

SECTORAL ACTIVITIES PROGRAMME

Working Paper

**Best practice in social dialogue in public service
emergency services in South Africa**

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Working papers are preliminary documents circulated
to stimulate discussion and obtain comments

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Sectoral activities in the ILO

The Sectoral Activities Department is part of the Social Dialogue Sector of the ILO. Its objective is to promote social dialogue at the sectoral level and to facilitate the exchange of information among the ILO's constituents on labour and social developments concerning particular economic sectors. One of its means of action is practically oriented research on topical sectoral issues. This publication is an outcome of that research.

The particular characteristics of the various primary, manufacturing and service sectors account for the different form taken in them by issues such as globalization, flexible work organization, industrial relations, the implications of structural and technological change, trends in the number and nature of jobs, and the situation of special groups such as children and women workers. The Sectoral Activities Department is the ILO's interface with its constituents at the sectoral level.

Continuing attention is given to 22 industries or sectors dealing with:

- industrial activities (extractive, rural, manufacturing, construction);
- maritime industries (shipping, fishing, ports, inland water);
- services (commerce, financial and professional services, media, culture, graphical industries, post and communications, education, health, public service, utilities, rail, road and air transport, hotels and tourism).

These sectors are vital in virtually all national economies. Issues concerning other sectors or subsectors are addressed on an ad hoc basis.

The principal activity of the Sectoral Activities Department is the holding of international sectoral meetings that provide a forum for discussion and an exchange of views on current issues in the sector concerned. Sectoral meetings are generally tripartite, with equal participation by governments, employers and workers. Where the government is the predominant employer, however, participation reflects this. From time to time, meetings also take the form of seminars or specialized meetings of experts. An outcome of most meetings is agreed conclusions that serve as guidelines for policies and measures for dealing with the issues and problems at the national level and by the ILO.

The Department undertakes follow-up activities to these meetings and provides various forms of technical assistance, including the promotion of tripartite sectoral dialogue on priority labour issues at national level, and the provision of advisory services on sectoral labour issues. It also collects, analyses and disseminates technical sectoral information and carries out studies, such as this one, on issues of concern to particular sectors or groups of sectors.

Foreword

At its 284th Session (June 2002), the Governing Body of the International Labour Office decided that a Joint Meeting on Public Emergency Services: Social Dialogue in a Changing Environment would be held from 27 to 31 January 2003. The Meeting would review the following issues concerning emergency services: trends in working conditions; safety and health; human resource planning; coordination structures; the state of social dialogue; and rights at work. It was also recommended that the purpose of the Meeting should be to elaborate a set of guidelines for addressing the issues raised above and, in particular, best practice for safeguarding the health, rights and interests of workers dealing with emergency situation, using a report prepared by the Office as a basis for the discussions.

After a decision is made by the Governing Body on the topic of a meeting, there is usually enough lead time to obtain information from ILO's tripartite constituents to be compiled into the report prepared by the Office. With regard to the Joint Meeting on Public Emergency Services, however, there was very little time before the draft Office report was due, which gave the author no time to write to the constituents requesting information. The Office report was therefore prepared on the basis of information and statistical data from various publications and press articles obtained on the Internet, in addition to the ILO database. Information collected on the Internet concerns largely industrialized countries.

This working paper by Bobby Mgijima of Khanya College, South Africa entitled *Best Practice of social dialogue in public emergency services in South Africa* has therefore been commissioned with an aim to supplement the information provided in the Office report. It examines laws, legal frameworks and existing statistical data pertaining to working conditions, human resource planning, social dialogue and rights at work in the emergency services in South Africa. Despite shortcomings in the report due to lack of enough statistical data on matters such as occupational safety and health, for example, it is hoped that this report will nevertheless contribute to the discussions at the Joint Meeting and other occasions thereafter.

ILO working papers are a vehicle for disseminating information on topics related to the world of work and the evolution of social and labour policies and practices. The opinions expressed are nevertheless those of the author and not necessarily those of ILO.

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List of abbreviations

| | |
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| SA | South Africa |
| BCEA | Basic Conditions of Employment Act. |
| CPA | Civil Protection Act |
| DMB | Disaster Management Bill |
| EEA | Employment Equity Act |
| LRA | Labour Relations Act |
| OHSA | Occupational Health and Safety Act |
| SDLA | Skills Development Levies Act. |
| SAPS | South African Police Service. |
| DSS | Department of Safety and Security. |
| DPLG | Department of Provincial and Local Government. |
| PSCBC | Public Service Co-ordinating Bargaining Council. |
| SSSBC | Safety and Security Sector Bargaining Chamber. |
| SALGA | South African Local Government Association. |
| SALGBC | South African Local Government Bargaining Council. |
| POPCRU | Police and Prisons Civil Rights Union. |
| SAPU | South African Police Union. |
| SAMWU | South African Municipal Workers Union. |
| IMATU | Independent Municipal and Allied Trade Union. |
| SALB | South African Labour Bulletin. |

Introduction

(i) Brief of the study

The study has been commissioned by the International Labour Office to look at the working conditions of workers in the Public Emergency Services in South Africa. These services are the Police, Fire Fighters and Emergency Medical Personnel. The central theme of the research is to understand the role of social dialogue in the setting of these working conditions, their protection and improvement. Another important part of the research is the citing of cases of best practice as a way of judging whether or not there is a need for improvements. Reference is also made to the Emergency Medical Personnel in the private sector. Whereas this is not a comparative study of the public and private sectors, some reference is made to the private sector in order to put developments in the public sector into perspective.

