limit hoarding and profiteering in the maize chain. That requires the establishment of a regulatory framework to track prices, ownership, control, profits and storage of staple foods. The FPMC has the power to undertake these functions, but appears to be ignoring its terms of reference.

In the longer term, food-price stability and household food security require substantial improvements in national and regional maize production, with much broader structures of ownership and control throughout the value chain. A critical step is agrarian reform, increasing the access of the rural poor to land as well as other inputs, including water. Co-operatives provide an important way to support smallholders and enhance their access to capital and markets.

In order to review key strategies on food and agriculture, and to ensure broad public support, NEDLAC agreed in 2002 to prioritise a Food Security and Jobs Summit. This process should be initiated as soon as possible.



Employment equity what role can unions play?

By Loyiso Mbabane

It is now common knowledge that the majority of employers in South Africa are not complying with the requirements of the Employment Equity Act (EE Act) of 1998. The 2002 Report of the Commission for Employment Equity notes that of the few employers who bothered to submit EE Reports to the Department of Labour (as is required by section 21 of the Act), more than a third of these reports were not even complete. So there are basic technical compliance problems even before the issue of real implementation on the ground is addressed. Why is this happening and what role can unions play to bring EE back on track?

There are a number of reasons why the EE Act has not been taken seriously. One of these is the lack of seriousness in enforcing compliance on the part of the Department of Labour and its inspectorate. Most employers are aware of this and a lot of apathy and even arrogant defiance has crept in. There is also a perception among most players in the economy that the government no longer has the intention or will to enforce transformation and empowerment on the "white" corporate sector. In a sense, there has been a strong conservative backlash that threatens to at best neutralise most of the gains that the labour movement and the progressive movement have made in the regulatory arena, and at worst to reverse these gains.

It is also common cause that the progressive union movement has not been aggressive in engaging on matters such as affirmative action and organisational transformation. This is partly a result of some ideological misunderstanding as to the significance of such interventions in the broad development and redistribution struggle. But every union member is affected by discrimination in recruitment, selection, training and development as well as promotion and retrenchment. Every union member is affected when a company discriminates in its benefits, policies and practices against people living with HIV, against people with disabilities, against black people and so on. All these issues are covered by the EE Act and

are supposed to be identified and eliminated by all employers, in consultation with unions and employees. The union movement therefore needs to start engaging employers seriously to enforce compliance.

Engagement

The first point of engagement is awareness creation on the EE Act and its provisions. It is a legal requirement of the EE Act (section 25) that all employers should inform their employees about their EE Reports and any other matters related to compliance (and non-compliance) with the Act. All the information relevant for consultation on EE must also be disclosed to employees during the consultation process (s.18). The Act also specifically spells out who is supposed to be consulted by employers when they prepare EE Plans and EE Reports. Section 16 makes it clear that a representative trade union is one of the stakeholders that must be consulted BEFORE an EE Plan and Report is prepared. If there is a representative trade union in a workplace and it was not consulted during the development of the EE Plan and EE Report, then the employer violated the provisions of the EE Act.

One of the first things that unions should therefore seek and insist on is proper consultation. Section 17 of the EE Act spells out what employees should be consulted about. Firstly, a thorough audit of all the company's policies and practices, including the environment ought to be conducted (section 19). The EE Act makes it mandatory that employees (or their representatives) should be consulted even as this "Analysis" is planned. What should be analysed and by whom is itself a subject of consultation.

The matters that should be addressed in an EE Plan include:

- policies and practices that are discriminatory and that should be eliminated;
- policies and practices that should be reviewed in order to promote affirmative action;
- work practices and building modifications that



ought to be made to accommodate people with certain disabilities;

- policies that need to be introduced to advance equity (e.g. Sexual Harassment, HIV/Aids, Affirmative Action);
- targets that must be set to get more black people, women and people with disabilities into the jobs and levels where they are currently under-represented (in relation to their demographic representation nationally – with regional variations).

Further, Section 27 of the Act requires employers to disclose income differentials to the Employment Conditions Commission. Where it is determined that these differentials are 'disproportionate', employers must take measures to reduce these differentials.

It is clear from this analysis that an EE Plan (from which an EE Report should be prepared) should be developed. The EE Plan of a company is an outcome of an analysis of its environment, policies and practices. The Plan then sets out which policies and practices ought to be introduced, reviewed or eliminated, in order not to discriminate and in order to achieve equity. The EE Plan also sets out targets for the recruitment, training, development and promotion of women, people with disabilities and black people across all levels and categories. These EE targets are also supposed to be discussed and agreed to with employees (or their representatives). The unilateral development of targets and plans by an employer is a violation of the EE Act.

It is therefore very important that unions should be informed of trends in their respective sector. These trends include the level of supply of skills (women, disabled and black) as well training opportunities that are available. Such information enables union members to engage effectively when they are consulted by employers.

