

*Series on Representation and Organization Building*

# **Organizing in the Informal Economy: A Case Study of the Municipal Waste Management Industry in South Africa**

by Melanie Samson

InFocus Programme on Boosting Employment  
through **S**mall **E**nterpris**E** Development  
Job Creation and Enterprise Department



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## Foreword

The ILO's long-standing concern with the realization of freedom of association and its commitment to all workers, whether in the formal or informal economy, are well exemplified by the Decent Work Agenda and the ILO Declaration on Fundamental Principles and Rights at Work (1998). In addition, ILO Recommendation No. 189 on Job Creation in Small and Medium-Sized Enterprises (1998) advocates adequate representation of these enterprises and their workers – including those in the informal economy – and calls on organizations of employers and workers to extend membership therein. In 2002, the Conclusions adopted by the International Labour Conference at its general discussion on decent work and the informal economy recommend future ILO work and activities be aimed, inter alia, at removing obstacles to the formation of organizations of workers and employers in the informal economy and assisting them to organize.

For the ILO, the right to organize is an enabling right in that it paves the way for the exercise of a range of other rights at work. However, the right to freedom of association is often denied – de jure or de facto – to those in the informal economy. The present report is part of an international research project jointly initiated by the ILO InFocus Programme on Boosting Employment through Small Enterprise Development (IFP/SEED) and the InFocus Programme on Promoting the Declaration (IFP/Declaration), to probe how collective representation in the informal economy can generate positive social and economic outcomes. Countries under review are Bolivia, Colombia, Pakistan, Peru and South Africa. The intention of this project is to foster policy dialogue activity at the national level with a wide range of stakeholders.

ILO research counterparts in South Africa were the Community Agency for Social Enquiry (CASE) jointly with the Southern African Labour Research Institute (SALRI). Representational processes in South Africa's informal economy are assessed using a case study methodology. Within this framework, five sectoral studies (on clothing, construction, street trading, taxi and waste management) and a comparative overview have been conducted. This report investigates the municipal waste management industry and is published under the series on "Representation and Organization Building" by IFP/SEED.

The municipal waste management sector in South Africa has undergone significant transformations in recent years, largely as a result of the externalization of activities that has often been accompanied by the informalization of employment relations. To date, research on and analysis of these changes and their implications for workers have been limited. This paper seeks to enhance the understanding of working conditions and work arrangements in the sector. It identifies the main organizations currently organizing and/or servicing workers and employers in the industry, as well as their strategies, and maps out pertinent issues that will need to be addressed in the development and implementation of vibrant organizing strategies.

This report was written by Melanie Samson, independent researcher. IFP/SEED and IFP/Declaration supported this research and coordinated its implementation. Giovanna Rossignotti (IFP/SEED) and Manuela Tomei (IFP/Declaration) designed the analytical framework for the research and guided this study to its completion.

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## Acronyms and Abbreviations

ANC	African National Congress
APF	Anti Privatisation Forum
BCEA	Basic Conditions of Employment Act of 1997
BEE	Black Economic Empowerment
BESG	Built Environment Support Group
BHA	Billy Hattingh and Associates
BWMF	Black Waste Management Forum
CASE	Community Agency for Social Enquiry
CBO	Community-based Organization
CEC	Central Executive Committee
CID	City Improvement District
COIDA	Compensation for Occupational Injuries and Diseases Act of 1993
COSATU	Congress of South African Trade Unions
DPLG	Department of Provincial and Local Government
EDP	Entrepreneur Development Programme
EPWP	Extended Public Works' Programme
FEDUSA	Federation of Unions of South Africa
FNP	Former Non-Permanent
GEAR	Growth Employment and Redistribution Policy
ILO	International Labour Organization
IMATU	Independent Municipal and Allied Trade Union
IWMSA	Institute of Waste Management of Southern Africa
LRA	Labour Relations Act of 1995
LGWSETA	Local Government and Water Sector Education and Training Authority
MCP	Municipal Community Partnership
MSP	Municipal Services Project
NGO	Non-governmental Organization
NUMSA	National Union of Metalworkers of South Africa
NEDLAC	National Economic Development and Labour Council
OHSA	Occupational Health and Safety Act of 1993
OFRCWF	Orange Farm Refuse Removal Workers' Forum
OPCs	One person contractors
OWCC	Orange Farm Water Crisis Committee
RDP	Reconstruction and Development Programme
RFBC	Road Freight Bargaining Council
RFBEA	Road Freight Employers' Association
PPP	Public Private Partnership
SALGA	South African Local Government Association
SALGBC	South African Local Government Bargaining Council
SAMWU	South African Municipal Workers' Union
SANCO	South African National Civic Organisation
SATAWU	South African Transport and Allied Workers' Union
SAWMEA	South African Waste Management Employers' Association
SETA	Sector Education and Training Authority
SMME	Small Medium and Micro Enterprise
SACP	South African Communist Party
SACTWU	Southern African Clothing and Textile Workers' Union

SDA	Skills Development Act
SDLA	Skills Development Levies Act
SPWP	Special Public Works Programmes
Stats SA	Statistics South Africa
TEDCOR	The Entrepreneur Development Corporation
TGWU	Transport, General and Allied Workers' Union
TPC	Third Party Contractor
UIF	Unemployment Insurance Fund
UNDP	United Nations Development Programme
USN	Urban Sector Network



## Executive Summary

“What contributions can be made with regard to meeting the representational needs of workers, employers and others conducting business?”

— *Decent work and the informal economy*, Report VI, International Labour Conference, 90<sup>th</sup> Session, 2002. ILO, Geneva, p. 120.

The ability of workers to exercise the right to freedom of association (establish or join organizations of their own choosing without fear of reprisal or intimidation) is critical to ensuring that workers access and benefit from rights enshrined in labour laws and collective bargaining agreements. Lack of voice at work is marginalizing economic actors in the labour market and in society at large, and is indeed facilitating their relegation to the informal economy.

The municipal waste management sector in South Africa has undergone significant transformations in recent years, largely as a result of externalization. To date research on, and analysis of, these changes and their implication for workers have been limited. The main objective of the paper is to expand the knowledge base on working conditions and work arrangements in the sector, with a view to helping unions organize and improve conditions of workers therein, regardless of where they work and the type of contract they have. This report also seeks to: identify the main organizations currently representing workers and employers in the sector; enhance understanding of the strategies adopted or currently experimented with by these organizations to organize and improve conditions of economic actors affected by externalization and informalization in the sector; identify potential reasons for the limited extent of these initiatives; and map out pertinent issues which will need to be addressed in the development and implementation of vibrant organizing strategies.

Traditionally the municipal waste management industry in South Africa has been firmly located within the formal economy, and typified by high levels of organization among both employers and workers, as well as well-established institutions for collective bargaining. However, policy changes which have actively encouraged municipalities to externalize the provision of waste management services have led to a dramatic shift in the nature of the sector. Whereas in the past municipalities were the sole employers of municipal waste management workers, a range of economic actors including private companies, non-governmental organizations (NGOs), community-based organizations (CBOs), ward councilors/committees and short-term provincial poverty alleviation projects now employ and/or control labour within the sector. Some of these employers are informal. Aside from larger private companies, they are poorly organized, and do not negotiate with labour.

Externalization has had numerous implications for workers. Waste management workers employed by municipalities benefit from a range of agreements negotiated in the South African Local Government Bargaining Council (SALGBC). The SALGBC was established in a context where externalization was already underway, and the trade union parties were careful to ensure that the definition of the scope of coverage of the SALGBC was sufficiently broad to cover all workers providing municipal services (including waste management workers employed by private companies, NGOs and CBOs contracted by municipalities). However, to date the unions have largely failed to organize these workers and

extend the SALGBC agreements to cover them. Moreover, the definition of the scope of coverage is currently subject to a dispute, as the employer organization refutes the fact that the scope of coverage does, indeed, include providers contracted by municipalities. As a result, at present SALGBC agreements do not apply to these workers.

By default, workers employed by private companies, NGOs and CBOs who do jobs associated with trucks (drivers, loaders and operators) are protected by the Road Freight Bargaining Council (RFBC). But all others do not have access to bargaining councils and the protection of collective agreements on wages and benefits. Due to the gender division of labour in the sector (which excludes virtually all women from jobs covered by the RFBC), those without access and protection include almost all women employed via externalization contracts. The wages and conditions of employment of waste management workers employed by provincial poverty-alleviation projects are governed by a special Ministerial Determination and a Code of Good Practice which significantly reduce the protection afforded by standard labour laws, and limit job security. Volunteers coordinated by councillors and ward committees are not afforded any protection by labour laws. Coverage by bargaining council agreements and labour laws therefore varies greatly within the sector, and is based on both the type of job performed by the worker and the type of employer that the worker is employed or co-ordinated by. Externalization has therefore led to an erosion of the substance and meaning of formal employment within the sector. It has also contributed to creating a continuum of rights for formally employed workers.

Externalization has also led to increased job insecurity and informalization of work. As municipalities typically grant contracts for three to five years, job security for workers employed to work on these contracts is limited. Some are hired on fixed-term contracts, and others are contracted on a daily basis. Those who are appointed permanently face retrenchment if the employer is unsuccessful in renewing the contract with the municipality.

With respect to informalization, in some instances there has been a rise in disguised employment relationships, such as the contracting of “one person operators” (individuals who are “independently” contracted to collect domestic refuse and transport it to temporary collection sites, but whose work is managed by a supervisor) to deliver services. For many workers the shift into the informal economy is based on the denial of rights enshrined in labour laws and bargaining council agreements due to lack of enforcement.

The present scenario raises important organizing challenges for workers and employer organizations operating in the sector. Neither has kept abreast of the changes outlined above. While municipalities and the waste management workers employed by them are well organized and represented, this does not hold true for most employers or workers affected by externalization. Private waste management companies have recently begun to organize, but black- and white-owned companies still generally belong to separate organizations. No specific attempts have been made to organize other employers such as small-scale entrepreneurs, NGOs, CBOs or provincial poverty-alleviation projects. The existing private sector organizations have relatively weak infrastructure, and do not currently negotiate with trade unions.

Extremely low levels of unionization prevail among workers employed by providers externally contracted by municipalities. Despite high levels of intimidation, most workers who participated in focus-group interviews expressed a keen interest in joining unions. However, unions that traditionally organize municipal waste management workers are only

now beginning to grapple with changes in the sector and to develop strategies to recruit workers employed by providers externally contracted by municipalities. Workers who have tried to organize themselves with the assistance of social movements and NGOs have faced considerable challenges. Lack of unionization has limited the voice and representation of these workers. In a context where government is doing little to enforce compliance with labour law, lack of unionization has also facilitated their relegation to the informal economy, as without trade unions these workers have few prospects of fighting to access their de jure rights.

The prevailing lack of experience makes it difficult to assess strengths and weaknesses of different approaches to organizing waste management workers affected by externalization and informalization. However, this report identifies a range of pertinent issues in different areas, including ways to ease recruitment and retain membership, organizing methods, collective bargaining and policy approaches. It also emphasizes the need for externalizing municipalities to be held accountable for ensuring that companies and organizations contracted to deliver waste management services uphold bargaining council agreements and labour laws, including the right of workers to form and join unions.

# 1. Introduction

In 2001 the International Labour Organization (ILO), through two of its technical programmes,<sup>1</sup> launched an international research project aimed at gaining insights into the organizational strategies of informal economic actors in the study countries of Bolivia, Colombia, Pakistan, Peru and South Africa. The purpose of this research is to acquire deeper insights into the nature, strengths and weaknesses of membership-based organizations in the informal economy, with a view to understanding the incentives and rules that shaped their creation and function, and the constraints that hamper their potential as effective “voice” institutions. Such an understanding is critical to devise regulatory and institutional environments conducive to poverty reduction and decent work.

The Community Agency for Social Enquiry (CASE), in partnership with the South African Labour Research Institute (SALRI),<sup>2</sup> was commissioned to conduct the first phase of the South African component of this research. During the first phase studies were conducted on four sectors of the South African economy: clothing, construction, street trading and non-metered taxis. This report covers the municipal waste management sector. It forms part of the second phase of the research, which was coordinated by CASE.

## 1.1 Defining features of the municipal waste management industry

“You are like the thing, which is inside that dustbin. You are just stupid.”<sup>3</sup>

“Yes I think I am well off but others may undermine me simply because I load dust bins, you see? God blew up his spirit into me like them (those who undermine us) and the bottom line is we are all human beings. That we are the underdogs we know, but then we do not care because we know that, first, one was called illiterate but doing things that are needed for life...”<sup>4</sup>

Waste management workers spend their days cleaning up the stinking, rotting debris of modern life. They are derided and looked down upon, invisible and forgotten. Like them, the sector that they work in has been largely overlooked and neglected by both government and trade unions. Virtually no information exists on the municipal waste management sector in South Africa. There are no statistics available on the size of the industry, the number of companies or profit levels, the types and numbers of other providers, the numbers of workers, or wages and conditions of employment. As a result, this study is based largely on primary research by the author, as well as a small number of research reports and articles based on case studies of specific South African municipalities.

The South African constitution allocates the responsibility for the provision of waste management services to the sphere of local government. It has been a long-standing practice for municipal by-laws to allow for private companies to provide waste management services

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<sup>1</sup> The InFocus Programme on Boosting Employment through Small Enterprise Development (IFP/SEED) and the InFocus Programme on Promoting the Declaration [on Fundamental Principles and Rights at Work] (IFP/Declaration).

<sup>2</sup> CASE is a non-governmental organization specialized in applied social research, with extensive experience in the areas of labour and gender. SALRI provides a range of applied research services to the labour movement with which it has direct links.

<sup>3</sup> Focus Group with Avalon Men Casual Workers, 25 November 2002.

<sup>4</sup> Focus Group with Zonde Men FNP Pikitup Workers, 28 November 2002.

in specialized fields such as medical, hazardous and bulk business waste. The focus of this study is on those components of the municipal waste management sector for which municipalities have traditionally been exclusive providers: cleansing services (including street cleaning, litter picking and cleaning of open spaces), collection services provided to domestic residences, institutions and small amounts of business waste, and the running and maintenance of landfill sites.

The waste management sector is labour intensive and the majority of non-administrative workers below supervisory level are African men. Women have only been employed in non-administrative jobs in the sector in the past 30 years and are almost exclusively confined to work in cleansing services.

Existing literature and primary research conducted by the author suggest that casualization has been a feature within the municipal waste management sector in some municipalities since at least the early 1990s. However, the vast majority of workers hired directly by municipalities in municipalities for which information is available are full-time permanent employees.

Rather than casualizing their own workforces, municipalities are opting to externalize service provision via privatization and contracts with external providers. These contractual arrangements can be classified into three categories: contracts with labour brokers to provide casual labour; public-private partnerships with private companies to provide waste management services; and municipal-community partnerships with non-governmental organizations (NGOs) and/or community-based organizations (CBOs) to deliver waste management services.

Savings due to reduced labour costs have been a primary motivating factor for externalization. Waste management workers employed by municipalities are highly organized, well protected in terms of labour law and bargaining council agreements and receive wage rates and benefits that are relatively high compared to other unskilled workers. At present only workers employed by municipalities and entities wholly owned by municipalities are effectively covered by the South African Local Government Bargaining Council (SALGBC).

In externalizing, municipalities are able to break out of the confines of existing institutional arrangements and bargaining council agreements. Waste management workers employed by companies and organizations other than municipalities currently fall outside of the regulatory regime of the SALGBC. Within private companies, NGOs and CBOs the predominantly male jobs that involve working with trucks are covered by the Road Freight Bargaining Council (RFBC). The RFBC collective agreements stipulate minimum wages, and also establish benefits for these workers, such as a provident fund, sick leave, etc. However, its minimum wages are significantly lower than those of the SALGBC. All other waste management jobs performed by workers employed by private companies, NGOs and CBOs, including those conducted by virtually all women, are not effectively covered by any bargaining council at all, and as such do not have either minimum wages and benefits (such as provident and medical funds) other than those stipulated in labour law.

In addition to the three forms of externalization arrangements entered into by municipalities described above, another form of what could also be classified as externalization is occurring in the sector. Research indicates that, in at least some

municipalities, organizations not contracted by municipalities have begun to provide cleansing. They include city improvement districts (CIDs), provincial poverty alleviation projects and volunteer campaigns (see Table 1.1. for a summary of the main forms of externalization in the sector).

In CIDs businesses concerned that dirty streets deter potential customers contribute funding to contract private companies to provide street cleaning services. CIDs are located exclusively within central business districts and wealthy suburbs. Poverty alleviation projects in at least two provinces (Gauteng and Northern Cape) provide supplementary street cleaning services in working class townships. Similarly, long-term volunteer initiatives co-ordinated by councillors and ward committees clean township streets.

The situation of workers in CIDs is similar to that of workers employed to do street cleaning work as part of PPPs. They are employed by private companies, have the same formal rights to coverage by labour laws, and are also not covered by any bargaining council agreements. The only difference between CID workers and PPP workers is that the former's employer is contracted by private business, while the latter's is contracted by the municipality. Research conducted in Johannesburg found a higher level of unionization, wages and benefits amongst CID workers than PPP workers.<sup>5</sup>

However, workers employed via poverty alleviation projects and volunteers do not benefit from the same protection by labour laws as other workers in the sector. The workers employed via poverty alleviation projects stand outside of the normal labour law regime. Their rights and benefits are instead determined by a Ministerial Determination on Special Public Works Programmes and a Code of Good Practice negotiated at the National Economic Development and Labour Council (NEDLAC). Neither of these instruments stipulates minimum wages. The wages are, in fact, minimal (between R31 and R40 per day), and none of the workers in the two sites for which information is available are unionized.

Volunteers are even more compromised. They often work five days a week, sometimes for several years, doing precisely the same work as workers employed by municipalities, private companies, NGOs/CBOs, CIDs and poverty alleviation projects. However, they are not legally classified as employees, as they are not contracted by any agency, organization or company to provide services, and do not receive any remuneration. As such they do not benefit from the protection of any labour laws or bargaining council agreements. No evidence exists of unionization among volunteers.

In a context of extremely high unemployment, volunteers work for free in the desperate hope that, if and when jobs become available, the councillor will recommend that they be hired. Ironically, by volunteering they reduce the necessity for municipalities to hire more permanent workers. CIDs and poverty alleviation projects have a similar effect on permanent employment in the sector. Although not contracted by municipalities, by financing the provision of supplementary services, these extra-municipal providers compensate for inadequate provision by municipalities and external providers contracted by municipalities to provide street cleaning services. As such they facilitate a reduction in the workforce employed by municipalities and companies, NGOs and CBOs contracted by municipalities.

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<sup>5</sup> Samson, 2003, p. 83.

**Table 1.1: Forms of externalization in the waste management sector**

	<b>Type of Contract</b>	<b>Employer/ Provider of work</b>	<b>Bargaining Council</b>	<b>Coverage by Labour Laws</b>
<b>Labour Brokers</b>	Commercial contract between municipality and private company to provide workers on either a short-term or long-term basis	Private Company	RFBC (Drivers and operators)  None for other workers	All (if work more than 24 hours per month)
<b>Public/Private Partnership</b>	Commercial contract between municipality and private company to provide services	Private company	RFBC (Workers who work with trucks)  None for other workers	All
<b>City Improvement Districts</b>	Commercial contract between private company and consortium of businesses to deliver services (independent of municipality)	Private Company	None	All
<b>Municipal Community Partnership</b>	Commercial contract between municipality and non-governmental organization and/or community organization to deliver services	NGO or community organization	RFBC (Workers who work with trucks)  None for other workers	All
<b>Provincial Poverty Alleviation Project</b>	Provision of service by poverty alleviation project. Funded and administered by provincial government. Not contracted by the municipality, but often with links to municipality	Poverty alleviation project	None	Covered by Ministerial Determination and Code of Good Practice for Special Public Works Programmes
<b>Volunteer Programmes</b>	Voluntary initiative not bound by any contractual arrangement resulting in the provision of service by councillor/ward committee	None	None	None

Externalization has brought about significant transformations in the municipal waste management industry. Prior to externalization, in at least some cases (such as Johannesburg) large percentages of “permanent” casuals were being denied rights enshrined in labour law. Nevertheless, the sector could be typified as firmly located within the formal economy. The majority of workers were permanent and full time, and were highly unionized. Trade unions and employer organizations were well established and negotiated collective agreements in industrial bargaining councils. In the current period, however, externalization has resulted in the establishment of a formal-informal continuum in the sector.

At one end of the continuum, workers employed by municipalities continue to benefit from rights enshrined in labour legislation and bargaining council agreements and are still located within the formal economy. Workers employed via labour brokers, PPPs and MCPs are also part of the formal economy. However, they have lower wages and benefits and weaker or no coverage by bargaining council agreements than workers employed by municipalities. Poverty alleviation projects and volunteer initiatives create whole new categories of labourers, who, although they perform the same functions as other workers, are

governed either by a special labour regime, or by none at all. As such, there has been erosion in the content and substance of formal employment for a significant number of workers in the sector.

Externalization has also led to various types and degrees of informalization at both the level of the enterprise and the level of the employment relation. Small-scale black empowerment public-private partnerships at times result in the formation of informal enterprises that are not registered under specific forms of legislation. NGOs and CBOs which employ workers may also not be registered as employers.

At the level of the worker, the situation becomes even more complex (see Box 1.1). Within both PPPs and MCPs, there are examples of lack of clarity regarding who the worker is employed by. In some PPPs, contracts signed with “one person contractors” (OPCs) in reality appear to be hidden employment relationships.<sup>6</sup> As it is explained in more detail below, in terms of South African labour law, these OPCs qualify as employees, due to the facts that their work is managed by a supervisor, and they are economically dependent on the contract in question.

Lastly, research in several municipalities has revealed significant percentages of workers employed as part of PPPs and MCPs are being denied basic rights enshrined in labour laws and bargaining council agreements due to lack of enforcement. Although these workers should, *de jure*, be part of the formal economy, they have *de facto* been pushed into the realm of the informal economy. Exceptionally low levels of unionization make workers more vulnerable to this exploitation, and leave isolated, individual workers with few resources and mechanisms to fight for their rights.