(ii) Scope of the research

There are three categories of workers that have been included in the ambit of this study. They are the Police, Fire Fighters and Emergency Medical Personnel. The study looks at the following six areas:

- Employment trends: This is an investigation of the gender, racial and ethnic proportions in the composition of these services and the role of social dialogue in promoting equal employment opportunity.
- Trends in working conditions: Average wages from the point of view of race, gender and ethnicity; overtime work – premium and arrangement; shift work and rest periods; retirement ages and pension rights and; the role of social dialogue in setting working conditions.
- Occupational safety and health: Data on injuries and death; consultation on health and safety and new standards on personal protective equipment; accident prevention measures and training available to workers; stress management and counselling available to workers; preventive measures against communicable diseases and; the role of social dialogue in safety issues in general.
- Human resources planning: Impact of racial and sexual harassment on retention of staff within the service; proposals to ensure long term and quality service and; the role of social dialogue in dealing with racial and sexual harassment.
- Coordination among public emergency workers: Coordination mechanism in times of social emergency; shortcomings and proposed improvements.
- Social dialogue and rights at work: Restrictions on the right to strike; restrictions on the right to bargain collectively; industrial action and procedures to be followed; history of industrial action; objectives and outcomes of past industrial action; minimum emergency service arrangement during industrial action; dispute settlement mechanism; functioning order of dispute settlement mechanisms and; proposed alternative dispute settlement mechanisms.

(iii) Limitations of the study

The research is not meant to be a primary study. Instead, it is a survey of existing data, as the information is supposed to be readily available in documented form. However, problems were experienced with the accessing of information, especially from the various state agencies. Firstly, it took an effort to get authorization from people in positions of control for access to information to be granted. Secondly, and most importantly, the state of the database in the various state departments still needs a lot of organization and updating. In some instances information does not exist because there is little internal audit that has been done, and where information exists there has been no systematic collection and preservation of information. An example of this is the lack of data on race and gender ratios regarding the composition of emergency services.

It needs to be mentioned that further research is necessary to try and establish the extent to which actual practice is consistent with what is contained in the material studied. The sources that have been used in this study, in the main, are government legislation, policies of the relevant departments and collective bargaining agreements. Primary research would be important in getting a sense of actual practice.

(iv) Structure of the report

The report is divided into four main parts. The first part consists of a discussion on the concept of social dialogue. This discussion is taken further by a concrete examination of the institutions of social dialogue in South Africa, and how they came about. Here, the study looks at the laws and the statutory and non-statutory bodies that give expression to social dialogue. Representative organizations of workers and employers become part of this discussion, as they are the prime agents of social dialogue. The second part of the report concerns itself with the role of social dialogue in relation to the actual working conditions of the police (as outlined under the Scope of the research). The third part is a discussion of the same order (working conditions) as they relate to firefighters and emergency medical personnel. The fourth part focuses on coordination during social emergencies.

The motivation for the structure of the report is that it is important to first have the discussion on what social dialogue is, and what mechanisms are in place to facilitate its objectives. This provides a framework for the later discussion on the actual working conditions of the emergency services. It is also important to deal with the Police separately from the firefighters and emergency medical personnel as the two components are governed by different regulations and fall under different authorities.

A. Social dialogue and its institutions

By social dialogue is meant a system of engagement between two or more parties with a view to finding a working arrangement that is long lasting. In South Africa there is social dialogue at different levels of the social and economic spheres. There are statutory and non-statutory forms of social dialogue at the workplace or local level, departmental or sectoral level and at a national level. The parties involved include labour unions, employers, government and communities. It is through the institutions of social dialogue that the different parties try to influence policies to safeguard the interests of their constituencies.

The struggle against Apartheid that trade unions were centrally part of was a struggle for ordinary people to take part in shaping the future of South Africa. Right up to the beginning of the 1990s, struggles taken up by trade unions ranged from campaigns for new and worker friendly labour laws, strategies to deal with high unemployment and questions relating to social and economic policy choices for the whole of South African society. Before the democratic election of 1994, organized labour and organized business came together in the National Economic Forum. The aim of setting up the Forum was to try and find agreement on labour market issues and questions of a broad economic nature so that social and economic policy issues could be part of the unfolding political transition to a democratic order. It is against this background that the National Economic Development and Labour Council (NEDLAC) was set up in 1994, in terms of an Act of Parliament (S.A. Government).

