EMPLOYMENT GUARANTEE SCHEMES AND PUBLIC WORKS PROGRAMMES AS SOCIAL PROTECTION MEASURE AFFECTING INFORMAL ECONOMY WORKERS

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Introduction

Social protection includes policies and actions that enhance the capacity of poor and vulnerable groups to escape or avoid falling into poverty, and to manage risks and shocks they encounter. This is to be achieved through access to essential services and income security, and by ensuring that poor and vulnerable people are linked to the labour market and to economic activities - ideally in a way which makes their graduation and exit from safety net dependence a realistic expectation. Social protection, as a concept, therefore includes initiatives aimed at reducing poverty and vulnerability, the promotion of efficient labour markets, strategies to diminish and prevent people’s risk exposure and the enhancement of the capacity of people to protect themselves against loss of income, especially through exit and graduation measures.

It has frequently been assumed that the best way to alleviate poverty and reduce unemployment is through high economic growth rates. The inter-relationship between economic growth, employment creation and poverty reduction is, however, no longer cut, given that there is emerging evidence of the failure of the previously anticipated “trickle-down” effect of high economic growth rates, also in Africa. In many countries, significant segments of the population are excluded from the benefits of growth, being affected by systemic unemployment and finding themselves unable to be incorporated into the labour market. Put simply, high economic growth rates are no longer a guarantee of employment creation and poverty reduction. These concerns have been articulated either in terms of the rights agenda (in relation to the fulfilment of the individual economic and social rights to work and to a decent standard of living) or have been framed in relation to questions of (political) stability:

“The financial crisis and the resulting global economic slowdown have exacerbated the effects of the ongoing global economic transformation. The problems of employment and poverty are now perceived as representing direct and real threats to both the human development agenda and national and regional stability.”

These problems of employment and poverty are stimulating a search for responses that are both rapidly implementable and likely to encounter swift success. Governments (and donors) have explored various strategies to

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2. Ibid. “Social protection” has been used to describe a general system of basic social support which “is no longer linked to the regular employment relationship, and which is founded on the conviction that society as a whole is responsible for its weaker members”: Olivier, M “The concept of social security” in Oliver, M, Kalula, E and Smit, N (eds) Social security: A legal analysis (2003) 26. The United Nations Social Protection Floor Initiative represents a more formal international move towards ensuring a base level of benefits for everyone (the so-called “social protection floor”): Caracciolo “Social security” in European Social Watch Report 2010 Also see ISSA Social Policy Highlight 18 (2011) 3.
3. McCord, A “The politics of social protection: why are public works programmes so popular with governments and donors” ODI Background Notes (September 2012) 2.
4. Ibid.
address the persistent problems of unemployment and poverty, including interventions designed to promote market-based employment creation and a diverse array of social protection measures to meet individual welfare needs and to stimulate demand and promote productivity. In fact, several Sub-Saharan African countries have recently adopted social protection policies and strategies while several others are in the process of developing this. Social protection is increasingly a prominent component of national long-term development strategies and poverty-alleviation related priorities.

This is also part of the reason why there has been growing interest in the potential role of public works programmes (PWPs), which are assumed to offer direct welfare benefits through employment creation and to possess a range of other outcomes with the potential to contribute to household productivity and broader economic growth. Perhaps as importantly, PWPs are, at least to some extent, free from the stigmas regarding dependency and, to a lesser extent, fiscal unsustainability that beset social protection interventions which take the form of social grants. The notion of “social protection” includes labour market (activation) measures, such as public works programmes and employment guarantee schemes, also in the African context where there has traditionally been limited recognition and application of this in policy development and programme formulation. Activation schemes typically make benefit receipt conditional upon job search activities, acceptance of available job offers and participation in active labour market policy schemes such as training activities.

In contemplating employment guarantee schemes and public works programmes more broadly as social protection measure affecting informal economy workers, this paper focuses on developments in relation to PWPs which are relevant for policy-makers in the sub-Saharan African context in general, and for SADC policy-makers in particular – with particular attention being paid to developments with respect to employment guarantee schemes in India and Ethiopia and, generally, public works programmes. The contribution discusses this approach from a legal and policy perspective, also evaluating a rights-based modality for incorporating such interventions.

**Background to public works programmes**

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8. McCord 1. Many low-income counties have experienced significant growth over the last decade, but poverty rates have declined only marginally, with growth in the absolute numbers of the poor and persistently high levels of under and unemployment. Growth has, in other words, delivered either jobless or job-poor growth: McCord 1. The ILO refers to such interventions as “employment enhancing measures”: ILO World Social Security Report 2010-2011: Providing coverage in times of crisis and beyond (2010) 57.
9. McCord 3. As indicated below, there has been concern in both the Indian and sub-Saharan African contexts that PWPs are a financial drain and that the large investment in such programmes could be better utilised, for example, to stimulate business through the incorporation of a wage subsidy: see, for example, Ramakrishnan, V and Asher, M “MGNREGA badly needs overhaul” Business Line (2012) accessed at http://www.thehindubusinessline.com/opinion/mgnrega-badly-needs-overhaul/article4006100.ece. According to McCord, the popularity of PWPs is based on three broad sets of assumptions relating to their performance at the micro-economic, macro-economic and socio-political levels. For example, at the macro-economic level it is assumed that a PWP will stimulate demand by injecting cash into the rural economy: McCord 3.
10. In essence, active labour market policies aim to influence the employment prospects of the unemployed by encouraging or mandating participation in job-search assistance programmes and skills training, or by directly increasing the returns to labour (for example, through wage subsidies). Active labour market policies can form part of a comprehensive unemployment protection system comprising unemployment insurance and unemployment assistance initiatives, and may be linked to both unemployment insurance and unemployment assistance benefits so that participation in, for example, skills development or public works programmes becomes a pre-condition for receipt of available unemployment benefits: Govindjee, A, Olivier, M and Dupper, O “Activation in the context of the unemployment insurance system in South Africa” Stellenbosch Law Review (2011) 1 205-206.
11. Olivier *et al* Social protection 4. Sub-Saharan Africa is, according to Olivier *et al*, generally characterised by low levels of overall social protection and in particular contributory social security coverage and the inability to reach many of the Millenium Development Goals. Spending on social protection is usually below 2% of GDP, and at times below 1%.
12. Govindjee *et al* 211. The main aim of activation policies is to bring jobless people from unemployment or inactivity into work or, at the very least, to influence the employment prospects of the unemployed positively.
“From the Victorian Poor Laws in nineteenth century Britain to the post-war recovery of the 1940s, public works programs have historically played an important role as countercyclical interventions to address seasonal and short-term unemployment. In recent times, the role of public works has broadened – because globalization and economic integration, while expanding opportunities for all, has also increased the exposure to and transmission of risk, especially to the poorest. Public works are now being used increasingly across the developing world as an essential part of the social protection toolkit to respond to risk and persistent poverty.”