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<sup>6</sup> Urban Sector Network, 2003.



### **Box 1.1: Informality and the de facto denial of rights**

Definitions of informality have evolved over the last decade. In the past, the most commonly used definition was the one adopted by the 1993 International Conference of Labour Statisticians, which used the concept of “informal sector” and defined it in terms of the characteristics of the enterprises in which activities take place, rather than the characteristics of the persons involved or their jobs. More recently there has been a shift towards the concept of informal economy, as opposed to the informal sector.

At the 90<sup>th</sup> Session of the International Labour Conference in 2002, the Committee on the Informal Economy preferred the term “informal economy” to “informal sector” considering it as more appropriate to accommodate the diversity of enterprises and workers who are not covered by formal arrangements, are not confined to any specific sector of economic activity but cut across many sectors. In the Conclusions adopted on that occasion, the term “informal economy” is used to refer to: “... all economic activities by workers and economic units that are – in law or in practice – not covered or insufficiently covered by formal arrangements. These activities are not included in the law, which means that they are operating outside the formal reach of the law; or they are not covered in practice, which means that – although they are operating within the formal reach of the law, the law is not applied or enforced; or the law discourages compliance because it is inappropriate, burdensome, or imposes excessive costs.”

This definition represents a major conceptual shift on a number of fronts. One major feature is that it encompasses the *expanded concept of informality, which includes both enterprise and employment relations*. In so doing, it tries to capture the totality and heterogeneity of the informal economy by covering both informal enterprises and informal employment.

When discussing informal employment, attention is often focused on disguised employment relationships (such as dependent contractors), workers who are not in a clear employer-employee relationship (such as street hawkers) and workers whose work is not covered by existing legislation. However, in line with the above definition of the informal economy, the general report to the 2003 International Conference of Labour Statisticians noted that sometimes although workers are, in theory, protected by labour legislation, covered by social security, entitled to benefits etc., in practice they are not in a position to claim their rights because mechanisms to enforce the existing regulations are lacking or deficient. As a result, the report suggested that when defining informal jobs there are good reasons to focus on the actual, as opposed to the legal situation of the workers.

In the light of the above, workers in the South African municipal waste management sector who are unable to access and exercise the rights enshrined in labour laws should be considered part of the informal economy.

Source: ILO, 2002, p. 53; ILO, 2003, p. 47-54.

The unions which have traditionally organized municipal waste management workers have not kept abreast of these changes within the sector. At the time of the interviews, none of the unions were aware of the extent of MCPs and volunteer initiatives, or of the existence of the provincial poverty alleviation projects.

The Independent Municipal and Allied Trade Union (IMATU) still focuses exclusively on organizing waste management workers employed by municipalities. The South African Transport and Allied Workers’ Union (SATAWU) organizes workers in some large, private waste management companies. However, it lacks a coherent recruitment strategy.

To date, the South African Municipal Workers’ Union (SAMWU) has also made little progress in organizing workers other than those employed by municipalities. However, it has resolutions and policies regarding the recruitment of workers employed by providers externally contracted by municipalities dating back to its founding congress. This commitment is also enshrined in its constitution. During the course of 2003, it prioritized the

launching of a recruitment campaign in the municipal waste management sector, and began to focus attention and resources on this issue.

## **1.2 Aim of the research**

The overall objective of the ILO research project is to map organizational strategies – of worker organizations and, if appropriate, of employer organizations – in South Africa’s informal economy.

Due to the dearth of information on the municipal waste management sector, as well as the limited nature of current initiatives to organize workers and employers in the informal waste management economy, the main objective of the paper is to expand the knowledge base on working conditions and work arrangements in the sector. Ultimately, this information is intended to help unions organize and improve conditions of workers in the sector, regardless of where they work and the type of contract they have.

With respect to the focus on organizing strategies, this report also seeks to:

- identify the main organizations currently representing workers and employers in the sector;
- enhance understanding of the few strategies adopted or currently experimented with by these organizations to organize and improve conditions of economic actors affected by externalization and informalization in South Africa’s municipal waste management sector;
- identify potential reasons for the limited extent of these initiatives; and
- map out pertinent issues which will need to be addressed in the development and implementation of vibrant organizing strategies.

This report also explores non-membership-based organizations that are providing support and capacity to workers or employers in the sector. In so doing, it seeks to deepen understanding of:

- reasons behind their involvement in the sector;
- the role that they play vis-à-vis employer organizations and trade unions;
- their accountability and relationship to the workers and employers that they assist; and
- potential lessons for membership-based organizations arising out of these experiences.

An additional objective of the research is to encourage dialogue and partnership between research and other institutions with an interest in improving working conditions in the informal economy.

## **1.3 Selecting organizations**

The identification of the organizations to be profiled was done, as far as possible, within the criteria set by the ILO – a minimum existence of three years, financial and political independence, membership of not less than 500, and legal organizations (excluding those that pursue criminal objectives). In addition, organizations that did not meet all criteria but nevertheless provided interesting lessons for organizing strategies could be included. Three categories of organizations were targeted for interviews – trade unions, employer organizations, and non-membership-based organizations active in the sector.

A number of established unions organize workers in the municipal waste management industry. The South African Municipal Workers' Union (SAMWU) and the Independent Municipal and Allied Trade Union (IMATU) primarily organize waste management workers employed by municipalities. The South African Transport and Allied Workers' Union (SATAWU) organizes workers in large private waste management companies.

Certain categories of employers in the sector are well organized. The South African Local Government Association (SALGA) represents all South African municipalities in their capacity as employers, including employers of municipal waste management workers. Its counterpart amongst private waste management companies is the South African Waste Management Employers' Association (SAWMEA), which represents three quarters of private waste management companies in the country. The Black Waste Management Forum (BWMF) was formed to represent the interests of the majority of black-owned companies. Despite the high level of organization among employers, only SALGA negotiates with trade unions. SAWMEA is, however, currently seeking representation on relevant bargaining structures. Although they employ workers in the sector, NGOs, CBOs, poverty alleviation projects and councillors/ward committees do not currently participate in employer organizations.

Non-membership-based organizations have become active in assisting both workers and employers in the sector. Khanya College, an NGO that has traditionally worked with the labour movement, has become active in assisting workers in non-standard forms of employment which unions have insufficiently targeted in their organizing drive. In the waste management sector, it has worked closely with a group of workers attempting to organize themselves with the assistance of an emerging social movement. The Built Environment Support Group (BESG) has been a leading proponent of MCPs, and actively works to build capacity of CBOs to fulfil their functions as employers. Lastly, a private company named TEDCOR plays a similar role to BESG but focuses on providing technical, administrative and managerial support to private entrepreneurs as opposed to community organizations.

#### **1.4 Geographical focus**

In accordance with the terms of reference, an attempt was made to include a large urban centre, as well as an area grappling with the challenges of delivering services to rural and/or peri-urban areas. Johannesburg and Msunduzi municipalities were selected as appropriate sites for this study.

Johannesburg is the largest metropolitan area in South Africa, and has a highly complex municipal waste management system. It was also the first municipality in South Africa to form a waste management utility owned by the municipality. In January 2001, as part of the iGoli 2002 municipal restructuring plan,<sup>7</sup> the Johannesburg Council turned its

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<sup>7</sup> The iGoli 2002 plan encapsulates the Johannesburg Council's comprehensive plan to restructure and transform local government in the municipality. Premised on the need to maximize efficiency and cost recovery in service delivery, as part of iGoli 2002, the Johannesburg Council sold a number of municipal assets to private companies (such as the gas works), and transformed most other existing municipal departments into different categories of private companies, which at this stage are wholly owned by the municipality. Utilities were formed for departments which the council felt could make a profit (waste, water and electricity). Agencies were formed for services which cannot charge user fees, and hence cannot make a profit (such as roads and parks). Corporatized entities such as the zoo can make some profit, but will likely require subsidisation from the Council on a long-term basis.

waste management department into a utility called Pikitup. Although Pikitup is owned by the Council, it is registered as a private company, and functions like any other private business. When Pikitup was formed, many of the waste management depots already had contracts with private companies to help them to deliver certain services. So, even though Pikitup is contracted by the Council to provide waste management services in Johannesburg, it subcontracts a significant proportion of its work to other companies. There are three main types of PPP contracts between Pikitup depots and other private companies. These are:

- truck and driver schemes, in which a company provides the depot with a vehicle, a driver, and sometimes an operator;
- contracts with labour brokers, who provide the depots with workers on a daily or monthly basis; and
- contracts that outsource activities like street cleaning and collection services in particular areas of the city.

A range of extra-municipal actors which supplement the services provided by Pikitup and the companies contracted to Pikitup are also providing municipal waste management services in Johannesburg. These include: city improvement districts in the central business district and several wealthy suburbs; a provincial poverty alleviation project called Zivuseni which deploys workers to the Pikitup depot servicing the township of Soweto; and a number of long-term volunteer programmes co-ordinated by councillors in various townships.

Within Johannesburg, almost the full range on the formal-informal continuum in the waste management sector is present. The only element which is not captured by this case study is MCPs. Hence Msunduzi emerged as the ideal choice for the second case study. Msunduzi is a smaller municipality than Johannesburg and is located in KwaZulu-Natal. It has recently gained responsibility for a number of peri-urban areas, many of which are new settlements. The municipality has been at the forefront of attempts to implement community-based waste management services, and with the assistance of the Build Environment Support Group (BESG) has had an MCP in place for more than four years. At the time that the research was conducted, the initial MCP had been expanded to include three additional communities.

Over the course of the MCP, funding for the delivery of waste management services (which are, in fact, a core municipal service) has been received from a range of sources, including reconstruction and development funds within the municipality, local economic development funds from the Department of Constitutional Development (now Department of Provincial and Local Government), and most recently from the United Nations Development Programme (UNDP) Public Private Partnership for Urban Environment Programme.

In addition to the MCPs, the municipality has also recently entered into contracts with two private entrepreneurs to deliver waste management services. All of these initiatives are being implemented in new housing developments that have been constructed in formerly rural or peri-urban areas, and the municipality continues to provide waste management services in the rest of the municipality.

## **1.5 Methodology**

### ***Research team***

It was initially envisaged that researchers from the South African Municipal Workers' Union (SAMWU) – the Congress of South African Trade Unions (COSATU) affiliate that organizes municipal waste management workers – would complete this case study. However, due to lack of internal capacity, SAMWU recommended that Melanie Samson be contracted to conduct the research. For the past two years, she has been conducting a research project for SAMWU and the Municipal Services Project (MSP) on gender and privatization of waste management. Amuzweni Ngoma of CASE assisted in conducting background research on private waste management companies. Nomfundo Mvemve, Ernest Moqechane, Gati Malete, Makhi Ndabeni, Thato Tjotjo and Zola Ngxola assisted in translating and co-facilitating focus group interviews with workers.

### ***Data collection***

The terms of reference and research tools for this study were developed by CASE in consultation with the ILO. The methodology outlined in the terms of reference comprises an initial review of background documents on the industry, in-depth interviews with key informants and organizational leadership at provincial and national level, and focus groups with members of organizations. This research report also draws on survey data, as well as interviews and focus groups conducted by the author with waste management workers in Johannesburg in 2002 and 2003 as part of the SAMWU-MSP project.

### ***Interviews with key informants***

Annex 1 gives the list of individuals and organizations contributing information collected for the present study. Interviews were conducted with national and local leadership of relevant trade unions, employer organizations, non-governmental organizations (NGOs), community-based organizations, and poverty alleviation projects.

Interviewers used the general research tools that were developed for this ILO country study, but adapted them where necessary to the municipal waste management industry. The guidelines for the leadership interview (see Annex 2) were comprehensive but time-consuming. An effort was made, therefore, to prioritize or omit questions, as well as to access other sources of information. As a result, information from the organizations is sometimes uneven.

### ***Focus groups discussions***

The guidelines for the focus group discussions (see Annex 3) were adapted to meet the particularities of the municipal waste management industry, and to suit participants who were not members of organizations at the time of the discussion.

Only one focus group was conducted specifically for the purposes of this research report. This focus group involved workers employed by the Community-Based Maintenance Project in Msunduzi. However, the report draws on information gathered in 28 focus group interviews with waste management workers employed by Pikitup, private companies and the Zivuseni poverty alleviation project in Johannesburg conducted by the author in 2002 and

2003. Amongst other topics, these focus groups explored issues related to unionization, labour rights, wages and conditions of employment, and the gender division of labour in the sector.

## **1.6 Structure of this report**

This report is divided into six parts. Part 1 presents the defining features of the municipal waste management sector in South Africa and outlines the research objectives and methodology used. Part 2 outlines the legal and policy context for the sector. Part 3 describes the nature of employment and conditions of work in the sector, as well as collective bargaining arrangements. Part 4 provides an overview of current levels of organization among workers in the sector and their perceptions of trade unions. It then provides background information on unions that organize workers in the sector, and outlines attempts that have been made to organize workers affected by externalization and informalization. It also profiles a non-governmental organization which is seeking to provide organizational support to informal workers who have attempted to organize themselves with the assistance of an emerging social movement. Part 5 focuses on employer organizations in the sector, as well as other non-membership-based organizations which are providing support and guidance to emerging employers in the sector. Part 6 concludes this report by defining the potential elements of a strategy for organizing municipal waste management workers affected by externalization and informalization and improving conditions of work in the sector. It highlighted some issues that will need to be resolved in the process of developing such a strategy.

## **2. Context**

### **2.1 Legislation and policy context**

#### ***2.1.1 Constitutional mandate for local government***

Municipalities in South Africa have a constitutional responsibility to deliver waste management services. In terms of section 156(1) and the related schedule 5, part B of the Constitution, municipalities are granted executive authority over, and the right to administer cleansing, refuse removal, refuse dumps and solid waste disposal services. Section 156(2) allows municipalities to make and administer by-laws for the effective administration of the matters which they have the right to administer. In terms of this section, municipalities have developed waste management by-laws which set out conditions for private sector involvement in waste management activities which are not considered to be integral to the municipal waste management sector (such as medical waste, and bulk business waste).

#### ***2.1.2 Municipal service partnerships***

The Constitution entrenches the concept of “developmental local government”, and requires municipalities to meet the needs of disadvantaged groups. Successive pieces of policy and legislation have clarified that developmental local government does not imply that municipalities must take responsibility for discharging their service delivery mandate themselves. Instead, the concept of municipal service partnerships (MSPs), through which municipalities contract private companies, non-governmental organizations and/or community-based organizations to deliver services on their behalf, has been actively promoted.

The legislative framework for MSPs was established by the Municipal Systems Act of 2000. Chapter 8 section 76 sets out a number of mechanisms that municipalities can use to provide municipal services. These include: internal provision by a department or business unit, as well as external provision by a municipal entity (a company owned by the Council, such as Pikitup), another municipality, an organ of the State, a community-based organization or other non-governmental organization, or any other institution, entity or person legally competent to operate a business activity.

When a municipality contracts an external NGO and/or CBO to deliver services, this is known as a municipal-community partnership, or MCP. Similarly, when a private company is contracted to externally provide services, this is known as a public-private partnership or PPP. Within the waste management sector emphasis has been laid almost exclusively on partnerships with the private sector via PPPs. However, the Department of Provincial and Local Government has recently begun to promote the concept of MCPs, and has raised funding from international agencies to support the development and implementation of a policy on MCPs.

Three separate rationales are invoked by national government to support the promotion of MSPs: financial constraints, black economic empowerment, and deepening participatory democracy. The financial constraint argument applies to all MSPs. While black economic empowerment arguments could be used to advocate for both MCPs and PPPs, it is most explicitly invoked to promote PPPs with black-owned companies. The deepening of participatory democracy helps to bolster arguments in favour of MCPs.

## *Financial constraints*

With respect to shortage of resources and lack of sufficient finance at local government level, the 1998 White Paper on Local Government noted that:

“municipalities will be expected to enhance service delivery within the constraints of available resources. Although becoming more efficient will be one way of achieving this, another is to mobilise off-budget resources (resources in addition to those budgeted for) via partnerships with business and non-profit organizations. Municipalities can use partnerships to promote emerging businesses, support NGOs and CBOs, mobilise private sector investment, and promote developmental projects which are initiated but not necessarily financed by local government.”<sup>8</sup>

Municipalities do, indeed, face a funding crisis. In 2000, the number of municipalities was decreased from 843 to 284. Individual municipalities are now responsible for delivering services to significantly larger geographical areas and populations. Many of the newly incorporated areas received minimal or even no services in the past and are too poor to provide a significant local revenue base to finance the costs associated with service delivery. The challenge confronted by local governments in financing their activities is exacerbated by the fact that the costs of delivering services assigned to them far outweigh their revenue sources. This results in what is variably called an “unfunded mandate”, “fiscal gap”, or “fiscal imbalance”.<sup>9</sup> As a result, local governments are highly dependent upon transfers from national government. After 1994, local government transfers were far less than what was needed to fund the functions allocated to local government, and according to some authors were significantly less than in the pre-1994 period.<sup>10</sup> Since 2001-2002, allocations to local governments have increased at a faster rate than allocations to provincial and national government. Nevertheless, the funds available remain insufficient, and national and local governments continue to argue for the financial advantages of MSPs.

A number of municipalities are drawing on alternative funding sources in order to extend service delivery to previously unserved, impoverished areas. The Urban Sector Network has documented a number of cases in which the extension of waste management services via PPPs (and in one case an MCP) to newly incorporated, black working-class areas of municipalities has been financed from nationally funded initiatives. These included short-term local economic development funds from national government, the Department of Public Works Poverty Alleviation fund, and the “Clean and Green” Programme funded by the Department of Public Works and South African Breweries. While access to alternative funding assisted in rolling out service delivery, problems in maintaining delivery often resulted when this funding was no longer available and municipalities had to assume full responsibility for financing service delivery.<sup>11</sup>

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<sup>8</sup> Ministry, 1998, p. 34.

<sup>9</sup> IDASA Budget Information Service, 2002.

<sup>10</sup> Barchiesi, July 2001.

<sup>11</sup> USN, 2003.



## *Black economic empowerment*

Black economic empowerment (BEE) has featured prominently in ANC and government economic policy. The ANC traces commitments to BEE back to the Freedom Charter's demands that "The people shall share in the country's wealth!" and "The land shall be shared among those who work it!" As such, it argues that BEE is a "central pillar of the democratic Government's strategy for economic transformation."<sup>12</sup>

In 2003, steps were taken to consolidate government policy on BEE with the release of a strategy on Broad-Based Economic Empowerment, the tabling of a Bill on Broad-Based BEE, and the publication for comment of a draft proposed Code of Good Practice for Black Economic Empowerment in Public Private Partnerships. The Code of Good Practice was published in line with the requirements of the Bill. It is premised on an understanding that PPPs "are being used increasingly widely to implement national and provincial government's infrastructure and service delivery commitments", and that "[t]here are key features of PPPs that make them inherently excellent for achieving BEE objectives."<sup>13</sup> The Code of Good Practice sets out mechanisms for applying BEE policy in all stages of a PPP, and proposes that the BEE component of bid evaluation be increased from 10 per cent applicable in current government procurement procedures to 15-20 per cent for PPPs.

The term broad-based BEE has been adopted to indicate that government policy on BEE is not limited to increasing the number of black people that manage, own and control enterprises and productive assets. Rather, it is intended to include commitments to facilitating ownership and management of enterprises and productive assets by communities, workers, cooperatives, and other collective enterprises; human resource and skills development; and employment equity. However, as it has been noted by Bodibe, the instruments proposed in the strategy focus almost exclusively on increasing representation of black people in management and ownership of business.<sup>14</sup> This is particularly true of the Code of Good Practice which diverges from this central preoccupation only to the extent that it requires that the private company be in compliance with the Employment Equity Act (1998), and allocates points in the tender award score-card for the percentage of payroll contributed to skills development. The Code of Good Practice focuses exclusively on PPPs, and does not consider the MCP option.

These recent developments in BEE policy will likely strengthen the already established trend of utilising PPPs as a means of promoting BEE in the waste management sector. Given the relatively low level of capital investment required to enter the waste management sector, municipalities have found PPPs to be an ideal way to boost local black business. Recent years have witnessed the emergence of larger, more established black empowerment companies (some linked to multinationals), that are aggressively bidding for large scale PPPs. However, to date it would appear from available literature that the three more typical variants of empowerment schemes have been: the direct contracting of small-scale, local entrepreneurs to deliver services in townships (as in the Msunduzi PPPs); the signing of three-way contracts between municipalities, small-scale local entrepreneurs, and a company called TEDCOR (formerly Billy Hattingh and Associates), which builds the capacity of the entrepreneurs and supports them in delivering services in townships (see

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<sup>12</sup> ANC, undated.

<sup>13</sup> PPP Unit, National Treasury, December 2003.

<sup>14</sup> Bodibe, 2003, pp. 38-39.

section 5.2.1); and the contracting of small, black-owned trucking companies to remove waste.

Existing literature suggests that these black empowerment contracts are granted exclusively to render services to black working class townships, with the only exception being the awarding of some truck and driver contracts to black companies by some depots of Pikitup servicing formerly white areas of Johannesburg. Research conducted in Johannesburg and Sol Plaatje municipalities revealed that, as in some white-owned companies, often workers in these companies receive low wages and are denied full rights and benefits. Moreover, the quality of delivery was often substandard.<sup>15</sup> Thus, while the black employers are being “empowered”, the black people they employ and the communities that they are servicing are not. This reflects concerns raised in other sectors that black workers are, in fact, often disempowered by BEE contracts.<sup>16</sup> Rather than being broad-based, to date BEE in the waste management sector has been very narrowly conceptualised, and its benefits have been restricted to an elite.

