

Newsletter



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Country office for Botswana, Namibia, Lesotho, Swaziland and South Africa • Decent Work Team for Eastern and Southern Africa • February 2013



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Foreword

The International Labour Conference, held in June 2012, adopted a new international labour standard which concerns national floors of social protection (referred to as Social Protection Floors Recommendation, 2012 (No. 202)). This standard was adopted with the support of government, employer and worker delegates of the ILO's 185 Member States and is the culmination of a growing recognition, world-wide, of the role of social protection in promoting inclusive economic growth.

In recent years, the international community has come to acknowledge the positive role a strong social protection system can play as a macroeconomic stabiliser during financial and economic crises, and in minimising the effects of such crises on the most vulnerable. Evidence is now well established on the effect of a well governed social protection system on the sustained reduction of poverty and inequality levels, which have stagnated in many countries, notably in Africa, over recent years. A social protection floor, establishing a rights based, nationally defined set of basic social protection guarantees, is undoubtedly a social and economic necessity; and access to quality essential health and basic education services, as well as basic non-contributory social protection programmes, is essential to develop a strong and skilled workforce.

As part of the growing consensus in Africa on the role of social protection in national development, the SADC countries, in particular Lesotho, Botswana, Namibia and South Africa, have prioritised the progressive universalisation and strengthening of their social protection systems as part of their Decent Work Country Programmes.

One major area of work over the past two years has been the contribution of the ILO in terms of technical support and capacity building on social security reform in the sub region.

The ILO is supporting the establishment of a National Social Security Organisation in Lesotho, facilitating the alignment of provisions for social protection in cases of maternity, sickness, unemployment and employment injury, and therefore the portability of associated benefits with the existing provision amongst neighbouring countries (notably South Africa and Namibia). Over the last two years, the ILO played a leading role in the development of national contributory pension systems for the majority of the populations of Swaziland, Lesotho, and Botswana, who have no pensions. Finally, the ILO provided technical assistance and capacity building to constituents in South Africa and Namibia on comprehensive social security reform.

Increasingly, the ILO is working, jointly with other UN Partners, to make the stock of existing provisions on the social protection floor, particularly relevant to the most vulnerable, and to help build coherent and sustainable national social protection policies, in line with National Development Plans. The ILO is conducting an extensive social protection floor review at the request of the Government of Namibia and is contributing to a national policy dialogue on the definition and design of a social protection floor in South Africa.

Finally, an important and growing area is the support of the ILO at the SADC level. This covers the linkages between migration and harmonisation and portability of social security benefits, and the implementation of the SADC Code of Social Security Monitoring tool (COSSMET), establishing a periodic review mechanism to assess progress of countries in attaining SADC and international social security standards.

Vic van Vuuren
Director



Advancing social protection floors in Southern and Eastern Africa

In June 2012, the International Labour Conference adopted a new international labour standard, the Social Protection Floors Recommendation, 2012 (No. 202), with an overwhelming majority vote (453 votes in favour and one abstention) from government, employer and worker delegates from the 185 ILO Member States.

The Recommendation guides countries in establishing and maintaining national social protection floors (SPFs) as a fundamental element of comprehensive social security systems. It also guides countries in developing extension strategies that progressively ensure higher levels of social security to as many people as possible, and which reflect national objectives, economic and fiscal capacities and are guided by other ILO social security standards.

This double objective of the Recommendation reflects the two-dimensional ILO strategy for the extension of social security coverage, which was adopted by the International Labour Conference in June 2011. Reaffirming that social security is a human right and a social and economic necessity, the Recommendation advocates that countries should establish and maintain national SPFs. These floors constitute a set of nationally-defined, basic social security guarantees, including effective access to essential healthcare and basic income security throughout the lifecycle, which contribute to preventing or alleviating poverty, vulnerability and social exclusion, as well as building more inclusive societies and economies.