The EE Act also gives employees (and unions) the power to take up cases of lack of compliance with the Department of Labour (section 34). Section 34 makes it possible for a union to pick up the phone and call a Labour Inspector or even the Director General to report cases of violation of the EE Act. Any victimisa-



tion of such an employee or union is also prohibited by the EE Act and any person who victimises or attempts to obstruct someone from exercising their rights is liable to a fine of R10 000. So unions ought to start engaging employers seriously on these matters, starting with awareness creation, then consultation and the enforcement of compliance.

As the Director in the Department of Labour responsible for drafting the green paper and legislation, and steering it through the legislative process, Loyiso Mbabane was a key architect of the Employment Equity policy.



Minerals – a national asset

THE MINERAL AND PETROLEUM RESOURCES DEVELOPMENT ACT

In the last issue of the *Parliamentary Bulletin* we reported on the Mineral and Petroleum Resources Development Act (the new Minerals Act) and the significant gains that were made in the parliamentary process. The Act, which is expected to come into operation later this year, requires the completion of several other legislative processes for the purposes of implementation. Arguably the two most important of these are the regulations to be made under the Act and the Draft Mineral and Petroleum Royalty Bill (the Royalty Bill).

The purpose of the regulations is to make provision for the practical implementation of the Act. The purpose of the Royalty Bill, on the other hand, is to impose royalties that accrue to the State in respect of mineral resources.

Regulations

COSATU and the National Union of Mineworkers (NUM) made a joint written submission to the Department of Minerals and Energy (DME) in respect of the draft regulations, which were released for public comment late last year. A major concern was that the regulations fail to take forward key principles of the Act and the Broad-based Socio-Economic Empowerment Charter (the Charter).

Our concerns can be summarised as follows:

- The draft regulations do not require applicants for prospecting and mining rights to submit documentation on past compliance with mine health and safety obligations. We believe that this is necessary in view of the considerable occupational risks faced by mine workers in the industry. Further the submission of such documentation would assist the DME to assess an applicant's ability to comply with mine health and safety obligations as required by the Act.
 - The regulations should require applicants for mining and prospecting rights to submit documentation on their ownership and management structures. This would assist the DME in assessing applications and advance the Act's objective to expand opportunities for historically disadvantaged persons to enter mineral and petroleum industries.
- The Act requires a holder of a mining or petroleum production right to submit a social and labour plan, which is a merging of a social plan with a labour plan. The two plans are not the same, although they do complement each other. Social plans are aimed at providing protection from the socio-economic impact on workers and surrounding communities in the event of large-scale retrenchments or eventual closure of the mine. The labour plan, on the other hand, outlines the working and living arrangements that a mining company intends to provide for workers and how it intends to comply with relevant labour legislation. Practically, this would entail the submission of plans covering areas such as employment, skills development, employment equity, housing and health. Of major concern is that the plan provided for in the regulations is in reality just a social plan. The labour components have been omitted. COSATU and the NUM have called on the DME to amend the regulations to ensure that the labour plan components are incorporated.
 - The regulations are silent on the upfront financing of the social and labour plan, despite this being an express requirement in the Act. The implication is that the amounts and form of the financial provision will be left to the discretion of individual companies. We believe that amendments should be inserted into the regulations setting out the nature and form that upfront financing would take.
 - There is considerable unevenness in the treatment afforded to environmental obligations as compared with those applicable to health and safety and labour standards. This is reflected in the detailed requirements on environmental reporting and financial security for environmental remediation.
 - The regulations should focus on broader socio-economic empowerment as opposed to limiting emphasis to affirmative action and Black Economic Empowerment. The Charter sets out various principles for empowerment, which should be incorporated into the regulations. These include human resource development, employment equity, migrant labour, mine community and rural development, housing and living conditions and procurement.



Earlier this year COSATU and the NUM met with the DME to look at ways to resolve our concerns. The DME has since given us an undertaking that our concerns will be addressed in the final regulations, which have yet to be published.

Royalty Bill

Once the new Minerals Act is in effect, the current system of private ownership of mineral rights will be phased out. This is to be replaced by the principle recognising that mineral resources belong to the nation and therefore vests in the State as the custodian. In line with this the Royalty Bill provides for the imposition of royalties accruing to the State as a charge for the extraction of the nation's non-renewable mineral resources.

Although the Bill emanates from the new Minerals Act, it is being processed as a money bill with the Treasury being designated as the responsible Department.

The Bill has met with considerable opposition from the mining industry with arguments being levelled at both the rates proposed as well as the charging of royalties against the gross sales value of minerals extracted. The industry's preferred option is a profit-based royalty. Some mining companies have even gone as far as to object to paying any royalties at all, arguing that these should only be applied to new mining rights.