Public works programmes (PWPs) are social protection instruments used in diverse country circumstances in both low- and middle-income countries. Traditionally, they are attached to the dual objectives of providing temporary employment and generating and / or maintaining some labour-intensive infrastructural projects and social services. Although PWPs have a history stretching from the 12th century, the current impetus for introducing and scaling up PWPs may be traced to droughts in the Indian state of Maharashtra in the 1970s, which forced 70 per cent of its rural population into poverty. The Maharashtra Employment Guarantee Scheme (MEGS) was introduced in response, offering an employment guarantee for the first time in India, and ultimately having an impact in reducing rural poverty while improving the state’s irrigation infrastructure and rural roads network.

Subbarao et al have differentiated between two broad approaches in the use of public works programmes. The first approach is “safety net oriented” and is often an integral part of a national social protection strategy. Programmes implemented in this regard utilise temporary employment projects to provide vulnerable households with an income source during times of need. A side benefit of this purpose is the creation of physical assets of value to communities, including irrigation infrastructure, road building and maintenance activities. The second approach is “infrastructure oriented”, aiming to create and maintain high-quality, long-lasting, sustainable assets for economic and social development while creating employment as a by-product.

This type of categorisation may be crucial in respect of the expectations attached to PWPs in the sub-Saharan African context, raising the question of the core purpose of PWPs in this setting. Viewing PWPs from the perspective of employment creation (rather than as economic safety nets or infrastructure-building opportunities) could result in differing graduation and exit outcomes being attached to such programmes. The focus may then, for example, be more closely aligned with labour market expectations and social services provisioning. The purpose for which PWPs are being developed and utilised in the African context must be canvassed explicitly, also so that appropriate graduation and exit outcomes may be attached to such schemes. Graduation has become increasingly associated with social protection provision, and particularly public works interventions. It may be defined as “a process whereby recipients of cash transfers, food aid or free or subsidised inputs and assets move from a position of dependence on external assistance to a condition where they no longer need these transfers, and can therefore exit the programme”.

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14 Subbarao 3.
15 Ibid.
16 Ibid.
17 Subbarao 5.
18 Ibid.
19 Ibid.
There is heightened interest surrounding the role of PWPs in the provision of social protection and the creation of employment in low-income countries and so-called “fragile states”.21 Subbarao et al, having exhaustively surveyed the evidence pertaining to the design and implementation of public works as a safety net, have concluded as follows:22

- PWPs have emerged as a critical social protection and safety net response, not only in low-income countries and fragile states but also in middle-income countries affected by high unemployment rates following the global economic crisis. The major motivations for PWPs in low-income countries (such as India) appear to be to combat poverty and to cope with (mainly) weather-induced shocks. For middle-income countries, macroeconomic / financial crisis leading to a sharp rise in the unemployment rate appears to precipitate the introduction of a PWP;
- PWPs, in addition to providing income support, can aid higher labour participation and “create pathways out of poverty”;
- The success of PWPs depends on careful design and the establishment of an appropriate implementation structure;
- Strong checks and balances against error, fraud and corruption are required, given that transparency and accountability are particular concerns of PWPs.

The Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA)

An employment guarantee scheme can take different forms, but differs from other forms of public employment in being a rights-based approach to employment. This compels society to provide a minimum level of access to employment.23 In 2005, almost 400 million of the 457 million persons employed in India worked in the informal sector. The National Rural Employment Guarantee Act (NREGA) was promulgated in India in 2005 and has been implemented since February 2006. The NREGA provided a statutory entitlement to at least 100 days of wage employment to every rural household in India comprising unemployed adult members amenable to performing unskilled work. Renamed by virtue of the addition of “Mahatma Gandhi” as a prefix in 2009 (the MGNREGA / the Act), the legislative commitment had translated to participation by more than 55 million households by mid-201024 - delivering the largest public works programme in human history.25

The key objective of the MGNREGA is, as the name implies, to provide a strong social safety net for vulnerable groups of people in rural India through the promise of employment – a particularly significant aim given the general context of the unavailability of viable employment opportunities.26 Some interesting details which have emerged from the implementation of the Act over the past seven years include the following:27

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21 McCord 1.
22 Subbarao 6-7.
24 Philip 182.
25 Subbarao 1.
26 As Philip has noted, the MGNREGA “...aims to act as a growth engine for sustainable development in the agricultural economy, strengthen the natural resource base for rural livelihoods, create durable assets in rural areas, and empower the rural poor through the processes of a rights-based law, providing a model of governance reform...” (at 182). The programme has provided over 9 billion days of employment. The implementation legislation applies to all 28 Indian states; 90 per cent of the funding is provided by the national government, with the remaining 10 per cent contributed by state governments: Dutta et al 2012.
• It is not possible to construe the programme as an unqualified success: the outcomes have been uneven to date, and the programme should be viewed as a work in progress; 28
• The Act has been implemented within the context of enhanced public scrutiny and attempts to reduce corruption, having been passed contemporaneously with the landmark Right to Information Act: all MGNREGA-linked information is generally accessible on the official website, including the uploading of 55 million job cards;
• Social audits are required bi-annually at each site, including the holding of a community assembly in order to verify the information which has been reported; 29
• The programme is crucial for the setting of a floor for labour market standards in domains where standards were sub-par and for the implementation of minimum wages; 30
• Equal pay for men and women 31 and the provision of childcare facilities at increasing numbers of sites appear to have served to incentivise women to participate in the programme;
• The work is public work-related unskilled manual work at a statutory minimum wage (US $2.40 per day in 2009), ordinarily to be provided within 5 kilometres of the applicable village.
• Payment of wages through bank accounts has stimulated financial inclusion and has facilitated the rollout of ATMs in rural areas, as well as other technological interventions. 32

The most interesting parts of the scheme created by the Act (MGNREGS) have also caused some controversy. The scale, cost and rights-based approach in guaranteeing employment remain under the spotlight, along with a range of other challenges typically associated with public works programmes. 33

“Public works programs are beset by myriad challenges involving transparency and leakage, including in India’s nationwide flagship program MGNREGS. Issues of governance and corruption have arisen in many programs across the globe, and threaten to rob public works instruments of their credibility and repute in achieving their stated objectives.”