Social security systems need to be well designed and governed, and should be established on solid legal foundations to be able to provide timely support to beneficiaries, in particular the most vulnerable. Rights-based approaches to the extension of social security coverage are critical to underpin future economic and social development. These go beyond the provision of safety nets, and require legislative foundations defining individual entitlements, clear and transparent eligibility criteria, rights of appeal, as well as adequate sources of funding.

Rights-based approaches are favoured as measures driven by gradual implementation strategies, anchored to national social security policies. These measures are

At the request of South Africa's Department of Labour, the ILO compiled a comparative law and practice report on the South African social security legal framework as compared with the ILO Social Security Convention C. 102 (1952) on minimum standards.

The ILO concluded that South Africa is in a position to ratify the convention and made recommendations to further improve compliance with international minimum social security standards.

The ratification of Convention C.102 and adherence to the principles of Recommendation No. 202 on national social protection floors constitute a benchmark for the consolidation of a rights-based, comprehensive social security framework in South Africa.

SPF thematic areas include:

Access to essential healthcare, sickness and maternity protection

Basic income security to grant children access to nutrition, education and care

Income security for active aged persons in cases of sickness, unemployment, maternity and disability

Basic income security for older persons

Continued on next page ...

more successful when developed based on broad social dialogue and efficient institutional frameworks, progressively funded by reliable domestic sources. In many developing countries, however, several new social protection programmes are still limited to pilot projects and are temporary, ad hoc support for which future funding, especially with respect to incorporating these programmes into national policies, are uncertain.

More efforts are needed to ensure that these programmes become an integral part of national policy and budget, and part of an integrated national SPF and social security system. Leapfrogging the extension of social security, based on good international practices, is possible through appropriate policies, sound fiscal choices and informed political will.

National SPF activities

The ILO's activities in Southern Africa are developed in the context of the national Decent Work Country Programmes (DWCPs), the priorities of which are identified and agreed upon with social partners.

In South Africa, the National Planning Commission (NPC) says that by 2030 a SPF should be defined, based on a number of specified guarantees across the lifecycle.

The ILO is assisting in defining multi-pronged national SPF by conducting a preliminary scoping study on the concept and approach relevant to South Africa. The ILO is collaborating with other United Nations agencies, notably the United Nations Children's Fund (UNICEF), to carry this process forward in terms of studies, national consultations and capacity building.

The ILO served on the reference panel of the social budgeting exercise in South Africa, which is instrumental to the process of defining the SPF. As a priority of the DWCP in South Africa, and in the framework of consolidated social security reform, the ILO provides advisory services regarding the role of the Unemployment Insurance Fund (UIF) in the SPF context. It also advised a workgroup, led by the Department of Labour, on pension coverage options for lower income earners (including farm and domestic workers) and the informal economy.

In Namibia, the expansion of the social protection system is envisaged as a driver towards the objective of dropping the number of severely poor individuals to below 10% by 2017, as stated in the fourth National Development Plan 2012/13 to 2016/17. In accordance with the priorities and approach set out in the Namibia DWCP, the ILO is assisting the country with a situation and impact analysis of the current system of social protection. The social protection expenditure and performance review focuses mainly on the SPF and its core guarantees.

The ILO contributes to regular training of SADC social partners in the field of social security, and has an agreement with the University of the Witwatersrand in South Africa under which modules on governance and financing of social security are presented as part of executive and masters courses.

As part of the Master of Law (LLM) degree in international human rights and HIV/AIDS, the ILO lectured on international social security standards and rights-based approaches to social security, which benefited legal advisors operating in legal aid clinics in different SADC countries.

In addition, the ILO has been working closely with the Social Security Commission, advising it on new reforms, including the establishment of a national pension fund (NPF) and a medical benefit scheme (NMBF). It will also assist the Social Security Commission with an action plan to extend coverage of existing benefits to workers in the informal economy.

