

**Subcontracting of work and workers' protection in post-apartheid South Africa: a
case study of cleaning services workers**

by

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Declaration of original work

I Omomowo Kolawole Emmanuel declare that this mini-dissertation is my original work. Where secondary material has been used (either from a printed source or from the internet), this has been carefully acknowledged and referenced in accordance with the requirements of the Department of Sociology, Faculty of Humanities, University of Pretoria.

Signature.....

Date.....

ABSTRACT

Workers' protection can be achieved, to a large extent, through labour law and workers' organisation through trade unionism. Workers' protection is defined as social protection. This study investigates workers' experiences of their employment with regard to social protection as manifested in job security and wage adequacy. In this study workers' perception of labour law, as a tool for workers' protection, is considered in relation to the argument of the régulation theorists that law serves as a 'mode of regulation' to perpetuate the stability of the prevailing capitalist regime of accumulation. The impact of the changing nature of work on the effectiveness of labour law at achieving workers' protection is investigated from the perspective of workers.

A large employer subcontracting some support services was selected as a site of study. Data was collected using one-on-one in-depth interview to 'tap' into the working experiences of relevant workers and union officials.

This study concludes that the changing nature of work as manifest in the decline of standard employment relationships and increase of atypical (non standard) employment, such as subcontracting undermines workers' protection. Wages and other benefits of workers are affected. Workers survive through the support of their families and by borrowing from micro lenders which tend to suck them into a poverty cycle. The ineffectiveness of labour law to adequately protect subcontracted workers substantiates the position of régulation theorists that law is an extra-economic institutionalised practice helping to stabilize the prevailing capitalist regime of accumulation. The thinking here is that labour law is not unilaterally imposed by the state, rather, it is a product of social interaction (social relation) or struggle between labour, capital and the state within a social 'field' or 'subfield'. The nature of employment of subcontracted work weakens the power of workers' collective through trade unions. The restructuring of work leads to deunionisation and the ability of unions to organise these workers is undermined by difference in employer and pay-point between permanent workers and subcontracted workers.

Key words: workers protection, changing nature of work, labour market flexibility, régulation theory, flexible accumulation.

ABSTRAK

Die beskerming van werkers kan tot 'n groot mate geskied deur middel van die effektiewe toepassing van die arbeidswet asook werkersorganisasie in die vorm van vakbonde. Beskerming van werkers word gedefinieer as sosiale beskerming. Hierdie studie ondersoek die ervarings van werkers ten opsigte van hul indiensneming, met betrekking tot sosiale beskerming wat manifesteer in werksekuriteit asook in die voldoendeheid van lone. In hierdie studie word werkers se persepsie van die arbeidswet as 'n instrument vir beskerming van werkers beskou met betrekking tot die argument van regulasie teoretici dat die wet dien as 'n 'modus van regulasie' om die voortbestaan van die heersende kapitalistiese regime van akkumulاسie in stand te hou. Die studie ondersoek die impak van die veranderende aard van werk op die effektiwiteit van die arbeidswet, wat gemik is op die verwesenliking van beskerming van werkers.

'n Groot werkgewer wat sommige ondersteuningsdienste subkontraakteer is geselekteer as die navorsingsterrein. Data is ingesamel deur middel van 'een-tot-een', in-diepte onderhoude wat gebruik is om die werkservaringe van relevante werkers en vakbond amptenare te kry.

Die gevolgtrekking van hierdie studie is dat die veranderende aard van werk soos wat deur die afname in standaard indiensneming verhoudinge en toename in a-tipiese (nie standaard) indiensneming soos subkontraaktering gemanifesteer word, die beskerming van werkers ondermyn. Lone en ander werkersvoordele word ook deur die bogenoemde geaffekteer. Werkers kan dikwels net oorleef met behulp van ondersteuning van hul families of deur gebruik te maak van 'n mikro-geldskierter. Die laasgenoemde hulpbron kan werkers dieper in die siklus van armoede in dryf. Die ondoeltreffendheid van die arbeidswet om werkers genoegsame beskerming te bied, versterk die regulasie teoretici se standpunt dat die wet 'n buite-ekonomiese, geïnstusionaliseerde praktyk is wat die heersende kapitalistiese regime van akkumulاسie versterk en stabiliseer. Die denkwysie wat hier toegepas word, is dat die arbeidswet nie eensydig opgelê word deur die staat nie. Dit is eerder 'n produk van sosiale interaksie (sosiale betrekkinge) of 'n struweling tussen arbeid, kapitaal en die staat binne die sosiale 'veld' of 'subveld'. Die aard van indiensneming van gesubkontraakteerde werk verswak die mag van werkers-kollektiewe deur vakbonde. Die herstrukturering van arbeid lei tot die afname in vakbondverteenvoordiging en die vermoë van vakbond om hierdie werkers te organiseer. Hierdie verswakking in verteenwoordiging en organisasie word veroorsaak deur die verskil wat ontstaan tussen die werkgewer en betaalpunt tussen permanente en gesubkontraakteerde arbeiders.