Ironically, many of the same companies opposing the Bill are required to pay royalties in other countries in which they operate. In most instances these are at rates comparable or even higher than those proposed in the Bill and are based on gross sales value. The aggressive lobbying by mining companies against the Bill, which reflects the experience with the Minerals Act last year, is indicative of the resistance to transformation by an industry that has amassed a significant amount of its profits as a direct result of apartheid policies.

COSATU and the NUM have submitted a joint submission to Treasury, supporting the overall thrust and intentions of the Bill, which is to impose a royalty based on gross sales value. Royalty revenue has considerable potential to generate revenue that may be utilised for social and economic development. We



are strongly in favour of the allocation of at least part of this revenue to a permanent, centrally controlled fund, which would be directed at addressing socio-economic development for the benefit of communities and workers affected by mining. We have proposed that at least 50% of the revenue generated should be allocated to this fund. However, the Bill is silent on Treasury's intentions in respect of the revenue generated, in spite of the DME's original undertaking to set up such a fund.

It is clear that the Bill raises a number of important policy questions and concerns that have to be settled and therefore has been identified as a priority for COSATU and the NUM. We are in the process of having bilateral discussions with Treasury and the DME and are considering having the Bill tabled at NEDLAC.



Water – a basic right

THE WHITE PAPER ON WATER SERVICES AND THE NATIONAL WATER RESOURCE STRATEGY

South Africa's water policies and laws have now reached a "second generation" stage. The Department of Water Affairs and Forestry (DWAF) has begun a process of reviewing the policies and laws adopted in the previous parliament in the light of its medium to long-term goals and the present political context.

The new White Paper on Water Services and the National Water Resource Strategy (NWRS) suggest an attempt to denude DWAF's policies of their people-centred content drawn from the RDP. In our submissions, COSATU and the South African Municipal Workers' Union (SAMWU) also raise concerns about the alarming reliance of government on private consultants to formulate its policies. Private consultants, sometimes under cover of progressive sounding phrases, have consistently set out to contrive a market for private capital in the realm of basic needs provision.

Both the White Paper and the NWRS reflect this tendency, despite the fact that DWAF is yet to fulfil its commitment of supplying 7 million more people with water by 2008 and 18 million more with "basic sanitation" by 2010.

COSATU and SAMWU are engaging both at NEDLAC and in Parliament in order to secure an expansion of the social wage for poor urban and rural communities, defend jobs for workers and struggle for an interventionist developmental state.

For its part, the government conceives of DWAF's medium to long term policy direction within the straightjacket of its Micro-economic Reforms Strategy introduced in 2001, which *inter alia* aimed at bringing down the input costs of the South African economy. This is a repackaged privatisation programme targeting the very critical parastatal levers called the "input sectors" such as water, electricity, telecommunications and transport.

The National Water Resource Strategy

Internationally, the dominant approach to water resource management since the 1990s is the demand-led management approach. This perspective is based on the notion that water is an economic resource that must be deployed in an economically optimal manner. It is a break with the supply-side approach which was predominant in the post-World War II period until recently. In terms of this approach, water scarcity was ameliorated with physical supply augmentation projects, particularly large scale dam building.

In terms of the Constitution, water affairs is a local government competence. Accordingly, the government set out to decentralise and open water resources management to stakeholder participation by introducing the concept of the Catchment Management Agencies (CMAs). It is these CMAs, established countrywide, that will be charged with the responsibility of ensuring optimal allocations of raw water between industry, agriculture and residential areas. CMAs are also expected to make provision for some reserves for the maintenance of ecosystems and for free water provision or lifeline reserves.

The demand-led management approach puts forward the cost-plus pricing mechanism as a means to ensure efficient allocation of water, a scarce resource. The government hopes to introduce this policy whilst at the same time maintaining lifeline provision.

Despite claims to efficient allocation, COSATU and SAMWU were particularly concerned that the strategy fails to develop rigorous measures to deal with the needlessly inefficient use of water resources on the part of commercial irrigated agriculture. Irrigated agriculture is the single largest consumer of water resources in South Africa, notwithstanding its disproportionately small contribution to employment and GDP.

COSATU and SAMWU also argued that raw-water tariffs must be based on the principle that the price of water increases with the water used. This will help eliminate unnecessary waste (such as mid-summer day irrigations) if it is introduced in a block-tariff structure.



Finally, the “polluter must pay” principle must apply

The White Paper on Water Services

In line with constitutional requirements, the direct delivery role that has been played by DWAF to date will be gradually phased out over the next five years. Local government will assume this responsibility, whilst DWAF undertakes a regulatory or oversight role.

Basic Water

The White Paper fails to take a bold step in advancing towards the medium-term objectives of the RDP and the World Health Organisation’s (WHO) recommended minimum free water provision of 50 litres per person. Instead the White Paper suggests 25 litres per person. As far as the rural areas are concerned, it fails to move towards yard connection as envisaged in the 1994 White Paper. Instead, it maintains the current position of 200 metres cartage.