Following priorities established under the Swaziland DWCP, the ILO assisted the country with policy, actuarial and legal studies for the conversion of the national provident fund into a pension fund. In Lesotho, the ILO provides expertise for the establishment of a comprehensive social security system comprising short-term benefits, including social insurance-based employment injury, maternity and sickness cash benefits (similar to those offered by the UIF in South Africa or the SSC in Namibia). The second phase of the project included the establishment of an Act addressing the long-term benefits of the social security system, including pensions, survival and invalidity benefits. Finally, the ILO advises on the establishment of a broad-based pension fund in Botswana, which will form the cornerstone of a broader national social security framework.

Work of the ILO at regional and SADC levels

In the build-up to the 101st International Labour Conference in June 2012, the ILO Pretoria office partnered with the Friedrich Ebert Foundation (FES) to assist SADC members with their SPFs.

The ILO and FES jointly hosted a workshop entitled Advancing social security standards and the social protection floor for SATUCC members. The workshop served as a platform for the exchange of practices in Southern Africa regarding the concept of SPFs and ways to strengthen the role of trade unions as actors within broader strategic alliances in the extension of social security coverage.

The two organisations also partnered with the SADC Secretariat to organise a conference at the request of the SADC Technical Subcommittee on Social Protection, entitled Building policy coherence between social protection floors and national social and economic development strategies. The conference brought together social security experts and practitioners from SADC countries to exchange ways to strengthen basic social security guarantees in the context of national development strategies and labour market policies in the region.

The ILO and FES are also assisting the SADC region in implementing tools and processes to strengthen the governance of social security at SADC level. The ILO advised the region on a social security monitoring instrument, in order to align it with international social security standards.

On 24 August 2012, the ILO and FES assisted with the training of SADC countries on the key points of the SADC social security code monitoring tool, which were piloted in Angola, Zimbabwe, South Africa, Zambia and Mozambique. The partnership assists in setting up a SADC Social Security Experts Committee, which will be nominated by the Secretariat according to SADC regulations. This committee will regularly review the situation and progress in social security of individual countries, using the data collected with the SADC tool. The first official report will be produced in 2013 and should focus on the monitoring of the attainment of SPF guarantees.

Taking action in the workplace:

Using ILO Recommendation No. 200 to respond to HIV/AIDS



ILO Recommendation (No. 200) 2010 is the first international labour standard on HIV/AIDS that focuses specifically on the protection of the fundamental human rights of workers affected by HIV/AIDS.

Recommendation No. 200 is intended to apply to all workers working under all forms or arrangements, at all workplaces and in all sectors of economic activity in both the private and public sectors and formal and informal economies. The broad scope of application is also intended to encompass all vulnerable and at-risk groups, regardless of whether they are explicitly listed in the instrument.

The Recommendation aims to increase HIV/AIDS consideration, promote united action among key national and international players and to protect fundamental human rights at work. It builds on the key principles of the ILO Code of Practice on HIV/AIDS and the World of Work (2001) and calls on all Member States to develop and adopt national tripartite workplace policies and programmes.

Recommendation No. 200 in Southern Africa

Many of the countries in the Southern African sub-region have taken specific measures to review their policies and related labour legislation, with technical support from the ILO, to provide for protection against HIV-related stigma and unfair discrimination, as well as to promote equal employment opportunities, a safe working environment and measures to prevent HIV infection and its impacts.

The South African government, through the Department of Labour's Employment Equity Commission, has successfully revised its Code of Good Practice on HIV/AIDS and Tuberculosis, as well as the World of Work and its accompanying Technical Assistance Guidelines, for alignment with Recommendation No. 200. The review process was highly consultative and tripartite in its approach, including a series of workshops and road shows across the country that brought together hundreds of stakeholders with consensus from the National Economic and Labour Council (NEDLAC). The revised Code of Good Practice on HIV/AIDS and Tuberculosis and the World of Work have been signed by the Minister of Labour, Ms Mildred Oliphant, and gazetted. Subsequently, cabinet noted Recommendation No. 200 as well as the revised Code of Good Practice.

