

**CALLING ON ALL WORKERS TO THE FRONTLINES  
AGAINST CORRUPTION, RETRENCHMENTS, GENDER-BASED VIOLENCE AND ATTACKS ON  
COLLECTIVE BARGAINING & WORKERS RIGHTS**



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**COSATU'S 35<sup>th</sup> ANNIVERSARY EDUCATION & ORGANISING TOOL**

## **Introduction**

The COVID 19 pandemic has brought to the open the very ugly reality of a society that is untransformed and where the majority of people, women, workers and blacks in particular, are facing the daily pain of extreme poverty, inequalities and unemployment in their families and communities.

These reflect the persisting structural fault-lines of the legacy of apartheid and the class, racial and gender contradictions beyond the 1994 democratic breakthrough. The pains of unchanging conditions are daily compounded by the COVID 19 pandemic and its associated consequences.

Health and Safety, particularly as it relates to the emergence of the COVID 19 pandemic, occupational health and safety in the workplace and the general health and wellness of society generally, are a cross cutting issue.

In this regard, the workers struggles for Personal Protective Equipment (PPEs) are an important component, particularly as manifested in the devastating effects on frontline workers who have paid the ultimate price for doing all in their power to flatten the COVID 19 curve and keep the whole society safe.

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It is for this reason that the CEC of COSATU, having undertaken a full assessment of the domestic and international balance of power, the class configuration of forces and the state of the working class, decided that its time for the intensification of a united workers struggle and mass mobilisation on a sustained basis.

In that regard, it decided that the 7<sup>th</sup> October, 2020 be declared a National Day of action, a strike based on two main Section 77 Notices, herein illustrated below and other on-going issues affecting workers and society in general;

### **1. Section 77 Notice on Public Transport**

On the 24<sup>th</sup> July 2020 COSATU submitted a Section 77(1)(b) notice on behalf of Organised Labour COSATU, FEDUSA and NACTU intending to protest because government has not addressed the public transport challenges related to Covid-19 and generally adequately, to ensure a safer transport sector.

Below are the outstanding Demands that have remained unresolved:

- I. Taxi loading capacity must be reduced from 100% to 70% immediately, as the full capacity loading posed risks to the lives of passengers.
- II. The Directive on the Peak Spreading must be implemented urgently, as its delay promotes virus spreading.
- III. A Violence Avoidance Plan must be established in order to remove the danger of violence erupting on routes as the number of commuters decline due to Covid-19.

## **2. Section 77 Notice on Health and Safety**

COSATU served NEDLAC with a notice, dated 19 July 2018, in terms of Section 77 (1) (b) of the Labour Relations Act 66 of 1995, from the Congress of South African Trade Unions (COSATU). The notice outlined COSATU's demands in respect of Health and Safety, which are.

- I. A single legislative authority for Occupational Health and Safety (OHS) act and a single compensation legislation.
- II. The OHS Act for general workers and the Mine Health and Safety Act need to be integrated.
- III. Shop stewards should be trained to the level of inspector as they were the eyes and ears in the workplace when the inspector was not around.

## BROAD THEMATIC CAMPAIGNING ISSUES

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### 1. CORRUPTION LEAD TO MORE JOB LOSSES, MORE POVERTY AND MORE UNEMPLOYMENT

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#### 1.1. Background to the corrosive scourge of Corruption

- 1.2. Corruption has emerged as amongst the biggest threat to our hard-won democracy since the 1994 breakthrough. It is like cancer eating at the moral fibre of our society and eroding the moral standing of our revolution and the cause for which our people laid down their lives.
- 1.3. According to government figures in 2017, “Corruption costs the SA Gross Domestic Product (GDP) at least R27 billion annually, as well as the loss of 76 000 jobs that would otherwise have been created”.
- 1.4. **Illicit Financial Outflows:** According to the State Security Agency, nearly R80 billion passes through the country's points of entry illegally every year, putting South Africa as one of the countries on the continent with high illicit financial movements. The South African economy has been affected negatively by decades of transfer pricing and other forms of illegal capital flight by multinational companies.
- 1.5. **Collusion and Cartel Behaviour:** A World Bank study on competition in SA noted, for instance, that in the case of four cartels in maize, wheat, poultry and pharmaceuticals - products which make up 15.6% of the consumption basket of the poorest 10% - conservative estimates indicate that around 200,000 people stood to be lifted above the poverty line by tackling cartel overcharges.
- 1.6. Currently, we are in the midst of a massive corruption storm in South Africa, triggered by the COVID 19 demand for Personal Protective Equipment (PPEs) and the general social service and relief necessities of the people and the country during this period.