In general, public works programmes / employment guarantee schemes are also difficult to initiate in a timely fashion to respond to need, partly because there are few glaring signals which can alert policy-makers to urgent cases of large-scale unemployment. Balancing the objectives of employment generation and infrastructural asset creation is also not easy: while the need for employment fluctuates depending upon a range of factors, the creation

28 In the states of Bihar and, to some extent Jharkhand, for example, the scheme seems to have not taken off at all, and job seekers have been turned away and not issued job cards there. By contrast, performance in the state of Rajasthan has been better, linked also to the use of the Right to Information Act (RTI) to ensure corruption reduction and proper scheme implementation.
29 Community involvement had not been a notable feature in any previous PWP in India, but community involvement is now actively sought in project selection, as well as in social audits: Subbarao 58. Permissible works, which predominantly include water and soil conservation, afforestation and land development works, are to be selected from a shelf of projects recommended by village authorities. At least fifty per cent of the budget of the NREGA is to be implemented through the panchayats (the elected local governments at the lowest level).
30 The issue of the possible reduction of basic conditions of employment in the context of PWPs is discussed briefly below, together with the potential distortion effect of PWPs on the labour market. As explained below, this has bearing on the appropriateness of PWPs as a social protection mechanism in the context of sub-Saharan Africa.
31 Wages for female casual labourers have increased eight per cent in participating districts as compared to non-participating districts, narrowing the gender wage gap and positively affecting social cohesion: Azam and Dasgupta 2011.
32 For example, the use of hand-held devices to capture bio-metric information, such as thumbprints, to confirm attendance at work sites: Lieuw-Kie-Song et al (2010) Towards the right to work: innovations in public employment programmes (IPEP) Employment Intensive Investment Programme (International Labour Office, Geneva) cited in Philip 9.
33 Subbarao 2.
of infrastructure needs consistent and predictable labour to complement other inputs. This can become a logistically complex task, which is not easy to resolve in a crisis situation. Other notable challenges include the following:  

- Workers hired argue that they are frequently not paid in full or forced to pay bribes to obtain jobs;
- No new skills are being learned by persons working on the scheme, thereby reducing the likelihood of their long-term employment prospects and their chances of breaking the cycle of poverty. For critics, another consequence of this is that only the most basic projects are even completed and the poor become destined to depend on state handouts;
- Concern has been raised by economists about the sustainability of the scheme and India’s fiscal deficit as a percentage of GDP is on the rise;
- The infrastructure built under the programme has been criticised for its poor quality, reminiscent of strong criticisms directed towards the MEGS;
- An unintended effect of the MGNREGA may be labour shortages in farming and the unavailability of labourers to work for construction companies;
- A dangerous sense of entitlement may have been created, impacting on social cohesion and impeding progress towards longer-term outcomes;
- For Ramakrishnan and Asher, “as currently formulated and implemented, MGNREGs could be detrimental to the overall welfare of Indian households. This is because these programs tend to consume massive amounts of cash, increase fiscal deficits and public debt, reduce ability to reorient public expenditure towards more pressing priorities, without providing commensurate economic or enduring social gains. Its aim appears to be for presumed political gains”;  

Given these challenges, it is necessary to consider factors which have made a public works-centred approach appealing in a number of countries, in comparison to other safety net options such as cash or food transfers or general subsidies. It has been noted that PWPs provide income support while maintaining worker dignity. They have also been successful in improving the status of vulnerable populations, including marginalised groups and women, in particular. PWPs have also been able to secure public and political support because of their perceived contribution to the economy, and as a result of their support of a community’s capacity to attend to its own challenges.

Public Works Programmes in sub-Saharan Africa and the introduction of an Employment Guarantee Scheme in Ethiopia

Introduction

Public works programmes play an increasingly important role in in sub-Saharan Africa (SSA) as a social protection mechanism to deal with poverty and unemployment. There several reasons why this is so. One of these has to do with the nature of the labour market and the (un)availability of economic opportunities. In most SSA countries unemployment is structural: the likelihood of creating stable jobs at a significant scale in the short- to medium-term is limited. The other relates to the restricted focus of most social (cash) transfer systems in SSA – these systems target, with some exception, categories of those who are unable to generate income, such as the very young, the aged and the disabled. In the absence then of an unemployment assistance system, and the unavailability of unemployment insurance in most SSA countries, the able-bodied unemployed suffer from a social protection deficit.

35 Ramakrishnan and Asher.
36 Subbarao 4.
37 Subbarao 5. Public works programmes also achieve significant secondary outcomes in respect of the creation of public goods, including various kinds of physical infrastructure, project implementation which enhances farm productivity and addresses climate change through land management, and the repair of social assets including schools and clinics: Subbarao 5.
Hence employment programmes, most notably public works programmes, have gained in popularity. As noted by McCord, low-income governments and donors are keen to identify social protection interventions that not only address basic consumption needs, but also contribute, directly or indirectly, to tackling the challenge of unemployment at both household and aggregate levels. In this way, the challenges of promoting productivity, growth and stability are addressed, while graduation is promoted and dependency prevented.  