The NEDLAC Act

Consistent with a commitment to social dialogue, the aims of NEDLAC, referred to in the Act as the “Council”, are as follows:

- promotion of goals of economic growth, participation in decision making in economic matters and social equity;
- seeking of consensus to conclude agreements on social and economic policy matters;
- considering proposed labour legislation relating to labour market policy before it gets tabled in Parliament;
- before implementation or introduction in Parliament, all significant changes to social and economic policy has to be considered by NEDLAC;
- the promotion of coordination in policy formulation on social and economic matters.

As a way of ensuring that the above is achieved, there is commitment to continual survey and analysis of social and economic affairs. Research into social and economic policy may also be conducted. NEDLAC also has the responsibility to continually evaluate the effectiveness of legislation and policy affecting social and economic matters. As a way of continually broadening social dialogue, NEDLAC has a duty to work in close cooperation with departments of state, statutory bodies, programmes and other forums involved in social and economic policy formulation and implementation. At a policy level NEDLAC also has the responsibility to keep abreast of international developments.

The structure and the composition of NEDLAC is also designed to give effect to broader participation and engagement. NEDLAC’s Council is composed of representatives of organized business, organized labour, organized community and development interests

and, lastly, members who represent the state. The members of Council are appointed by the Minister of Labour, upon nomination by their respective sectors. What is not clear is what happens when the Minister does not approve of a particular nomination.

The Council is governed by the Executive Council, and consists of four chambers whose role is to discuss and formulate positions on sector specific social and economic issues.

- Public finance and monetary policy chamber.
- Trade and industry chamber.
- Labour market chamber.
- Development chamber.

The powers of the Executive Council, amongst others, include:

- Agreeing to the constitution of the Council and amend it from time to time subject to the provisions of the NEDLAC Act.
- The establishment of committees, including a management committee, to assist it in the performance of its functions and the exercise of its powers.
- To exercise those powers and perform those duties as are necessary to realize the objectives of the Council.

NEDLAC and the South African Parliament

Typically, when government wants to introduce new labour legislation, for example, it issues a green paper for discussion by social partners. The green paper will then form the basis of negotiations in the NEDLAC labour chamber, often extending over many months. Once agreement is reached in NEDLAC, the draft agreement is tabled in Parliament in the form of a bill. From this point onwards the bill goes through the normal parliamentary process. The NEDLAC process does not bind the state, and the Minister of Labour is free to table draft legislation before Parliament without having submitted it to the NEDLAC process. Likewise, the minister can ignore the objections of parties in NEDLAC to draft legislation.

Parliament is also an institution of social dialogue, not only because of its articulation with the processes at NEDLAC, but also in terms of how tripartism finds an expression in the process through which decisions are arrived at. The Parliamentary Standing Committees play the role of facilitating input into the legislative process by the various sectors in society. Before Acts of Parliament are passed interested parties are allowed to make submissions. On questions of socio-economic policy this provides a space for another round of engagement by the same type of constituencies that are part of the NEDLAC community.

Labour laws negotiated through NEDLAC

There are a number of labour related laws that have gone through the process of consultation and engagement at NEDLAC. The most important example of commitment to social dialogue is the Labour Relations Act (LRA)(S.A. Government). It creates the framework for social dialogue at many levels of the relationship between employers and workers. The LRA has the following objectives:

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- to regulate the organizational rights of trade unions;
 - to promote and facilitate collective bargaining at the workplace and at sectoral level;
 - to regulate the right to strike and the recourse to lockout in conformity with the constitution;
 - to promote employee participation in decision-making through the establishment of workplace forums;
 - to provide simple procedures for the resolution of labour disputes through statutory conciliation, mediation and arbitration, and through independent alternative dispute resolution services accredited for that purpose;
 - to establish the Labour Court and Labour Appeal Court as superior courts, with exclusive jurisdiction to decide matters arising from the LRA;
 - to provide for a simple procedure for the registration of trade unions and employers' organizations, and to provide for their regulation to ensure democratic practices and proper financial control;
 - to give effect to the international law obligations of the Republic relating to labour relations;
 - to amend and repeal certain laws relating to labour relations; and to provide for incidental matters.

In terms of collective bargaining the LRA gives a lot of self-regulatory rights to bargaining councils. It provides for the accreditation of these bodies so that they are able to reach binding agreements, and are able to have their own dispute resolution procedures that have the same legal standing as those provided for in the LRA section dealing with the setting up of the Commission for Conciliation, Mediation and Arbitration (CCMA). It is within this framework that the Public Emergency Services also have their own bargaining councils.

The LRA also provides for the right to strike as part of the collective bargaining process. For those workers in the Essential Services, for whom striking is prohibited, there is a provision for negotiations the establishment of a minimum service during strike action. Social dialogue is encouraged again in this regard. Where a dispute remains unresolved, it may be referred to arbitration. The promotion of employee participation in decision-making is provided for under the section on Workplace Forums. There are a range of issues that relate to the production process that the Act has set aside for discussion and consultation in the Workplace Forums as a way of promoting a participatory role for workers in the running of the enterprises.