- 1.7. However, this does not mean corruption started with the COVID 19 procurement problems. It could only be a culmination of years of systemic corruption, abuse and deliberate weakening of public resource controls and the prioritisation of private interests over public goods and services in that regard.
- 1.8. The history and scale of corruption in South Africa is not without context. It is true that apartheid capitalism was a system based on chronic parasitism, legalised plunder and looting, the crude exploitation of black and women workers as cheap labour and the resultant massive destitution and suffering of the overwhelming majority of our people.
- 1.9. The recent developments have only served to prove that the deeply entrenched infrastructure of corruption and abuse of power was never defeated and destroyed after 1994. It only got renewed and inherited by some from our own ranks, who saw the ascendance of the ANC to state power as an ideal opportunity for “their time to eat”.
- 1.10. Corruption is driven by very sophisticated operations and networks of patronage and abuse of power by both public and private sector officials. It is also true that, at times, it is a direct product of weak or non-existent controls and systems, inappropriate laws or regulations and even more, the problem of poor enforcement.
- 1.11. It is, in the main, a product of the unholy intersection between public officials and private sector interests or individuals with vested interests in making personal or private gains from influencing how certain transactions, goods and services are to be delivered and for whose benefit.
- 1.12. Both private and public sector officials and executives have been cited in massive corruption scandals that often evade the headlines or gets put under the carpet. These are worth billions, if not trillions in rand denominated value terms. They milk millions of jobs, tax, national and community development worth and livelihoods lost to greed, abuse of resources and under-declaration or no declaration of conflict of interests assets.
- 1.13. **In July 2016, the United Nations Conference on Trade and Development (UNCTAD)** report stated: “Between 2000 and 2014, under-invoicing of gold exports from South Africa amounted to \$78.2 billion, or 67% of total gold exports” and that this “does not appear to be a simple matter of undervaluation of the quantities of gold exported, but rather a case of pure smuggling of gold out of the country.” The report asserted, among other things, that South African miners of silver,

platinum group metals, gold and iron ore had systematically and fraudulently indulged in mis-invoicing in order to evade taxes and other legal obligations.

- 1.14. Amongst the reported scandals are those involving the following companies; Steinhoff, KPMG, Tongaat Hulett (the biggest Sugar Producing company in RSA), the US Consultancy McKinsey & Company, as well as the Gupta family which owned over 12 companies in South Africa - across various sectors, including Oakbay Investments, Sahara Computers and mining group Tegeta Exploration and Resources.
- 1.15. Further, a whistleblower filed a complaint with the US Securities & Exchange Commission in 2018 against EOH in relation to alleged corruption in an R120 million department of defence software deal as reported by TechCentral

## **2. Corruption a global problem we must fight wherever it manifests itself**

- 2.1. The Corruption Perceptions Index (CPI) is an index published annually by Transparency International since 1995 to evaluate how countries are either perceived or in real terms performing on matters of corruption.
- 2.2. Transparency International is an international organisation that deals with corruption. It defines corruption as the “abuse of entrusted power for private gain”. It goes on to state that “corruption erodes trust, weakens democracy, hampers economic development and further exacerbates inequality, poverty, social division and the environmental crisis”
- 2.3. The latest Report of the Global Financial Integrity, titled, “The Global Crisis of Corruption”, alarming the worsening extent of the scourge throughout the world. From Panama Papers to Luanda Leaks, all of them paints a gloomy picture of this financial pandemic of huge proportions.
- 2.4. It states that, “Corruption is a global scourge. It represents a huge loss to taxpayers and governments around the world struggling to provide adequate services for their citizens. It is particularly damaging in developing countries, where lost tax revenues undermine efforts by governments to progress on the internationally agreed-upon United Nations 2030 Sustainable Development Goals (SDGs), as well as other national economic development priorities and emergencies like the Covid-19 pandemic”.