Ethiopia

Ethiopia has the only employment guarantee programme and the second largest public works scheme in sub-Saharan Africa. According to the current version of the programme, called the Productive Safety Net Programme (PSNP), vulnerable households are targeted and allowed to participate in the programme for up to five years, when they are graduated (i.e. their allowed time period in the programme ends). The works are focused on infrastructure for the agriculture sector, as part of a broader food security programme. The PSNP has both conditional and unconditional components, in both of which cash transfer is currently the major component. Under the overall supervision of the Ministry of Agriculture and Rural Development, it benefits 8.4 million food insecure people, including children, older and disabled people and women. The objective of the programme is

- to provide households with enough income (cash/food) to meet their food gap and thereby protect their household assets from depletion; and
- to build community assets to contribute to addressing root causes of food insecurity.

The PSNP involves community targeting of beneficiaries and identification of projects/goods. Eligibility is based on three years continuous dependence on relief (a proxy indicator) and the presence of adult able bodied labour – all household members of a targeted household qualify; households with no labour, and no other means of support, are eligible for direct support.

As has been noted, the PSNP is a component of the larger Food Security Programme which is targeted mainly toward the chronically food insecure with a focus on environmental rehabilitation to reverse the level of degradation, and also as a source of income generation for food insecure households. The public works component of the programme prioritises agriculture infrastructure as part of a food security programme, and participants are also linked to education and health services.

While the PSNP operates as an employment guarantee scheme (providing work at a rate of 5 days per month), it does not operate from a rights-based legal framework. Also, despite the government’s long-term commitment to the employment guarantee mechanisms of the PSNP, continued dependency on donor funds makes questionable the real sustainability of the programme.

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38 McCord 1.
41 Ibid.
44 Olivier et al Social protection 59.
45 Olivier et al Social protection 64.
Two SADC examples: Lesotho and South Africa

Lesotho

The Lesotho Integrated Watershed Management Project, operated by the Ministry of Forestry and Land Reclamation, is designed to address poverty and land degradation issues and promotes income-generating activities through the production of energy sources and fruit trees for household consumption as well as fodder production. It imparts skills also in other areas, in particular land reclamation and water conservation, is spread out over the country and provides a guaranteed income to sizeable numbers of beneficiaries (20 days of paid work per month guaranteed for 100 persons per each of the 80 constituencies in Lesotho, i.e. a total maximum of 96,000 beneficiaries per year), and builds ownership to land. As of January 2012, 366 million Maloti were earned by almost 388,000 workers employed by the project since its inception47. While the programme has provided some income to a sizeable number of persons, it could be asked whether it is targeting the poor, also given the relatively high wage rate, which is well above the effective daily wage rate for unskilled agricultural labour.48

South Africa

The Expanded Public Works Programme (EPWP) in South Africa is the largest such programme in southern Africa. In addition to providing training and enterprise development support (at a sub-programme level), the EPWP creates work opportunities in four sectors, namely Infrastructure, Non-State, Environment & Culture and Social, through:

- increasing the labour intensity of government-funded infrastructure projects under the Infrastructure sector,
- creating work opportunities through the Non-Profit Organisation Programme (NPO) and Community Work Programme (CWP) under the Non-State sector,
- creating work opportunities in public environment and culture programmes under the Environment and Culture sector, and
- creating work opportunities in public social programmes under the Social sector – internationally a unique emphasis, which includes caring for people with HIV/Aids to literacy programmes.49

In the first phase of the programme (2004-2009), implemented by all three spheres of government, 1.6 million work opportunities were created. Government is well under way to meeting the target set for the second phase (2010-2014), i.e. to create 4.5 million work opportunities.50 The programme has also reached its target for women and youth participating in the programme, with 60% of the participants being women and 50% being youth.51 An amount of R1,9bn has been allocated for 2013/2014 to create 1.2 million work opportunities. Within the EPWP programme a separate Community Works Programme (CWP) has been developed, in response to the structural nature of unemployment in South Africa and the problem that many EPWP participants exit back into poverty after short-term employment. Under the CWP indefinite, regular work is provided for two days a week, to contribute to the

development of public assets in poor communities. As has been noted, the community decides what useful work it needs done. Currently 150,000 participants are accommodated at 74 CWP sites.52

The South African National Development Planning Commission considered the introduction of a variant of the Indian employment guarantee scheme in South Africa. However, due to fiscal constraints and the question whether enough jobs could be created, the commission recommended that public employment should aim to reach 50% of the unemployed, entailing reaching about 3,4 million participants on an annual basis.53

Thus far, however, it appears that there are several unfavourable outcomes regarding the South African public works programmes; these programmes thus far demonstrated only a limited impact on certain social problems (such as poverty and unemployment):

- Already in the 2006 annual report of the South African Human Rights Commission,54 research findings have indicated the EPWP has had a very limited impact on poverty and unemployment.
- It is true that South African public works programmes are gender sensitive and complement other measures aimed at addressing the gender imbalances of the past. Some programmes which are targeted at the construction industry, for example, are designed to assist women to find their way into the construction industry which is a historically male dominated industry. These efforts are important because, in most instances, women “generally spend their earnings from public works on basic household requirements.”55 In spite of the foregoing, a majority of public works programmes involve manual labour which may discourage women from participating. To encourage women to take part in these programmes, it is crucial that programmes are designed in such a way that they accommodate women. Physical infrastructure focused programmes definitely need to be blended with projects which are aimed at the creation of social infrastructure (e.g. Home Community Based Care and Early Childhood Development). To this end, the identification of the social sector as one of the opportunities for implementing the EPWP is to be welcomed.
- Thirdly, public works programmes do not provide a long-term solution to the problem of unemployment. The problem is that “public work programmes, by their very nature, do not offer long term viable employment opportunities for the unskilled structurally unemployed.”56 The prospects of (re)integrating those who participate in the public works programme into the labour market remain low.
- Lastly, there is a risk that public works programmes could lure low-paid workers in the formal and informal economy workers.57 If this were to happen it could mean that “the programmes would no longer address the problem of unemployment as intended, but address primarily the poverty problem.”58

Several other shortcomings could also be listed, many of which flow from the provisions of the ministerial determination concerning the EPWP.59 Firstly, work on the EPWP does not qualify as employment as a contributor in