Lesotho, Namibia, Swaziland and Botswana also made progress with regards to Recommendation No. 200, and the ILO Aids Team supported all our governments in aligning with current legislation Recommendation No. 200. In Namibia this resulted in a Memorandum of Understanding between the Ministry of Labour, employers and labour on the implementation of the Workplace Programmes

and the National Code on HIV/AIDS and Employment.

At a regional level, SADC forged ahead and its Code of Practice on HIV/AIDS and Employment has been reviewed for alignment with Recommendation No. 200 and is awaiting adoption. The draft code monitoring tools have also been aligned to the Recommendation and are currently being field tested in the different countries prior to adoption.

Beyond the policies and statutory instruments are two pressing challenges, the first being ensuring effective enforcement of legislative protection, as governments lack capacity to enforce the provisions of legislative instruments or fulfil human rights.

Taking action in the workplace

- Zero new infections
- Zero discrimination at the workplace
- Zero death

Secondly, legal provisions are necessary to meet the demands of those seeking recourse in the legal system. Weak non-compliance sanctions, lengthy litigation processes and a lack of public awareness of their rights and action to be taken when these are being violated further compounds the situation. It is critical that strong partnerships and a shared vision are forged between employers, labour and government, and that the public is aware of the relevant legislation and other employment protection measures. Such provisions should allow for easily accessible (and affordable) mechanisms and procedures to enforce laws on equal opportunity and treatment in the workplace.

In this respect, the region's HIV/AIDS Programme response includes close collaboration with labour administration and judicial authorities in order to promote the effective enforcement of human rights protection and to create awareness of the factors that fuel stigma, discrimination and other HIV-related human rights violations, particularly in the workplace. The training of labour inspectors is an opportunity to strengthen compliance monitoring and the coverage of HIV programmes through the recently revised labour inspection forms, which now include aspects of HIV/AIDS.

Prevent HIV, Protect Human Rights at Work

GETTING
TO ZERO

ZERO
DISCRIMINATION

IN THE
WORK
PLACE

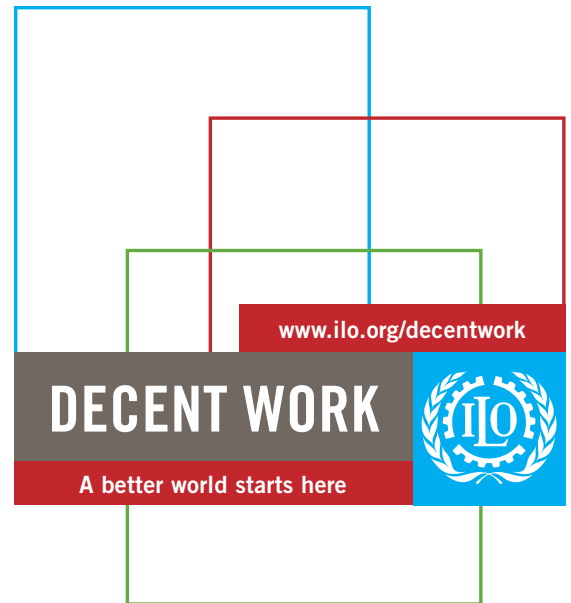
Picture above: The General Secretary of the Lesotho Trade Union Congress (LTUC) aligning the country's HIV/AIDS Programme with Recommendation No. 200

Decent Work

Country Programmes in Southern Africa

The ILO office in Pretoria supports Lesotho, Botswana, Swaziland, Namibia and South Africa in the implementation of their Decent Work Country Programmes (DWCPs), and provides technical assistance to the SADC Decent Work Programme.

Such technical assistance in the framework of the DWCPs is country and demand driven and inscribed in national agenda's and priorities to maximise results and ownership of local processes. This approach has proven to be successful in almost all of the countries served by the ILO office in Pretoria, as can be seen from the implementation highlights for the second semester of 2012 as discussed below.