COSATU and SAMWU argue that these minimum provisions fall short of section 27 of the Constitution, which calls for sufficient water to support life and personal hygiene needs.

Whilst it correctly maintains the 1994 White Paper’s stance on public sector delivery as a preferred option, it fails to echo this position throughout the document. Inconsistent with its assertion that public sector is a preferred model of delivery, the White Paper refers to a distinction between the water authority and provider, in which the latter could either be private or public.

Basic Sanitation

The White Paper’s definition of basic sanitation is vague, although it seems to point to the Ventilated Improved Pit latrines (VIPs) as the basic minimum provision (it refers to environmentally friendly flush toilets or equivalent new technologies). COSATU and SAMWU reject this position, which invidiously



creates an iniquitous parallel or dual system in an already socio-economically polarised society.

The original perspective of the 1994 White Paper was that water is a public good and as such it must be left in the hands of the public sector. Already, a number of steam-rolled privatisation projects have borne out this assertion – in the Dolphin Coast municipality, Nelspruit and Nkonkobe municipality in the Eastern Cape. COSATU and SAMWU also maintain that no section of the population, whether poor or rural deserve less than the minimum provision of sanitation enjoyed by others. The provision of basic sanitation for all is also a demand for human dignity for all.

Way forward

On 1 April 2003, DWAF begun with the process of its own restructuring and devolution of the water affairs competency in line with the Constitution.

The final version of the White Paper was released on 7 May 2003. It was handed over to the Portfolio Committee on Water Affairs on 25 June.

On 14 April 2003, COSATU and SAMWU ensured that NEDLAC agreed to engage on the White Paper before it was handed over to the legislature.



*DRAFT LEGISLATION PROGRAMME FOR 2003 Bills of potential relevance to COSATU

DEPARTMENT	PROPOSED LEGISLATION
Agriculture & Land Affairs	Communal Land Rights Bill
	Restitution of Land Rights amendment Bill
Education	Higher Education Amendment Bill
	Education Laws Amendment Bill
Environmental Affairs & Tourism	Biodiversity Bill
	Coastal Management Bill
	Air Quality management Bill
Finance	Municipal Finance Management Bill
	Financial Services Authority Bill
	Taxation Laws Amendment Bill
	Post Banks Bill
	Revenue Laws Amendment Bill
	Adjustments Appropriation Bill
	Co-operatives Banks Bill
	Insurance Bill
	Government Employees Pension Fund Increase Bill
	Banks Amendment Bill
	FFC Amendment Bill
Health	Nursing Bill
	Health Professions Amendment Bill
	Pharmacy Amendment Bill
	Tobacco Products Control Bill
	Choice on Termination Pregnancy Amendment Bill
Home Affairs	National Health Bill
	Electoral Amendment Bill
Housing	Community Reinvestment Bill
Justice & Constitutional Development	Judicial Officers Amendment Bill
	Constitution of the Republic SA Third Amendment Bill
	Constitution of the Republic of SA Fourth Amendment Bill
	Judicial Matters Second Amendment Bill
	Insolvency & Business Recovery Bill (Review of Insolvency Act)



Labour	Skills Development Amendment Bill
	Unemployment Insurance amendment Bill
	Basic Conditions of Employment amendment Bill
Minerals & Energy	Petroleum Products amendment Bill
	Petroleum Pipelines Bill
	EDI Restructuring Bill
	Promotion of Mineral Based Beneficiation
	Industries & Enterprises Bill
	Mineral & Petroleum Resources Development Amendment Bill (Money Bill)
	Mineral & Petroleum Royalty Bill
	Energy Bill
	ESI Regulatory Bill
Provincial & Local Government	Local Government Property Rates Amendment Bill
	Municipal systems amendment Bill
	Powers & Functions of Traditional Leaders Bill
	Intergovernmental Relations Bill
	Rationalization of Old Legislation Bill
	Division of Fiscal Powers & Functions Bill
Social Development	Social Assistance Bill
	South African Social Security Agency Bill
	Children's Bill
Trade & Industry	Broad Based Black Economic Empowerment Bill
	Co-operatives Bill
	Manufacturing Development Amendment Bill
	Usury Amendment Bill
	Intellectual Property Laws Amendment Bill
Transport	National Ports Authority Bill
Water Affairs & Forestry	National Water Act Amendment Bill
	National Forests Act Amendment Bill
	Water Services Act Amendment Bill

* This is a selected list of Bills on the agenda for 2003 that could be significant for COSATU and our constituency. This is not an official list and is intended only as a guide. Other bills on the full list may be relevant but we can only fully assess this once the content of these Bills is known. Similarly some of these Bills listed above may not be significant. This will be established once we are able to scrutinise them.



Blowing the whistle

THE PROTECTED DISCLOSURES ACT

The Protected Disclosures Act (PDA), commonly known as the “Whistleblowers Act”, has been in operation since 2001. Under the PDA, employees are protected from occupational detriment should they disclose information (ie “blow the whistle”) concerning unlawful or irregular conduct by employers or other employees.

