

Ensuring labour standards and worker's right in work sites – Experience From South Africa

Introduction:

Many public employment programmes do not acknowledge that there is an employment relationship between workers and the programme. This is exemplified by programme participants being referred to as beneficiaries for instance, and their wages being called transfers or stipends. In such cases, it is not clear what rules govern the relationship and what measures are open to participants for redress in case of grievances. This reinforces the need to ensure labour standards and worker's rights at worksites in public employment programmes.

Background:

The design of public employment programmes in South Africa is deeply influenced by the need to ensure decent working conditions. South Africa's public employment programme - the Expanded Public Works Programme (EPWP) - was launched in 2003 with an aim to create "a million jobs over a period of five years." However, even before the EPWP was launched, there were concerns from labour unions that such a programme could erode wages and working conditions. In South Africa, a government programme having an undefined working relationship was seen as unacceptable. Thus, a special employment framework, applicable to those working on public employment programmes (designated as Special Public Works Programmes) was therefore negotiated.

Details of the intervention:

South Africa's special employment framework was captured in a Ministerial Determination and a Code of Good Practice published in 1998. It specified the minimum working conditions that were mandated to apply to all public works programmes (PWP) in South Africa.

Currently, the framework allows for special conditions of employment to facilitate greater employment on PWPs, namely:

- Employers (departments, provinces and municipalities) may set rates of pay locally at self-targeting rates to avoid attracting workers away from more permanent employment;
- Reduced obligations for employers, e.g. no obligatory Unemployment Insurance Fund (UIF) payments;
- Task-based payment for labour-intensive works

At the same time these special conditions of employment also specify that:

- Workers are entitled to two days of training for every 22 days worked; and
- Workers can only be employed under these special conditions of employment for a maximum of 24 months' employment within a five-year cycle after which they should be hired under normal conditions of employment.

The Code of Good Practice also regulates other employment conditions such as payment frequency and methods, health and safety, compensation or injuries at work, and sickness and maternity leave, etc. It sets affirmative action targets for the employment of youth, women and people living with disabilities on EPWP projects. It also requires that workers be issued with a written contract and a certificate of service on completion of the project.

Impact:

Adherence to the Code has been mixed, partially due to the limited awareness of its provisions among contractors. On some projects, workers were employed more formally than the Code requires. On other projects, workers were employed on standard conditions of employment. Thus, creating greater awareness on the Code and its provisions remains to be undertaken.

Nonetheless, the Code of Good Practice helps to ring fence employment conditions on EPWPs from established industries. This is in order to prevent PWPs from being used to replace workers employed under normal conditions in established sectors and activities, with casual EPWP workers, which would turn it into a vehicle for deregulating the labour market or for promoting casual employment over regular employment. Further, the issuance of orders for decent working conditions- including sickness and maternity leave – is an important step towards securing labour rights and creating a safe working environment.

Source: International Labour Organisation. (2012). Towards the right to work: a guidebook for designing innovative public employment programmes.