South Africa

South Africa is currently in the process of implementing a technical cooperation projects on enterprise development in the Free State province. This project focuses on SME development and seeks, among others, to create a more conducive policy, legal and regulatory environment for the start-up and operation of SMEs in the province.

One of the milestones achieved to date was the establishment of an SME Observatory which aims to support SMEs in enhancing their policy, planning and coordination. The SME Observatory, based at the University of the Free State, is supported through the project's knowledge base, including research undertaken and its resulting publications.

The ILO technical cooperation project on Women Entrepreneurship Development and Gender Equality (WEDGE) that commenced in 2008 officially ended in October 2012. The project was part of a sub-regional initiative that targeted growth-oriented

women entrepreneurs (GOWE), and sought to create an enabling environment for the promotion of women's entrepreneurship and gender equality to support poverty reduction and job creation.

The project supported research on the enabling environment for GOWE and the findings fed into the review of the draft Gender and Women Empowerment Strategic Framework of the Department of Trade and Industry.

WEDGE also contributed towards the identification of ten Women Entrepreneur Development (WED) experts, while 123 trainers were certified in various WEDGE enterprises development tools. The final evaluation of the project indicated a 7% increase in women entrepreneur associations membership between 2009 and 2011. It also revealed that the WEDGE project contributed towards an estimated 427 jobs (extrapolated figures) as per the South African definition of what constitutes a job.



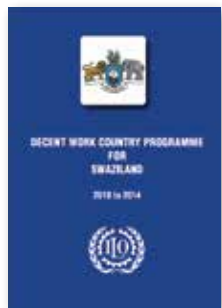
Lesotho

In September 2012 the government of Lesotho approved the National Strategic Development Plan (NSDP): 2012/13–2016/17, which incorporates several elements of the Decent Work Agenda. This growth and development strategic framework recognises that “the most effective way out of poverty is the creation of opportunities for employment” and the need to “enhance capacity of trade unions to participate in policy development and negotiations”.

The ILO provided technical support to the Wages Advisory Board, responsible for setting minimum wages, to effectively carry out its mandate.

Furthermore, through a national consensus-building workshop hosted by the Board, stakeholders in the textile and garment sector reached an agreement on criteria to be used in future adjustments of minimum wage negotiations.

An independent mid-term evaluation of the Better Work Lesotho Project was carried out in August 2012. The project, the only major ILO technical co-operation intervention in Lesotho, seeks to promote increased enterprise compliance with national labour law and core international labour standards in the textile and garment sector – the country’s largest source of formal employment.



Swaziland

Swaziland has made progress in three major work areas in the implementation of its DWCP, efforts to combat child labour, HIV/AIDS in the workplace and a review of the Council for Mediation, Arbitration and Conciliation (CMAC).

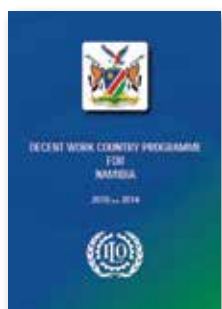
With regards to child labour, Swaziland has revised the draft Action Plan to Eliminate Child Labour, which was endorsed by a national validation workshop, furthermore the ministry has established a Child Labour Unit to implement the action plan.

When it comes to HIV/AIDS in the workplace, labour inspection forms were revised to incorporate HIV/AIDS issues, while labour inspectors were trained to better incorporate HIV/AIDS issues in their inspection visits.

CMAC management, with the support of its board and Swaziland’s government, decided to request

ILO’s support for a review of its operations and performance. Two consultants, one international and one local, were engaged to undertake this review, which has just been completed.

The implementation of the International Labour Standards of the Swaziland DWCP has stalled on the back of strained relations between government and organised labour because of the deregistration of the Trade Union Congress of Swaziland (TUCOSWA). This led to the withdrawal of TUCOSWA from the social dialogue structures driving the implementation of the DWCP. Government has drafted amendments to the Labour Relations Act, which address the registration issue and submitted the same to the ILO for its consideration. The ILO has reviewed the amendments and submitted its observations to government.