- 2.5. Corruption always thrive across borders and takes different forms, including illicit financial flows as the AU High Level Panel Report and that of the Global Financial Integrity clearly outlines, both on the African continent and the extent of forces beyond the continent involved and actually being the key drivers of major corruption practices.
- 2.6. Linked to the above, tax heavens, mis-invoicing and evading due financial and other obligations to countries and citizens, as well as oiling the wheels of the global corruption industry. Off-shore accounts that also evade taxation have been identified as widespread.
- 2.7. In all this, the main losers of corruption are the poor, particularly on the African continent and in our country more specifically. It is therefore, our primary duty that we fight all and every form of corruption and abuse of power to promote dishonest practices and self-interest at the expense of the poor and working people.

### **3. COSATU and the struggle against Corruption – Turning the tide!**

- 3.1. COSATU since the dawn of the new era in 1994 has consistently been fiercely opposed to any and all forms of corruption and abuse of public resources. We have not only rejected it in our resolutions and speeches, but even more, critically, in marches, pickets and strikes.
- 3.2. We were accused of being alarmists when we warned of the dangers of our state becoming a predator state, wherein hyenas freely and without let, feed on public resources and parade glamour and extravagance as the new normal.
- 3.3. We have a duty to stand up and refuse to be silenced or cowed by opportunists, elites and all who are closer to the till and worried about the noise or voices of reason against corruption.
- 3.4. We have seen Parastatals, major Private sector companies, Ministries and local Government officials run amok by corruption by tenderpreneurs and Covidpreneurs, who have no shame to feed on the plight of the poor; from food parcels to fixing tenders, from abusing resources for development needs of the poor to collapsing job creating projects.

- 3.5. It is for this and such reasons that COSATU will forever remain a champion of good, ethical and principled values of governance and leadership. We shall and are always raising our voices, even if its our own allies, our own leaders, our own officials, our own fellow comrades.
- 3.6. Once again, COSATU has taken the path of acting against corruption by taking to the streets and acting with decisiveness against the scourge of corruption, retrenchments, state refusal to grant workers their wage increments and lack of PPEs for frontline workers in the face of a devastating COVID 19 Pandemic.
- 3.7. We are actively mobilising with other social forces for a nationwide front against corruption and abuse of public and workers resources for self interest of a few individuals.

**A Victory against Corruption is a victory for better wages, jobs, community development and incomes!**

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### **3. STOP THE ATTACKS ON COLLECTIVE BARGAINING & WORKERS RIGHTS**

**Genuine Negotiations and Social Dialogue – the real and lasting Solution!**

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#### **Background**

The Collective and centralised bargaining system in South Africa and globally, was a product of hard struggles by workers for effective defence of their rights, wages and decent working and living conditions.

Employers and governments fought long and hard to effect the divide and rule principle in order to weaken the unity, solidarity and collective power of workers.

The adage, “an injury to one is an injury to all” threatens employers and shakes ruling classes to the core as it wields massive workers power that cannot be defeated by any army or power anywhere.



When workers sing the song solidarity forever, it haunts established powers about the essence and strength in numbers and unity of workers. It reminds all that the factories, workplaces, public services, private enterprises, schools, health facilities, community services, industrial production and mining sectors and all other functioning places are the result of workers labour. In other words, they can and have come to a standstill whenever workers withdraw their labour and demand better wages and working conditions.

Global capitalism is based on global cooperation of workers and the millions of workers running the systems that benefit the profiteers and suck the blood of workers. It is a system of legalised parasitism, corruption, exploitation and abuse of workers and the poor.

In the specific case of South Africa, the struggle against apartheid was a struggle for workers rights, decent working and living conditions, better wages and incomes for workers, as well as health and safety for improved quality of life in general.

It was a struggle against class exploitation, gender oppression and abuse, as well as racial inequalities and discrimination. It was a struggle waged as part of the broad liberation struggle led by the democratic and liberation forces, at the head of which was the ANC and its allied forces.

COSATU and its predecessor decisively led the struggle for workers against all these and other ills of the apartheid system. This was the crux of the struggle for democratic, collective and genuine negotiations and social dialogue between all social partners. There can be no workplace and industrial stability, let alone political and economic stability without workers interests and voices being heard.