53 Ibid.
55 Ibid.
terms of the Unemployment Insurance Act. Secondly, terms and conditions applicable to workers/beneficiaries also detract in significant ways from those provided under the core legislation regulating minimum conditions of service, namely the Basic Conditions of Employment Act of 1997. For example, overtime pay and the payment of severance benefits are not available to these workers. The provisions of the Determination also impact significantly on issues pertaining to termination of contract and dismissal. Any worker employed on a SPWP who is absent for more than three consecutive days without informing the employer of an intention to return to work is deemed to have terminated the contract of employment. Similarly, a worker who has not attended the required training events, without good reason, is deemed to have terminated the contract.60

Key characteristics and challenges

(a) Core features: It has been suggested that public works programmes function as a social protection mechanism in that they channel temporary income to vulnerable populations, and create productive public assets that can strengthen subsistence agriculture and economic sectors. Injection of these wages can also have the effect of stimulating demand in the local economy. The aims of such programmes usually include interventions aim at combatting poverty influenced by drought, deforestation and soil erosion through the creation of specifically environmentally protecting assets; empowering rural women; and restricting rural-urban migration. The programmes can support longer-term reduction of vulnerability through connecting beneficiaries to savings and credit mechanisms, skills and enterprise training:62

"Some public works programmes have an explicit training component to enable workers to acquire skills that will help them transition into more regular employment. Youth employed as manual labourers on a labour-intensive roads project under the Expanded Public Works Programme (EPWP) in South Africa, for example, are offered training in other skills with identified demand in the labour market. Similarly under the AGETIP intervention in Senegal, young people are trained in public works construction so that they may be employed on other construction projects post intervention. In programmes in Malawi and Sierra Leone, participants are supported to use savings accrued from their work to establish an income-generating activity through short business training and linkages to other micro-credit institutions.

The provision or maintenance of public goods that enhance income generation is a core feature of most public works programmes. Activities in Ethiopia and Lesotho focus on water conservation and land rehabilitation activities that improve the productivity and income of poor agricultural communities. Community-based public works programmes in Ghana are implemented by small contractors and focus on the rehabilitation of feeder roads. In middle-income countries the public goods include the provision of social services. In South Africa for example, the EPWP includes home-based care workers and early childhood development workers, as well as infrastructure; environment; and developing small businesses and cooperatives.64"

(b) Clarity as regards outcomes/success indicators: Any one or more of a range of outcomes may be sought or success indicators be applied in relation to PWPs. The menu includes: income and/or consumption smoothing; number of households reached; public assets created; strengthened economic infrastructure; improved agriculture productivity; strengthened savings and financial literacy; linkages to other labour market and/or self-employment

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60 Para 17.4.
61 Para 17.5.
62 Olivier et al Social protection 60-61
interventions; skills or micro enterprise development; and reduced rural-urban migration. However, as has been noted, there are some inherent contradictions in these ambitions, and lack of attention to these can have serious consequences in intervention design can have serious consequences for measureable outcomes – for example, where a programme is aiming to reduce the number of beneficiaries through having their consumption smoothed and subsistence farming productivity strengthening; and simultaneously aiming to increase the reach of the programme in terms of the total number of beneficiaries.65

The impact of public works programmes can only be measured in relation to their particular indicators which should be designed in response to the specific vulnerabilities in the target population.

(c) **Targeting beneficiaries:** Beneficiaries are normally identified through category or geography based targeting. However, as has been noted, categorical targeting based on poverty vulnerability is not without its limitations:66

"The approach can exaggerate the position of individuals in societies which operate economically as a household, or the effect of the benefit is diluted when shared in the household. It can overestimate the surplus labour within a household, thus excluding those without available labour, and potentially placing extra burden on the working poor.67 This approach is typically accompanied by a combination of community-based selection mechanisms and self-targeting, which are subject to issues of local subjectivity, transparency, and excessive demand.68 Demand-led programmes are sometimes found to be better at targeting the most vulnerable than those based on administrative selection of beneficiaries. However, hard manual labour programmes that self-target cannot cater to the old, handicapped and those not physically able to engage in such work."

Therefore, categorical targeting on the basis of (poverty) vulnerability has to take into account the reality of household economics, of existing income-generating capacity, of local economic dynamics and of excessive demand.

Vulnerability may also be related to specific geographic areas, including areas which have experienced conflict or recurrent emergency situations calling for humanitarian assistance (e.g. conflict in Casamance region of Senegal, drought in northern regions of Ghana),69 or specific rural or urban areas – in urban areas, for example, "efforts tend to focus on sanitation and infrastructure public works, as well as improving labour market information, fostering apprenticeship, vocational training and business creation."70 Initiatives in rural areas consist of financing basic agricultural infrastructure and building the capacities of communities and production organisations (e.g. Chad, Sierra Leone).71 However, while geography has an influence on planning for labour market intervention, it is important to note that geography is not the only determinant of future economic performance – as a shift from rural to urban economic activity appears to be (naturally) occurring and may have to be supported.72

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65 Olivier et al *Social protection* 60.
66 Olivier et al *Social protection* 62.
67 Jones, N, Taferre, Y & Woldehanna, T *Gendered risks, poverty and vulnerability in Ethiopia: To what extent is the Productive Safety Net Programme (PSNP) making a difference?* (ODI, October 2010).
72 See Noman, A & Stiglitz, J; *Good Growth and Governance for Africa: Rethinking Development Strategies - Introduction and Overview* (Draft, 2013) and Olivier et al *Social protection* 62.
(d) Linkages and coordination with other social protection mechanisms and labour market interventions: It has been suggested that a stronger policy focus is needed to develop and integrate interventions, including micro-enterprise development, access to agricultural inputs and irrigation, and processing and storage facilities which can open up sustainable income-generating opportunities for beneficiaries.73 However,

"It is noted also that it can be technically challenging to administratively link up public works programmes with other social protection mechanisms. For example, the government aims to connect the LEAP cash transfer programme in Ghana with public works programming in the same locations. However, the public works programme operate by self-selection and the two interventions do not have a cross over database or identification system, making it impossible to track how many LEAP beneficiaries are also participating in public works interventions. Further, the LEAP programme targets significant number of households which do not have surplus labour (disabled, old, children, engaged already in low income or subsistence activities), thereby excluding their public works participation."74