Of importance is also the fact the CCMA is not only concerned with the resolution of disputes. The aims of the CCMA are about the active promotion of the vision of the LRA in that it assists in the setting up of bargaining councils. It assists where bargaining council dispute procedures fail to effect dispute resolution (SABC News 2002). It provides training in a variety of skills to ensure that social dialogue is strengthened. Lastly, the LRA actively promotes a system of contracting out of its provisions by encouraging collective agreements on issues of interest to business and labour. Such collective agreements take precedence over any provisions of the Act itself. For example parties, may agree binding arbitration instead of the recourse to strike action. This is arguably the strongest commitment of the Act to the philosophy of social dialogue.

There are other pieces of labour legislation that owe their origin to the NEDLAC forum. One of these labour laws is the Basic Conditions of Employment Act (BCEA), whose objective is to set minimum standards of conditions of work. In the spirit of social dialogue, through what is referred to as 'voice regulation', the BCEA allows for the contracting out of most of its provisions by agreement between parties (S.A. Government, 1997). The Employment Equity Act (EEA) also went through the NEDLAC processes before it came into being (S.A. Government, 1998). This happened after discussions on how to deal with the fact that the racist policies of the past had created a situation of inequality. It is a requirement of the EEA that employers consult with workers when formulating Employment Equity Plans.

Unions, employer bodies and bargaining councils in the public emergency services

The provisions of the LRA allow trade unions and employer bodies to form bargaining councils for collective bargaining purposes. It is interaction between these parties that gives practical effect to the social dialogue objectives of labour legislation.

In the South African Police Service the Police and Prisons Civil Rights Unions (POPCRU), the South African Police Union (SAPU) and the Public Servants Association (PSA) are the main representative unions. The conditions of service of the police and all other public servants are the responsibility of the Department of Public Administration. Police unions and unions that represent other public service employees negotiate their conditions of service and issues related to restructuring in the Public Service Co-ordinating Bargaining Council (PSCBC).

In the local government sector workers are organized by the South African Municipal Workers Union (SAMWU) and the Independent Municipal and Allied Trade Union (IMATU). The various local government structures are organized in the South African Local Government Association (SALGA). In this sector negotiations take place in the South African Local Government Bargaining Council (SALGBC).

B. Best practice of social dialogue in the police service

The South African Police Service (SAPS) is established in terms of the South African Police Act (S.A. Government, 1995). It is a service that falls concurrently under the national Ministry of Safety and Security and the provincial ministries of Safety and Security. The national ministry is responsible for setting national guidelines and the provincial ministries deal with policing matters related to the specific province.

The South African Police Service's structure reflects a change from a culture of militarism to make policing a truly public service. This is reflected in the abolition of the military ranking that previously characterized the service. For example, the highest rank in the police force used to be that of general. There were other ranks like brigadier and colonel. These have now been replaced with ranks such as national commissioner, director or superintendent. Commitment to broader social dialogue is demonstrated by a growing partnership between the SAPS and communities. The police are now more accountable to the communities through joint participation in Community Policing Forums. These are local structures where cooperation between the two constituencies is facilitated.

1. Social dialogue and rights at work

Freedom of association

After bitter struggles for the recognition of union organization in the late 1980s and early 1990s members of the police service now enjoy the right to freedom of association. There are no formal restrictions to association and organization, except for resistance on the part of those high ranking officers who are opposed to democratization (POPCRU, 2002). The right of police to organize and bargain collectively is enshrined in the labour law.

Right to bargain collectively

Through a long fight for the right to have a say in the determination of their conditions of service the police now enjoy the right to collectively bargain. Their unions are full-fledged members of the PSCBC. These unions are also members of the Safety and Security Sector Bargaining Chamber where they negotiate work related matters.

The right to strike

The LRA designates the SAPS as an essential service. As such police do not have the right to strike. Instead, all disputes are referred to the CCMA for compulsory arbitration. However, the Act makes provision for the negotiation of a minimum service agreement between management and workers. Such an agreement allows workers to strike, except those designated a minimum service. Despite this limitation, South Africa is a best case practice in Southern Africa, as police do not have any rights in the other countries (with the exception of Lesotho).

History of industrial action (objectives and outcomes)

In 1993 the Police, Prisons and Civil Rights Union (POPCRU), formed in 1989, embarked on nationwide protest action to demand recognition and bargaining rights. This was the culmination of a long struggle. As a concession to this demand, the National

Negotiations Forum was established (POPCRU, 2002). In 1995 the police took part in a national action initiated by the labour federation to fight for a Labour Relations Act that protected workers. Labour was objecting to the inclusion of the employers' right to lock out. The fight was also about the extension of the right to strike to include Essential Service workers. Labour did not win its demands (South African Labour Bulletin, 1995).

The 1997 public service wage dispute also saw the involvement of police in national actions that included other public service workers like teachers and nurses. The demand was for a 12 per cent across the board wage increase. The final settlement was 9 per cent. In 1999 the police were involved in protest action over a wage dispute. The final position of unions was for an annual increase of 8 per cent. The government stuck to its offer of 6 per cent and went ahead and implanted it in the middle of the negotiations process.