### ***Deepening of participatory democracy***

The Department of Provincial and Local Government, municipalities and NGOs are increasingly touting MCPs as a way of increasing participation and democracy by directly involving the community in service delivery. However, MCPs are only advocated and implemented within black working class areas. Interviewees acknowledged that, within wealthy areas, residents will have neither the time, nor the interest, nor the economic need to become involved in service delivery. It was almost universally presumed among those interviewed for this research that within wealthy areas either municipalities will continue to provide services, or services will be delivered through PPPs or city improvement districts (CIDs) funded by business. As such, there appears to be a strong class bias in the conceptualization of the need for, and benefits of, deepening democracy through the direct participation in service delivery.

#### ***2.1.3 Poverty alleviation programmes***

Within the context of high levels of unemployment, national and provincial governments have rolled out special public works programmes targeted at poverty alleviation. These short-term projects pay workers a stipend and are aimed at short-term poverty relief. Wages and conditions of employment on these projects are governed by Ministerial Determination Number 3 on Special Public Works Programmes, and a Code of Good Practice for Special Public Works Programmes (see section 3.1). The Growth and Development Summit Agreement in June 2003 specifically endorsed an Expanded Public Works Programme (EPWP) as a key mechanism for providing poverty relief through temporary work for the unemployed. The EPWP was subsequently confirmed in the Mid-Term Budget Policy Statement of November 2003.

In the Growth and Development Summit Agreement the parties agreed that expanded public works programmes “are important mechanisms for extending services to those who currently do not have them and to this end will encourage this”.<sup>17</sup> While to date only two

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<sup>15</sup> Samson, 2003.

<sup>16</sup> Goldman, 2003, p. 13.

<sup>17</sup> Growth and Development Summit Agreement, 7 June 2003.

provincial poverty alleviation projects focusing on street cleaning have been documented, the Government sees street cleaning as a key potential area for its expanded public works programme.<sup>18</sup> These initiatives achieve two goals – providing short-term employment within the townships and simultaneously assisting municipalities to augment their dwindling waste management labour forces.

In the Growth and Development Summit Agreement the parties also agreed that expanded public works programmes “must not displace existing permanent jobs”.<sup>19</sup> The two documented waste management poverty alleviation projects may have technically adhered to this agreement, as they did not result in the retrenchment of permanent workers. However, they clearly compensated for a reduction in the permanent workforce due to natural attrition in the case of Pikitup in Johannesburg, and the cessation of street cleaning activities by entrepreneurs contracted to provide this service in Sol Plaatje. In Johannesburg, the poverty alleviation project workers actually reported to the Pikitup depot, and were supervised by Pikitup workers.<sup>20</sup> While not displacing existing permanent jobs, the projects therefore solved a crisis in service delivery stemming from a pre-existing reduction in permanent jobs, which arguably could have been addressed by maintaining levels of permanent employment. The poverty alleviation projects therefore helped to undercut the creation of full-time, permanent positions in the sector.

#### ***2.1.4 Volunteer programmes and the Letsema initiative***

In honour of the 90<sup>th</sup> anniversary of the establishment of the ANC, the party declared 2002 “the year of the volunteer” and launched the Letsema volunteer initiative. Arguing that apartheid was defeated by legions of “volunteers”, the National Executive of the party called on South Africans to “become their own liberators” and help to eradicate poverty and underdevelopment, and promote transformation. Volunteerism is seen as a way of increasing direct participation in the system of governance, and a key component of citizenship in the new South Africa.<sup>21</sup> Although Letsema is an ANC initiative, it has become intertwined with government policy, and is specifically mentioned in the Growth and Development Summit Agreement.

Letsema has been used to affirm existing volunteer cleaning campaigns, and promote the establishment of new ones. In a number of municipalities, ward councillors and ward committees co-ordinate groups of long-term volunteers to clean the streets within the ward. While short-term volunteer initiatives are undertaken in suburban areas, the few case studies that do explore volunteerism in the waste management sector document long-term volunteer campaigns only in working class townships.<sup>22</sup> It seems that many community members volunteer in the hope of getting a job. However, in reality long-term volunteers are indirectly assisting municipalities and private companies to downsize their street cleaning staff.

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<sup>18</sup> Personal communication with Debbie Budlender.

<sup>19</sup> Growth and Development Summit Agreement, 7 June 2003.

<sup>20</sup> Samson, 2003.

<sup>21</sup> ANC NEC, 8 January 2002.

<sup>22</sup> Miraftab, October 2003; Samson, 2003.

## 2.2 Range of activities and outlook of enterprises in the sector

Neither the Constitution nor relevant legislation define “refuse”, “waste” or “disposal”.<sup>23</sup> They also do not define cleansing. However, typically the waste management sector is understood to include the following:

- collection and disposal of domestic waste;
- collection and disposal of business waste;
- collection and disposal of putrescible waste (waste from sources such as restaurants and supermarkets which rots quickly and therefore needs to be disposed of on a daily basis);
- cleansing (including street cleaning, litter picking, cleaning of open space and lane flushing);
- collection and disposal of waste illegally dumped;
- collection and disposal of animal carcasses found in public places;
- collection and disposal of industrial refuse;
- collection and disposal of medical waste;
- collection and disposal of hazardous waste;
- collection and disposal of bulk business waste; and
- collection and recycling of recyclable waste.

It has been a long-standing practice in South Africa for municipalities to license private providers to collect and dispose of industrial, medical, hazardous, bulk business, and recyclable waste. These activities are not covered in this report. All other activities identified above are considered here to be part of the municipal waste management industry.

Virtually no information exists on the size and nature of the South African waste management industry in general, or the municipal waste management industry in particular. No national statistics are available on either the number of waste management workers employed by municipalities, or the number of companies in the industry, their profits, turnovers, numbers of employees, etc.

According to the President of the South African Waste Management Employers’ Association (SAWMEA), the largest companies in the waste management industry are, in order of size: Enviroserve, the Wasteman Group (including the majority black-owned subsidiary Phambili Wasteman), The Waste Group, InterWaste, Multiwaste, Skip Waste and Envirowaste. All of these companies are majority white-owned. The SAWMEA President estimates that the industry is worth R4.8 billion per year.<sup>24</sup> According to Reggie Nkosi of the Black Waste Management Forum, Phambili Wasteman is the largest majority black-owned waste management company in South Africa, followed by Buhle, Boitumelong and Zenzeleni.<sup>25</sup>

Black-owned companies appear to be more dependent on contracts with municipalities than their more established white counterparts. The chairperson of SAWMEA estimates that 15 per cent of SAWMEA’s members’ turnover comes from contracts with local government. By contrast, the coordinator of BWMF estimates that the figure is as high as 30 to 40 per cent for the majority of black-owned companies, which would affirm the successful utilisation of

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<sup>23</sup> Coester, p. 10.

<sup>24</sup> Dirk van Niekerk, 15 September 2003.

<sup>25</sup> Reggie Nkosi, 17 September 2003.

PPPs to promote BEE.<sup>26</sup> The remainder of their business is in the areas of industrial, medical, hazardous, bulk and recyclable waste.

For the purposes of this report, an attempt was made to gather information on companies identified by SAWMEA and BWMF as key players in the industry as well as other companies involved in the waste management industry randomly selected from the Institute of Waste Management's (IWMSA) Buyers' Guide.<sup>27</sup> The difficulties encountered in this process are perhaps related to the intensely competitive nature of the sector, which makes companies reluctant to share information (see section 5.1.2). Out of sixteen companies that were contacted, six refused to divulge any information at all. Of those that agreed to be interviewed, only a small number were willing to answer the full range of questions.<sup>28</sup> Pikitup, which is perceived by other private companies to be a competitor, has encountered similar problems in conducting its own research on the waste management industry in Johannesburg.<sup>29</sup>

According to available information, the oldest white-owned companies were formed 20 years ago, with others formed in the mid-1980s to early 1990s. Black-owned companies are a more recent phenomenon, having been formed since the mid-1990s. Two companies are linked to large multinationals involved in the private water industry. Phambili Wasteman, which is the largest black empowerment company in South Africa, is linked via Wasteman to SITA – the waste management subsidiary of Suez Lyonnaise. Onyx/Refuse Man is a subsidiary of Vivendi, and has recently entered into a black empowerment venture to create Go-AWaste which provides waste management services to Anglo Platinum mine. A number of the other white-owned companies have begun to appoint black directors and shareholders, and to enter into black empowerment partnerships.

No centralized information exists on the number of NGOs and CBOs involved in waste management service delivery. BESG and the Urban Sector Network to which it is affiliated have played a leading role in advocating for the involvement of NGOs and CBOs in the sector. Although they believe that the number of NGOs and CBOs involved in waste management MCPs is growing, they are unable to estimate how many NGOs are currently involved in such MCPs. Similarly, no information is available on the number of councillors/wards involved in delivering waste management services, the number of companies contracted by city improvement districts across the country, or the number of provinces involved in provision of waste management services via poverty alleviation projects. Existing literature documents provincial poverty alleviation projects in Gauteng and the Northern Cape.<sup>30</sup> However, as already mentioned, there is strong interest in increasing the inclusion of waste management in poverty alleviation special public works programmes. It is, therefore, possible that a larger number of provinces are active within the sector.

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<sup>26</sup> Dirk van Niekerk, 15 September 2003; Reggie Nkosi, 17 September 2003.

<sup>27</sup> Many thanks to Amuzweni Ngoma of CASE who dedicated a great deal of time and effort to attempting to gather this information for the purposes of this report. The remainder of this section is based on her report entitled: "Organizing the informal economy: A case study of the waste management sector in South Africa. Waste management companies – Johannesburg."

<sup>28</sup> Questions looked at: year of establishment; how the company was established; whether the company was majority black-owned; whether the company was involved in partnerships with municipalities; whether the company had partnerships or relationships with multinationals; types of waste management services provided; profits for 2002; and racial and gender profiles of company employees.

<sup>29</sup> Zweli Ndziba, 22 August 2003.

<sup>30</sup> Samson, 2003.

### **3. Employment and conditions of work in the sector: The formal-informal continuum**

#### **3.1 Relevant legislation**

A range of labour laws are applicable to waste management workers employed by municipalities, private companies, NGOs and CBOs. The most relevant laws are: the Labour Relations Act of 1995 (LRA); the Basic Conditions of Employment Act of 1997 (BCEA); the Occupational Health and Safety Act of 1993 (OHSA); the Unemployment Insurance Act of 2001; and the Compensation for Occupational Injuries and Diseases Act of 1993 (COIDA). The terms and conditions of employment of workers employed on poverty alleviation projects are governed by a Ministerial Determination on Special Public Works Programmes, and the Code of Good Practice for Special Public Works Programmes.

##### **3.1.1 Key aspects of labour laws**

###### ***The LRA***

The LRA establishes the basic rights of workers and employers, including the right to be a member of a trade union or alternatively an employer organization. It also promotes centralised collective bargaining through the formation of bargaining councils. A bargaining council may be formed within a specified sectoral scope if the trade union and employer parties are “sufficiently representative” within the specified sector. The Minister of Labour may, at the request of the parties to a bargaining council, extend the council’s agreements to non-parties in the sector. The 2002 amendments to the LRA allow bargaining councils to cover informal workers. In terms of the LRA, bargaining councils may also request the Minister to appoint bargaining council staff members as bargaining council agents, who can assist the council in enforcing its agreements.

The Labour Relations Amendment Act of 2002 addresses problems associated with hidden employment relations. It stipulates that if any one of seven criteria set out by the law is met, then a person is an employee, regardless of the form of his/her contract. The seven criteria are:

- the person’s work is controlled or directed;
- the person’s hours of work are controlled or directed;
- the person forms part of an organization (i.e. s/he is integrated into the organization by attending meetings for workers, etc.);
- the person has worked for the same person/undertaking for an average of at least forty hours a month over the past three months;
- the person is economically dependent on the person/undertaking for whom s/he works; and
- the person’s employer provides them with tools and equipment.

So-called independent contractors in the municipal waste management industry who meet any one of these criteria are actually employees, and as such should benefit from the provisions of the BCEA, all other relevant labour laws, as well as relevant bargaining council agreements.

## ***The BCEA***

The BCEA establishes minimum conditions of employment (such as: the issuing of payslips; hours of work; rest periods, and maternity, family responsibility, sick and annual leave) for people classified as employees. It does not include minimum wages. The earlier BCEA (1983) defined casual workers as being those who worked three days per week or less. These workers were excluded from key provisions of the BCEA. The current BCEA (1997) does not define a casual worker. However, workers employed for less than twenty-four hours per month are not eligible for certain provisions in the BCEA and the Unemployment Insurance Act. All other employees are covered by the provisions of the BCEA.

The BCEA is premised on the understanding that, through bargaining councils, employers and trade unions will negotiate agreements on wages and benefits. For those sectors without bargaining councils, the BCEA enables the Minister of Labour to, on the advice of the Employment Conditions Commission (ECC), make Sectoral Determinations on wages and conditions of employment. It also allows for Ministerial Determinations to replace or exclude any basic condition of employment provided for in the BCEA for: any particular category of employers or employees; or any employee or employer in respect of whom an application is made by the employer and/or the registered employers' organization.

## ***The UIF Act, OHS Act and COIDA***

The UIF Act establishes an unemployment insurance fund for employees. The OHS Act and related regulations establish the responsibilities of employers to provide, among other provisions, a safe working environment, facilities and protective clothing and equipment for workers. The COIDA provides compensation to workers or their families for death or disability caused by dangerous working conditions.

## ***Enforcement***

Although these labour laws are applicable within the waste management sector, as in other sectors, enforcement remains a major challenge. The BCEA and OHS Act empower Department of Labour inspectors to enforce their provisions. However, research by Cheadle and Clarke has revealed that the Department of Labour inspectorate is grossly understaffed across the country.<sup>31</sup> There are simply not enough inspectors to ensure and enforce compliance. Indeed, workers employed via the Billy Hattingh/TEDCOR contract in Orange Farm, whose employers were clearly transgressing numerous aspects of the BCEA and OHS Act, struggled for months to get an inspector to come. They succeeded only after strong intervention by the NGO Khanya College on their behalf. Unfortunately, most other workers would not have access to this type of assistance.

### ***3.1.2 Ministerial Determination and Code of Good Practice for Special Public Works Programmes***

The conditions of employment for workers employed on waste management poverty alleviation projects are determined by the 2002 Ministerial Determination No. 3: Special Public Works Programmes, as well as the Code of Good Practice for Employment and

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<sup>31</sup> Cited in: Godfrey and Clarke, 2002.

Conditions of Work for Special Public Works Programmes agreed to at the National Economic Development and Labour Council (NEDLAC). The primary aim of the SPWPs is to reduce unemployment by providing short-term, non-permanent labour intensive programmes to create a public asset.

Although the Determination refers to people employed on SPWPs as workers, the Code of Good Practice uses the words workers and beneficiaries interchangeably. The consultant contracted to manage the Zivuseni waste management SPWP in Gauteng, in its first year of operation, was insistent that the people employed on the project be referred to as beneficiaries as opposed to workers.<sup>32</sup> The use of the word beneficiaries has the effect of both limiting expectations of longer-term employment among the workers, and as well indicating that their status is not comparable to that of regular workers in the sector. Indeed, the Determination and Code of Good Practice vary significantly from the BCEA. The workers on SPWPs have extremely limited job security, and generally have fewer rights and benefits than workers covered by the BCEA.

Work on SPWPs is limited to 24 months in any five-year period. Workers employed on SPWPs do not qualify for contributions to the unemployment insurance fund (UIF). As a result, they do not receive UIF or any other payments once their contract expires. A fair procedure is required prior to termination of a worker's contract. However, there is no requirement on the employer to hold a formal enquiry. A worker's contract may be terminated for operational reasons if the SPWP is stopped. There is no requirement to pay a retrenchment package in this instance.

The only exception to the 24-month limit is granted to workers who take maternity leave. If the SPWP is still in operation at the end of a worker's maternity leave then she is entitled to an additional 24-month cycle within the original five-year period. Women workers on SPWPs have the right to four months unpaid maternity leave. While this is in line with the provisions of the BCEA, other workers who are registered for UIF can claim from the fund during maternity leave, and hence receive a portion of their income during this period.

The Code of Good Practice sets out proposed criteria for the selection of workers on SPWPs including: 60 per cent women; 20 per cent youth; and 2 per cent disabled. It also recommends that workers be selected from households where the household head has less than a primary education, where there is less than one full-time person earning an income, and where subsistence agriculture is the source of income. People drawn from households coping with HIV/Aids and female-headed households are also identified as categories to be targeted for employment on SPWPs.

The Determination and Code do not establish minimum wages. However, the Code stipulates that the rate of pay should take into account wages paid for comparable unskilled work in the local area, and should not be higher than the average local rate so as not to recruit people away from other jobs with longer-term prospects. The rate of pay should also offer an incentive to work, reward effort and ensure a reasonable quality of work. The Code and Determination allow for both task-based and time-based pay, but specifically advocate that "wherever possible", workers should be paid on the basis of the number of tasks completed. In the task-based system, workers are only paid for work completed.

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<sup>32</sup> Interview with Lindiwe Musane, 23 July 2003.



SPWP workers are meant to be covered by COIDA. However, the Regional Manager at the Pikitup Zondi Depot noted he had to use Pikitup's number when an injured Zivuseni worker was taken to hospital.<sup>33</sup> SPWP workers are entitled to half an hour for meal breaks, which is half the time stipulated in the BCEA. They receive a daily rest period of eight, as opposed to twelve hours. However, they receive a weekly rest period of two consecutive days per week as opposed to thirty-six consecutive hours. SPWP workers are not paid for public holidays if they do not work, and, if they are informed twenty-four hours in advance that work will be cancelled, they are not paid for that day's work either. Normal hours of work are slightly lower than in the BCEA (for example, forty hours per week as opposed to forty-five hours). However, task-based workers can work up to fifty-five hours per week to complete their tasks, and do not receive any over-time pay. The shift from being a worker to being a beneficiary, therefore, carries few benefits for SPWP workers.

### **3.2 Current institutional coverage**

There are two national bargaining councils with jurisdiction in the municipal waste management industry. As already mentioned, the South African Local Government Bargaining Council (SALGBC) has jurisdiction within the local government undertaking, and its agreements are therefore applicable to waste management workers employed by municipalities. However, waste management workers employed by entities other than municipalities currently fall outside of the SALGBC's regulatory regime, and do not benefit from its agreements. The Road Freight Bargaining Council (RFBC) has jurisdiction within the Road Freight Industry. It has interpreted its scope of coverage in such a way as to make its agreements applicable to drivers, loaders and operators employed by private waste management companies, NGOs and CBOs. Other waste management workers employed by private companies, NGOs and CBOs do not currently fall within the regulatory regime of any bargaining council. Virtually all women are included in this category of workers.

#### ***3.2.1 South African Local Government Bargaining Council***

Under the pre-1995 Labour Relations Act regionally-based industrial councils for the municipal undertaking existed in the Transvaal, Free State, Natal, the Cape of Good Hope, Johannesburg and Kimberley. A number of municipalities such as Durban, Cape Town and Pietermaritzburg negotiated in-house, municipal level agreements independently of the industrial councils.

On 2 September 1997, the South African Local Government Association (SALGA), the South African Municipal Workers' Union (SAMWU), and the Independent Municipal and Allied Trade Union (IMATU) signed an agreement committing them to forming a national bargaining council. An interim negotiating structure was established, and the SALGBC was formally registered on 1 March 2001. SALGA, SAMWU and IMATU are the parties to the bargaining council. The Council currently has 13 divisions – one in each province, as well as divisions in Johannesburg, Durban, the Cape Metro, and Pretoria.

The SALGBC is financed by monthly levies paid by municipal workers and municipalities. Each municipal worker contributes R2.50 per month, which is matched by his or her employer. The SALGBC collects approximately R1.3 million per month in bargaining

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<sup>33</sup> Interview with Absolom Mkhubeni, Regional Manager, Zonde Depot, Pikitup, 17 June 2003.

council fees, and has an 85 to 95 per cent collection rate. Since its formation, it has amassed approximately R20 million in assets. The SALGBC has one national office and six regional offices, and 24 staff, 13 of whom are women. The Finance officer is a woman, but all other women work in administrative posts. The staff has not been empowered to act as agents of the council and as such do not take independent action to enforce the agreements of the parties. This has been a point of contention between the parties, as well as between SALGA and the previous General Secretary of the SALGBC.

### ***SALGBC agreements***

The SALGBC has negotiated agreements on bargaining council levies, wages, agency shop, data bank, medical aid, housing allowance, bargaining levels, organizational rights and grievance procedures. In the multiyear agreement negotiated for 2002-2004, the minimum wage rate for the sector was set at R2,100 per month. Due to historical differences, some municipalities pay significantly above this rate. To date, the SALGBC has not negotiated an agreement on conditions of service. As a result, pre-existing industrial council agreements are still in force in many municipalities, and conditions vary between municipalities.

### ***Scope of coverage***

Since its formation, the SALGBC has covered all workers employed by municipalities in South Africa and presently also covers workers employed by the utilities, agencies and corporatised entities (UACs) formed by the Johannesburg Council (with the exception of the Civic Theatre which has joined the Entertainment Bargaining Council). However, there is currently a dispute between the parties regarding the scope of coverage of the SALGBC.

According to the constitution of the bargaining council, the scope of the SALGBC is “the Local Government Undertaking in the Republic of South Africa”. Local Government Undertaking is defined as “the undertaking in which the employer and employees are associated for the institution, continuance and finalization of any act, scheme or activity normally undertaken by the municipality.” The unions which are party to the SALGBC argue that this definition is sufficiently broad to include the UACs, as well as private companies, NGOs and CBOs contracted by municipalities. To date, the unions have not succeeded in organizing significant numbers of these workers, and having the SALGBC agreements extended to cover them.

This situation has been further complicated by SALGA’s opposition to the wider understanding of the definition of the scope of coverage. In June 2003, the unions officially declared a dispute regarding the interpretation of the scope of coverage, which will go to arbitration in early 2004. The interpretation of the scope of coverage would appear to be a straightforward issue, as there is little doubt that the current definition includes employers other than municipalities, and employees employed by such employers. However, SALGA is adamantly opposed to this definition, and indeed a SALGA representative indicated that, if their view is not upheld in the arbitration, they will consider withdrawing from the SALGBC.<sup>34</sup>

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<sup>34</sup> Bob Thobejane, 30 September 2003.