We are now going through an unprecedented period in the history of bargaining in the country, where sustained attacks on the Collective Bargaining system have been launched and intensified, particularly by employers, both private and public sector. They have identified collective and centralised bargaining as the main target of their desperation to impose neo-liberalism and neo-apartheid working conditions.

Employers are keen to unilaterally impose starvation wages, sub-standard working conditions, sub-human living conditions and generalised erosion of all the hard gains workers made since the dawn of democracy and freedom.

Employers openly disregard, undermine and attack the social dialogue system and blame it for their under-performance and low profitability margins. Their main concerns are their shareholders and not those who work to produce the profits and wealth.

Government has become the latest culprit in the Public sector. Led by the pole-bearer of neo-liberalism, the National Treasury, government has brazenly disregarded and violated the 2018 3year Wage agreement to the total dismay of workers and the country as a whole regarding the true meaning and value of wage negotiations.

This has also sent a wrong message to the very belligerent employers in the private sector, who are drooling and strengthening their manipulative tactics to undercut wage negotiations and social dialogue over working conditions.

This has rolled back the many gains and hard work of many years by the working class and all progressive forces and communities. It is the reason why COSATU is mobilising hard against all and every attack on the collective bargaining system and workers rights and wages. It is not a luxury, but a fundamental condition for our life and death struggle to retain any semblance of decent work and decent lives.

Throughout the economy, in mining, clothing and textile, transport and logistics, chemical and plantations, retail and hospitality, security and cleaning, domestic and pharmaceutical sectors in both private and public sectors, we are seeing millions of jobs being shed by the economy and more threatened for shedding.

The size and scale of job losses and those on the line of being lost is so vast, we are literally facing a real jobs bloodbath of monumental proportions.

Labour market institutions are under-funded and starved of the necessary resources to carry out their work effectively, particularly those that are at the frontline of enforcing workers rights and the labour relations law. This is not accidental, but the deliberate outcome of a systematic and well-orchestrated plan to attack collective and centralised bargaining.

Labour broking, out-sourcing, casualisation and all other such substandard employment practices are intensified during this period. The COVID 19 pandemic has literally provided an excuse to most employers to carry out their long planned erosion of workers hard earned rights.

## 4. STOP GENDER-BASED VIOLENCE AT WORK AND IN SOCIETY AS A WHOLE

- End the Pay Gap between men and women NOW!

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### Background

Capitalism is a system of violence and exploitation of workers. Every day, workers lives are put at risk for the sake of profits. As trade unions, we fight to make sure that workers are safe at work. It is important that we fight for workers' rights every day because as COSATU's slogan says: *An injury to one is an injury to all.*

Black women workers experience exploitation and oppression as workers and black people, and they also experience violence, harassment and oppression as women.

With Covid-19 we have seen how workers have had to risk getting sick themselves to take care of the sick, to keep growing food, to work at tills in supermarkets and pharmacies. Many of these workers are women and men who have children and families at home. They worry that they might get sick and that their families might get sick. They are stressed about their health and safety. Trade unions world-wide have been campaigning for women workers to be given PPE that fit women's bodies. This also applies to women workers in sectors like mining, construction and policing where women are expected to wear protective gear that has been designed for European men's bodies, not for African women.

We expect public representatives to do everything in their power to make sure that health workers have proper personal protective equipment so that they are not exposed to health risks. Yet, because of greed and corruption, resources that were meant to be used for workers' PPE and UIF have been abused.

We see horrific reports daily of women that have been brutally murdered by their partners. 1 in 3 women world-wide experience physical or sexual violence, often from their partner or someone they know<sup>[1]</sup>. Gender-based violence affects mostly women and girls, as well as LGBT+ (lesbians, gay men, bisexuals, transgender and others).

Gender-based violence takes many forms, including domestic violence, rape, sexual abuse of children, abduction and forcing young girls into marriage, trafficking in women and girls, sexual harassment at work and at school and elsewhere.

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<sup>[1]</sup> World Health Organisation

All forms of gender-based violence impact on workers and workplaces, and also occur at work. Women workers face the threat of violence when they have to travel late at night because of late working hours. Some unemployed women find themselves being offered jobs in exchange for sex.