Dispute settlement mechanisms

The dispute settlement mechanism in the PSCBC has a conciliation stage with a Standing Panel of Conciliators. There is a code of conduct for conciliators and arbitrators that is meant to guard against bias and unfairness and unscrupulous behavior. The PSCBC has also been accredited by the CCMA to arbitrate on matters. Any of the parties can, after arbitration, take its case to the Labour Court and Labour Appeal Court.

2. Employment trends

No data is available as yet on the issue of gender, race and ethnic representation in the police force. It is, however, important to note that at the higher levels of the police service there is a lack of equitable representation of women and Blacks (S.A. Government 2002a). For the whole public service, the state is yet to conduct an audit that will help in facilitating an agreement to redeploy staff to areas of need. In his annual report (April 2001 to March 2002) the National Commissioner acknowledges the need to ensure that the police force is more representative of the community. The South African Police Service has 123 000 members. 15 per cent of this number is support services; 25 per cent is detective service and crime intelligence and; 60 per cent is crime prevention and operational and response services (S.A. Government 2002).

Over the next three years provision is made for the employment of 40,560 personnel. This is a combination of replacements and expansion. The police service is in the process of devising an Employment Equity Plan (in compliance with the provisions of Chapter 3 of the Employment Equity Act), which stipulates that there must be a plan to make employment ratios reflect the demographics of South African society at local, provincial and national levels.

The role of social dialogue in the formulation of the plans is being promoted by the inclusion of unions as part of the discussions in the Safety and Security Sector Bargaining Chamber (one of many sectoral chambers in the Public Service Co-ordinating Bargaining Council). Disputes in the Sector Bargaining Chamber get referred to the PSCBC standing panels of conciliators and arbitrators. The Employment Equity Act also makes it compulsory for the employer to consult with labour unions in the process of formulating these plans.

3. Trends in working conditions

Average wages

In the police force there are 12 non-management ranks (up to the rank of Superintendent). The five management ranks range from Director up to the National Commissioner. Within a rank there are a number of pay notches. Below is provided the lowest and the highest wage scale for each rank. These are reflected in rands per annum for the 2001-02 fiscal year.

Table 1. SAPS rank and salary structure

| Rank | Lowest scale | Highest scale |
|------|--------------|---------------|
| 1 | 25 959 | 27 906 |
| 2 | 29 076 | 32 112 |
| 3 | 33 396 | 40 023 |
| 4 | 40 554 | 47 280 |
| 5 | 48 120 | 58 449 |
| 6 | 60 438 | 70 515 |
| 7 | 71 502 | 88 578 |
| 8 | 88 800 | 103 398 |
| 9 | 106 029 | 129 369 |
| 10 | 132 342 | 150 507 |
| 11 | 154 395 | 182 568 |
| 12 | 185 823 | 208 845 |

Source: South African Police Service.

In terms of remuneration, formally there is no longer individual discrimination on the basis of gender, race or ethnicity. It is important to note that because the composition of the upper echelons of the police force is weighted in favour of white males, race and gender discrimination exists.

Average normal hours of work

In terms of the August 2002 Agreement on working hours, the normal weekly hours of work are 40. This part of the agreement represents best practice as it is an advance on the 45 hours stipulated in the BCEA.

Shift work and rest periods

Employees render services for eight hours per shift, on average five times per week. There is also a 12-hour shift, which averages to three or four days per week. A daily rest period of at least six continuous hours between ending and recommencing work and a weekly rest period of at least 24 continuous hours, which does not necessarily include a Sunday, is the agreed arrangement (SSSBC, 2002). Best Practice is represented by the BCEA as it provides for a daily rest period of 12 continuous hours between ending and recommencing work. By agreement, the rest period can be reduced to ten hours per day.

Overtime and remuneration

A weekly average of not more than twenty five hours of overtime duties, calculated over a four month cycle, can be performed, provided that:

- an employee who performs an eight hour shift only be required to perform an additional maximum ten hours of overtime duties per day;
- an employee who performs a twelve hour shift only be required to perform an additional maximum six hours of overtime duties per day;
- an employee who performs overtime duties on an occasion when she/he does not perform normal duties, these duties be restricted to twelve hours, provided that in exceptional circumstances this period can be extended to 18 hours (SSSBC). The extension of the hours to 18 takes place in cases where a replacement is not advisable in a continuous hands-on investigation that must lead to arrest and conviction. No information on average monthly hours has been kept.

The BCEA stipulates a maximum of three hours overtime a day, and ten hours a week. The BCEA would have represented best practice in this case if it did not allow for averaging of these hours over a period of four months. So the SSSBC agreement is simply within the broad parameters of the BCEA. All overtime duty performed is payable, unless the worker requests time off instead of pay. A worker is paid not less than one and one-half times the employee's wage rate for overtime worked. The agreement is in line with the provisions of the BCEA.

Retirement age and pension rights

The retirement age in the police force is 65. Early retirement is allowed at the age of 55, with full pension benefits.