In the interim, while the dispute continues, the *status quo* remains – once municipalities enter into contracts with external providers to deliver services, workers employed by these providers fall outside of the regulatory regime of the SALGBC. However, waste management workers employed by these other providers who work with trucks fall within the claimed scope of coverage of the Road Freight Bargaining Council (RFBC).

### ***3.2.2 Road Freight Bargaining Council (RFBC)***

An industrial council for the Road Freight Industry was established in the former Transvaal in 1946. In the rest of the country, wages and benefits for workers in the industry were established by the Wage Board in terms of the Wage Act of 1957. In 1997, the Road Freight Bargaining Council was established and registered in terms of the new Labour Relations Act of 1995.

The parties to the RFBC include one employer organization and five trade unions. The employer organization is the Road Freight Employers' Association. The unions are the Motor Transport Workers' Union of South Africa, the South African Transport Workers' Union, the South African Transport and Allied Workers' Union, the Professional Transport Workers' Union of South Africa, and the Transport and Allied Workers' Union. The RFBC has 13 offices nationally. It employs 73 staff, 41 of whom are agents. Sixty-two waste management companies are registered with the RFBC.

#### ***Scope of coverage***

Historically, the industrial council's agreements were extended to non parties within the former Transvaal, and the Minister of Labour has continued to extend the RFBC's agreements to non-parties annually in terms of section 32(2) of the new LRA of 1995. The RFBC agreements apply within the Road Freight Industry, defined within the consolidated agreements of the RFBC as being "the industry in which employers and employees are associated for carrying out one or more of the following activities for hire or reward: (i) the transportation of goods by means of motor transport; (ii) the storage of goods, including the receiving, opening, unpacking, packing, despatching and clearing or accounting for of goods where these activities are ancillary or incidental to paragraph (i) above; and (iii) the hiring out by labour brokers of employees for activities or operations which ordinarily or naturally fall within the transportation of goods irrespective of the class of undertaking, industry, trade or occupation in which the client is engaged as an employer." RFBC agreements apply to all employers in the sector, except for employers who only own one vehicle and are the primary drivers of that vehicle.

According to the RFBC, refuse collection essentially involves the transportation of a good (waste) for payment by a third party. As a result, private waste management companies involved in refuse collection have always been deemed by the industry to fall within the scope of the former industrial council and current RFBC. Workers employed by private waste management companies as drivers, operators and loaders on collection vehicles are, therefore, covered by agreements negotiated within the RFBC. These workers are almost exclusively men (see section 3.3).

The inclusion of the private waste management industry in RFBC's scope of coverage on the basis that waste is a good is questionable. The core purpose of the waste removal sector is to sustain a clean and healthy environment, not to move goods. As noted above, waste

management is a service, clearly allocated by the Constitution as a municipal responsibility. In terms of the existing SALGBC scope of coverage, these workers should be covered by the SALGBC agreements. According to a representative of SAMWU, the fact that they currently fall outside of the regulatory regime of the SALGBC and are instead covered by the RFBC has arisen because unions have not, to date, enforced the scope of coverage of the SALGBC, unionized the relevant workers, and secured the extension of the agreement.<sup>35</sup> The Secretary of the RFBC indicated that, if the SALGBC were to request that companies, NGOs and CBOs providing waste management services be effectively included in its scope of coverage, the RFBC would likely not object, provided that the conditions are better in the SALGBC.<sup>36</sup> However, employers would likely resist such a move due to the implications for their wage bill (see section 5.1.2).

### ***RFBC agreements***

When the RFBC was formed, there were large disparities in the wages and benefits of workers in the former Transvaal and the areas which had not been covered by the Industrial Council. As a result, the RFBC negotiated an “A” area agreement for the former Transvaal and a “B” area agreement for the rest of the country. Since 1997, the parties have gradually brought the B area agreement in line with the A area agreement, and there is only a small number of benefits which are not the same in the two areas. In 2003, the parties negotiated a consolidated agreement for the first time, which at the time of writing this report was still in the process of being gazetted.

Since approximately 2001, weekly wages have been uniform across the country. The minimum wage for a general worker in the 2002-2003 agreement was equivalent to approximately R1,234 per month. Minimum wages for drivers vary based on the weight of the vehicle, and ranged from approximately R2,391 per month to approximately R2,736 per month. Wages in the Road Freight Industry are, therefore, significantly lower than in the municipal sector, with the minimum wage for a general worker in the Road Freight Industry being equivalent to 59 per cent of the minimum wage in the municipal sector.

The consolidated agreements for the A and B areas within the RFBC are comprehensive and deal with a range of issues including: wages, contracts, hours of work and overtime, paid holidays, sick leave, retrenchments, study leave, family responsibility leave, Sunday and holiday pay. A provident fund was established by the Provident Fund Agreement. In the A area workers also benefit from a leave pay fund and holiday bonus pay fund. The consolidated agreements for both the A and B areas include innovative provisions securing the rights and benefits of workers employed via temporary employment agencies, and casual workers (who are called relief workers in the industry). The clauses on workers employed by temporary employment agencies pertain only to drivers and operators provided via labour brokers. General workers who are employed via labour brokers do not benefit from the agreements negotiated within the sector.

While in other industries casual workers are paid below the minimum wages for permanent workers, the clauses in the RFBC agreement are designed specifically to mitigate against the exploitation of relief workers. A relief employee is defined as “an employee, other than the employee of a temporary employment service, who is employed by the same

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<sup>35</sup> Personal communication with John Mawbey.

<sup>36</sup> Basil Gratz, 10 October 2003.

employer on not more than 16 days per month and not more than 144 days in a 12-month period.” Relief workers must be paid not less than one-fifth of the weekly wage prescribed for an employee doing the same work, plus an additional 10 per cent premium. Once a relief worker has worked for more than 90 days in a 12-month cycle, the employer may eliminate the 10 per cent premium, but the relief worker then becomes eligible for the benefits included in the consolidated agreement, as well as a pro-rata contribution to the Provident Fund, and is liable for the payment of levies. Workers employed by temporary employment agencies must be paid the minimum wage, and receive proportional benefits. If the worker is assigned to a client for less than two months, the temporary employment agency may pay the worker a cash equivalent of the benefit as opposed to making a contribution to the RFBC. Employers are required to register all relief workers, and temporary employment agencies must also register workers being utilised in the industry.

### ***3.2.3 Cleansing workers: Falling between the cracks***

As noted in section 3.2.2, the RFBC agreements only pertain to waste management workers involved in the transportation of waste. The vast majority of cleansing workers do not have any contact with trucks and, as a result, fall outside of the RFBC’s scope. In the few municipalities for which relevant information is available, virtually all women fall within this category.<sup>37</sup>

Due to the problems in giving effect to the SALGBC’s scope of coverage, there is no bargaining council which currently includes within its regulatory regime cleansing workers employed by private companies, NGOs and CBOS to clean the streets. In terms of section 51 of the BCEA, the Minister of Labour may make a sectoral determination regulating wages and conditions of work for workers in a particular sector. The Minister has made a number of such determinations, including determinations for domestic workers, farm workers, and the contract cleaning sector. However, cleansing workers are not covered by the sectoral determination for the contract cleaning sector as the cleaning of neither streets nor open spaces is included in the definition of the sector. As a result, there are no minimum wages for this predominantly female labour force, and conditions of work are limited to those contained in applicable labour laws.

Although a ministerial determination could be preferable in some ways to the existing situation, it is not the ideal way forward for several reasons. The wages stipulated by ministerial determinations are exceptionally low, and are far below the wages of cleansing workers employed by municipalities. Moreover, rather than providing these workers with an effective voice mechanism, sectoral determinations are premised on lack of unionization and representation amongst the workers in question. However, in the absence of minimum wages set in bargaining council agreements or a sectoral determination, at present many of these workers are worse off than domestic workers and farm workers, often seen to be among the most vulnerable sections of the South African working class.

### ***3.2.4 Eroding workers’ entitlements: The sliding scale of rights and benefits***

As the previous subsections have indicated, externalization has created a sliding scale of rights and benefits within the municipal waste management sector and is eroding the

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<sup>37</sup> Samson, 2003.

content and substance of formal employment. A shift away from the benefits associated with the standard employment relationship has been documented in other sectors of the economy.<sup>38</sup> However, in the municipal waste management sector, in the first instance the erosion of benefits is due to changes in the types of employers whom workers are contracted by, as opposed to changes in the employment contract itself. It should be noted, however, that in addition externalization is fuelling changes in employment contracts, a subject dealt with in section 3.3.

At the top end of the scale, workers employed by municipalities are covered by extensive bargaining council agreements and benefit from relatively high minimum wages and benefits. Other workers do similar work with the same ultimate purpose (sustaining a clean and healthy living environment), and often work for companies, NGOs and CBOs directly contracted by municipalities to assist them in fulfilling their constitutional mandate. However, these workers have varying degrees of rights and benefits based simply on the fact that they are employed by an employer other than the municipality.

Although the RFBCs minimum wages are lower than those of the SALBC, at least the predominantly male workforce employed by private companies (and, hypothetically NGOs and CBOs<sup>39</sup>) as loaders, operators and drivers benefit from both bargaining council agreements and labour laws. Lower down the slope, workers employed by private companies, NGOs and CBOs who do street cleaning work at least qualify for full coverage by labour laws. Workers doing similar work on poverty alleviation projects labour under a specially crafted ministerial determination which minimises their rights compared to regular employees, but at least offers them some protection. At the very bottom of the slippery slope of inequity, the volunteers receive nothing but promises. Although labouring often on a daily basis to help the municipality fulfil its constitutional mandate, they fall completely outside of the current legislative and regulatory regime.

Workers within the sector are aware of the inequalities in their wages and benefits. Due to the nature of externalization in Johannesburg, workers employed by truck and driver schemes and via labour brokers work together with Pikitup workers on the same trucks on a daily basis. Even those workers employed by private companies who do not work in the same team with Pikitup workers have regular contacts with them:

“It happens everyday because we meet at the same dumping site. When we go to the garden sites to pick up the bins and compactors, it’s the same site. Sometimes you’d find that the dispatcher dispatches us to the same area.”<sup>40</sup>

This proximity and frequency of interaction intensify the sense of injustice and inequality experienced by private company workers. In the minds of many, privatization and externalization have become the new apartheid. As one such worker poignantly expressed:

“To put it briefly, even if we were fighting apartheid, apartheid still exists amongst us black people. There is a lot of apartheid and I think it’s worse than before. If I came in as a sub-contract I am nothing to them, the municipality does not care about me.”<sup>41</sup>

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<sup>38</sup> Godfrey and Clarke, 2002, p. 15.

<sup>39</sup> In documented MCPs, workers are not involved in the transportation of waste and as such are not covered by the RFBC.

<sup>40</sup> Focus Group with Marlboro Men TPC Workers, 29 November 2002.

<sup>41</sup> Focus Group with Avalon Men TPC Drivers, 25 November 2002.

Workers employed by private sector companies feel that the new dispensation and democracy itself have eluded them:

“So in other words as labour it is going to take a long time before we could be freed.”<sup>42</sup>

The exclusion of poverty alleviation workers and volunteers from the mainstream labour legislation is particularly disconcerting and disturbing given that they are confined to the townships. This is a pernicious continuation of apartheid inequality in which working class communities are expected to work for free or for stipends to clean their own areas. As a result of the sliding scale of rights within the sector, workers who work in black working-class areas receive worse terms and conditions of employment than workers deployed to the suburbs. The fact that the majority of the poverty alleviation workers and volunteers are women (see section 3.3.1), and that they are compensating for the reduction in permanent posts normally filled by women in municipal street cleaning sections should also not be overlooked. The creation of a sliding scale of rights within the municipal waste management sector, therefore, not only compromises the affected workers, but also raises broader concerns regarding the role of municipalities in perpetuating racial and gender inequality and in stratifying the formal economy.

### **3.3 Nature of employment in the industry**

To date, no national studies have been conducted on conditions of work in the municipal waste management industry. A small number of studies have been produced on waste management service delivery in different South African municipalities. Most of these focus on specific providers within the municipalities being studied, as opposed to the entire municipal waste management system. A disproportionate number of these studies focus on Billy Hattingh/Tedcor contracts in Orange Farm, Khayelitsha and Thokoza.<sup>43</sup> However, some of these studies as well as others also investigate other forms of PPPs, MCPs, volunteer initiatives, poverty alleviation projects and the restructuring of municipal waste management departments.<sup>44</sup> One study conducts a comprehensive analysis of the entire municipal waste management system in three municipalities.<sup>45</sup>

Unfortunately, in most of the existing literature, the information provided on issues such as employment categories, workforce characteristics, wages, benefits and protective clothing is scant. In several instances, information is somewhat questionable due to reliance solely on information provided by management. The information supplied in this section is, therefore, necessarily limited and specific to those municipalities for which information is available. There is a clear need for nationally representative surveys on the wages and conditions of employment of workers in the municipal waste management sector.

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<sup>42</sup> Focus Group with Marlboro Men TPC Workers, 29 November 2002.

<sup>43</sup> ILRIG, 2000; Lombard and McPerson, 2003; Miraftab, 2003; Qotole and Xali, 2001; Sindane, undated; Xali, 2000.

<sup>44</sup> Pape, 2001; Lombard and McPherson, 2003; Miraftab, 2003; Barchiesi, July 2001; USN, 2003.

<sup>45</sup> Samson, 2003.

### ***3.3.1 Employment categories and workforce characteristics***

Compared to more developed countries, waste management work in South Africa remains highly labour intensive. Street sweeping and litter picking are still largely done manually. Some larger municipalities, such as Johannesburg, have introduced 240 litre bin systems for collection services which utilize a mechanical lift to load bins onto trucks. However, many others continue to utilize compactors, and even tractors and trailers, which must be loaded manually. This type of service provision would appear to be increasing as part of black economic empowerment PPPs and MCPs as it requires lower levels of capital investment.

Typically municipal waste management departments and private companies divide their work into collection and cleansing activities, as well as disposal at landfill sites. Some larger municipalities and companies such as Pikitup may have even more internal sections dealing with specialised collection activities and garden sites.

Most waste management workers are general workers. Jobs in collection include: drivers, operators and general workers who work as loaders. Jobs in cleansing include: general workers who do street sweeping, litter picking and cleaning of open spaces; general workers who load bags onto trucks in addition to these other activities; and drivers. Larger municipalities and Pikitup also often have garden sites (usually in suburban areas) where residents can dump their garden waste. These are staffed by supervisors and garden site attendants.

To date, little research has been conducted on the workforce composition in the sector. Only one study by Samson has attempted to develop a comprehensive overview of all municipal waste management workers employed in the respective municipalities. This research found that the waste management workforce is dominated by African men. In the three municipalities studied, men comprised between 60 per cent and 100 per cent of the workforce in the municipal waste management departments and almost all private companies.<sup>46</sup> Additional information on Msunduzi gathered for this report confirmed the same gender composition in the municipal waste management department workforce. However, women form the majority of workers in poverty alleviation projects and volunteer initiatives in Samson's three case study sites as well as in the MCP in Msunduzi, all of which focus exclusively on cleansing.

The varying levels of female employment relate to the nature of the work being done by the particular provider. Due to stereotypes based on women's supposed physical weakness and natural talent for sweeping, women workers are almost exclusively confined to jobs in cleansing (street sweeping, litter picking and cleaning of open spaces). In all of the municipalities for which information is available, men worked in cleansing, with the percentage ranging as high as 46 per cent of men employed by private companies contracted by the Pikitup depots. However, in each of the three case study sites cited by Samson, more than 93 per cent of women employed by both municipal waste management departments and private companies contracted by municipalities worked in cleansing. Not a single woman worked as a driver of a collection truck, loader or operator.<sup>47</sup> The CIDs in Johannesburg were the only employer focused on cleansing that employed virtually no women. This anomaly

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<sup>46</sup> Samson, 2003.

<sup>47</sup> Samson, 2003.



arose as employers preferred to hire men and dress them in the same uniforms as CID security guards in order to create an impression of a larger security force.<sup>48</sup>

Since the completion of Samson's study, Pikitup has subsequently redeployed 10 women at Selby depot into collection to work as loaders. Similarly, Msunduzi municipality reported that ten out of 70 women employed worked as loaders in the municipal waste management department. However, the vast majority of women waste management workers in the four municipalities for which information is available are still located in cleansing. This holds true for both municipal waste management departments as well as other employers.

The gender division of labour has serious implications for the rights and benefits of women workers in the sector (see Box 3.1). Due to the nature of collective bargaining outlined in section 3.2, virtually all women employed by NGOs, CBOs and private companies fall outside of the regulatory regime of bargaining councils within the sector. Women, who comprise the majority of workers on poverty alleviation projects, are subject to a special labour law regime, and their volunteer counterparts do not derive any protection from labour laws.

### **Box 3.1: Gender bias confines women to street cleaning**

Women workers who participated in focus group interviews reported that they were given jobs in street cleaning as this related to the work that they did at home:

“They say they're hiring the ladies [for street cleaning] because the ladies can clean the house, they can look after the kids, do the washing, cleaning and everything. Now the men, they didn't sweep properly, it was just *tsho, tsho, tsho, tsho*.” (Woman IMATU shopsteward, 12 December, 2002).

“The job of picking up litter is just the same as domestic work”. (Woman Pikitup worker at Avalon Depot, 12 December 2002).

Men agreed that sweeping is a good job for women. Like many other men workers and managers, one male Pikitup manager argued that women are not physically capable of working as loaders:

“No, they can't do the job [loading]... You need a little bit of strength and running. I mean, if you put a woman here and a man here and you say, “Run!, if the woman runs faster than the man there's something drastically wrong with the man...RCR needs strength and it needs running. The women will not be able to do it.” (Pikitup Manager, 24 October 2002).

At least some women workers were clear that their exclusion from jobs as drivers and operators was due to sexism and discrimination:

“A compactor is operated by someone special and the driver is just sitting. Women can also do that but it's just that they do not want us. They do not want us to do those things done by men. That thing is very simple.” (Woman Pikitup worker at Avalon Depot, 12 December 2002).

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<sup>48</sup> Samson, 2003, p. 83.

### **3.3.2 Contractual status of workers in the sector**

No statistics are available on the contractual status of workers in the South African municipal waste management sector. Based on existing literature, this subsection outlines key issues related to casualization and externalization, the effects of externalization on employment security, hidden employment relations, and situations in which there is lack of clarity regarding the workers' employer. While based on only a small number of case studies, these issues may be indicative of larger trends, and warrant further investigation through large-scale national research.

#### ***Casualization and externalization***

Other authors have commented on the extent of casualization in the municipal waste management sector. Barchiesi<sup>49</sup> notes the high level of casuals that were employed by the municipal waste management departments that preceded Pikitup in Johannesburg, and Miraftab<sup>50</sup> argues that the Cape Town municipality is promoting casualization in waste management and refers to workers employed by the Masicoce campaign as casual workers. However, given issues related to the nature of collective bargaining in the sector, and the new definitions of worker in the new labour laws, it is important to be precise in the utilization of words such as casual workers and casualization.

As noted in section 3.1, current South African labour law does include a category called casual worker. Some sectors, such as retail, have determinations and agreements which create the category of casual workers. However, aside from the relief workers covered by the RFBC, no such category exists in the municipal waste management sector.

Theron and Godfrey utilize a precise definition of casualization which differentiates between different types of non-permanent employees. Their categorization includes a distinction between part-time workers who work more or less than 24 hours because previously the latter were excluded from some sections of the BCEA. According to their definition:

“Casualisation is gauged by the extent to which the proportion of permanent to non-permanent employees has been reduced, and what the make-up of the non-permanent category is. In line with the new BCEA, the concept of a “casual worker” is not referred to. The categories of non-permanent employees considered are part-time (less than 24 hours per month), part-time (more than 24 hours per month), temporary (fixed-term contract staff) and seasonal (regular fixed-term contract staff).”<sup>51</sup>

Theron and Godfrey note the importance of differentiating between casualization and externalization:

“The crucial difference between casualisation and externalization, when considering the potential for regulation, is that with the latter goods or services are supplied in terms of a commercial contract rather than in terms of an employment relationship.

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<sup>49</sup> Barchiesi, July 2001.

<sup>50</sup> Miraftab, October 2003.

<sup>51</sup> Theron and Godfrey, 2000, pp. 9-10.

The scope for all forms of regulation premised on an employment relationship is correspondingly reduced.”<sup>52</sup>

As noted by Barchiesi, prior to the formation of Pikitup, the municipal waste management department in Johannesburg employed a large number of workers whom it called casual. There were in fact two categories of casual. “Casual casuals” were hired on an *ad hoc* daily basis. However, the majority of “casuals” of whom Barchiesi speaks were “permanent casuals”. These were workers who worked every day of the week for many years. Municipal management recognized that, in terms of labour law, they were actually employees, and prior to the formation of Pikitup they were already receiving UIF, annual leave and sick leave. The Council made a commitment that all such workers would be taken on as permanents. They were migrated to Pikitup and were granted the status of “former non permanents” or FNPs. The wages and benefits of FNPs are being brought up to par with those of permanent workers over a three year period. For the purposes of this report, it is important to clarify that these workers were not, in fact, casual, as it helps to reveal the extent to which prior to externalization municipalities were undermining labour law and collective agreements. Research by Samson found a similar utilization of “permanent casuals” in Thabazimbi prior to the commencement of a PPP for waste management services.<sup>53</sup>

The workers of whom Miraftab writes had been casualized to the extent that they were appointed on non-renewable fixed-term contracts. However, they were not casual workers. The fact that they received only their wages and were denied benefits such as family responsibility leave and maternity leave was a contravention of the BCEA. They were simply being deprived of their rights as workers. It is important to note that these workers were not, in fact, employed by the municipality, but were employed by a private provider contracted by the municipality.