Pinky Mosiane died on 6 February 2012 at Anglo American Platinum Khomanani Mine in Rustenburg. Pinky was a young woman mineworker aged 27 years and mother of a seven year old. She had been working at the mine for just under three months and was brutally assaulted, raped and murdered whilst working underground. Her body was found in a pool of blood in a mine shaft with a used condom next to her body. She had been hit on the back of the head with a blunt object. A blood-stained stone and a lunch box were found nearby.<sup>[2]</sup>

The Chamber of Mines spokesperson reportedly said just after Mosiane's murder that safety in the mines "is an issue, but the chamber deals with safety issues such as rock falls, dust and noise, and does not deal with gender-specific safety issues."

Despite a limited pool of suspects, confined to those that were underground at the time of the attack on Mosiane, nothing happened. In response, the STOP Violence against Women, Justice for Pinky Mosiane Campaign was started by Civil Society organisations and trade unions. After a two year campaign, an arrest was made and the perpetrator was eventually sentenced to life in prison.

Mosiane is not the only victim of gender-based violence underground in South Africa's mines who had a fatal end. Cynthia Setuke was attacked and murdered on October 9 2013 at Aquarius platinum mine's Kwezi shaft in Rustenburg.

For four years Cynthia Anikie Setuke worked 220 metres underground in an isolated, dimly lit area in Aquarius platinum mine's Kwezi shaft in Rustenburg. She did a job none of her male colleagues was prepared to do. Shortly before her death, Setuke expressed her unhappiness with her unacceptable working conditions, saying she was working in dimly-lit conditions, isolated from other sections of the mine.<sup>[3]</sup>

Cynthia's body was discovered on the conveyor belt. It appears she was strangled. She also had severe bruises to her head. It looked as if her head had been squeezed down hard – possibly onto the conveyor belt where she sifted through minerals.

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<sup>[2]</sup> <https://www.dailymaverick.co.za/opinionista/2013-08-01-who-killed-pinky-mosiane/>

<sup>[3]</sup> <https://www.enca.com/south-africa/murder-trial-highlights-plight-woman-miners>

Due to the pressure that trade unions put at bargaining tables, organisational campaigns, pickets and marches, some parts of the mining sector have taken steps to improve the safety of women working underground, for example:

- Establishment of anonymous tip-off line for sexual harassment related allegations and reporting by affected employees
- Several cases dealt with which resulted in some employees being dismissed
- Some Coal mining sector started the roll out of provision of appropriate Personal Protective Equipment (PPE) and clothing for women

Khabonina Mkhonza, a 64 year old domestic worker, was beaten up by a 28 year old man in the home where she works. She has worked for the family for 20 years, and she raised the young man that beat her. He appeared in court during Women's month, and he was granted R500 bail. The attack was sudden and without provocation. Mkhonza reported that "He just started beating me, he got on top of me and he started beating me until I was bleeding. Then the parents tried to stop him but he still beat me." He would often vent at her about the government's alleged corruption, directing his anger about ANC and EFF leaders towards her.

Women workers in hotels and restaurants are frequently faced with sexual harassment and assault by drunk and abusive customers, and also by managers and owners.

These are some of the countless horrifying examples of women being violated, abused and murdered at work. They illustrate the urgency of proper procedures to prevent and deal with cases of violence in the workplace. Women have the right to safety and security at work.

Domestic violence impacts heavily on women workers, and can spill over into the workplace. Violent abusers often follow women to the workplace because they know this is where they can find them. There have been too many cases where women have taken the brave step of leaving their abusers, only to be murdered at work.

Sexual violence happens too often in the workplace, with cases of rape, sexual harassment and sexual favours in exchange for employment. Sadly, the majority of these cases do not see the light of day. The power relations in the workplace are such that many women either suffer in silence or leave their job to escape the predator, who is often in a more powerful position. It is very difficult for young women, who also predominate in casual and precarious work, to speak out.

Certain occupations are particularly vulnerable to violence in the workplace, this includes occupations dealing with the public and providing social and commercial services, such as health, transport and retail, as well as precarious workers, including farm workers, domestic workers, street traders and sex workers.

Retail and restaurant workers have been mugged and murdered on the way home from work late at night. Unions have been campaigning and negotiating for paid transport for workers.

## What is ILO Convention 190?

Workers, unions, governments and employers made history by adopting a new ILO Convention 190 in June 2019 on eliminating violence and harassment in the world of work.