Namibia

Namibia has just finalised its Decent Work Country Programme (DWCP) mid-term review, which was aimed at evaluating the effectiveness of the programme after two years. The feedback from the Namibian social partners was overall positive, especially regarding the technical assistance provided by the ILO on the priorities identified by the DWCP Steering Committee. Of special importance is the fact that the Ministry of Labour and Social Welfare perceives the DWCP as an integral part of its work plan and not as a separate programme.

The revision and updating of the Namibian Employment Policy is close to being finalised. A national tripartite plus taskforce, which includes representatives from the National Planning Commission, trade unions, employers, the Ministry of Labour and other strategic line ministries, is in the

process of drafting a strategic document which is aimed at operationalising Namibia’s recently published National Development Plan 4.

In August 2012, the ILO assisted the office of the Ombudsman in launching a guide on the rights of indigenous peoples in Namibia within the framework of the programme on promoting and implementing Convention 169 on Indigenous and Tribal Peoples – Namibia. This guide is a milestone in the Namibian defence of the rights of indigenous peoples, including the San and Himba. Convention 169 is the only legally binding agreement on indigenous peoples’ rights in the world, and in Africa only one country, the Central African Republic, has ratified this convention.

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Botswana

Botswana is in the process of formulating its National Employment Policy, and the Ministry of Finance and Development Planning (MFDP) acknowledged the efforts and support of the ILO in the recent drafting and validation workshop as the first step in the policy development process. The MFDP requested further technical assistance from the ILO to develop a comprehensive and inclusive policy that will serve as an overarching policy framework to guide the structural transformation of the economy and create more and better jobs on a sustainable basis.

Botswana organised a workshop aimed at enhancing the role of workers' organisations and their affiliates in the Botswana Decent Work Country Programme. The workshop was well attended by representatives from the Botswana Federation of

Trade Unions and the Botswana Federation of Public Service Unions.

In August, an induction workshop entitled Collective Bargaining and Negotiation Skills for the Public Service Bargaining Council was held, enabling the ILO's constituents to establish and operationalise the Public Service Bargaining Council (PSBC). A key focus of this workshop was to introduce members of the PSBC to the ILO standards and principles related to collective bargaining, trade unions and essential public services. Additionally, mutually agreed mediators who are outside the public service sector were trained in September to mediate disputes emanating from the sector. The intent is to increase the credibility of the mediation process in the public service sector.



SADC

The SADC Employment and Labour Sector (ELS) Ministers and Social Partners requested that the SADC Decent Work Programme (DWP) be subjected to national consultations in order to strengthen the link between the individual country and SADC Decent Work Programmes. Member states undertook the national consultations, while the ILO Pretoria reviewed the SADC countries' Decent Work Country Programmes (DWCPs).

In October 2012 the SADC ELS Technical Committee considered the national submissions as well as the ILO review of the SADC countries' DWCPs. It then formed the SADC Tripartite Technical Working Group on the SADC DWP comprising Namibia, South Africa, Zambia, Zimbabwe, SADC Employers Group and the Southern African Trade Union Co-ordination Council (SATUCC) to work with the SADC Secretariat and ILO to develop a detailed outline of the proposed SADC DWP.

At the Technical Committee meeting of December 2012 the proposed outline of the SADC DWP was presented by the Working Group, which states that the DWP comprises:

1. Regional technical work (labour market information, labour migration and trafficking);
2. Promotional work (employment, standards, social protection floor and HIV/AIDS); and
3. Informational sharing work.

The Technical Committee adopted the above-mentioned proposal and requested that the SADC Secretariat, with support from the ILO, develop the fully-fledged SADC DWP for presentation to the SADC ELS Ministers and Social Partners in 2013. Practical work is already underway in relevant areas in conjunction with the finalisation of the SADC DWP.

International Labour Organization

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