While both Johannesburg and Thabazimbi municipalities had employed large numbers of “permanent casuals” in the past, within the three case studies conducted by Samson casualization within municipal waste management departments appears to be minimal. The full staff complement were all on full-time, permanent contracts. In two out of the three municipalities, additional workers were only hired on an ad-hoc basis to replace workers on leave or supplement the workforce for special events.<sup>54</sup> A similar situation exists in Msunduzi. In Johannesburg, since its formation, Pikitup has virtually stopped hiring non-permanent workers directly from the gate, and instead supplements its labour force by utilizing labour brokers. Pikitup management attributes this to the reduction in managerial hassles. However, it is clear that such an arrangement also precludes the workers making future claim to employment within Pikitup (as was done by the FNPs), and also externalizes the relationship so that the workers do not fall within the scope of the SALGBC.<sup>55</sup>

The differentiation between casualization and externalization by Pikitup and municipal waste management departments is critical. If non-permanent employees or the so-called “permanent casuals” are employed by a municipality, they would then fall within the current regulatory regime of the SALGBC. However, once a municipality externalizes some or all of the provision of its waste management services, the workers employed by the

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<sup>52</sup> Theron and Godfrey, 2000, p. 12.

<sup>53</sup> Samson, 2003, p. 24.

<sup>54</sup> Samson, 2003.

<sup>55</sup> Samson, 2003, pp. 67-68.

contracted company or organization fall either under the scope of the RFBC or beyond the reach of any bargaining council at all. This creates the possibility for the employer to pay the workers lower wages and benefits than would be required if they were employed by the municipality, without violating labour laws or bargaining council agreements. Within a context where municipal management frequently does not monitor compliance with labour law, it also creates gaps and opportunities for providers to evade the requirements of the LRA, BCEA and RFBC agreements with impunity, and hence push workers into the informal economy.

### ***Effect of externalization on employment security***

Documented externalization contracts with municipalities range in duration from one to five years. The short-term nature of commercial contracts between municipalities and providers has implications for the job security of workers employed to work on these contracts.

The President of SAWMEA reported that when his company receives a new contract with a municipality it appoints workers on a permanent basis. If the contract is not renewed then the company redeploys, or more typically, retrenches the workers. He believed that most other large companies would follow the same practice. However, this clearly does not hold true for all companies. A representative from Phambili-Wasteman, one of the largest black empowerment companies in the country, reported that, while in the past they had appointed workers on a permanent basis, the process of retrenchment created tension and problems. As a result, the company now appoints workers on contracts for the same duration as the contract which the company receives from the municipality. In addition, he reported that he was aware that some other companies in the sector do not even provide workers with contracts of fixed duration – workers simply come to work each day and are paid for days worked. In the Msunduzi MCP, as BESE receives funding for the initiative on an annual basis, it hires the workers on one-year renewable contracts.<sup>56</sup>

Workers who participated in focus groups in Johannesburg confirmed that management in some private companies contracted by Pikitup used the non-permanent status of their contracts with Pikitup to justify treating their employees as non-permanents:

“We did ask from the manager who died but he said he knows that we are supposed to be registered but he said he was going to discuss it because the contract is managed by Pikitup. So he is supposed to negotiate. He said he cannot register us without a guarantee/assurance from Pikitup, because the contract is day-by-day. That’s what he told us. But he passed away”.<sup>57</sup>

“They told us that the job is not registered so that is why they cannot register us.”<sup>58</sup>

“They say that they are a subcontract. So if they are taken permanently they would also register us.”<sup>59</sup>

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<sup>56</sup> Personal communication with Alex Charnley.

<sup>57</sup> Focus Group with SA Waste Men Workers, 22 January 2003.

<sup>58</sup> Focus Group with SA Waste Men Workers, 22 January 2003.

<sup>59</sup> Focus Group with Women Tedcor Workers, 3 December 2002.

As noted in section 3.1, the possibility that the contract could be cancelled by Pikitup in the future should have had no bearing on the legal requirement of the company to provide the workers with contracts, register them for UIF, and comply with all other provisions of the LRA and BCEA.

### ***Hidden employment relations – Dependent contractors***

Within existing literature, several examples exist of potentially hidden employment relations in which so-called independent contractors actually appear to be employees. These include the contracting of “one-person contractors” or OPCs in KwaDukuza and Theewaterskloof Municipality, and the contracting of “entrepreneurs” as part of the BHA/TEDCOR Entrepreneur Development Programme.

#### *“One-person contractors”*

The Urban Sector Network has documented several cases in which “one-person contractors” should more appropriately be considered employees. When KwaDukuza assumed responsibility for the semi-rural informal settlement of Groutville, it extended waste management services via the Clean and Green Programme funded by the Department of Public Works and South African Breweries. The municipality contracted 10 OPCs (five of whom were women) to collect refuse from households, which is then taken to a temporary collection point. The waste is subsequently collected by a private contractor with a collection vehicle. The OPCs are called contractors. However, they are supervised by the private contractor, and appear to be completely dependent on this contract with the municipality. In terms of the LRA Amendment Act, they, therefore, qualify as employees. This is partially recognized by the KwaDukuza municipality, which has registered the OPCs for UIF. However, in clear violation of the BCEA, the OPCs do not receive any benefits or leave.<sup>60</sup> As part of a Clean and Green initiative, the Theewaterskloof Municipality had also originally followed a similar model of appointing OPCs to collect waste in the town of Grabouw. These OPCs were not reported to receive any benefits.<sup>61</sup> Further research is required to determine the extent to which Clean and Green projects, as well as other waste management providers, are utilising OCPs.

#### *“Entrepreneurs” in the BHA/TEDCOR Entrepreneur Development Programme*

The Entrepreneur Development Programme is an initiative of the private company TEDCOR (previously Billy Hattingh and Associates or BHA). The stated intention is to establish and develop local black entrepreneurs to deliver waste management services. It is currently being utilized in a number of municipalities across the country. Typically TEDCOR tenders for contracts with municipalities. If successful, it enters into three-way contracts with the parties being TEDCOR, the municipality, and “entrepreneurs” selected from the community to provide the waste management services. The “entrepreneurs” must each live within the area that they will service, and frequently do not have prior business experience. They become entrepreneurs via the Entrepreneur Development Programme (EDP). Although TEDCOR does not have quotas on the number of women entrepreneurs appointed as part of each contract, usually there is at least one woman out of a total of six or seven entrepreneurs.

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<sup>60</sup> USN, 2003, pp.18-19.

<sup>61</sup> USN, 2003, pp. 10-11.

In terms of the three-way contract, the entrepreneur is responsible for collecting domestic refuse, removing illegal litter, picking up litter, street sweeping, and for hiring and paying staff to deliver these services. BHA/TEDCOR bears responsibility for overall management of service delivery and for building the capacity of and supporting the entrepreneurs. Typically, BHA/TEDCOR is responsible for: securing finance for the entrepreneur via an ongoing relationship with Future Bank and First National Bank; arranging the purchase of a tractor and trailer by the entrepreneur; instructing the entrepreneur where and when to provide services, monitoring the entrepreneur's performance; providing the entrepreneur with ongoing training; making all payments on behalf of the entrepreneur for Unemployment Insurance Fund (UIF) and Workman's Compensation for all workers employed by the entrepreneur; and ensuring that the entrepreneur receives regular financial updates from the accounting firm which handles all payments for the entrepreneur.

Careful examination of the role played by TEDCOR reveals that the status of the "entrepreneurs" is ambiguous, and could actually be a disguised employment relationship. As noted in section 3.1, in terms of the LRA Amendment Act, if any one of seven criteria is met, then a person is categorized as an employee, regardless of the nature of his or her contract. At least three of these criteria (work as well as hours of work controlled or directed, and economic dependence) appear to apply to the TEDCOR entrepreneurs.

In addition, the method of payment for the contract underscores the questionable status of the entrepreneurs. Notionally, the municipality pays the entrepreneur a monthly fee. However, this money does not go directly to the entrepreneur. Instead it is deposited into a bank account controlled by TEDCOR. TEDCOR then pays a "salary" to the entrepreneur out of the fee, and takes another part of the fee for itself as the entrepreneur's payment for TEDCOR services. In the contract negotiated with the Kimberley council in 1994, the entrepreneur's monthly salary was only two-thirds of the monthly amount deducted from the entrepreneur's fee for BHA services. The mere fact that contracts refer to a salary for the entrepreneur would appear to reaffirm the entrepreneur's status as an employee.

#### *Lack of clarity regarding the employer*

The three-way contract in the BHA/TEDCOR model creates lack of clarity regarding who the workers are employed by. Within the present model, they are considered to be employers. In a recent case involving the BHA/TEDCOR contract in Orange Farm, the RFBC ruled that the workers were employed by the entrepreneurs.<sup>62</sup> However, if indeed, the entrepreneurs should properly be classified as employees, then they are managers, not employers, of the workers delivering waste management services.

A similar problem arises with respect to the MCP in Msunduzi. The MCP is also a three-way partnership, in this instance between the municipality, the NGO BESG and community structures. Although the workers were originally selected and paid by the community structures, they are now paid by BESG. BESG is also responsible for managing the supervisors and overseeing disciplinary problems. These developments create confusion for the workers regarding who they are employed by. It also raises concerns regarding the community empowerment component of the MCP.

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<sup>62</sup> Ighsaan Schroeder, 9 September 2003.

### **3.3.3 Wages, benefits and conditions of employment**

As with other information on the municipal waste management workforce in South Africa, information on wages, benefits and conditions of employment is scant. Other than the study by Samson, all other literature surveyed bases information on wages and benefit levels on reports by management which were not independently verified by workers. In at least one instance (workers employed by BHA/TEDCOR contract in Orange Farm), this information contradicts both Samson's survey results, as well as the author's viewing of pay envelopes which cited the cash amounts paid to workers. Wage rates were in a number of cases substantially less than the levels reported by management, and fluctuated monthly.

As is evident from Table 3.1, there is a wide range of wages in the sector – from as little as R800 per month for some workers contracted by private companies to over R4,000 for drivers in Msunduzi municipality. It is interesting to note that workers employed by several entrepreneurs/SMMEs earn less than workers employed by the Zivuseni poverty alleviation project in Johannesburg. This includes workers employed by at least two companies contracted by Pikitup in Johannesburg.<sup>63</sup>

Gender disaggregated wage data is only available for workers employed by municipal waste management departments and private companies in three municipalities. In two (Johannesburg and Thabazimbi) on average, women earned substantially less than men workers. This is largely due to the gender division of labour which excludes women from higher paying jobs within municipalities, and from jobs covered by the Road Freight Bargaining Council minimum wages in private companies. In the third municipality (Sol Plaatje), there was little difference in the wages earned by men and women employed both by the municipality and the entrepreneurs. This is likely due to lower wage gaps between men and women formally employed in the municipality, and non-compliance with bargaining council agreements among the entrepreneurs, which results in men working in collection being paid wages that are below bargaining council minimum rates.

The entrepreneurs in Sol Plaatje were not the only employers paying collection workers wages below the RFBC minimums. Focus group interviews in Johannesburg revealed that relevant workers on the BHA/TEDCOR were also being paid below minimum levels.<sup>64</sup> Moreover, a request for information from the RFBC revealed that a number of companies with contracts with the Johannesburg and Sol Plaatje municipalities are not registered with the council.

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<sup>63</sup> Focus Group with Women Tedcor Workers, 3 December 2002; Focus Group with SA Waste Women Workers, 22 January 2002.

<sup>64</sup> Focus Group with Women Tedcor Workers, 3 December 2002.

**Table 3.1: Wages in the waste management sector**

<b>Municipality</b>	<b>Employer</b>	<b>Type of Worker</b>	<b>Monthly Wage Rate*</b>
<b><i>Municipalities</i></b>			
Cape Town Unicity	Municipality	Unspecified	R1,600
Sol Plaatje	Municipality	Driver supervisor and below	R1,754
Msunduzi	Municipality	Sweeper	R3,340
Msunduzi	Municipality	Loader	R3,384
Msunduzi	Municipality	Driver	R4,155
<b><i>Utilities</i></b>			
Johannesburg	Pikitup	Male permanent	R2,598
Johannesburg	Pikitup	Female permanent	R2,162
Johannesburg	Pikitup	Male former non-permanent	R2,044
Johannesburg	Pikitup	Female former non-permanent	R1898
<b><i>Private Companies</i></b>			
Cape Town Unicity	BHA/TEDCOR Entrepreneur	unspecified	R1,300
Johannesburg (Orange Farm)	BHA/TEDCOR Entrepreneur	Drivers	R1,200
Johannesburg (Orange Farm)	BHA/TEDCOR Entrepreneur	Loaders	R1,000
Johannesburg (Orange Farm)	BHA/TEDCOR Entrepreneur	General workers	R800
Koukamma (Clarkson)	Entrepreneur contracted by municipality	General workers	R880
Theewaterskloof (Grabouw)	Entrepreneur contracted by municipality	General workers	R800 (25% deducted for arrears)
KwaDuzua (Groutville)	Municipality	OPCs	R990
Sol Plaatje	Entrepreneurs contracted by municipality	Men workers	R857
Sol Plaatje	Entrepreneurs contracted by municipality	Women workers	R826
Thabazimbi	The Waste Group	Men workers – driver supervisor and below	R1,406
Thabazimbi	The Waste Group	Women workers – general workers	R800
Msunduzi	SMME	Unspecified	R1,540
Johannesburg	Private Companies contracted by CID	Sweepers	R1,202
Johannesburg	Private companies contracted by Pikitup	Men workers - Driver supervisor and below	R1,277
Johannesburg	Private companies contracted by Pikitup	Women workers – general workers	R916
<b><i>NGO</i></b>			
Msunduzi	BESG	General workers	R1,417
<b><i>SPWP</i></b>			
Johannesburg	Ziviseni	Litter pickers and sweepers	R880

\* Based on existing literature, as well as interviews conducted in Msunduzi. Monthly equivalents based on assumption of 22 days.



Research in three municipalities documents widespread violations of the OHSA among private companies contracted by municipalities. Frequently, workers are not provided with change-rooms or facilities. Significant percentages of workers did not receive proper protective clothing and equipment, and were forced to use their already meagre salaries to purchase working clothes.<sup>65</sup>

Existing studies also reveal that many workers are not receiving benefits included in the BCEA, and where applicable, RFBC agreements. Workers employed by the Masicoco campaign in Cape Town, and the PPPs in Clarkson and Grabouw do not receive any benefits at all, and workers in Groutville receive only UIF.<sup>66</sup> In Johannesburg, many workers employed by private companies contracted by Pikitup were being denied basic rights. Only 24 per cent of men workers and 19 per cent of women workers received sick leave, only 22 per cent of men and 9 per cent of women were registered for UIF, only 13 per cent of men and 19 per cent of women received family responsibility leave, and only 16 per cent of women were eligible for maternity leave.

In Johannesburg, workers employed by the company contracted to do night shift street cleaning in the inner city reported that they did not receive the minimum weekly rest period set out in the BCEA. They worked seven nights a week, 365 nights a year, and were responsible for finding and paying their own replacement if they missed a night of work. Many workers who participated in the Johannesburg focus groups reported that they did not even get payslips. This included workers in at least two of the three contracts which employed virtually all of the women employed by private companies contracted by Pikitup.

#### **3.3.4 *De facto denial of rights***

As is evident from the preceding sections, a number of the private companies contracted by Pikitup in Johannesburg as well as Sol Plaatje municipality were in violation of labour laws and bargaining council agreements.<sup>67</sup> In Johannesburg, Pikitup management was aware of this situation. A number of managers at head office and depot level conceded that they did not think that PPP companies were complying with labour law. However, most of the management felt that it was not their responsibility to address these problems. Indeed Pikitup's contracts with private providers did not include clauses requiring compliance with labour laws or bargaining council agreements, and Pikitup does not monitor these issues. Management and councillors in Msunduzi municipality generally concurred that it was not their responsibility to monitor compliance of companies contracted by the municipality with legislation and bargaining council agreements.

Many workers employed by private companies who participated in the focus group interviews in Johannesburg dismissed any notion that they have meaningful rights and benefits arising from labour laws. While some were aware that technically they should benefit from labour laws, it was impossible for them to access them. According to one worker:

“We think we know them [our rights] but still it's very difficult to do anything because if they [the entrepreneurs] can learn that you have been somewhere doing

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<sup>65</sup> Samson, 2003.

<sup>66</sup> USN, 2003; Miraftab, October 2003.

<sup>67</sup> Due to the scant information available, it is not possible to comment on the extent of compliance by the two entrepreneurs in Musnduzi.

something about the situation, you will be shown the gate. The following day hunger again.”<sup>68</sup>

Similarly, when workers permanently employed via a labour broker who were insisting that they did not have any rights were asked if they had read the posters summarising key labour laws displayed in the room where the interview was being conducted they responded as follows:

“You just read it and keep quiet, that’s all.”<sup>69</sup>

As a result, it was as if they did not have rights at all:

“Yes we’ve got rights, but it’s like it’s worse than before. We’ve got rights, but these rights don’t work right like the rights, it’s wrong”.<sup>70</sup>

“Never mind we have rights because for all of us we are not happy. There are so many of us who are not happy and can only be happy and enjoy our rights after work.”<sup>71</sup>

Some workers even felt that they had stronger rights under apartheid:

“Under apartheid...in the places that we would like to be employed, we can be given our rights. Right now our rights are not recognized.”<sup>72</sup>

For workers employed by private waste management companies, rights were associated with work status. As one worker noted:

“These rights are for people who are permanent not temporary workers like us. One can take all those steps but it can be a long time before you are given help. It can be six years, four or eight years before they help you.”<sup>73</sup>

While, as noted in section 3.1, under the previous labour law regime casual workers (and in the current period those who work for less than 24 hours per month) did not qualify for full rights, in the minds of these workers this relationship has been reversed. Because they do not have access to the rights enshrined in labour law, the workers assumed that they were casual. Some workers who had been working as long as 12 years in the same job reported that they were casuals as they did not have any benefits.<sup>74</sup> One worker who had been working for more than a year for a company with a street cleaning and collection contract with Pikitup patiently explained:

“OK sweaty. The reason why we say we are casual it’s because they did not tell us that we are permanent. They never registered us. We are casual because we are working on daily basis. They’ll tell you that you are working for a day. After you’ve

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<sup>68</sup> Focus Group with Men Tedcor Workers, 3 December 2002.

<sup>69</sup> Interview with Poortjie Women Casuals, 1 April 2003.

<sup>70</sup> Interview with Poortjie Women Casuals, 1 April 2003.

<sup>71</sup> Focus Group with Men Tedcor Workers, 3 December 2002.

<sup>72</sup> Focus Group with Zondi Men FNP Pikitup Workers, 28 November 2002.

<sup>73</sup> Focus Group with Men Tedcor Workers, 3 December 2002.

<sup>74</sup> Focus Group with Marlboro Men TPC Workers, 29 November 2002.

finished working today, they can give you your dues and you go. Because that is the condition they told us when they hired us. We are not registered.”<sup>75</sup>

However, all the workers employed by private companies surveyed in Johannesburg worked more than 24 hours a month, and as such should have received full coverage from labour laws. At least one worker was aware that the real issue was not that they were casuals, but that management was treating them as such:

“That’s true, we are oppressed and we came as a contract. The contracts are the trucks that came here. We are just like temporary workers who are driving these trucks. As he has explained that we are like temporaries, if you miss work you do not get paid, you will be paid when you come to work. When you work here the conditions are bad.”<sup>76</sup>

Lack of enforcement of labour laws and bargaining council agreements is disenfranchising waste management workers employed to work on externalization contracts, and has pushed them into the informal economy.

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<sup>75</sup> Focus Group with SA Waste Women Workers, 22 January 2002.

<sup>76</sup> Focus Group with Avalon Men TPC Drivers, 25 November 2002.

## **4. Organizing workers in the municipal waste management sector**

### **4.1 Current levels of organization**

One of the most striking differences between workers employed by municipalities and workers employed by externalized providers is their level of unionization.

Volunteers, and workers employed in the Zivuseni project in Johannesburg and the CBMP in Msunduzi are not unionized. Management in the Msunduzi Municipality reported that they did not think that workers on the PPP are unionized. More than a third of CID workers interviewed in Johannesburg reported that they are union members. This is reflected in their better conditions of work.

In Johannesburg, while 97 per cent of Pikitup male workers and 98 per cent of Pikitup female workers were union members, only 8 per cent of male workers employed by private companies contracted by Pikitup and 7 per cent of female workers employed by these companies were union members. Levels of unionization differed among these workers according to occupation. The male workers employed via truck and driver schemes who were interviewed were twice as likely to be union members as workers employed by companies with street cleaning/street cleaning and collection contract. None of the workers employed via labour brokers who were interviewed were union members.

### **4.2 Workers' perceptions of unionization**

Workers employed by the Zivuseni project were resigned to the fact that they were not unionized. In focus group interviews, they reported that they believed they were not allowed to unionize or strike because they were employed on a poverty alleviation project. A senior Zivuseni manager stated that the workers have the right to unionize. However, he noted that this would be of little relevance or value to the workers. Because their terms and conditions of employment are based on the Ministerial Determination and Code of Good Practice, and because the workers are employed for only three-month periods, management would not be willing to negotiate with workers or unions on wages or conditions of employment. Although the workers were not happy with this situation, they accepted it as they were desperate for an income of any sort.

In Msunduzi, the workers employed by the MCP were extremely fearful of joining unions, as they felt that this would lead to the loss of their job. Workers' fears were based on perceptions of a general anti-union sentiment, as opposed to specific threats from management. Indeed, management at BESG asserted that they would welcome the workers unionizing. However, they had clearly not encouraged them to do so. Given the high levels of unemployment, workers were unwilling to take any actions that could potentially compromise their job security.

Workers employed by private companies contracted by Pikitup who participated in focus group interviews felt particularly vulnerable because they were not unionized:

“There are no unions, if a person who employs you hates you, you can be fired anytime and he will just employ another person in your place....”<sup>77</sup>

For them, unions play a critical role not only in protecting workers, but also in helping them effectively exercise their rights.