There is room generally for greater linking of public works programmes beneficiaries with labour market interventions such as employment services and micro-/small enterprise development. However, these linkages do not occur automatically and have to be actively pursued: these beneficiaries are typically the poorest demographic, are furthest from the labour market and experience the greatest number of constraints in accessing income generation and remunerative employment opportunities.75 Of course, the linkages may themselves pose particular challenges: employment services are of limited use in situations where there is a lack of demand for labour, where structural unemployment is high, or where most labour market transactions are informal, as is the case in most SADC and other SSA countries.76 Also, "As noted by the ILO, there is significant difference in the kind of impacts sought through supporting micro-enterprise initiatives and small to medium enterprise.77 Micro-credit users are typically more interested in sourcing small capital to stabilise consumption and provide insurance against extraordinary expenses than in growing their activities, and with these capacity dependant interventions, there is a danger that only those with the greatest potential will benefit, at the exclusion of those with the greatest need.78,79

The “public works plus” model

A “public works plus” model goes beyond temporary income-generating activities by offering links to better / permanent employment (e.g. through skills training) or access to community and health services (e.g. through existing social assistance programmes, such as health care or nutrition programmes).80 Countries may consider combining participation in public works programmes with other social protection-related interventions, including skills development training, and even access to forms of social assistance.81 Combining various social protection interventions in this way is not a completely novel proposition. From an analogous perspective, proposed legislation dealing with employment services in South Africa, for example, contains the ambitious multiple aims of seeking to reduce unemployment, improving access to the labour market for all work-seekers, providing opportunities for work experience, improving the employment prospects of people with disabilities, assisting the unemployed and facilitating

73 Olivier et al Social protection 62.
74 Olivier et al Social protection 61.
75 Olivier et al Social protection 64.
76 Olivier et al Social protection 63.
77 Vandenberg, P Poverty reduction through small enterprises, Emerging consensus, unresolved issues and ILO activities (ILO, 2006).
79 Olivier et al Social protection 64.
80 Subbarao 26.
81 See, in general, Govindjee, A, Olivier, M and Dupper, O “Activation” (2011). Also see DSD Creating our Future 19.
access by workers to training, while improving workplace productivity and promoting job security. According to the ILO too, interventions to alleviate the current global unemployment situation should include income support to the unemployed and underemployed (working poor) in the form of cash transfers, as well as certain forms of basic employment guarantees in the form of public works or similar programmes. The ILO, in other words, considers both income support and employment guarantees to be among the foundations of the social protection floor.

A combined approach acknowledges that public works programmes and employment guarantee schemes, on their own, may be insufficient to meet social development objectives, and may need to be integrated with other social protection interventions in order to heighten the possibility of maximum developmental impact. Furthermore, such a combination enhances the possibility of graduation / exit from participation in public works programmes or employment guarantee schemes, which have traditionally been unable to provide long-term solutions to problems of unemployment. An approach which interrogates the true purpose of PWPs and views such interventions only as part of the solution to enhancing the social protection offered by a society to those who are marginalised in society is preferable. While India’s experience with legislating an employment guarantee represents a landmark in social rights realisation, care should be taken to ensure that other parts of the developing world do not merely transplant such initiatives into their own systems, without properly interrogating the pitfalls of such approaches.

(e) Measuring impact in terms of graduation: A recent EC study reflects on the criticism that public works programmes lack graduation options:

"But this is to ignore the distinction between those public works programmes which aim for skills development through continuous engagement of beneficiary workers and training of contractors, and those which emphasise cash or food transfers safety net and light infrastructure rehabilitation. The labour-based public works model supported by the ILO in Liberia, Sierra Leone, South Africa and Tanzania, for example, emphasises construction standards and training of contractors and labourers who can compete for further contracts. There, the graduation impact in terms of further work opportunities for beneficiaries has been measured, with mixed results. The cash or food for works model supported by the World Bank and World Food Programme in Liberia, Kenya or Sierra Leone are designed as safety net mechanisms and are judged in terms of their impact on consumption smoothing for beneficiaries. In this model there is some evidence of shock-smoothing impacts, but there is little evidence of the interventions sustainably graduating beneficiaries out of poverty. It is also noted that persons who are considered to have ‘graduated’ according to any of the above definitions can continue to be exposed to severe vulnerabilities, and this cannot be ignored."

Legal analysis: Guaranteeing employment by law - creating an enforceable right to work in constitutions and legislation

One of the most notable features of the MGNREGA is that it provides a statutory basis for demanding at least 100 days of paid employment for rural households in India. The link between this statutory development and the Constitution of India, 1950, must also be appreciated. The Indian Constitution draws a distinction between

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82 See clause 2(1) of the draft Employment Services Bill.
84 Olivier et al Social protection 65-66
“fundamental rights” (contained in part III of that Constitution) and “directive principles of state policy” (contained in part IV). Although there is no justiciable right to work in terms of the Indian Constitution, article 41 (part of part IV of the Constitution) provides as follows:

“The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.”

The provisions contained in the “directive principles of state policy” are not enforceable by any Court. Nevertheless, article 37 provides that they are “fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws”.

India’s decision to pass the MGNREGA may be seen as the practical application of this constitutional commitment, and highlights the significance of such fundamental policy directives being grounded in, firstly, constitutional text and, secondly, statutory enactments. Put differently, it is arguable that the progress made in terms of implementing the MGNREGS is partly attributable to the inclusion of a right to work in the Constitution of India, 1950, as well as in the legislation passed in 2005 (the MGNREGA). The success of this rights-based approach to development is being duplicated in other areas in the Indian context, suggesting that the approach has been deemed by the Indian government to be sound. Very recently, the Indian government passed what has been described as the biggest welfare programme in history, namely a scheme to provide cheap food to more than 800 million people. The so-called “Food Bill”, which was passed by the upper house of parliament a week or two ago, guarantees Indian citizens a legal right to food. The significance of this approach, as with India’s approach towards the establishment of an employment guarantee scheme, is that it is completely distinguishable from a mere government scheme or plan (which might, for example, change as those presently in power are replaced). By legislating such entitlements, a legal right is created. This provides a solid basis for prospective beneficiaries to be alerted to the opportunities created for them by the law, and for addressing weaknesses in implementing statutory promises through the courts or via non-judicial interventions.