Role of social dialogue in setting working conditions

The terms and conditions of service in the police service are subject to negotiations between the employer and representative unions of the police personnel. Social dialogue in this regard is also built into the provisions of the BCEA that allow for the averaging of working hours over a period of not more than four months. For example, the maximum of ten hours' overtime per week can be arranged in a manner that allows for the working of more than the ten hours in particular periods, so long as the average over four months does not exceed ten hours per week – by agreement. Social dialogue in this case can allow employers and employees to agree to arrangements that are to the detriment of the physical health of the employees.

4. Occupational safety and health

Data on injuries and deaths

In the police force, the overriding concern is the question of safety, given the high incidence of violent crime. Data collected so far relates to deaths. The Annual Report of the National Commissioner put the figure at 176 for the period 2000-01, and at 135 for the period 2001-02 (Government, 2002a). Of the 176 who died in 2000-01, 69 were on duty cases and 107 were off duty. Of the 135 who died in 2001-02, 57 were on duty and 78 were off duty.

Consultation on health and safety and new standards on personal protective equipment

There is ongoing discussion and consultation between the management and the unions on the question of safety. There has not been an institutionalization of safety representation through the provision for health and safety representatives within the workplace. These reps are responsible for monitoring and reporting health and safety standards within the workplace. This is provided for by the Occupational Health and Safety Act (S.A. Government, 1993).

Accident prevention measures and training available to workers

A directorate public safety has been established to develop preventive measures with a view to putting a stop to the killing of police officials. These measures (S.A. Government, 2002a) include:

- making police officials more aware of the dangers facing them;
- assessing all policing equipment;
- providing tactical police training and;
- promoting community involvement.

There are drunken confrontations involving police officers. Tensions between the officers have also led to killings. There is also the feeling that a public perception of ‘trigger happiness’ among some police officers leads to armed criminals shooting first, in self defense (Bruce 2002).

Stress management and counselling available to workers

With the high incidence of deaths in the police force, there is a realization of the need to deal with the issue of stress in the service. At this point there is a commitment to also address the psychological impact of the years of alienation from the community as a result of the political polarization of South African society. The annual report of the National Commissioner indicates that the number of social workers, psychologists and spiritual workers has been increased to provide the necessary support. In line with this an Employee Assistance Programme has been initiated. The programme provides support to members and their families. Services provided include personal counselling and advice, trauma debriefing, stress management and personal crisis intervention, which includes dealing with the symptoms of suicidal behavior (Government, 2002).

Preventive measures against communicable diseases

There is no information on this area.

Role of social dialogue in safety issues in general

As indicated earlier under the section on consultation, the role of social dialogue in this area is increasing in importance. The dialogue that is underway also goes beyond the employer-employee relations. Communities are getting involved in community policing

and are grappling with this issue of safety of the police. Community Policing Forums have been formed in many parts of the country (Government, 2002).

5. Human resources planning

Impact of racial and sexual harassment on retention of staff within the service

No study has been done on this question and the SAPS has not accumulated data on cases of sexual and racial harassment.

Proposals to ensure long-term and quality service

The internal Education, Training and Development policy determines what training members of the service should undergo, and governs the establishment and maintenance of the institutions or centers which provide education, training and development. The education and training plan is designed to satisfy the requirements of accreditation (S.A. Government, 2002a).

An important factor in ensuring a long-term and quality service is commitment to the democratic values of the new society. Special attention must be given to promoting the young people who are in the volunteer service by providing training that is geared towards a long-term vision of building a real community protection service

Role of social dialogue in dealing with racial and sexual harassment

The Employment Equity Act, which prohibits discrimination on grounds of sex and race makes it obligatory on the employer to consult with employees on plans to redress the situation. The LRA's code of good practice (adopted in 1998) on the handling of sexual harassment details forms of sexual harassment and gives guidelines on how to deal with it. It deals with the rights of the victim and how they must be treated in the handling of cases. It also emphasizes intolerance towards abusers even though the role of education is promoted.

C. Best practice in social dialogue: Firefighters and emergency medical personnel

Fire Fighting and Emergency Medical Services fall under the jurisdiction of municipalities. This resulted in widely differing conditions of employment historically. In 1999, the different municipalities all over South Africa formed themselves into a national body called South African Local Government Association. Terms and conditions of service still vary widely between the different municipalities. However, in 2001, a Task Team was set up by the SALGBC to make conditions of service across the country uniform. There has not yet been a report from this structure.

1. Social dialogue and rights at work

The right to strike

Unlike police who are explicitly declared an essential services within the LRA, fire fighters and emergency medical personnel have subsequently been declared essential services by the Essential Services Committee, set up in terms of the Act. Like the police, these workers therefore do not have the right to strike. Instead, disputes must be referred to the CCMA for compulsory arbitration. However, as with the police, the Act makes provision for the negotiation of a collective agreement for a minimum service, freeing workers other than those in the agreed minimum service to strike. When a dispute has been declared, the first step is to try and resolve it through conciliation. If conciliation fails the party who declared the dispute may request that it be settled through arbitration.