“The other thing is that municipal workers have a union, so they have rights. A sub-contracted worker is told that you must do this, and if you do not do it, they get rid of you same time. You do not have a contract that you signed that you will work for five years. They just give you instructions, and if you can’t do that they get rid of you same time. Your truck is ordered to leave. But with the municipality workers, they are supposed to go for hearings and there are channels, which need to be followed.”<sup>78</sup>

“..we want to be members because we know that it’s helpful in our situation. What we wanted from [the union] was that we wanted them to help us get registered, and be paid more money. They must buy us a uniform. They must give us more money because by working at night we are putting our lives at risk.”<sup>79</sup>

Many of the workers who participated in the focus groups expressed a keen desire to join unions. When asked whether SAMWU had ever tried to recruit them, workers in Orange Farm said, “we very much wanted them to come, but they never came.”<sup>80</sup>

Workers cited numerous reasons why they were not union members. Some noted despairingly that, rather than waiting to be recruited, they had approached SAMWU, only to be told that (contrary to union policy) the union does not organize workers in private companies.<sup>81</sup> Others noted that the very denial of basic rights (such as the receipt of a pay slip) is at times an obstacle to them joining a union:

“Aay.. Where are we going to get a union anyway? To join a union we are required to provide ‘payslips’ and all these things, as we said it’s salary advice something that we do not know [receive].”<sup>82</sup>

While SAMWU and SATAWU do not require payslips to join, this is, indeed, a requirement for joining IMATU.

Those workers who had tried to form unions noted that the fractured nature of externalization impedes their ability to organize:

“...we are working for different companies ...and the next thing... it is becoming increasingly difficult to bring people together and say people lets do this [form a union]. The next thing one will be told is that he is the one causing troubles. When one joins a company you find people accepting things they should not be accepting, so we are forced to leave things the way you find them and do what you found them doing.”<sup>83</sup>

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<sup>77</sup> Focus Group with Men Tedcor Workers, 3 December 2002.

<sup>78</sup> Focus Group with Avalon Men TPC Drivers, 25 November 2002.

<sup>79</sup> Focus Group with SA Waste Women Workers, 22 January 2002.

<sup>80</sup> Focus Group with Men Tedcor Workers, 3 December 2002.

<sup>81</sup> Focus Group with SA Waste Women Workers, 22 January 2002.

<sup>82</sup> Focus Group with Zondi Men TPC, 11 December 2002.

<sup>83</sup> Focus Group with Zondi Men TPC, 11 December 2002.

Fear is the final factor that prevents workers employed by private companies from organizing. Many workers are too scared to join unions, and instead have started to join legal service organizations, such as the Scorpions, which for a monthly fee will represent workers in the event of labour disputes.<sup>84</sup>

It would appear that workers have good reason to fear the repercussions of joining a union. In the various focus groups, workers employed by private companies repeated similar versions of the same story regarding the illegal victimisation and dismissal of workers attempting to organize:

“...it has been a long time since we are here, I found people already here when I started working. There was a problem and we decided to meet and talk about joining a union. We knew that they [the entrepreneurs] were not going to take this well but we pressed on ahead. Before we could even meet, we were called to a meeting organized by the entrepreneurs and certain individuals were called aside. All called aside were people considered leaders of the workforce who wanted to bring in the union. These people were fired immediately.”<sup>85</sup>

Although most workers employed by private companies expressed a strong desire to join a union, some who had been unionized in the past questioned the commitment and ability of unions to protect and fight for workers. Given that union membership made workers targets for dismissal, lack of support from the union was even more problematic:

“I know unions very well, I was a member of a union. So if they tell me that I should join a union, I’ll rather lose my job than being fired because I am a member of a union. I was paying the subscriptions every month. But I lost my job.”<sup>86</sup>

“You can join a union today and tomorrow they would not come to you, they’re going to the offices and drink tea with the employers in the office. They’ll give them whatever they want and then say just leave those people. So they would just leave us anywhere. We are scared of unions.”<sup>87</sup>

It seems that the low level of unionization among workers employed by private companies is an important motivating factor for the externalizing of work by Pikitup, and the establishment of PPPs in other municipalities. Several Pikitup managers explicitly noted that they rely on using truck and driver schemes as a backup when unionized municipal workers are on strike.<sup>88</sup> Indeed, none of the workers employed by private companies contracted by Pikitup who participated in the focus group interviews in Johannesburg had participated in the three week SAMWU strike in 2002. Given that these workers represent such a large proportion of the total workforce in the Pikitup depots surveyed (28.5 per cent), this limited the effect of the strike and facilitated ongoing provision of services throughout the strike period. Management at the various depots also contracted in additional trucks and labour to break the strike and ensure minimal disruption to service delivery.

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<sup>84</sup> Focus Group with Marlboro Men TPC Workers, 29 November 2002.

<sup>85</sup> Focus Group with Men Tedcor Workers, 3 December 2003.

<sup>86</sup> Focus Group with Marlboro Men TPC Workers, 29 November 2002.

<sup>87</sup> Focus Group with Marlboro Men TPC Workers, 29 November 2002.

<sup>88</sup> Interview with Christa Venter, 24 October 2002; Interview with Stella Wilson, 14 January 2003.

### 4.3 Organizing workers: Attempts and oversights

The growth of the informal economy confronts the labour movement with the need to devise and implement strategies that differ on many fronts from those traditionally used by trade unions to organize and collectively protect workers. This holds true in South Africa as well. For example, in the clothing industry, a recent study highlights the extent to which the contractual arrangements and conditions of homeworkers necessitate an organizing strategy which is unique to workers in the informal economy, and which differs significantly from the strategy used by the South African Clothing and Textile Workers' Union to organize workers employed in the formal economy.<sup>89</sup>

As noted in section 3, however, the borderlines between the formal and the informal economies in the waste management sector are blurred. Formal and informal employment relations coexist along a continuum, with most protected and formal jobs at the one end, and with increasing unprotected and unregulated jobs at the other end. Within the formal economy, workers have differing levels of rights and institutional coverage based on the work they do and the type of enterprise that employ them. Most workers in the informal economy have been pushed there due to lack of enforcement of rights enshrined in labour law and bargaining council agreements.

In the municipal waste management sector, the primary divide with regard to the terms and conditions of employment and level of unionization is between workers who are employed by municipalities and workers employed by enterprises externally contracted by municipalities. While the former benefit from good employment conditions and are well organized, the latter tend to be in less protected and less secure jobs, and normally are weakly organized or not organized at all. Workers in the informal economy are a subset of the latter. Low levels of unionization are pervasive in externalization contracts, and are not limited to workers in the informal economy. While these workers may face greater intimidation against joining unions and be more likely to present some specific challenges to organizing (such as greater likelihood of being paid in cash and the associated problems of securing stop-orders), the issues related to organizing them cannot and should not be separated from those related to organizing workers employed in externalization contracts as a whole. The remainder of this section explores initiatives to organize workers employed by enterprises externally contracted by municipalities, and highlights challenges faced by unions attempting to do so.

#### *Unions organizing in the sector*

There are three major unions that organize waste management workers in South Africa. The South African Municipal Workers' Union (SAMWU) and the South African Transport and Allied Workers' Union (SATAWU) are both affiliates of the Congress of South African Trade Unions (COSATU). The Independent Municipal and Allied Trade Union (IMATU) is affiliated to the Federation of Unions of South Africa (FEDUSA).

SAMWU and IMATU have both traditionally organized full-time permanent workers employed by municipalities. IMATU has neither resolutions nor strategies to organize categories of workers other than permanent. SAMWU does not have any resolutions specifically focusing on organizing casuals. However, a number of years ago, it organized

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<sup>89</sup> Bennett, 2003.

“permanent casuals” employed by the Johannesburg waste management department, and successfully negotiated for them to become permanent workers. SAMWU has resolutions on organizing workers employed by private companies, volunteers, and indeed any workers doing municipal work. To date, it has not had a vigorous national campaign to organize workers employed via externalization contracts. However, initiatives exist at branch level. Importantly, over the past several years, the union has dedicated time and resources to beginning to develop strategies to recruit and represent these workers, and has prioritized a recruitment drive as part of its three-year plan for organizational renewal.

SATAWU organizes workers in the road freight industry, and has made some inroads in organizing workers employed by larger private waste management companies. However, this has not been a priority area of work for the union.

### ***Organizational capacity***

The three unions are well established. All have offices at national, provincial and branch/local levels, are financially well resourced, have relatively large staff complements, and employ dedicated organizers. They, therefore, have infrastructure and resources which could provide a sound base for organizing workers employed via externalization contracts. However, it should be noted that, while IMATU’s membership has been increasing in recent years, both SATAWU and SAMWU have experienced decreases in membership. These decreases can partially be attributed to changes in the sector. One SAMWU informant noted that members were leaving to join IMATU in order to access financial loans which are more readily available in IMATU. However, informants in both SAMWU and SATAWU also noted that membership is decreasing as they have done an insufficient job of servicing members. Within this context, it will be difficult for the unions to successfully recruit and service new members. In addition, the loss of members also reduces income from membership dues, and therefore limits the funds available for new organizing campaigns.

### ***Fear and intimidation***

As noted in the previous section, workers employed by organizations contracted by municipalities face high levels of intimidation and are fearful that joining unions will result in their dismissal. Unions face a considerable challenge in assuaging their fears, demonstrating the benefits of joining unions, and ensuring that they are ready to fight for and protect workers who attempt to unionize in the sector.

### ***Recruiting in a hostile environment***

SAMWU and IMATU primarily organize workers employed by municipalities. In the current period, both unions have established relationships and recognition agreements with municipalities, which greatly facilitates and eases the recruitment of workers. SAMWU’s founding unions organized black municipal workers within a context of extreme repression in which black workers did not have entrenched rights. However, few organizers from that period are still in the union. For the most part, the current layer of organizers and shopstewards in both SAMWU and IMATU do not have experience in identifying employers to target for recruitment drives, recruiting workers who face high levels of intimidation against joining unions, and negotiating recognition agreements.



The President of SAMWU noted that one of the major challenges being faced by SAMWU in the current period is that, "...the new layer of shopstewards see the position of being a shopsteward as a career to get a higher position at work, which is different from being a real shopsteward....So that's something that is in them, and it's difficult to change." This makes it difficult for the union to implement an active recruitment strategy. As the President explained:

"If you are not committed, and if you are seeing trade union work as work like any other work, it will be different from a person who sees trade unions as also part of the struggle....It is difficult to say [what SAMWU can do to get organizers and shopstewards to start recruiting workers in private companies], because you can strengthen a person who is committed. If a person is not committed, it's difficult to strengthen that person. There are people who are trying who are not that skilled, but you will find that they are doing better than highly skilled people. So it's the whole issue of commitment."<sup>90</sup>

### ***Lack of policy on recruitment or awareness of policy***

In the absence of policy committing the union to organizing workers employed by external providers, IMATU is unlikely to take up this challenge. While SAMWU has a policy on recruiting all workers (and volunteers) providing municipal services, informants indicated that many shopstewards and organizers are unaware of this policy. SAMWU is, however, taking steps to address this issue. For example, a play performed at the 7<sup>th</sup> National Congress in August 2003 highlighted this problem and challenged shopstewards and organizers to recruit workers employed by external providers. A campaign to recruit waste management workers employed by external providers has been prioritized as part of the union's three-year organizational renewal plan.

### ***Lack of unity among workers***

Lack of knowledge of SAMWU's resolution on organizing workers employed by external providers is exacerbated by the perception by many SAMWU members that these workers are "the enemy". As a result, shopstewards are reluctant to recruit them into the union.

In at least some municipalities, shopstewards are, however, learning to overcome these biases and divisions. When speaking of a drive by SAMWU shopstewards at Selby depot to recruit workers employed by external waste management providers, a shopsteward from Southdale noted:

"Before it was a problem of cat and mouse. When we saw them, we saw them as someone who was coming to take our jobs. So we didn't know how it came to be that at Selby they came to see them as fellow workers. I'm still curious to find out what happened at Selby, as we are copying them."<sup>91</sup>

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<sup>90</sup> Petros Mashishi, 11 August 2003.

<sup>91</sup> SAMWU Pikitup Shopstewards, 15 October 2003.

For their part, shopstewards from Selby depot explained that they had realized that:

“These people aren’t enemies. They are workers and they are being abused. They can be dismissed anytime if the boss wants to. So that’s where we got the feeling that we should recruit them, and then maybe we can win.”<sup>92</sup>

### ***One industry, one union***

COSATU has a policy of “one industry, one union”. SAMWU considers all workers who provide municipal services, regardless of who they are employed by, to fall within their jurisdiction. As noted in section 4.3.1, the union has a Congress resolution stating that workers in the municipal sector organized by other affiliates should be handed over to SAMWU. However, the informant from SATAWU argued that once a municipality enters into a contract with an external provider, then those workers should rightly be organized by SATAWU. He noted that lack of clarity on this issue could hinder organizing efforts as SATAWU would not want to be accused of poaching members from SAMWU.<sup>93</sup> The fact that contracts with municipalities comprise only a portion of the work done by most private waste management companies further complicates the matter, as it is unclear which union should organize waste management workers who do not do work contracted by municipal councils.

### ***Representation in bargaining councils***

Of the three unions studied, only SATAWU is a party to the RFBC, the council which currently determines wages and conditions of employment for at least some of the workers employed by organizations externally contracted by municipalities. The fact that SAMWU and IMATU are not parties to the RFBC limits their ability to represent members drawn from these organizations in negotiations on key issues such as wages, benefits and conditions of employment.

### ***Lack of information about the sector***

Informants from all three unions were aware that municipal councils are contracting private companies via PPPs to deliver waste management services. However, they lacked detailed information on the extent of this phenomenon, the number and types of companies in the sector, key companies, and wages and conditions of employment of workers employed by these companies. Informants knew little, if anything, about the poverty alleviation projects, volunteer initiatives and CIDs. They were also unaware of the contracting of “one person contractors” to deliver waste management services. In the absence of detailed information on the sector, it is extremely difficult for unions to develop effective recruitment strategies as they cannot prioritize which employers to target.

### ***Payslips and stop-order facilities***

As noted in section 4.2, contrary to the requirements of the BCEA, some workers do not receive payslips. Although SAMWU and SATAWU do not require payslips, workers may not join IMATU without one. All three unions require workers to pay subscriptions via stop-

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<sup>92</sup> SAMWU Pikitup Shopstewards, 15 October 2003.

<sup>93</sup> Abner Ramkgolo, 11 September 2003.

orders or debit orders. However, at least some workers in both Johannesburg and Sol Plaatje are paid in cash.<sup>94</sup> This may require the unions to develop alternative methods for collecting subscriptions.

### ***Special status of SPWP workers and volunteers***

Workers employed on poverty alleviation projects are employed on a short-term basis. Their conditions of employment are determined by the Ministerial Determination and Code of Good Practice, and their wages must be kept below the market rate. As noted in section 4.2, management in Gauteng indicated that they would not be willing to enter into negotiations with unions regarding wages or conditions of employment. Within this context, it will be extremely difficult for unions to recruit and represent workers employed by the poverty alleviation projects in negotiations with provincial governments. COSATU and FEDUSA are, however, both represented at NEDLAC where the Code of Good Practice was negotiated. In addition to engaging provincial governments on specific poverty alleviation projects, it should, therefore, also be possible for the three unions to represent the interests of these workers through their respective federations.

Volunteers are not categorized as workers. As they do not get paid for the work that they do, it would be extremely difficult for unions to require them to pay membership dues and prioritize servicing them. Although SAMWU has in the past exempted some non-permanent workers from paying subscriptions, this is not viable in the long run.

#### ***4.3.1 South African Municipal Workers' Union***

##### ***History***

SAMWU is currently the largest municipal workers' union in South Africa. It was formed in 1987 as the result of a merger between a number of unions including the Cape Town Municipal Workers' Association, the Municipal and Allied Workers' Union of South Africa, municipal workers who were members of the Transport and General Workers' Union, the South African Allied Worker's Union, and the General Allied Workers Union. Since its formation, a number of smaller, regionally based unions have also merged with SAMWU.

##### ***Type of organization and organizational capacity***

SAMWU is a national trade union registered in terms of the LRA of 1995. It has a head office in Cape Town and a satellite head office in Johannesburg. There are provincial offices in each province, as well as a number of branch offices. In total there are 30 SAMWU offices across the country. SAMWU has 131 permanent staff, 58 of whom are women. Most of the women work in administrative posts, and there are few women organizers.

SAMWU holds a national congress every three years, where the national president, two vice presidents, treasurer, general secretary and deputy general secretary are elected. Currently there is one woman national office bearer. In between congresses, the central executive committee (CEC) is the highest decision-making body. Democratically elected representative structures exist at all levels of the organization. Although SAMWU does not

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<sup>94</sup> Focus Group with Tedcor Women Workers, 3 December 2002; Focus Group with Men Workers of the Entrepreneurs in Sol Plaatje, 20 March 2003; SAMWU Pikitup Shopstewards, 15 October 2003.

have a quota on the election of women representatives, concerted efforts are made to ensure that women are elected to posts in all structures.

The 5<sup>th</sup> National Congress in 1997 established service committees to coordinate engagement in the restructuring of services across the country. There is a service committee dealing with water, sanitation and waste coordinated by a full-time shopsteward. Although initially these committees were comprised of one representative per province, they have recently been restructured to consist of a small number of individuals directly nominated by the CEC.

### ***Membership***

In recent years, SAMWU's membership has been decreasing. While several years ago it had 122,000 members, in July 2002 SAMWU had 113,616 members. The vast majority of members are permanently employed by either municipalities or water boards, which are bulk water suppliers. SAMWU represents 58.4 per cent of unionized municipal workers, and 53.4 per cent of all municipal workers in South Africa. In addition, SAMWU has organized approximately 30 per cent of the workers employed by water boards. SAMWU estimates that approximately 15 per cent of its total members are women, and more than 90 per cent are black. Members pay monthly dues of 1 per cent (up to a maximum of R40 per month) via stop-orders to the union. They are not required to submit payslips to become members.

### ***Services and activities***

SAMWU offers its members a range of services including: internal education and training for members, shopstewards, office bearers and officials; a provident fund; a medical aid fund; ensuring that laws are properly applied and representation of members; promotion of workforce training; and collective bargaining.

### ***Organizing strategies***

SAMWU's constitution explicitly commits the union to opposing and fighting privatization. The first aim included in the constitution is to "organise all those employed directly or indirectly, in local authority and allied undertakings of the economy, whether in the public, private or voluntary sector." At the 6<sup>th</sup> National Congress in 2000, the union adopted a resolution on "Bargaining in Private Sector Companies" that outlined the union's strategy for recruiting and representing workers in private sector companies. The resolution resolves to: recruit non-COSATU members working in private companies; get COSATU affiliates who have organized workers in the local government sector to transfer these members to SAMWU; campaign for a living wage and wage increases above inflation; create centralized bargaining structures and a bargaining council for private companies in the municipal sector; campaign for the re-incorporation of these services into the municipality; and ensure sufficient capacity within Head Office to co-ordinate centralized collective bargaining. The 7<sup>th</sup> National Congress in 2003 clarified that, rather than creating separate central bargaining structures for private companies, all entities providing municipal services (including private companies, community-based organizations and ward committees) should form part of the SALGBC.

However, as noted above, SAMWU's membership is still largely limited to workers employed by municipalities and water boards, and virtually no workers employed by private

waste management companies, NGOs or CBOs are SAMWU members. Despite its policy and resolutions, to date SAMWU has not had a national campaign to recruit these workers. Research in the two case study sites revealed the varying extent of organizing initiatives at local levels within the union. At a national level, SAMWU has also recently begun to focus attention on issues related to recruiting waste management workers employed by external providers and has prioritized a recruitment campaign in the sector.

### *Organizing initiatives at the local level*

In Msunduzi, no attempt had been made by the union to organize workers employed in either the CPMP or the new PPP. The shopstewards in the local municipality asserted that they had not tried to recruit these workers, as they did not know of the existence of either contract.

The Johannesburg branch has more experience in organizing both non-permanent waste management workers as well as workers employed by external providers. In the early 1990s, Selby depot hired 150 workers on six-month contracts. These contracts were ultimately extended for lengthy periods, and additional “permanent casuals” were hired. Given the political context, the strength of the union at that time, and the fact that these workers worked alongside permanent workers, it was not difficult for the union to recruit these workers. The Council would not agree to the implementation of stop-orders and in any event these workers received very low wages. As a result, these workers did not pay membership dues. Nevertheless, they were active in all union activities and struggles and were represented by the union. As noted in section 3.3.2, the union eventually succeeded in negotiating for these workers to be made permanent, although it will take three years for their wages and benefits to be brought into line with those of other permanent workers.<sup>95</sup>

More recently, in the first half of 2003, Pikitup shopstewards began to organize workers employed by private companies subcontracted by Pikitup. This organizing initiative was undertaken by the shopstewards themselves, with little or no assistance from the organizers. It began when workers from SA Waste, a company contracted by Pikitup to do night shift street cleaning, approached SAMWU shopstewards at Selby depot, and said that they wanted to join the union. After discussing the issue with other shopstewards in the Pikitup Cluster (the representative structure of all SAMWU shopstewards in Pikitup), the shopstewards recruited these workers. They have since negotiated a recognition agreement, and shopstewards have been elected within the company. Based on this example, shopstewards in at least four of the other Pikitup depots recruited members from six other private companies subcontracted by Pikitup. The shopstewards also noted that they were encouraged to strengthen their campaign by a presentation made at SAMWU congress on the findings of the Gender and Local Government Restructuring Research and Capacity Building Project which showed that few private sector workers are union members, and that many are keen to join.<sup>96</sup>

The organizing campaign is largely informal and is not coordinated by either the branch or the cluster. However, shopstewards share experiences and tactics at cluster meetings. The shopstewards have easy access to the workers employed by the companies with external contracts as they service the same geographical area, often report to the same depot,

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<sup>95</sup> Personal communication with Petros Mashishi.