The South African Law Commission (SALC) recently published an Issue Paper for public comment with the intention of making various amendments to the PDA, such as extending its application to other relationships besides employment relationships and excluding criminal and civil liability for those who blow the whistle. The COSATU submission responded to both policy questions identified in the Issue Paper as well as other policy gaps that we have identified in the course of the implementation of the Act.

Widening the Scope

An important issue raised in the Issue Paper relates to the necessity of widening the application of the PDA to other relationships besides employment relationships. COSATU is of the opinion that such an extension is desirable. Currently a wide range of relationships are excluded, including independent contractors and students at educational institutions.

Exclusion of Criminal and Civil Liability

Currently the PDA does not expressly provide protection from civil and criminal liability for making a protected disclosure. The Issue Paper considers the possibility of amendments that would exclude criminal and civil liability. COSATU feels that such an exclusion is extremely desirable since the possibility of facing criminal prosecution or a defamation suit is likely to discourage potential whistle blowers.

Remedies

The Issue Paper also considers the possibility of introducing further remedies. The remedies currently available to employees are limited to those provided under the Labour Relations Act (LRA). A dismissal in breach of the PDA is automatically an unfair dismissal. The maximum compensation that the employee would be entitled to would be two years’ salary.

COSATU is of the view that provision should be made for further remedies and these should lie jointly against the employer and the person who actually contravened the PDA.

Criminal Offences

The possibility of introducing two types of criminal offences is also being considered. The first relates to making it a criminal offence for an employer to subject an employee to an occupational detriment, or victimising them for blowing the whistle. We would support the introduction of such a criminal offence.

The second offence relates to making it a criminal offence for an employee to make a false disclosure while not knowing or believing it to be true. We would strongly resist the introduction of this criminal offence since it would only increase the significant power imbalances in the employment relationship that undermine the implementation of the PDA.

Other Concerns Raised by COSATU

The COSATU submission identified other policy gaps in respect of which we proposed amendments. Firstly, while the definition of the “employee” excludes “independent contractors”, it does not distinguish between genuine independent contractors and those who are in fact *de facto* employees. To remedy this we proposed an amendment, which would incorporate a 2002 LRA amendment that presumes a person to be an employee if certain factors are present. This includes, for example, where a person only works for one person, or the manner and hours of work is subject to the control of another person.

Secondly, we believe that the PDA does not protect workers when they disclose irregular/unlawful conduct by third parties, such as the employer’s clients or independent contractors. Nevertheless, they are likely to be victimised, especially where there is collusion between the employer and the third party. We believe that the PDA should be amended to cover disclosures about third parties.

Finally, we believe that consideration should be given to expanding the list of persons that disclosures may be made to. This would entail the express inclusion of trade union representatives, the Labour Department’s Labour Inspectorate and any other statutory body, which may play an important role in implementation of the PDA.

The SALC has indicated that a discussion paper draft Bill is to follow the Issue Paper process. COSATU believes that the PDA is an important intervention to prevent and eradicate corruption and is therefore keen to participate in these future processes.



'A mixed bag' COSATU's response to the Budget and inter-governmental fiscal review

Several new procedures and publications were introduced with, or shortly after the tabling of the 2003/4 National Budget. These include:

- the Division of Revenue Bill that now lists in detail, the conditional grants and equitable shares to provinces and municipalities;
- the Intergovernmental Fiscal Review 2003 describing in greater detail the financing of services in provinces and municipalities;
- the announcement of new sources of future revenue, such as the royalties due to government by mining and petroleum companies, and levies from the amnesty given to individuals who wish to legitimise their tax payments;
- the new format of the Estimates of National Expenditure in which departments are required to report their plans, goals, measurable objectives and detailed multi-year budgets in an understandable manner. This enables government agencies, provincial legislatures and municipal councils to more effectively employ limited funds and resources.

To this extent, the 2003/4 Budget, armed with the Public Finance Management Act, should lead to increased accountability, financial transparency and integrated planning.

In many other respects however, this year's budget has serious shortcomings that, contrary to its stated objectives, will not 'push back the frontiers of poverty' and rebuild a 'tattered economy'.

An 'expansionary budget'?

It is an anomaly to name the 2003/4 Budget 'expansionary' for several reasons. Firstly, it is still located within a conservative and restrictive fiscal policy. GEAR's deficit, GDP and tax, and GDP ratios remain unchanged, restricting further social spending. Secondly, a developmental and 'expansionary' state cannot mix privatisation initiatives with the infrastructure allocations, retrench staff and reduce the benefits and working conditions of remaining public servants.

Thirdly, the budget does not promote labour-intensive job creation on a scale that would address the high unemployment in South Africa.