Industrial action and procedures to be followed

The Minimum Services Agreement that is stipulated in the LRA also covers these workers. They have to provide a skeleton staff to ensure the service is not severely disrupted.

History of industrial action

After the 1994 national elections, and the coming into power of a democratic government, the policy to privatize public services has intensified. The past six years have seen struggles by municipal workers against instances of privatization. Workers in the emergency services have also been part of this industrial action. In 1997, 20,000 workers went on strike in Gauteng province, protesting against privatization (The Star, 1997). Again in 1998 the same number was out on strike over the same issue. Involved in this action were workers from the municipal bus service, refuse collection service, the ambulance service workers and others (Business Day, 1998). The struggle against privatization continues as the government continues to privatize public services at all levels. The wage strike of 2002 was the first wage related strike in seven years by the municipal unions. The unions wanted an annual wage increase of not less than 11 per cent. The final settlement was for 8 per cent for high earners and 9 per cent for low earners. The unions also agreed to a three-year inflation related wage agreement (SALGBC 2002).

Dispute settlement mechanism

Where a dispute arises, this is referred to the bargaining council (or CCMA where no council exists) for conciliation. After the conciliation process has been exhausted, and there is no resolution of the dispute, the matter is then taken to arbitration. Here the strength of each party's case (in argument) determines the outcome. The case can, after this step, be taken to the Labour Court and to the Labour Appeal Court. In the cases where a minimum service agreement has been concluded, failed conciliation can be followed by industrial action by either party to the dispute. The LRA obliges a period of 7 days notice for industrial action involving the state, compared to 2 days notice for all other sectors of the economy.

Collective bargaining rights

Local government emergency workers and their unions bargain on a range of issues that affect them at work. They bargain on wages and conditions of service. They also bargain on issues such as restructuring of the service.

2. Employment trends

Proportion of women, racial and ethnic minorities

Following the directive of the SALGA head office, Johannesburg has adopted an Employment Equity Plan. An assessment of the present composition of the Emergency Management Services reveals unequal gender representation. Out of a workforce of 1,080 only 161 are female. Africans constitute more than 50 per cent of this number, even though their numbers are small at the higher levels of responsibility (Johannesburg Metropolitan Council 2002).

Role of social dialogue in promoting equal employment opportunity

Part of the Johannesburg Employment Equity Plan is the consultation with employees and their representative organizations at the Metropolitan, regional and unit levels. Both SAMWU and IMATU were involved in the consultation process leading up to the formulation of the plan. The focus on the Johannesburg Metropolitan Council is because of the question of access to available information. The proximity of their offices made it easy to physically go and pester the industrial relations officer for information. They also have a more developed system of keeping the information.

3. Trends in working conditions

Average wages – gender, race and ethnicity

Formally, there is no longer any discrimination against individual persons on the same level. There is discrimination on both gender and race grounds if one considers the fact that the black sections of the force – and women – are at the lower rungs of the service. The table below shows there are two levels and three notches within each level. The levels do not necessarily coincide with the ranks in the service, as shown below. What this means is that two people may earn the same wage even though their position in the order of responsibility is not equal. The station commander and the shift/platoon

commander, for example, are on one level even though there is a difference in rank. The wage structure (in rands per month), at 2002 is as follows:

Table 2: Rank and Salary Structure

| Level | Notch 1 | Notch 2 | Notch 3 |
|---|---------|---------|---------|
| Station Commander & Platoon/Shift Commander | 7 459 | 10 438 | 13 419 |
| Paramedic./Emergency Medical Technician and Firefighter | 6 025 | 7 557 | 9 085 |

Source: Johannesburg City Council.

Average normal hours of work

Most municipalities work a 40-hour week. Cape Town municipality is at 38-45 hours per week, and represents best practice (Khanya College 2000).

Overtime work and premium

When the exigencies of the service so demand a suitably qualified/experienced employee may be requested to perform agreed upon duties outside his/her normal working hours. The rate of pay for overtime is time and one-half, as determined by the Basic Conditions of Service (Johannesburg Metropolitan Council 2001).

Shift work and rest periods

For all shift work there is a daily rest period of at least 12 continuous hours between ending and recommencing work. There is also provision for a weekly rest period of 36 continuous hours which, unless agreed, must include Sunday. This is in terms of section 15 of the BCEA.

Retirement age and pension rights

The retirement age is 65. Members can take early retirement from the age of 55. There are no special tax implications when early retirement is taken.

Role of social dialogue in setting working conditions

Previously, the bargaining councils at the local level were responsible for setting working conditions through negotiations. This has now been replaced by centralized bargaining between the trade unions and SALGA. The social dialogue objectives of the BCEA can be seen in the agreements on working conditions being negotiated in these bargaining forums.

3. Occupational health and safety

Data on injuries and deaths

There is no data on injuries and deaths.

Consultation on health and safety and new standards on personal protective equipment

Consultation on issues of health and safety is part of the Health, Safety and Environment Agreement between SALGA, SAMWU and IMATU. As part of putting this agreement into practice at the local level, the Johannesburg Municipality, for example, now has a detailed circular on Protective Clothing Uniforms and Equipment framed within the terms of this agreement.