<sup>96</sup> SAMWU Pikitup Shopstewards, 15 October 2003.

and in some instances work on the same vehicles. In most instances the shopstewards make contact with one worker who is receptive to the idea of joining the union, and work through him or her to contact other workers.<sup>97</sup>

Management of both Pikitup and the private companies has created numerous problems for the shopstewards. Managers within Pikitup refuse to let the members from private companies attend union meetings organized for members in Pikitup. Management of private companies has attempted to dismiss workers leading the attempt to organize. At least one driver was redeployed to another depot, and then had his status changed to that of a stand-by driver. The shopstewards also lamented that they receive virtually no support from SAMWU organizers or office, that they do not have a budget to assist with costs related to recruitment (such as transport money) and that the office has been “sitting on” membership applications completed by workers in the private companies. According to the shopstewards, the fact that many workers employed by private companies are paid in cash also makes it difficult to deduct subscriptions.<sup>98</sup>

### *Formulating a national campaign*

In the past two years, the recruitment and servicing of waste management workers employed by externally contracted providers has emerged as a priority area for the union. The union dedicated significant time and resources to the joint SAMWU-MSP Gender and Local Government Restructuring Research and Capacity Building Project, which conducted research into the privatization of waste management. Key focus areas included deepening an understanding of the municipal waste management sector, determining the wages, benefits and conditions of employment of waste management workers employed by various providers, and exploring issues related to unionization. All of these issues were investigated from a gender perspective.

The importance placed by the union on addressing these issues was affirmed by the dedication of a two-hour session at the 7<sup>th</sup> National Congress held in August 2003 to receiving a report back from the project. The report-back highlighted low levels of unionization in the sector, and identified a range of internal barriers preventing the union from actively recruiting workers employed by external providers.

As part of its three-year organizational renewal programme, SAMWU has prioritized a recruitment drive in the waste management sector. The campaign will be launched during the first half of 2004. At the time of writing this report, SAMWU was still in the process of refining and finalizing the programme of action. However, a two-day workshop held in November 2003 dedicated a morning session to mapping out possible components of a campaign to recruit workers employed by external providers, and identifying the resources and capacity building required to support it.

Proposals developed at the workshop include targeting workers employed by private companies, NGOs, CBOs, and poverty alleviation projects as well as volunteers in their workplaces and the communities where they live; developing specific approaches to organizing women workers, which would include targeting organizations and structures in

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<sup>97</sup> SAMWU Pikitup Shopstewards, 15 October 2003.

<sup>98</sup> Idem.

which women are active outside of the workplace; engaging SAWMEA, SALGA, the RFBC and SALGBC to ensure that they inform member companies of the right to unionize; working with the SALGBC, RFBC and Department of Labour to enforce respect for the right to unionize among employers; negotiating with municipalities to include clauses regarding the right to unionize in contracts with external providers; seeking assistance from municipalities and councillors when attempting to organize meetings with management in companies which have contracts with municipalities; working with SATAWU to develop a coordinated approach to fighting privatization (externalization), negotiating wages and benefits and recruiting workers; and developing programmes of action to ensure that members are serviced once they are recruited. These proposals must still be reviewed as part of the process to finalize the organizing strategy in the waste management sector. However, SAMWU has made significant progress in laying the foundation for a vibrant recruitment campaign.

#### ***4.3.2 Independent Municipal and Allied Trade Union***

##### ***Type of organization and organizational capacity***

IMATU is a national trade union registered in terms of the Labour Relations Act of 1995. It was formed in 1996 as the result of a merger between a number of apolitical trade unions which had cooperated for many years under a federal banner.

IMATU has shopsteward, branch, regional and national committees. The highest decision-making body is the National Congress, which meets every three years. The National Executive Council runs the union between congresses. Approximately 20 per cent of representatives on union structures are women, and 42 per cent are black. Office bearers are elected at all levels of the union. Currently approximately 10 per cent of office bearers are women, and 45 per cent are black.

IMATU has one national office, thirteen regional offices, and branch offices in larger branches. It employs 148 full-time officials. No statistics are available on the racial and gender breakdown of IMATU employees.

##### ***Membership***

Membership of IMATU is open to workers employed by South African municipalities. Members pay 1 per cent of monthly earnings (up to a maximum of R40 per month), and subscriptions are deducted monthly via stop-orders. Prospective members are required to submit a payslip to the union. In July 2002, IMATU had 71, 419 members. This amounted to 36.7 per cent of unionized municipal workers, and 33.6 per cent of the total number of municipal workers in South Africa.

Most of the unions which merged to form IMATU had traditionally organized white workers employed in white-collar jobs, although two founding unions had always recruited blue-collar workers. Most of the amalgamating unions began recruiting blue-collar workers in the 1980s. No statistics are available on the racial and gender breakdown of IMATU's membership. IMATU has, however, recently made significant inroads into organizing black, blue-collar municipal workers.

## ***Services and activities***

IMATU offers its members labour relations and legal advice; representation in the workplace; death benefits; loan schemes; reduced bond rates; insurance and assurance packages; information via union newsletters and representation in negotiations on a range of issues related to wages and benefits.

## ***Organizing strategies***

The “Allied” in IMATU’s name creates the space for IMATU to organize workers employed by private companies. However, to date IMATU has not had any campaigns to organize workers employed by private companies, NGOs, CBOs or poverty alleviation projects, volunteers, casual workers, or workers employed by labour brokers. It is currently focusing on organizing workers who are being transferred to local government from provincial government.

The Chairperson of the Johannesburg branch noted that there would be a number of challenges to organizing workers in private companies. The union had not yet grappled with how to overcome these challenges, and had not had strategic sessions exploring possible organizing strategies or approaches used by other unions nationally or internationally. The Chairperson also noted that it would be difficult for IMATU to represent workers in the Road Freight Bargaining Council effectively as the union is not currently a party to that council.

### ***4.3.3 South African Transport and Allied Workers’ Union***

#### ***History***

In May 2000, the Transport and General Workers’ Union (TGWU) (one of whose forerunners had been formed in 1974) merged with the recently formed South African Transport and Allied Workers’ Union (which itself was a merger of unions in Transnet). SATAWU is the largest transport sector union in South Africa, and is the largest union in the RFBC.

#### ***Type of organization and organizational capacity***

SATAWU is a national trade union registered in terms of the Labour Relations Act of 1995. SATAWU has one head office in Johannesburg, a regional office in each province, and 42 local offices. SATAWU has 116 staff, approximately 25 per cent of whom are women. The women staff are mainly in administrative posts, but there are a number of women organizers.

SATAWU has democratically elected structures at all levels of the organization from the shopfloor to national level. The Central Executive Committee is the highest decision-making structure between national congresses, which are held every three years. SATAWU is organized into six sectors: road freight, maritime, rail, cleaning, security, and passenger. Waste management workers are represented in the road freight sectoral structure.



## ***Membership***

SATAWU has a total membership of 100,000 and is COSATU's seventh largest affiliate. Members pay 1 per cent of their income in membership dues, up to a maximum of R80 per month. The union has been debating introducing a minimum monthly payment of R20, which could have negative implications for low-income workers in the informal economy. Workers are not required to submit payslips to join the union. Workers pay dues via stop-orders. However, in sectors such as the minibus taxi industry, alternative provisions are made for workers to pay their dues in cash.

According to available data, 95 per cent of SATAWU's members are black, and 15 per cent are women. The majority of the women members are employed in the contract cleaning industry. SATAWU organizes primarily in the formal economy. However, in recent years, it has made important inroads into the minibus taxi industry, which is mainly in the informal economy.

SATAWU has organized 15,000 members in more than 200 companies in the road freight sector. In the past, 12 per cent of the sectoral membership was female. Most of the women members were employed in clerical posts. As SATAWU had not organized a majority of workers in these positions, it could not negotiate on their behalf, and membership declined. Currently women comprise approximately 8 per cent of the members in the road freight sector.

SATAWU has been organizing workers in private waste management companies for many years, and has organized workers in a number of the largest companies. These include Enviroserve (500 members), Multiwaste (100 members), MiniWaste (75 members), and The Waste Group (200 members).

## ***Services and activities***

SATAWU's main objectives are to gain recognition from employers, defend workers against unfair dismissals, represent workers who have individual grievances, as well as on issues related to skills training, and provide education to its members.

## ***Organizing Strategies***

SATAWU has developed sophisticated strategies for organizing and representing informal workers in the minibus taxi industry.<sup>99</sup> Since property management companies traditionally organized by SATAWU began to outsource cleaning services to contract cleaning companies in the mid-1980s, SATAWU has also organized and represented a section of workers employed by these companies.

However, SATAWU has not developed a specific campaign to organize workers in the waste management industry. The National Road Freight Sector Coordinator indicated that SATAWU would like to organize more members in the waste management sector, but since the merger the union has not been servicing members well, and has not been vigorously recruiting. SATAWU's limited ability to organize workers in this sector also appears to be

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<sup>99</sup> See Barrett, 2003.

related to concerns regarding accusations of poaching, and a lack of information within the union on companies in the sector, as well as the extent of privatization and externalization of waste management services by municipalities.

#### **4.4 Non-membership-based organizations assisting workers in the sector**

The Johannesburg case study presented an interesting example of an NGO attempting to assist a group of workers in the informal waste management economy who have organized themselves independently. The initiative taken by Khanya College to assist the Orange Farm Refuse Collection Workers' Forum (OFRCWF) is part of a broader programme by the Khanya College to provide support to vulnerable workers. The experience presents a number of valuable lessons regarding the strategies which can be used to organize workers in the community, the potential for creating unity between volunteers and workers, the difficulties faced by an NGO in playing an organizing role, the advantages and difficulties in working with social movements to organize workers, and the difficulties encountered by workers attempting to join established unions.

##### ***4.1.1 Khanya College***

###### ***History***

Khanya College was founded in 1986 as a project of the South African Council for Higher Education and Development (SACHED). At that time, it was a bridging school to assist activists to enter university. The bridging school has been disbanded, and currently Khanya College works with workers, trade unions and community organizations. In 1994, it established the Labour Standards Project. Initially this Project focused on conducting workshops for unions on issues related to the new labour laws, labour standards and related issues. However, in recent years there has been a dramatic decline in demand from unions for this kind of work. Simultaneously, there has been a rise in the number of workers in the informal economy, casual workers and contract workers. According to Khanya College, unions have not responded to meeting the challenges faced by these workers. Khanya College, therefore, took a decision to refocus its work on labour standards to supporting these workers. This work is now coordinated through the Labour Education and Organizing Centre of Khanya College.

###### ***Type of organization and membership***

Khanya College is not a membership-based organization. It is a non-profit non-governmental organization. Khanya College has one office in Johannesburg, but conducts work in several provinces. It has fifteen staff members, eight of whom are women. Women are well represented in project staff, and one of the three departmental heads is a woman.

## ***Services and activities***

Khanya College's labour standards work focuses on providing educational workshops on issues related to labour law, labour standards, organizing and a range of issues which confront workers in the informal economy. Khanya College works with any organization that is pro-worker and actively seeking to assist workers in the informal economy. It is currently working with a range of community-based organizations that are organizing workers, a number of small-scale localized organizing initiatives, and emerging organizations such as the National Union of Temporary Employees of South Africa.

### ***Organizing in Orange Farm***

Several years ago Khanya College began providing education and capacity building to the Orange Farm Water Crisis Committee (OWCC) through its community support programme. The OWCC is active in the informal settlement of Orange Farm, located in the southern regions of Johannesburg metropolitan area. It was initially formed to deal with problems related to water cut-offs in the area, but now engages in a range of socio-economic issues. In 2002, it affiliated to the Anti-Privatization Forum (APF).

Through its relationship with the OWCC, in 2003 Khanya College began to provide assistance to workers employed on a BHA/TEDCOR contract servicing Orange Farm. The contract had been in place since 1994. However, given the high level of worker turnover, most of the workers had not been employed for that entire period. The workers had attempted unsuccessfully to join SAMWU. In early 2003, some of the workers decided that they wanted to organize themselves and approached the OWCC and Khanya College for assistance. Together with the local advice office and the OWCC, Khanya College facilitated a series of workshops for the workers. These eventually culminated in the formation of the Orange Farm Refuse Collection Workers' Forum (OFRCWF).

Following the initial workshop, the OFRCWF held a series of mass meetings which were attended by large numbers of workers employed on a BHA/TEDCOR contract, as well as volunteers coordinated by the local council. The fact that the workers and volunteers all work in the areas where they live facilitated the initial recruitment process, as it was relatively easy for workers to communicate with each other, recruit workers in their homes, and hold meetings outside of working hours. The OFRCWF is coordinated by a committee of workers. It holds weekly meetings at one of the worker's house. Over the course of 2003, Khanya College facilitated several more workshops for the organization.

The OFRCWF is locally based, and is a small and vulnerable organization. Most of the workers who are members of the OFRCWF were dismissed after participating in a march on Pikitup Head Office. Workers who were not dismissed are too afraid to join the organization. Initially long-term volunteers were active in the organization and pledged solidarity to the workers both prior to and after their dismissal. However, the volunteers have not been active recently. Current members have been consumed dealing with their own dismissals. As a result, they have not pursued a vigorous organizing campaign to win back the other volunteers and workers who are currently employed.

This was one of the first substantial engagements by Khanya College with a new organization attempting to organize workers, and one which Khanya College staff have found particularly instructive. Initially Khanya College's intention was to provide information and

build capacity, and it had relied on the OWCC and APF providing organizational support to the workers. The workers became active members in both the OWCC and APF. However, neither organization provided substantive support to the workers. This was partially due to lack of skills and capacity, as well as lack of clarity within the APF regarding the organization's position on organizing workers. As a result, Khanya College was quickly drawn into assisting with more strategic questions as well as practical day-to-day organizing activities. Khanya College found that as an NGO it did not have the capacity to engage in these activities, and is currently refocusing on providing advice and educational workshops to OFRCWF and other organizing initiatives.

Khanya College and the OWCC attempted to link the workers with SAMWU. Despite a positive initial meeting, as well as the current organizing drive by SAMWU, SAMWU shopstewards have failed to follow up on further meetings, and the workers are still currently organized independently.

## **5. Organizing employers in the waste management sector**

Certain categories of employers in the sector are well organized. There are, therefore, representative bodies with which unions can negotiate. However, the extent to which bargaining with existing bodies will be able to address the formal-informal continuum is limited by the fact that the employer organizations are divided on the basis of employer type, and as well on racial lines. The remainder of this section provides an overview of key issues related to organizing employers in the sector, and then presents detailed information on existing organizations.

### ***Separate organization for municipalities***

The South African Local Government Association (SALGA) represents all municipalities in the SALGBC. SALGA was created by an act of parliament, and membership is limited to municipalities. As a result, it is not possible for SALGA to organize and represent waste management employers contracted by municipalities.

### ***Racially-divided organizations for private companies***

Two organizations represent private companies in the waste management sector. They are largely divided along racial lines. The South African Waste Management Employers' Association (SAWMEA) is a national, membership-based organization. It is formally registered as an employer association and is open to all waste management employers. However, its membership is comprised primarily of white-owned private companies.

The Black Waste Management Forum (BWMF) is a regionally based informal network which is not registered as an employer association. It represents the interests of black-owned private waste management companies in the Gauteng province. Most of the larger and more well-established black-owned companies in the province are members of BWMF, as are a number of smaller companies.

### ***Resources***

SALGA is a national organization with a large staff complement and a high level of resources. However, BWMF and SAWMEA have minimal resources. SAWMEA shares an office and administrator with another organization. BWMF has no offices or staff and utilizes the resources of member companies. Inadequate resources necessarily impact on the ability of these organizations to organize and represent employers in the sector.

### ***Relationships with unions***

SALGA has well-established relationships with the unions that organize workers employed by municipalities and is a party to the SALGBC. SAWMEA is actively seeking representation in the RFBC and is eager to establish relationships and negotiate with trade unions. However, BWMF is primarily concerned with increasing the market share for black companies and consultants, and has expressed no interest in negotiating or engaging with trade unions.

## ***Enforcing compliance***

As representatives of companies contracted by municipalities to deliver waste management services, SAWMEA and BWMF could play a critical role in policing the industry. SAWMEA is actively engaged in enforcing legislative compliance among member companies. While, to date, SAWMEA has focused these efforts primarily on environmental legislation, it is advocating for municipalities require compliance with labour laws as part of the tendering procedure. BWMF is lobbying government for the adoption of an empowerment charter for the sector. However, it is unclear to what extent BWMF is addressing labour issues as a part of this process.

## ***Lack of organizations for other employers***

Theoretically, membership of SAWMEA is open to all employers in the sector, and membership of the BWMF should be open to all black-owned companies in Gauteng. One municipality has joined SAWMEA, and others have expressed an interest in doing so. SAWMEA has a sliding scale for membership fees based on employer size, and BWMF does not have a membership fee. Membership fees are not, therefore, an impediment to joining either organization. However, neither SAWMEA nor BWMF have any specific strategy to recruit entrepreneurs (such as those involved in TEDCOR contracts or contracted directly by the municipalities referred to in Table 2), NGOs, CBOs, poverty alleviation projects or councillors into their structures. As a result, these employers are currently not represented by any membership-based organization. Moreover, there are NGOs and private companies that advocate for and support small-scale black entrepreneurs, NGOs and CBOs in their roles as waste management employers (see section 5.2). As they are not membership-based organizations, they cannot be said to represent these providers.

## **5.1 Membership-based organizations**

### ***5.1.1 South African Local Government Association***

#### ***History***

The Organised Local Government Act of 1997 provided for the creation of provincial organizations representing municipalities, and a national organization comprised of representatives from the provincial organizations. As a result, 10 separate organizations, one national (SALGA) and nine provincial, were created. This proved to be an impractical arrangement, and SALGA decided to form one unitary national structure. The provincial and national organizations are, therefore, currently undergoing a three-phase process to establish a new national body. In the first phase, all provincial organizations except those in KwaZulu-Natal and the Western Cape transferred their staff and assets to SALGA in July 2002.<sup>100</sup> In the current (second) phase, a commission has been established to develop proposals regarding the proposed future role and structure of SALGA. It is expected that at the next SALGA National Conference the constitution will be amended on the basis of the findings of the commission. The transformation process will culminate in the amendment of the Organised Local Government Act to accommodate the new organizational form and structure for organized local government in South Africa.

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<sup>100</sup> KwaZulu-Natal and the Western Cape are the only two provinces which do not have an ANC majority in provincial government.

### ***Type of organization, organizational capacity and processes***

SALGA has one national office in Pretoria and a satellite office in Cape Town. In addition, there is one office in each of South Africa's nine provinces. In January 2004, SALGA's human resource department only had information on staff in six of the provincial offices and the head office. These offices collectively employ 105 people. Women represent 50 per cent of the staff. Only 7 per cent of the staff is white.

SALGA has a National Conference which is convened every three years. The General Secretary, Deputy General Secretary, Chairperson, Deputy Chairperson and Treasurer are elected at the Congress. There is no quota on the number of women office bearers, but currently the two deputies are women. The SALGA General Council meets once a year, and the National Executive Committee (NEC) meets quarterly. The NEC is comprised of the five national office bearers, the chairpersons and secretaries of the provinces, and the chairpersons of the five SALGA subcommittees. There are subcommittees for: human resource management, municipal services, finance, intergovernmental and international relations, and policy and strategy. Two of the subcommittees are currently chaired by women. The National Working Committee which is comprised of the national office bearers and subcommittee chairpersons meets monthly. The national structures are replicated at provincial level.

### ***Membership***

According to the Organized Local Government Act, municipalities join provincial organizations, which then affiliate to the national organization. However, the current SALGA constitution says that both municipalities and provincial organizations can affiliate to SALGA nationally. Some municipalities, such as Johannesburg, have begun to affiliate directly to the national organization, in line with the ongoing transformation process. SALGA has, in fact, started billing municipalities directly for membership fees, which are based on the municipal wage bill and population. It is envisioned that after the constitution of SALGA has been amended, all municipalities will affiliate directly to the national structure.

### ***Services and activities***

SALGA performs three main functions:

1. Capacity Building – SALGA conducts activities to build the capacity of municipalities to fulfil their constitutional and legislative mandates.
2. Voice – SALGA plays an advocacy role on behalf of South Africa's 284 municipalities. It makes representations to parliament on issues of relevance to local government. In terms of the Organized Local Government Act, SALGA is entitled to send representatives to the Council of Provinces, which is one of the two houses of parliament. However, to date this has not been done. Instead, SALGA makes representations on specific issues of relevance to local government.
3. Employer Organization – SALGA performs the role of an employer organization in the municipal sector, and represents municipalities in bodies such as the South African Local Government Bargaining Council and the Local Government and Water Sector Education and Training Authority (LGWESETA), which oversees skills development in the sector.

In its role as an employer organization, SALGA represents the employer of waste management workers employed by municipalities.

### ***5.1.2 South African Waste Management Employers' Association***

#### ***History***

The need to form an employer association in the private waste management sector was identified by key role-players in the mid 1990s. However, lack of trust and competition among employers made it difficult for employers to organize. The waste management business is extremely competitive. As a result, many companies were concerned that, if they shared too much information about themselves, their competitors would use it to undercut them and encroach on their business.

However, after five years of discussions and engagements, a number of major companies in the sector succeeded in overcoming these impediments to form the South African Waste Management Employers' Association (SAWMEA), which was founded in 2000. SAWMEA was created to address four key issues in the sector:

#### *1. Skills Development Act and Skills Development Levies Act*

The Skills Development Levies Act of 1999 requires all companies employing more than 50 employees to pay a 1 per cent payroll levy for the purposes of skills development. The Skills Development Act of 1998 establishes Sectoral Education and Training Authorities (SETAs) to oversee the design and implementation of sectoral skills development strategies, and to disburse funds collected via the skills development levy. Private waste management companies were required to pay the levy to the Transport SETA. However, due to a lack of existing training programmes for the waste management sector and the absence of an organization to represent the interests of the sector in the SETA, employers were unable to access skills development grants. Employers within the sector, therefore, felt it was important to form an organization that could represent them in the sphere of skills development.