The GDP grew by 3% last year, significantly above the global average. The total main budget revenue amounts to R 304.5 billion, after tax relief of R15.1 billion, departmental receipts and SACU payments.

Main budget expenditure is projected at R334 billion in 2003/04. This results in a deficit of 1.4% for 2002/3 and a budget deficit of 2.4% of GDP for 2003/4.

In the 2003 Budget, as with previous budgets, there has been the controversial practice of claiming increases to be above inflation. Many increases are in fact lower than current inflation (CPIX average for 2002/3 estimated at 10.9%). Government conveniently uses an inflation figure of 6.1% for its real growth projections, which is questionable. Actual inflation has consistently been above these forecasted figures.

Increases in budgetary allocation are reported in nominal terms and real terms, but consistently low inflation figures are used in calculating real increases, resulting in an overestimation of the increase in government spending. The table on the next page demonstrates the difference between a nominal and real (inflation adjusted) change, based on recent inflation trends.

From the table, it becomes apparent that social services in the 2003/4 budget has in fact only been increased by an average of 2.2%, hardly keeping pace with the rate of population growth. By contrast, the real increase in allocations to economic services amounts to 9.5%. It is also these services that are being transferred to local government, commercialised or funded in order to promote public-private partnerships.

Tax concessions – in whose favour?

Increased revenue collection has been attributed to 'higher personal income tax receipts, robust company tax trends and higher VAT receipts'. Tax relief amounting to more than R15 billion has been proposed.



Selected consolidated national, provincial and social security funds expenditure: 2002/3 – 2003/4

R million	2002/3	2003/4	% Nominal change	% real change
Protection services	53,335	58,475	10%	-1.3%
Defence and intelligence	20,763	22,481	8%	-2.6%
Police	20,529	22,806	11%	0.2%
Social services	153,341	173,496	13%	2.2%
Education	62,757	69,063	10%	-0.9%
Health	34,940	39,077	12%	0.9%
Social security and welfare	41,966	48,652	16%	5.0%
Housing	5,553	6,548	18%	7.0%
Economic services	36,242	43,649	20%	9.5%
Water schemes and related services	4,540	6,029	33%	21.9%
Fuel and energy	1,508	1,696	12%	1.5%
Agriculture, forestry and fishing	5,729	6,710	17%	6.2%
Subtotal: Votes and statutory amounts	262,980	297,353	13%	2.2%

CPIX forecast: 10.9%

Between 1995 and 2002, income tax relief alone amounted to R49 billion, enough to implement a basic income grant for every South African.

There will also be a decrease from 25% to 18% on retirement fund tax.

Tax amnesty has also been offered to individuals who illegally transferred funds abroad, in contravention of exchange control regulations.

Yet, despite calls by civil society organisations in support of the People's Budget Campaign for a more progressive tax regime, tax relief has been denied for most poor South Africans. There has been no consideration of any of the People's Budget Campaign proposals, such as changing VAT to a progressive tax (where luxury goods will be charged at a higher tax rate, and basic goods will be further zero-rated).

Expenditure priorities at a glance

Education and state debt costs remain the largest expenditures of government.

The extension of the child support grant is welcomed. However, it should have extended to children up to the age of 18, without a means test, and not have been phased in.

Significant, real increases have been made to allocations of equitable shares and conditional grants to provinces and local government. There has, however,

been a disproportionate increase in conditional grants to provinces when one compares these to provincial equitable share allocations. This disproportionate increase (hence infrastructure funding) demonstrates government's view that fixed capital is more productive than investment in human resources. It also facilitates an increase in public-private partnership service provision, and allows less discretion to provinces in the long term.

Towards privatisation?

The conditional grants allocated to provinces and local governments are linked to the rollout of public-private partnerships through projects that meet black economic empowerment criteria. In this strange way, increases in social spending facilitate the privatisation of the state.

Over the Medium Term Expenditure Framework (MTEF) period, serious restructuring of government departments will occur, and is likely to lead to the transfer of thousands of employees and the loss of an as yet unknown number of current employees. Furthermore, the Intergovernmental Fiscal Review 2003 mentions initiatives of government to further reduce the benefits of public servants. These include 'studying employee benefit structures and proposals on medical aid restructuring, pension rule changes and home-owner allowances'.

The Review estimates that due to the restructuring of the electricity sector, local government will be affected



in a serious way. Excluding decisions concerning assets and liabilities, six metro budgets will be reduced by at least R12.5 billion, municipal budgets will be reduced from R74 billion to approximately R45 billion and 'municipal employees [are to be] reduced by an estimated 25 000 staff'.

Challenges ahead

Despite the significant procedural changes, additional publications and aggressive publicity regarding exchange control and taxation amnesty, this in itself does not constitute greater participation and a more transparent budget process.