Accident prevention measures and training available to workers

As part of preventing accidents, the employer has committed to carrying out engineering controls as a priority measure. For example, workers will have regular hearing tests and sound levels will be measured, as specified under the Occupational Health and Safety Act. The SALGA-SAMWU-IMATU agreement specifies that health and safety shop stewards shall have a right to regular training. Important information affecting workers' health and safety is to be communicated to workers from time to time. This will include the nature of substances used at work, technical information, hazards and precautions necessary to eliminate or reduce them.

Stress management and counselling available to workers

No information exists on this issue.

Preventive measures against communicable diseases

Employers have a commitment to make available any information specifically related to the matters affecting the health and safety of workers at work. Results of tests concerning health and safety will be made available to workers to alert them to the existence of disease.

Role of social dialogue in safety issues in general

The central agreement on health, safety and environment, and the provisions contained therein demonstrates a commitment to jointly promote matters of health and safety. Negotiations on this issue are taking place at the various levels of the relationship between management and workers.

5. Human resource planning

Impact of racial and sexual harassment on retention of staff within the service

The unfair labour practice provision of the LRA prevents any discrimination on the grounds of race or gender, with the latter including sex, family responsibility or marital status. The same Act also has a code of good practice for dealing with sexual harassment, as already mentioned. There are no records measuring the impact of racial and sexual harassment for emergency services personnel. In the Johannesburg disciplinary procedure and the schedule of dismissible offences, both racial discrimination and sexual harassment are listed. With regards to the issue of race, both overt and covert discrimination are listed

as offenses. The Johannesburg Employment Equity Plan explicitly identifies the dominance of white males at top levels of the job ladder (Johannesburg Metropolitan Council, 2002).

Proposals to ensure long-term and quality service

There is no information regarding this matter.

Role of social dialogue in dealing with racial and sexual harassment

Sexual harassment occupies an important position in the debate on gender inequality. The code of good practice (S.A. Government, 1998) in the Labour Relations Act requires employers to adopt a tough stance on this question. A zero tolerance attitude to sexual harassment is part of the Johannesburg City Council's Code of Conduct (City of Johannesburg, undated).

D. Coordination among public emergency workers

Coordination mechanism in times of social emergency

The ministry responsible is that of Provincial and Local Government. Section 3 of the Act stipulates that the Provincial Executive Council may make ordinances (Provincial laws) relating to civil defense, including:

- the protection of persons and property, and the rendering of assistance to persons, in the province with a view to or in connection with a state of emergency or disaster; and
- The combating of civil disruption in the province in a state of emergency or disaster.

The Act also states that the making of ordinances shall be in consultation with the national Minister. When there is a clash between an ordinance and any provision of an Act governing any emergency service called upon to assist, the regulations of the ordinance shall prevail (S.A. Government, 1977). No information could be accessed to clarify the question of workers' rights in an emergency.

Shortcomings and proposed improvements

In the view of the officials in the new government one important flaw in the system has been the absence of a permanent structure to deal with social emergencies at the various levels of the country's administration. Coordination of efforts in the interim is being done through the National Center for Disaster Management. This is an interim body of specialists and representatives from the various provinces and operates within the Department of Provincial and Local Government.

The fact that it is only at the provincial level that a determination can be made as to whether a situation should be regarded as a disaster can slow things down put people and property at risk. The new Disaster Management Bill that is before Parliament proposes to give more powers of determination to the municipal level. Communication with the national and provincial levels of government is only intended to solicit assistance.

The Bill also proposes permanent Disaster Management Centers at provincial and local levels. A further proposal in the Bill is for the establishment of consultative bodies (Disaster Management Forums) at the three governmental levels for contribution by organized civil society (S.A. Government 2002). Elements of social dialogue in the proposals of the Disaster Management Bill become clear when one looks at the proposed involvement of a wide range of formations of civil society, including business, churches and residents' associations, that are seen as a cornerstone of the partnership. The proposals envisage the establishment of Disaster Management Forums at national, provincial and local levels as structures that formalize this cooperation.

Conclusion

The study has shown that in terms of rights relating to collective bargaining, freedom of association and the right to strike in the police service, South Africa represents the best practice case in the Southern African region. As compared to the BCEA's stipulation of 45 hours average normal hours of work, the 40 average normal hours of work in the police service is a best practice case. In the case of Fire Fighters and Emergency Medical Personnel, Cape Town's 38.45 hours per week arrangement represents a best practice case. The Basic Conditions of Employment Act does not at all constitute best practice in its provisions as it still allows for a lowering of the standards relating hours of work with the inclusion of the provision on averaging of working hours. This, of course, does not apply to leave provisions.

As indicated earlier, information gathering and systems of keeping the information in the various state institutions need serious upgrading. To get a fuller appreciation of what is taking place with regards to the conditions of service of workers, an extensive study needs to be undertaken. The extent to which policy has been translated into actual practice is something that a study of this nature would find difficulties in trying to ascertain. A proper survey is, therefore, recommended.

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