The adoption of Convention No. 190 and Recommendation No. 206 recognises **the right of everyone to a world of work free from violence and harassment**, including gender-based violence and harassment. This is the first time that this right has been explicitly recognised in an international labour standard.

## Why is it important for Governments to

Governments that ratify C190 must put in place laws and policy measures to prevent and address violence and harassment in the world of work, in line with C190.

## Why is C190 Significant?

***The ILO Convention and Recommendation sends a strong message that violence is NOT part of the job. It helps to give workers voice and negotiate collective agreements that address GBV. It assists workers and employers to agree on policies to prevent and address GBV in the workplace. It can contribute to empowering women workers to take action. (ITUC, 2016)***



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## What does C190 cover?

C190 covers all workers. It recognises both formal and informal workers as part of the world of work. It also covers job seekers, interns, volunteers and apprentices.

C190 recognises that the world of work goes beyond the physical workplace, and includes, for example:

- Public and private spaces that are places of work
- Work-related communication
- Eating, resting, changing and sanitary facilities
- Commuting to and from work

C190 requires action to address the impact of domestic violence in the world of work.

***COSATU Demands:***

- Policies on GBV and Sexual Harassment in all workplaces
- Ratification of Convention 190 on eliminating violence and harassment in the world of work
- Paid transport for workers working flexible hours
- More shelters for women and children to escape domestic violence
- Training for police officers, social workers and magistrates to provide victim-centred services

## **5. FIGHT RETRENCHMENTS AND JOB LOSSES - STOP THE UNEMPLOYMENT CRISIS!**

### **COSATU Calls for a Moratorium on Retrenchments and measures to Save and Create more Jobs**

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#### **Background**

The economy has been shedding jobs for a while now, with COSATU launching its Jobs and Poverty Campaign as early as late 90s, we have always identified jobs as key to the improvement of the quality of lives for workers and communities.

According to Stats SA, 2, 2 million jobs have been lost in a space of a few months this year alone and this accounts for a real national crisis. This means, about 4,3 million people are unemployed in the country.

The COVID 19 emergence only compounded and worsened a crisis long identified by COSATU as a time-bomb waiting to explode. CCMA says it noticed significantly higher activity with regard to retrenchments in May and June this year.

The workload of the CCMA involved a number of section 189A processes which have resulted in 27% of jobs saved – the equivalent of 2,549 of 9,369 employees who were likely to be retrenched. Actual retrenchments were recorded at 6,713 over the two month period.

COSATU has in every forum and negotiation avenue raised the call for a moratorium on retrenchments, both to private and public employers. If we must flatten the curve on poverty, unemployment and inequalities, this is central.

Employers don't resort to retrenchments as a desperate last bid or after exploring all other avenues, but are eager to immediately use it as a profit securing scheme for shareholders and disinvesting in the economy and development.

According to its own figures, "the highest number of job losses were recorded in the mining sector (3,056) followed by Food & Beverages sector (1,631) and lastly by the manufacturing sector 324".

Further, for the month of July, the CCMA said it received 190 large-scale retrenchment referrals and 1,307 small-scale retrenchment referrals.



In this regard, CCMA defines 'large-scale retrenchments' as employers who employ more than 50 employees and plan to cut a significant part (10% or more) of their workforce

Amongst the several causes of retrenchments and job losses are related to the following factors;

- Manifestation of the deepening global capitalist crisis and over-financialisation of the economy,
- Failure to transform the structure of our economy,
- Lack of diversification away from the monopolistic character of our society and economy in particular, and;
- Exclusion of the majority, blacks in particular from productive economic life.

Towards that end, the productive economy is suffocating from the pressures of financial parasitism, which is about lack of finance for development, but excess finance for speculation, gambling and other bubble kinds of wealth generation.

But also, the lack of investment in local production, local procurement and national development imperatives make companies not relevant and responsive to the growth trajectory of our economy and the needs of our society.

Most of our companies are also failing to meet the international competition standards for various reasons and that leads to closures or company failure to survive, hence jobs are shed as companies are forced to close or become smaller. Most companies don't invest in research and development, as well as means to improve their performance, but instantly blame workers whenever performance take a knock.

This is linked to the untransformed economic structure and the shrinking market and economy, as fewer and fewer people enjoy exclusive access to real economic and productive activities and life.