Since the 1996 Constitution, Parliament – the primary mechanism for public engagement with policy development – still has no effective power to amend government spending proposals. This is despite the Constitutional requirement that powers to amend money bills be extended to Parliament 'within a reasonable period'. This has the effect of restricting civil society's interaction, since Parliament has no effective oversight powers and no amendment powers, but a mere advisory influence over public spending patterns.

Opportunities for input, both public and parliamentary, must be introduced throughout the budget cycle. They should not be confined to the final stages, when substantial changes become difficult to incorporate without causing serious disruptions.

COSATU remains committed to taking forward its long-standing concerns regarding:

- the lack of a people-centred participatory budget process (over and above inputs by the Budget Council; Budget Forum and MinMEC – inputs by government representatives), rather than civil society;
- the exclusion of NEDLAC in the formulation of budget priorities and revival of its Monetary and Fiscal Chamber;
- the very limited use of social and human development indicators to assess the impact of macroeconomic strategies and policies, rather than the almost exclusive use of financial indicators;
- the full implementation of Section 77 of the Constitution so that Parliament is empowered to amend the budget;
- adequate and appropriate research and analysis capacity to enable Parliament to use its powers effectively.

The Third People's Budget 2004/5

The release of the Third People's Budget intentionally coincided with the release of the 2003/4 National Budget on 26 February 2003.

The People's Budget is forward-looking and proposals are therefore formulated for the 2004/2005 fiscal year. Among other things, the Third People's Budget calls for:

- increased state-led investment in job creation;
- improvements in the social grant system, in particular the introduction of a basic income grant (BIG);
- the establishment of a national, state-administered health insurance system and the channelling of more resources to the fight against HIV/Aids, that includes the provision of anti-retroviral treatment in the public sector, enhanced prevention programmes and more support for people with HIV;
- changing user charges for basic services such as water, electricity and education so that they have a progressive impact; and
- increased funding to accelerate land redistribution and agrarian reform.

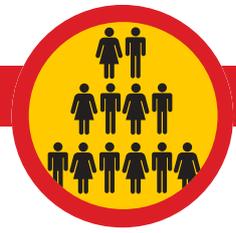
The People's Budget provides strong motivations for

the implementation of a BIG of about R100 a month and the extension of the child support grant to all children under 18. This is underpinned by the realisation that poor children and adults below the age of 60 have very little access to social grants. The BIG could close the poverty gap by as much as 74% and reduce the number of South Africans without access to social assistance to zero.

Funding of a BIG could be financed through tax increases and decreasing spending on arms procurement. As with the 2003/4 budget, the practice of huge tax cuts (almost 5% of revenue) has provided little evidence of stimulating economic growth. Tax cuts over the past five years have not had a major impact on savings or on economic growth.

The People's Budget Coalition is one of the largest groups lobbying the Minister of Finance on national budget issues. It consists of COSATU, the SA Council of Churches and SANGOCO.

For more documentation on the People's Budget 2004/5 and the Campaign, visit www.sacc-ct.org.za and click on campaigns or visit www.cosatu.org.za and use the search engine.



Public participation and access to information

The government's policy of public participation in all policy and legislative processes aims to ensure that members of the public are empowered to engage with these processes. One of the preconditions for effective participation in the policy-making processes is access to timely and accurate information about draft policy and legislation coming through the system, and realistic timeframes within which the public is able to comment.

However, there is a huge volume of information on these issues, which is often difficult to keep track of. Notice given for comment is often inadequate. Therefore those wanting to engage effectively on issues concerning them need a system to monitor and track this mass of information. It is always important to get access to this information as early as possible, since very short time frames are often given for those wanting to make an input on a particular issue.

This public input can usually be made in two distinct phases. Firstly, comment directly to the Department publishing particular draft policy or legislation, and preferably engaging directly in bilaterals with them, or through engaging with the Department in multilateral fora such as NEDLAC. The second phase in which the public has an opportunity to input is during the parliamentary consideration of any matter. Any organisation, or individual, has the right to make their views known in either phase of this process.

To assist our structures, and fraternal organisations to track this information and, where appropriate, to input, we publish a list of some key institutions which provide information on the policy process, including contact numbers, and websites. We have indicated with an asterisk* the essential institutions in this regard.

Key Sources of Information on Policy and Legislation and Public Participation

Government

Government Online*
www.gov.za

The general government website gives access to government departments and institutions. Official notices, gazettes, legislation and much more are available on this site.

Government Printing Works*
Tel (012) 334 4588 • Fax (012) 323 9746

For those serious about monitoring policy and legislation, this is the key source of information. Anyone can subscribe to and receive all Government notices and Gazettes, which contain policy documents, legislation, regulations and notices. A subscription can also be made to Parliamentary papers, including order papers, which contain a schedule of Parliamentary Committees, and the business of Parliament.