It is suggested that countries in Africa and other parts of the developing world may be well advised to approach moves towards the introduction of public works programmes in this fashion. Constitutionalising a right related to work and following this up by enacting legislation providing for work on public works programmes is likely to facilitate the creation of a principled basis for employment creation. Work is “not only a source of income but more importantly a source of dignity, family stability, peace in community, and economic growth that expands opportunities for productive jobs and employment.” Ultimately, the goal is not just the creation of jobs, but the creation of jobs of acceptable quality, and the creation of work in terms of public works programmes needs to be aligned with country commitment to a decent work agenda. For the ILO, “decent work” offers a way of combining employment, rights, social protection and social dialogue in developmental strategies.

This is not to suggest that employment guarantee schemes per se are necessarily the optimal solution to job creation. One alternative modality would be to include a right to work, coupled with a directive that the state must take reasonable legislative and other measures, within its available resources, to progressively realise the right. This type of formulation is evident, for example, in the International Covenant on Economic, Social and Cultural Rights (ICESCR), as well as in various sections of the Constitution of the Republic of South Africa, 1996. A good legal

87 RSA Decent Work Country Programme 5.
88 Ibid.
89 ILO Reducing the Decent Work Deficit 11.
90 For a complete list of international instruments making reference to a right to work, see Govindjee, A and Dupper, O “Constitutional perspectives on unemployment security and a right to work in South Africa” SLR (2011 vol 3) 775-803.
framework has been credited with guaranteeing the institutionalisation of a social protection scheme, evidence showing that social transfers (by way of illustration) become accepted as entitlements when established through legislation in countries such as South Africa and Mauritius, so that expenditure on this becomes non-discretionary. Establishing an appropriate legal and institutional framework is, therefore, a key challenge for the provision of effective and efficient social protection coverage. Government policy can then easily align itself (and be tested against) this framework, thereby completing the creation of a consolidated approach towards employment creation.

**Evaluating the long-term impact of Public Works Programmes and Employment Guarantee Schemes**

There is little evidence that PWPs provide sustained benefits beyond the period of programme participation. 95% of programmes in sub-Saharan Africa and the majority in Asia appear to provide only short-term employment, resulting in limited short-term consumption gains. This has been criticised as being an insufficient outcome in the context of extended economic turmoil, structural unemployment and chronic poverty:

“Low wages and short duration of employment in most programmes limit opportunities for accumulation and, as such, they are unlikely to result in significant investment in productive activities or to enable households to cross a graduation threshold on a sustained basis.”

While the criticism of “short-terminism” does not hold for the few programmes offering guaranteed employment, such as the MGNREGS, there appears to be little evidence or anticipation of significant accumulation or graduation out of poverty as a result of programme participation.

The selection of PWPs as a key form of social protection has also been criticised as being based on assumption and poorly supported by existing evidence. McCord analyses various assumptions that have informed the introduction and implementation of PWPs in many countries. These include micro-economic assumptions underlying the adoption of PWPs relating primarily to household welfare and productivity; the assumption by development partners that PWPs have significant potential for economic stabilisation and could contribute to economic growth through a combination of indirect and direct effects if implemented on a sufficiently large scale; and, finally, the assumption relating to the potential for PWPs to promote political and social stabilisation by diffusing the latent and patent unrest that results from poverty, unemployment and instability. As McCord concludes:

“Many of the assumptions that lead donors and governments to select PWPs rather than alternative forms of social protection are poorly supported by the existing evidence. There is little evidence that PWPs have a significant or sustained impact on poverty reduction, livelihoods promotion, graduation, aggregate employment or growth, impacts that extend beyond basic consumption smoothing. This is the case even in the few contexts where large-scale integrated programmes have been successfully implemented.”

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91 Olivier et al. 7. As an alternative to introducing a constitutional right to work, it may be possible to recognise such a right as an “unenumerated right” in some contexts, or to read in such a right as part of another (fundamental) right: see Kruger and Govindjee “The recognition of unenumerated rights in South Africa” SA Public Law (2012, vol 27(1)) 192-206.

92 McCord 4.

93 Ibid.

94 Ibid.

95 McCord 6.

96 See McCord 6.

97 According to McCord, this is in part indicative of an undeveloped evaluation literature in this sector, particularly in sub-Saharan Africa. “More fundamentally, however, it relates to the problematic nature of the assumptions, their weak theoretical grounding and the inadequate theories of change that underlie much PWP design.” McCord 6.
What is less clear is whether these limitations are destined to always be an inherent component of the introduction of PWPs, or whether the manner in which PWPs are implemented may result in some mitigation of such criticisms. Little attention has also been paid to viable alternatives to PWPs with respect to finding solutions to large-scale, long-term problems of unemployment, bearing in mind that PWPs have been found to have a discernible short-term impact based on the effects of the wage transfer.  

Assuming that PWPs are, perhaps for various geo-political reasons, to be persisted with in sub-Saharan Africa, certain supporting interventions appear to enhance the impact of such schemes and should be incorporated into the design of the programmes. This is in addition to the suggestions relating to constitutionalising a right related to work and introducing a legislative framework to direct policy developments in this regard, as well as the other recommendations advanced above (for example, related to the “public works plus” model / combined approach suggested). Vibrant civil society organisations have, for example, accentuated the impact of PWPs in India, and have played a role in accessing information and exerting pressure when corruption is uncovered. Information systems and communication technology advancements have played a role in alleviating backlogs caused by manual systems of registration, and have also served to minimise fraud, increase accountability and transparency in the Indian context.

The future of public works programmes as social protection measure

(1) Policy-makers ought, as a starting point, to carefully analyse the objectives that they are trying to achieve through the introduction of public works programmes, including any possible introduction of an employment guarantee scheme. This must occur with full appreciation of the general context in which such endeavours are normally attempted: namely, societies dominated by structural unemployment and experiencing a “social protection deficit” as a result of large-scale able-bodied unemployment. As reflected upon above, a range of possible outcomes may inform the introduction of such programmes, including PWPs as a (poverty) safety net, for purposes of infrastructure building, temporary support in instances of natural disasters and the like, or as actual employment creation / skills development interventions.