In this regard, women and blacks in particular are the worst victims of economic exclusion, low wages and lack of growth and mobility opportunities in industry, hence the production and reproduction of poverty and unemployment along racial and gender lines in our society.

COSATU demands that the transformation of the economic structure be at the centre of the Economic Recovery and growth of the economy. The New normal must never be about retaining the old modus operandi and structural operations and outlook of business and the economy.

## **Due Processes required by Law before Retrenchments can take place – if all else fails!**

In the final and desperate end where we cannot avoid retrenchments, there are important processes that as workers and unions we must fight to ensure are not short-circuited by employers.

According to South African Law, there are 10 things required before a company or employer embarks on retrenchments and unions and workers must safeguard the due processes to avoid workers losing jobs and remuneration accordingly.

These requirements are;

1. Companies or employers are required to issue a notice in terms of section 189(3) or section 189A (if employing more than 50 employees and contemplating retrenching 10% or more of the workforce) of the Labour Relations Act.
2. It is further required that the written notice must state clearly:
  1. the reasons for the proposed dismissals, the alternatives considered by the employer before proposing retrenchments and the reasons for rejecting each of those alternatives;
  2. the number of employees likely to be affected and the job categories in which they are employed;
  3. the proposed method of selecting which employees to dismiss;
  4. the time or period when the dismissals are likely to take effect, the severance pay proposed, the assistance offered to employees likely to be dismissed, the possibility of future re-employment, the number of employees employed by the employer, the number of employees that were dismissed as a result of operational requirements in the preceding 12 months.
3. Consultation with workers is compulsory, which must be aimed at reaching consensus on appropriate measures to avoid dismissals, minimise the number of dismissals, change the timing of the dismissals, mitigate the adverse effects of the dismissals, method of selecting employees to be dismissed and severance pay for the dismissed employees.
4. While it is not necessary to reach agreement on the aforesaid issues, but the consultations must be in good faith and all worker representations must be considered during the consultation processes

5. An attempt must be made to reach agreement on the selection criteria identifying employees to be retrenched. If no agreement has been reached, the selection criteria adopted must be fair and objective – the most common being ‘last in, first out’ subject to skills, qualifications and experience.
6. Employees are entitled to a minimum of one week’s severance pay for each completed year of service unless the employer has a more beneficial policy on severance.
7. In the case of large scale retrenchments (section 189A) either party may request facilitation through the CCMA.
8. If a facilitator is appointed to assist with the consultation process, an employer may give notice of termination of employment after 60 days have elapsed from the date on which the section 189(3) notice was issued.
9. If no facilitator is appointed, either party may refer a dispute to conciliation after 30 days have elapsed from the date of issue of the section 189(3) notice.
10. No notice of termination of employment may be given before the expiry of 60 days from the date of the section 189A(3) notice.

## **Conclusion**

Our demands are very clear that there must be a moratorium on retrenchments and job losses, instead, we must intensify all efforts to create jobs and fight unemployment. The state and business must demonstrate concrete plans towards creating new and lasting jobs through various interventions, including investing in certain sectors, projects, communities, industrialisation and local procurement.

COSATU is heightening its campaign for the ideological and working class consciousness against the deeply entrenched offensive and crisis that constitute a sustained attack against workers and the poor.

All workplaces, Provincial and local forums, shopstewards meetings, sector and union activities and all public spaces shall serve as strategic and ideological spaces for education, critical debates and the organisation of workers.

These aim to ensure that workers join unions, raise their understanding and awareness and advance their struggle for decent work, decent incomes and decent conditions of work and life.

COSATU is not about to relent after 35 years of heavy sacrifices, marked by set-backs and gains for workers, which eventually brought apartheid as a racist system to its knees.

This is the same struggle we are waging today in the farms, mines, factories, public and private health and educational institutions, as well as local government and wherever workers are.

We celebrate, as we intensify, the glorious workers movement of Elijah Barayi, Vuyisile Mini, Ray Alexander, Violet Seboni, Alinah Rantsolase, Sophie De Bruyn, Moses Kotane, JB Marks, Charlotte Maxeke, John Nkadimeng and all those who pioneered this great movement.

**The Renewal of COSATU is a fitting tribute to their great sacrifices and the future of the trade union movement as a whole!**

**Onward Ever to the 35<sup>th</sup> Anniversary of COSATU!**