Sleutelwoorde: werkersbeskerming, veranderende aard van werk, arbeidsmark buigsaamheid, regulasie teorie, buigsame akkumulاسie

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CONTENTS

Declaration of original work	ii
Abstract	iii
Abstrak	iv
Acknowledgement	v
List of acronyms	x
List of figures	xi
Chapter 1 Introduction	1
1 Introduction	1
1.2 Definition of key concepts	2
1.2.1 Labour market flexibility	2
1.2.2 Subcontracting of labour	3
1.2.3 Workers' protection	4
1.3 Research problem	5
1.4 Objective of the study	8
1.5 Research questions	8
1.6 Scope of the study	9
1.7 Outline of chapters	9
Chapter 2 Theorising the changing nature of work	11
2 Introduction	11
2.1 Changing nature of work	11
2.1.1 Fordism	13
2.1.2 The post-Fordist debate	14
2.1.2.1 The régulation theory	16
2.1.2.2 Neo-Schumpeterian theory	17
2.1.2.3 Flexible specialization	17
2.1.2.4 Concept of the flexible firm	19
2.2 The régulation theory	21
2.2.1 Historical background	21

2.2.2	Basic concepts	22
2.2.3	Social relations	24
2.2.3.1	Regimes of accumulation	26
2.2.3.2	Industrial paradigms (trajectories)	29
2.2.3.3	Modes of regulation	31
2.2.3.4	Hegemonic structures	34
2.2.4	Modes of development	35
2.2.5	Summary of basic assumptions	37
2.2.6	Critique of the régulation theory	38
2.2.7	The affinity between régulation theory and this research	40
Chapter 3 Work, industrial relations and law within the South African context		42
3	Introduction	42
3.1	Restructuring of the South African workplace	42
3.1.1	The apartheid period	44
3.1.2	Post-apartheid period	46
3.2	South African cleaning services industry	49
3.3	Industrial relations and labour law in South Africa	51
Chapter 4 Methodology		58
4	Qualitative research	58
4.1	Paradigmatic orientation	59
4.2	Epistemological orientation	60
4.2.1	Interpretivism	60
4.3	Research design	61
4.3.1	Generalisation	62
4.4	Study site	65
4.5	Restating the context of the research problem	65
4.6	Sampling method and the recruiting of participants	67
4.7	Data collection method – qualitative interviewing	70
4.7.1	Structure of the interview	70

4.7.2	Using an interpreter	71
4.7.3	Conducting the interview reflexively	72
4.8	Data analysis method	74
4.9	Ethical issues	77
Chapter 5 Working experiences and workers' protection		80
5.1	Background to restructuring	80
5.1.1	Appointment of a management consultant and information session	81
5.1.2	Challenging the organizational restructuring	83
5.1.3	Consequences of restructuring	85
5.1.4	Subcontracting cleaning services	86
5.2	Discussion of data	87
5.2.1	Lack of protection	88
5.2.1.1	Security of employment	88
5.2.1.2	Adequacy of remuneration	92
5.2.1.3	Relationship with supervisors	96
5.2.2	Perception of labour law	98
5.2.3	Unionisation and protection	103
5.2.4	Survival strategies and social reproduction	107
5.2.5	Intensification of work	111
5.2.5.1	Being overworked	111
5.2.5.2	Being underpaid	113
5.3	Conclusion	114
Chapter 6 Summary and conclusion		119
6	Introduction	119
6.1	Key arguments	120
6.2	Discussion of findings	124
6.3	Recommendations	131
List of sources		133



Appendix A Interviewees' profiles	140
Table 1: Interviewees' profile (Cleaners)	140
Table 2: Interviewees' profile (Union officials)	141
Appendix B Interview schedules	142
Interview schedule (Cleaners)	142
Interview schedule (Union officials)	145
Appendix C Informed consent form	146

List of acronyms

ANC	-	African National Congress
BCEA	-	Basic Conditions of Employment Act
CAM	-	Computer Aided Manufacturing
CCMA	-	Commission for Conciliation, Mediation and Arbitration
CTMM	-	City of Tshwane Metropolitan Municipality
GEAR	-	Growth, Employment and Redistribution
ILO	-	International Labour Organisation
LIPCO	-	Legally Independent People's Co-operation
LRA	-	Labour Relations Act
LC	-	Labour Court
NEHAWU	-	National Education, Health and Allied Workers Union
NUPSAW	-	National Union of Public Service and Allied Workers
SACSAWU	-	South African Cleaners, Security and Allied Workers' Union
SATAWU	-	South African Transport and Allied Workers Union
SER	-	Standard Employment Relationship
TEFSA	-	Tertiary Education Fund of South Africa [Now National Student Financial Aid Scheme (NSFAS)]
TES	-	Temporary Employment Services
UIF	-	Unemployment Insurance Fund
USA	-	United States of America
ZCC	-	Zion Christian Church

List of figures

Figure 1	-	Key concepts of the theories of régulation	26
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