(2) Naturally, a proper appreciation of the objective(s) to be served by the introduction of a public works programme in a country must affect the precise nature of the interventions adopted, the approach followed, the pace of activity, setting of realistic graduation expectations, and the measures adopted to monitor and evaluate these programmes, to name but a few considerations. Viewing public works programmes as part of a country’s social protection strategy, rather than an end unto itself, may also be significant, opening the door to a combination of activities with both short-term and, ideally, long-term objectives, assuming that this may be practical in the context of the country in question. Coupling public works programmes with appropriate skills development initiatives, for example, may enhance the capacity of these schemes to provide long-lasting benefit.

(3) The aims of public works programmes may also impact on the consideration of viable alternatives, such as a progressive expansion of social grants or, perhaps, some form of use of co-operatives in order to incentivise participation by ultimately affording a certain degree of ownership of the goods produced within the framework of public works participation. While public works programmes appear to have been credited with enhancing the dignity of participants (on the basis that their participation in such employment is, by itself, a worthy activity), this sense of dignity might be escalated further through different modalities of involvement being attempted.

(4) The evidence shows that public works programmes have been used in a variety of contexts – ostensibly in order to achieve a plethora of different objectives (for example, the MEGS was born directly from the need to provide protection following a natural disaster of some proportion). The impact on female and youth participation have been

98 See, in this regard, McCord 6.
two of the key proven strengths of public works programmes. To enhance the impact of PWPSS as an effective social protection measure in the wake of structural unemployment in SADC countries, available evidence suggests that it should best operate on the basis of, firstly, an employment guarantee scheme of sufficient length (at least of some years’ duration) and, secondly, supported by a rights-based guarantee. Utilising a rights-based approach (reflected in a suitable legislative guarantee, preferably supported by constitutionalising an appropriate right related to work) in order to introduce or solidify the operation of public works programmes in a society is recommended, particularly in the context of structural unemployment. This can be done in a variety of ways, also incrementally, for example, incorporating some type of pilot phase if necessary by only committing the state to taking “reasonable measures” within its available resources, to achieve progressive expansion of the public works system.

(5) As indicated above, public works programmes have the ability to set a floor of (decent) employment standards and ensure at least the implementation of minimum wages, provided the minimum wages are set at a realistic level, in countries where these matters have proved problematic. It goes without saying that careful conceptualisation and proper implementation will be required for the likelihood of successful outcomes to be enhanced. Careful balance of outcomes and design of indicators is required to ensure that the public works programme is specific about the short- and long-term outcomes required and the type of ‘graduation’ expected. This must be coupled with the appropriate development of the associated institutional, financial, operational and monitoring and regulatory frameworks.

(6) Some more specific lessons have also been learned by countries over time. For example, countries which plan to rely on donor funding in order to introduce public works programmes may need to reconsider this approach, and programmes which, because of high wages, are not self-targeting or demand-driven, may need to consider the sustainability of their stance: the cost of large-scale public works programmes is one of the most significant drawbacks of such an approach and even countries such as South Africa have decided that employment guarantee schemes are unaffordable at present. Alternative and innovative funding models or approaches may be necessary to enhance the long-term impact of public works programmes and, it is suggested, that focusing on the infrastructure benefits of public works programmes may lead to disappointment in respect of lasting outcomes. This has been highlighted in the (MG)NREGS where over half of assets are found to be incomplete or of poor quality. Lack of maintenance resource or planning can in addition affect the utility of the assets over time. This is also related to the lack of mechanisms and resources for community ownership to ensure the upkeep of the assets by those benefiting from them.

(7) Linkages with opportunities for longer-lasting employment must continuously be sought: for example, the extreme poor benefiting from Ghana’s cash transfer LEAP (Liveliness Empowerment Against Poverty) programme and who also access public works programmes, could be linked to programmes delivering agriculture inputs or micro business for longer term outcomes. Experience has also demonstrated the benefits of other associated developments. The (MG)NREGS for example, is reported to be working better in places where activist groups are active and where there is a history of implementation. Public works programmes also have to be adjusted to respond to developments in the external environment including advances in educational and literacy levels; and ongoing economic growth.

(8) The 2013 World Bank study on public works confirmed the necessity for a sound implementation structure and an efficient institutional framework to support successful implementation of public works programmes. Strong

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99 The 2013 World Bank study referred to elsewhere in this piece has found that the potential for public works programmes to promote gender empowerment is conditional on design and institutional factors and cannot be automatically assumed.

100 Joshi The right to work in India; Politics of the EGS and NREGA (2007) 4.

101 Joshi, A The right to work in India; Politics of the EGS and NREGA (unpublished paper, March 2007) 14.

102 Ibid.
checks and balances (including credible monitoring and evaluation, and technological innovation) against possible error, fraud, and corruption are required, since transparency and accountability is a particular concern for public works programmes, given the number of unit payments and the complexity of actualising transfers. Engagement and continuous oversight by the political opposition is also key. Weaknesses in data collection make such outcomes impossible to determine. Wage transfer systems also present challenges, resulting in delays of payment and potential for misallocation through corruption and bureaucratic syphoning. Public works programmes require governance and management strength at both the national and local levels to avoid uneven distribution of implementation through the country.103

(9) Finally, scientists working in this area must be credited for continuing to research the available evidence in order to interrogate the assumptions underlying the introduction of public works programmes in different country contexts. The work already undertaken in this regard demonstrates that there is no one-size-fit-all option for the introduction of public works programmes, with the context in which such programmes are introduced being a key factor to be considered. That there are short-term benefits of introducing public works programmes (particularly in situations of crisis) is perhaps a less contentious proposition than making the case for public works programmes based on their long-term impact. However, limiting the case for public works programmes to short-term impact is an untenable orientation, given the urgency of the search for longer lasting ideas to tackle unemployment and poverty. That difficult yet crucial search continues.

103 In the case of the (MG)NREGS for example, which is implemented through local government structures, those areas with more developed local government structures receive a relatively higher number of interventions.