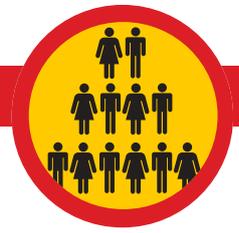
Government Communication & Information System
www.gcis.gov.za

Tel (012) 314 2911 • Fax (021) 325 2030

This is the official institution for communication from the government. There are offices in each of the provinces.

Parliament of South Africa
www.parliament.gov.za
Tel (021) 403 2911

The official website for Parliament of South Africa. It contains all of the relevant information on proceedings in Parliament.



Key Sources of Information on Policy and Legislation and Public Participation

Government

Parliament – Public Education Office*
Tel (021) 403 8136 • Fax (021) 403 8168

The Public Education Office aims to get the public involved and informed of processes within Parliament.

Parliament – Public Relations Office
Tel (021) 403 2464 • Fax (021) 461 5372

General information on Parliamentary proceedings, tours and public access to Parliament.

Organisations that monitor Parliament

Parliamentary Monitoring Group*
www.pmg.org.za
Tel: (021) 465 8885 • Fax: (021) 465 8887

Minutes of all Parliamentary committee proceedings are made available.

Policy.org
www.polity.org.za

An independent website that monitors government policy processes as well as other issues of political interest.

Contact Trust
www.contacttrust.org.za
Tel: (021) 426 1413 • Fax (021) 426 1446

Monitors Parliamentary committees, public hearings on socio economic issues.

Parliamentary Information and Monitoring Service – PIMS
www.idasa.org.za
Tel (021) 467 5600 • Fax (021) 461 2589

An Idasa project that monitors Parliamentary proceedings.

Gender Advocacy Programme
www.gender.co.za
Tel (021) 465 0197 • Fax (021) 465 0089

Advocacy and lobbying NGO concerned with the position of women in society and their participation in governance.

COSATU Parliamentary Office*
Tel (021) 461 3835 • Fax (021) 461 4034

Policy submissions by COSATU since 1994 can be found at
www.cosatu.org.za/polsubth.htm

COSATU SUBMISSIONS ON POLICY AND LEGISLATION JANUARY to JUNE 2003

NO	SUBMISSION	COMMITTEE/DEPARTMENT	DATE
1.	Comments on Judicial Matters Second Amendment Bill	PC on Justice & Constitutional Development	10/01/03
2.	Insurance Amendment Bill	PC on Finance	07/02/03
3.	Joint submission with SAMWU on National Water Resource Strategy	Department of Water Affairs & Forestry	14/02/03
4.	Joint Submission with NUM on Minerals Act draft Regulations	Department Minerals & Energy	17/02/03
5.	Joint submission with SAMWU on Draft Water Services White Paper	Department of Water Affairs & Forestry	28/02/03
6.	COSATU/FAWU Submission on Food Security	PC on Agriculture & Land Affairs	12/03/03
7.	Submission on Issue Paper on Protected Disclosures	South African Law Commission	08/04/03
8.	COSATU response on intentions to adopt Immigration Regulations	Department of Home Affairs	11/04/03
9.	Social Security Coalition submission on National Social Security Agency	Department of Social Development	April 2003
10.	COSATU/NUM submission on draft Minerals Royalty Bill	Department of Minerals & Energy	07/05/03
11.	Property Rates Bill	PC on Local and Provincial Government	13/05/03
12.	Petroleum Pipelines Bill	Department of Minerals & Energy	27/05/03
13.	Draft policy on appointment of liquidators	Department of Justice	02/06/03
14.	Electricity Distribution Industry restructuring Bill	Department of Minerals & Energy	09/06/03
15.	Taylor Committee Report on Social Security	PC on Social Development	09/06/03
16.	Draft Immigration Regulations	Department of Home Affairs	11/06/03
17.	SABC Draft editorial policy	SABC	13/06/03
18.	Joint submission with SATAWU on the National Ports Authority	PC on Transport	18/06/03
19.	Anti-Terrorism Bill	PC on Safety & Security	24/06/03
20.	Broad-based Black Economic Empowerment Bill	PC on Trade & Industry	25/06/03
21.	Credit Bureau Regulations	Department of Trade & Industry	14/7/03
22.	Land Restitution Bill	Department of Agriculture & Land Affairs	Pending
23.	COSATU analysis of 2003/4 budget	For general distribution	Pending
24.	National Health Bill	PC on Health	Pending
25.	Combined Insolvency & Business Recovery Bill	Department of Justice	Pending
26.	Skills Development Amendment Bill	PC on Labour	Pending
27.	Unemployment Insurance Amendment Bill	PC on Labour	Pending
28.	Basic Conditions of Employment Act Regulations	Department of Labour	Pending
29.	Minerals & Petroleum Resources Royalties Bill	PC on Minerals & Energy	Pending
30.	Municipal Systems Amendment Bill	PC on Provincial and Local Government	Pending
31.	Basic Sanitation Strategy	Department of Water Affairs	Pending
32.	Penultimate Water Services White Paper	Department of Water Affairs	Pending