

Squeezed between boss and broker

Who cares about casuals?

A recent study shows that casual labour on Western Cape farms is massively on the increase. **Anthea van der Burg** tracks this development and looks at how nobody wants to take responsibility for these mainly women workers.

In June 2007, Women on Farms (WFP) received a call from a mother in the Free State about the death of her son who had been recruited by a labour broker to work in Cape Town.

His mother was contacted to let her know that her son had been killed and that his body was in the mortuary. The family asked WFP to help them find the body, what happened to their son and to bring the body back to the Free State for burial.

WFP discovered the following.

The deceased, who was 29 years, was recruited from his home town in Zastron, Free State in March by a labour broker to go to work as a seasonal farm worker in the Western Cape.

He came to Cape Town with the broker and worked on a farm in Kraaifontein. On 18 March, he and his friend were visiting in the Klapmuts area when a fight broke out and he was fatally stabbed. His body was taken to the Paarl mortuary until WFP assisted. WFP helped the family to get information and paid for the body to be transported to the Free State. During the WFP investigation, no one took responsibility for the incident or the body, not the broker, not the employer.

The case was reported to the

police. To date, the accused have not been convicted or sentenced. The accused were people known to the deceased.

CASUALS ON FARMS INCREASE

The use of labour brokers in the Western Cape has become very common driven by the labour, intensive wine and fruit farming businesses. Casual and migrant labour ensure that crops are harvested on time. Farms use broker services more and more to take responsibility for the labour on their farms.

In the case above nobody took responsibility. The farm owner said that he used a labour broker and the death was not his responsibility.

Often labour brokers are men and they employ mainly female seasonal workers in what has become the 'feminisation of labour'. While agricultural production offers women the chance to enter paid employment, casual employment does not allow women to access benefits and minimum wages.

Casual work also increases health and safety problems as less time is given to safety training and awareness. Casuals often work overtime, which is a problem for women with children and family responsibilities.

Generally farm work attracts unskilled labour and it is for this

reason that many migrants, who are brought from far flung rural areas, are poor and migrate due to high unemployment in their home areas. This situation is vastly different from migrants in more formal employment which attracts highly skilled labour.

An employer commented that, "It is a known fact that labour brokers fetch workers in the Transkei and make promises of work and promises of payment of R100 per day and then they come here and they get much less and if they are unhappy they go back home or they stay and work for others." As a result casualisation is on the increase in South Africa, with migrants seeking quick employment for very little money.

DIFFERENT FROM PERMANENTS

A recent study by the Centre for Rural Legal Studies (CRLS) and the WFP shows that seasonal workers do not get the same advantages and benefits as permanent workers and most farm workers are paid below the minimum wage by labour brokers. The research report also highlighted that poor transport and accommodation of seasonal workers is a concern.

The research underscored that labour brokers do not understand labour legislation. This compounds non-compliance issues such as their



failure to register farm workers for UIF and Worker's Compensation. An employer commented, "No written contracts between labour brokers and workers, third world relationship between brokers and workers, no guarantee regarding minimum wage to be paid."

The employment conditions of seasonal and migrant workers are generally poor and women are discriminated against in wages and the allocation of tasks. Brokers said the following about the gendered division of labour, "The women only get work during seasonal times, but the men have work the whole year."

Seasonal workers are also made more vulnerable by the lack of unionisation in rural communities.

The research revealed that at least 8% of respondents were between the ages of 15 and 18 years, which reflects an element of child labour on farms. It also revealed that migrant labour often replaces resident labour, which impacts on job opportunities for locals.

The situation of casuals is compounded by gaps in the law around the definition of labour brokers. The law provides mainly for the standard employment relationship without taking seasonal workers and the outsourcing of work through labour brokers into account. There are key challenges around registration, regulation and skills development of labour brokers in this non-standard employment relationship.

There are also gaps in the law around the fact that seasonal and migrant labourers do not receive the economic and social benefits enjoyed by permanent labour.

The lack of clarity about who the employer is and the unclear division of roles and responsibilities between the employer and the labour broker, adds to workers' confusion about who to approach when they experience problems.

LAW CHANGES AND INSPECTION

It is imperative that South African labour law takes the three-tiered employment relationship and the legislative protection of seasonal and migrant workers into account. The compliance by brokers and employers to labour legislation must be monitored.

The brokers' lack of management and labour skills needs to be addressed to ensure that they have the legal framework and managerial skills to fulfil their roles. The Department of Labour should also conduct regular inspections on farms to ensure that employers are not recruiting child labour and violating other human rights.

The study found that the labour brokerage as a small, inexperienced, emerging business poses challenges to its ability to negotiate better wages and working conditions for farm workers.

The Department of Transport needs to address the transport of farm workers. And farmers need to

be held jointly liable with labour brokers for any labour violations.

International supermarkets who have entered into agreements with local farmers to develop systems to assess compliance with codes of fair labour practice should continue pressurising farmers to comply with labour laws. Agri-business and farmers should be encouraged only to employ registered labour brokers and should be fined if they do not comply with laws.

The rights of women seasonal workers needs particular attention to ensure fairness in labour practices. The current trade union model of organising workers does not take into account the needs of seasonal workers and it is for this reason that unions need to revisit their strategies for organising and engaging seasonal workers.

The increase in the casualisation of labour and labour brokerages shows a changing landscape for labour law and practices in South Africa. It presents new and interesting challenges and opportunities for all role-players to collectively engage in a different manner with farm workers. Ultimately, we all need to work in harmony to ensure the protection of farm workers with an emphasis on advancing the rights of women seasonal and migrant workers.

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