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 voldoendheid 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 akkumulasie 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 werkgever wat sommige ondersteuningsdienste subkontrakteer 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 subkontraktering 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-geldskieker. Die laasgenoemde hulpbron kan werkers dieper in die siklus van armoede in dryf. Die ondeeltreffendheid van die arbeidswet om werkers genoegsame beskerming te bied, versterk die regulasie teoretici se standpunt dat die wet ’n buite-ekonomiese, geïnstitusionaliseerde praktyk is wat die heersende kapitalistiese regime van akkumulasie versterk en stabiliseer. Die ondoeltreffendheid van die arbeidswet om werkers genoegsame beskerming te bied, versterk die regulasie teoretici se standpunt dat die wet ’n buite-ekonomiese, geïnstitusionaliseerde praktyk is wat die heersende kapitalistiese regime van akkumulasie versterk en stabiliseer. Die denkwyse wat hier toegespas word, is dat die arbeidswet nie eensydig opgelê word deur die staat nie. Dit is eerder ’n produkte 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 gesubkontrakteerde werk verswak die mag van werkers-kollektiewe deur vakbonde. Die herstrukturering van arbeid lei tot die afname in vakbondverteenwoordiging en die vermoë van vakbond om hierdie werkers te organiseer. Hierdie verswakking in verteenwoordiging en organisasie word veroorsaak deur die verskil wat onstaan tussen die werkgewer en betaalpunt tussen permanente en gesubkontrakteerde arbeiders.

Sleutelwoorde: werkersbeskerming, veranderende aard van werk, arbeidsmark buigsaamheid, regulasie teorie, buigsame akkumulasie
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<th>Acronym</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>ANC</td>
<td>African National Congress</td>
</tr>
<tr>
<td>BCEA</td>
<td>Basic Conditions of Employment Act</td>
</tr>
<tr>
<td>CAM</td>
<td>Computer Aided Manufacturing</td>
</tr>
<tr>
<td>CCMA</td>
<td>Commission for Conciliation, Mediation and Arbitration</td>
</tr>
<tr>
<td>CTMM</td>
<td>City of Tshwane Metropolitan Municipality</td>
</tr>
<tr>
<td>GEAR</td>
<td>Growth, Employment and Redistribution</td>
</tr>
<tr>
<td>ILO</td>
<td>International Labour Organisation</td>
</tr>
<tr>
<td>LIPCO</td>
<td>Legally Independent People’s Co-operation</td>
</tr>
<tr>
<td>LRA</td>
<td>Labour Relations Act</td>
</tr>
<tr>
<td>LC</td>
<td>Labour Court</td>
</tr>
<tr>
<td>NEHAWU</td>
<td>National Education, Health and Allied Workers Union</td>
</tr>
<tr>
<td>NUPSAW</td>
<td>National Union of Public Service and Allied Workers</td>
</tr>
<tr>
<td>SACSAWU</td>
<td>South African Cleaners, Security and Allied Workers’ Union</td>
</tr>
<tr>
<td>SATAWU</td>
<td>South African Transport and Allied Workers Union</td>
</tr>
<tr>
<td>SER</td>
<td>Standard Employment Relationship</td>
</tr>
<tr>
<td>TEFSA</td>
<td>Tertiary Education Fund of South Africa [Now National Student Financial Aid Scheme (NSFAS)]</td>
</tr>
<tr>
<td>TES</td>
<td>Temporary Employment Services</td>
</tr>
<tr>
<td>UIF</td>
<td>Unemployment Insurance Fund</td>
</tr>
<tr>
<td>USA</td>
<td>United States of America</td>
</tr>
<tr>
<td>ZCC</td>
<td>Zion Christian Church</td>
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