#### *2. Need to negotiate with unions*

The organization of waste management workers by trade unions was an important factor in the formation of SAWMEA. As workers became increasingly organized (primarily by SATAWU), waste management companies felt a need to respond collectively. According to a representative of SAWMEA:

“there was a lot of pressure from workers...the employee bodies like unions, which were well-organized. And the industry wasn't organized. And they were really manipulating and putting pressure on the system. And I think it was time to have a body talking to the unions.”<sup>101</sup>

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<sup>101</sup> Dirk van Niekerk, 15 September 2003.



### *3. Need to engage government*

The waste management sector is affected by a range of laws including environmental legislation, local government legislation and municipal by-laws. Waste management employers felt that there was a need to have a representative body which could engage government at local, provincial and national level on matters of key interest to the sector as a whole.

### *4. Monitoring of the sector*

Larger companies within the sector were aware that, “there’s really naughty people in our industry. And people didn’t comply to law and legislation and so on”.<sup>102</sup> They were concerned that the government was not taking sufficient action to address this lack of compliance, and that this was both reflecting poorly on the industry as a whole and giving non-compliant employers unfair competitive advantages. However, from the interview with the current President of SAWMEA, it seems that they are primarily concerned with lack of compliance with environmental, as opposed to labour law.

### ***Type of organization and organizational capacity***

SAWMEA is registered with the Department of Labour as an employer association in terms of the LRA of 1995. SAWMEA has neither an office nor full-time staff. There is one part-time woman administrator whom SAWMEA shares with Institute of Waste Management of South Africa (a professional association functioning in the sector), and who is based at the Institute’s offices.

SAWMEA President and Vice President are elected for two-year terms at the relevant Annual General Meeting. The organization is managed by SAWMEA Committee which is comprised of a President, a Vice-President, 2 persons elected at the AGM serving two-year terms and one person elected at the AGM serving a one-year term. Currently all members of the SAWMEA Committee are men. The Committee meets every month.

### ***Membership***

Membership is open to employers actively involved in waste management and waste management activities. In order to become a member, an employer must complete an application form and pay annual dues based on the number of employees employed by the company. Annual dues range from R500 to R10,000 per annum in order to accommodate smaller employers.

SAWMEA currently has 33 member companies which employ approximately 4,000 people. The member companies have a collective capital investment of more than R1 billion, and a monthly turnover of R300 million. SAWMEA leadership estimates that the member companies represent three quarters of the waste management companies in South Africa. Membership is targeted at and comprised almost exclusively of private companies functioning in the sector, including those that work in areas covered by waste management by-laws, as well as areas externalized by municipalities. However, one municipality (Emfuleni Council)

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<sup>102</sup> Dirk van Niekerk, 15 September 2003.

is also a member of SAWMEA. Pikitup in Johannesburg has also been considering joining SAWMEA, but to date has not done so, apparently out of concern for how SAMWU would react to this development.<sup>103</sup> Although some smaller companies are members, the majority of members are well-established white-owned companies. Only three majority black-owned companies are members of SAWMEA, and some outside of the organization perceive it as representing the established interests in the sector. The Black Waste Management Forum is not affiliated to SAWMEA.

### *Services and activities*

SAWMEA is engaged in a range of activities. These are primarily informed by the factors which led to the formation of the organization.

#### *1. Development of Training Programmes and Representation on the Local Government and Water Sectoral Education and Training Authority*

As noted above, the desire to help waste management companies access skills development grants was a primary motivating factor for the formation of SAWMEA. The waste management sector has recently been transferred from the Transport Sector Education and Training Authority to the Local Government and Water SETA (LGWSETA) at the request of SAWMEA.<sup>104</sup> SAWMEA has been instrumental in the formation of a LGWSETA working group to develop training programmes for the waste management sector, and represents waste management employers in this process. Local government representatives are also participating in this process.

#### *2. Negotiations with unions and engagement with the Road Freight Bargaining Council*

Although a number of member companies negotiate with trade unions at company level, SAWMEA does not have a formal relationship with unions in the sector. As the wages and benefits for the sector are negotiated in the RFBC, SAWMEA is currently seeking representation in the bargaining council. Initially SAWMEA had thought that it would merge with the Road Freight Employers' Association (RFEA), which is the employer body represented at the RFBC. However, SAWMEA soon realized that their needs were too distinctive. SAWMEA is, therefore, negotiating for its members to become members of RFEA at a lower premium, and to gain representation at the RFBC via RFEA. It is expected that this arrangement will be finalized prior to the commencement of wage negotiations in 2004.

#### *3. Negotiations with government*

SAWMEA plays a strategic role in engaging with different levels of government on behalf of employers in the waste management sector. The Chairperson of SAWMEA

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<sup>103</sup> Dirk van Niekerk, 15 September 2003.

<sup>104</sup> SAWMEA requested this transfer as they believe that, in terms of skills, the private waste management industry has more in common with local government than with the transport industry. However, the President of SAWMEA argued that despite this it would not make sense for the private sector to be included in the SALGBC for purely financial reasons. During his interview he noted that "[t]heir wage structure is totally different from ours. I mean, if you look at their pension funds, and so on, it is impossible to converge with our industry at this point in time. There is no symbiosis or anything. We are very much far."

noted that SAWMEA had successfully engaged the Johannesburg Council to ensure that its members' interests were addressed in the new municipal waste management by-laws. This was seen as a significant victory for the organization, and has assisted it in recruiting new members.

#### *4. Policing the industry*

In the absence of a strong regulatory role by government, SAWMEA has taken responsibility for internal regulation within the sector. When SAWMEA is made aware of legislative violations by both member and non-member companies, it convenes informal meetings with the company in question. During these meetings, SAWMEA attempts to educate the transgressor, and cautions the company that, if it does not rectify the problem, SAWMEA will notify government. Since 2000, SAWMEA has dealt with eight cases, and in almost all instances the company subsequently rectified the problem.

To date, SAWMEA has concentrated primarily on violation of environmental laws, and has not dealt with any cases pertaining to labour law. SAWMEA has, however, developed a draft checklist for municipalities which identifies all the key pieces of legislation that companies should comply with if they are to receive a tender. SAWMEA is in the process of conducting workshops to finalize the checklist, which it will then circulate to all local governments. SAWMEA also intends to run workshops for member companies to educate them on legislation, including labour law, applicable to the sector. The Chairperson identified a number of reasons why SAWMEA has prioritized this kind of activity. These include the need to ensure a fair playing field, and the need for municipalities to ensure that laws are being upheld.

### **5.1.3 Black Waste Management Forum**

#### ***History***

The Black Waste Management Forum (BWMF) was formed in 1998 by some of the larger black contractors in the waste management sector. Historically, the waste management sector was almost exclusively dominated by white-owned companies. At the time that BWMF was formed, SAWMEA did not exist. The main organization within the sector was the Institute of Waste Management of Southern Africa (IWMSA), a professional association. Newly formed majority black companies perceived IWMSA as being "lily white" and catering to the interests of entrenched players within the market. Emerging black-owned companies felt the need to establish a forum to address their collective interests. Accordingly, the main objectives of BWMF are to:

1. lobby government to promote black empowerment within the sector;
2. deracialize the sector;
3. protect member companies from abuse and discrimination; and
4. collaborate on collective tenders for large contracts.

#### ***Type of organization and organizational capacity***

BWMF is a regionally based organization that is only active in the Gauteng province. It is an informal forum, and is not registered with the Department of Labour as an employer

association. It meets approximately once per month, or whenever necessary. BWMF has neither staff, nor offices, nor membership fees. Member companies utilize their own resources to carry out BWMF activities.

Rather than registering as a black employer structure, BWMF believes there is a need to form an overarching, representative body for the sector as a whole, which would include consultants as well as private companies, and be more like a professional body. As a result, BWMF believes that the most strategic way forward is to transform IWMSA to make it a more inclusive and representative organization which actively promotes black companies and black consultants within the sector. The medium-term vision is to fuse the two organizations into a body that represents the interests of key players in the sector, including company management and consultants. It is expected that this process will be completed within the next two years. The BWMF coordinator noted that they might also register BWMF into a section 21 company<sup>105</sup> which would function primarily as a body to lobby government on issues related to black economic empowerment in the sector.

### ***Membership***

Membership of BWMF is open to companies that are majority black-owned, and have a commitment to creating employment in the black community. As BWMF is an informal structure, there is neither an affiliation process nor membership fees. All major black-owned companies in Gauteng are members. Currently ten companies participate in the Forum. The Coordinator was not able to estimate the collective turnover of the member companies. According to the Coordinator, each member company employs approximately 300 workers. However, when the companies win new contracts, they hire additional staff. According to a representative of one of the leading companies in BWMF, his company appoints such workers on fixed-term contracts. However, he noted that other companies might not be giving workers contracts with specified employment periods.<sup>106</sup>

BWMF primarily recruits new members informally through the Institute of Waste Management's networks. It does, however, occasionally send out formal correspondence and notices via the IWMSA.

### ***Services and activities***

BWMF does not see itself as an employer organization, and does not deal with issues related to labour relations. Member companies do not discuss issues such as wages, and have not sought representation on the RFBC. BWMF is primarily concerned with increasing the market share of black companies and black consultants in the sector.

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<sup>105</sup> A section 21 company is a non-profit company whose main objective must fall within the general category of: promoting religion, arts, sciences, education, charity, recreation or any other cultural or social activity or communal or group interest.

<sup>106</sup> Personal communication with Alex Charnley, Phambili-Wasteman.

BWMF is currently engaged in three different spheres of activity:

1. *Lobbying government and business*

BWMF is actively lobbying government to adopt an empowerment charter and strategy for the waste management sector. In the meantime, BWMF is engaging government as well as private business to make more extensive utilisation of black-owned companies and black consultants, especially for larger, more lucrative contracts.

2. *Transformation of IWMSA and the sector*

BWMF is working closely with IWMSA on a strategy to transform IWMSA. It envisages that this process will take approximately two years, and that at the end of this period the two organizations will merge.

3. *Training*

BWMF has identified a need to improve skills levels within black-owned companies. They are currently in discussions with universities to explore the possibility of developing training programmes for management in black-owned waste management companies.

## **5.2 Non-membership-based organizations assisting employers in the sector**

Several non-membership-based organizations are currently providing assistance to, and advocating for, small-scale black entrepreneurs or alternatively NGOs and CBOs. Based on what it calls the “Entrepreneur Development Programme”, the Entrepreneur Development Corporation or TEDCOR (formerly Billy Hattingh and Associates) proactively pursues PPP contracts with municipalities through which it creates and develops local black entrepreneurs in the waste management sector. TEDCOR, which is a private company, positions itself as an advocate for the development of black entrepreneurs. Within the PPPs, its role is to provide training and support to the entrepreneurs, for which it receives a substantial monthly fee from each entrepreneur.

The Built Environment Support Group (BESG), which is an NGO, currently plays a similar role to TEDCOR with respect to MCPs. It has developed a model for MCPs which is also based on a three-way contract, in this instance between the municipality, an NGO and CBOs. The NGO’s role is similar to TEDCOR’s in that it provides training and support to the CBOs to act in their service delivery and employer roles. Through the Urban Sector Network (USN) to which it is affiliated, BESG is actively promoting the replication of this model in municipalities across the country.

In both the TEDCOR and BESG models, there is lack of clarity regarding whether the company/NGO is simply assisting the employer or should, in fact, be properly regarded as the employer (see section 3.3.2). Neither model appears to be succeeding in building sufficient capacity of the entrepreneurs/community organizations. The entrepreneurs and CBOs serviced by TEDCOR and BESG do not have representation on the boards of these organizations. Both TEDCOR and BESG develop policy and programmes independently of the constituency that they are meant to service. The relationships in both models are highly paternalistic.

### ***5.2.1 Billy Hattingh and Associates/The Entrepreneur Development Corporation***

#### ***History***

Billy Hattingh and Associates (BHA) was formed in 1992 by Billy Hattingh, who had lectured in the field of solid waste management at Pretoria Technikon and was subsequently employed by a private waste management company. The company was formed in order to exploit the need for waste management services in rural, peri-urban and other rural areas, and to promote the development of black entrepreneurs within the sector. BHA won its first tender in Kwandebele in 1992. The BHA Entrepreneur Development Programme (EDP) became a reconstruction and development programme (RDP) project endorsed by the State president, and was voted the best RDP project in South Africa by the European Union in 1996. The Entrepreneur Development Corporation (TEDCOR) purchased the rights to market the EDP from BHA in 1997.<sup>107</sup> Since 1992, BHA/TEDCOR has implemented the EDP in sixteen municipalities in six South African provinces.

#### ***Services and activities***

The EDP is designed and touted as a black empowerment scheme. The stated intention is to establish and develop local black entrepreneurs to deliver waste management services.

In a number of municipalities, BHA/TEDCOR has developed relationships with the local structures of the South African National Civic Organization (SANCO). SANCO is a national civic organization which is in alliance with the ANC, COSATU and the South African Communist Party (SACP). According to several case studies, SANCO has often advocated the granting of the contract to BHA, and has then worked closely with BHA/TEDCOR to select the entrepreneurs, a number of whom have themselves been leaders in the SANCO structures.<sup>108</sup> In working with SANCO, BHA/TEDCOR claims to be working with representative community structures. However, in recent years, SANCO's membership and profile have declined substantially.

Section 3.3.2 outlines the nature and content of the three-way contracts which TEDCOR typically negotiates between itself, municipalities and "entrepreneurs" drawn from the service delivery areas. It highlights the questionable status of the entrepreneurs, and notes that it could be possible to argue that they are, in fact, employees of TEDCOR. It should be noted, however, that the entrepreneurs clearly regard themselves as employers and behave as such in relation to the workers.<sup>109</sup>

TEDCOR is responsible for providing the entrepreneurs with training on matters related to the running of their business, including labour laws. However, primary research by the author highlights several examples of non-compliance with labour law on the part of the entrepreneurs. In Orange Farm the entrepreneurs were given cash to pay the workers, and were responsible for issuing payslips. Workers reported that they frequently did not receive payslips. The amounts paid to them in brown envelopes fluctuated monthly and were not consistent between workers.<sup>110</sup> The same was true in Kimberley/Sol Plaatje, where, although

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<sup>107</sup> Hattingh, 1997.

<sup>108</sup> Qotole. and Xali, 2001; Samson, 2003; Xali, 2000.

<sup>109</sup> Focus Group with Kimberley entrepreneurs, 13 March 2003; Personal communication and interaction with entrepreneurs in Orange Farm.

<sup>110</sup> Personal communication with TEDCOR workers, and review of pay envelopes.

BHA/TEDCOR was no longer involved in the contract, the original entrepreneurs were still operating.<sup>111</sup> One entrepreneur who did issue payslips and keep proper work records affirmed that the other entrepreneurs had never done so.<sup>112</sup> Workers in both Kimberley/Sol Plaatje and Orange Farm did not receive proper protective clothing and equipment. Typically BHA/TEDCOR entrepreneurs work from their homes, and do not provide workers with any facilities. As such, the entrepreneurs are in violation of numerous aspects of the Occupational Health and Safety Act and Basic Conditions of Employment Act.

Neither the entrepreneurs who participated in the original BHA contract in Kimberley/Sol Plaatje, nor the entrepreneurs in the Orange Farm TEDCOR contract which was part of the Johannesburg case study, were registered with the RFBC, and all paid far below RFBC minimum wages. TEDCOR management confirmed that they were in discussion with the RFBC regarding the need to register.<sup>113</sup> It would appear that the EDP was possibly designed with the explicit purpose of circumventing the RFBC Agreement. As noted in section 3.2.2, owner-drivers of a single transport vehicle do not need to register their employees with the bargaining council. In the initial years of the EDP, each entrepreneur is expected to drive his or her own vehicle. However, in both Kimberley/Sol Plaatje and Orange Farm, the entrepreneurs quickly hired a driver, and hence should have been registered with the RFBC.

The BHA/TEDCOR EDP approach raises a number of questions about what is meant by black economic empowerment. The approach does not appear to empower the entrepreneurs, who in fact are more like employees, and the employees of the “entrepreneur” in Kimberley/Sol Plaatje and Orange Farm (who are also black) are highly exploited. Meaningful capacity building and transfer of skills appear to be limited and there does not appear to be an exit strategy for TEDCOR. In Orange Farm when Pikitup put the contract out to tender, TEDCOR and the entrepreneurs submitted competing bids. The new company formed by the entrepreneurs was successful. They have, however, appointed another consultancy to advise and assist them – a clear indication that during the course of the BHA/TEDCOR contract they were not sufficiently capacitated to run their own company. The role played by TEDCOR as a private company attempting to advocate for and build the capacity of entrepreneurs in the sector is, therefore, questionable.

### ***5.2.2 The Built Environment Support Group***

#### ***History***

The Built Environment Support Group (BESG) was formed in 1983. It was established by academics who were working at the University of Natal Durban in order to assist communities being faced with forced removals. Since approximately 1995, it has transformed into a development NGO with a specific focus on housing issues. BESG first became involved in MCPs in 1998. It was motivated to do so as new housing projects which it had helped to establish were not receiving services from the municipality due to financial constraints. BESG felt that it was important to become involved in order to help find cost-effective ways to ensure service delivery that would also promote community participation.

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<sup>111</sup> Focus group with men workers employed by entrepreneurs in Sol Plaatje, 20 March 2003.

<sup>112</sup> Interview with Valerie Rifles, 21 August 2002.

<sup>113</sup> Interview with Jaco Poggenpoel, 23 January 2003.

BESG is a section 21 company. It has two offices (one in Durban and one in Pietermaritzburg). It employs twenty-six staff members, including twelve women. Two women are in senior positions within the organization. BESG is an affiliate of the Urban Sector Network (USN).

### *Services and activities*

BESG has been a pioneer in developing and promoting the concept of MCPs in South Africa. Although there is some tension within the network over the issue of MCPs, the USN is positioning itself to advocate for the roll out of MCPs nationally. The USN has secured funding for these purposes from the Royal Netherlands Embassy. They are collaborating with the Department of Provincial and Local Government in this initiative. This two-year project will provide funding for the development of policies to create a conducive environment for MCPs, and for USN affiliates to employ staff to help municipalities to initiate MCPs. The USN has also received a grant from the UNDP programme on Public Private Partnership for the Urban Environment. This is a partnership project between BESG, USN, Msunduzi Municipality and the DPLG. It is also aimed at developing policy on MCPs and implementing MCPs.

BESG is currently involved in one MCP initiative in Msunduzi. The MCP is a three-way relationship between the municipality, BESG and community structures in three areas of the Msunduzi Municipality. BESG has been a driving force behind the MCP. It designed and conceptualised the project, obtained support from the municipality, and secured external funding for the initial phases of the project. In terms of the original conceptualisation of the MCP, BESG conducted capacity building with the community structures to assist them in overseeing the project. The model is clearly focused on providing support to and building the capacity of community organizations in their role as employers. Despite the fact that the workers are also drawn from the community, BESG has not done capacity building with workers, and does not think that municipalities would respond well, were it to help build the skills of workers to mobilize.

At the outset of the MCP, the community structures selected the workers, and initially functioned as the employer. However, in the current period, BESG is the employer of the workers and pays their monthly salaries. It also settles disputes related to issues such as pay and wages, and manages the project supervisors. BESG took on these roles as it felt there was a need to harmonize working conditions across the three sites, and because BESG management felt that supervisors drawn from the community were not able to effectively discipline workers with whom they live on a daily basis. Although the MCP is touted as a community-based initiative which is promoting participation and empowerment, at this stage, it is unclear what role the community structures are actually playing in the project.

In order to address some of the problems in the existing model, BESG plans on forming a section 21 company which would be comprised of representatives from BESG, the community and the municipality, to oversee the MCP in the future. Once formed, the section 21 company would be the employer of the workers. The motivation for forming the section 21 company is based on the perceived advantages of having: a common employer for workers in the three different communities; a cooperative structure involving all relevant parties; and all requisite skills and capacity in one structure. It should, however, be noted that the formation of such an entity would amount to a significant shift in the form and nature of the MCP. The roles and responsibilities of the different partners to the current contract would become blurred and unclear, and elements of community control would be diminished.



## **6. Conclusions**

Externalization has led to the creation of a formal-informal continuum within the South African municipal waste management sector. Coverage by labour laws and bargaining council agreements varies between workers employed by different types of employers and who perform different kinds of jobs. Many workers have been pushed into the informal economy due to the de facto denial of their rights. Examples also exist of disguised employment relations in the sector. While municipalities and workers directly employed by them are well organized and represented, the same cannot be said for other employers and workers in the sector.

Certain categories of employers in the municipal waste management sector are well organized. However, existing employer organizations are divided on the basis of the employer type and the racial composition of company ownership. Other categories of employers are not organized at all. While at least one private company and an NGO are attempting to support and build capacity of these employers, these initiatives are not necessarily achieving their stated capacity-building goals and these employers are not represented within membership-based organizations. There is a strong need for employer organizations to become more active in organizing these employers. In order to do so, they will likely require greater resources and infrastructure, and will need to address existing divisions between organizations that service primarily white-owned and primarily black-owned companies. Efforts will need to be made to ensure that organizations representing black-owned companies begin to engage with organized labour.

Experience in organizing municipal waste management workers employed by external providers in South Africa is limited. However, SAMWU is beginning to take a more focused approach to this issue. This research points to a range of issues that will need to be addressed in the development of a comprehensive strategy to organize these workers and improve their working conditions.

### ***Information on the sector***

Attempts by trade unions to organize informal and vulnerable workers in the municipal waste management sector will continue to be hampered unless the current dearth of information is addressed. There is a pressing need to gather and analyse both nation-wide and local statistics and information on issues such as: the number and types of externalization contracts; the numbers, size and characteristics of different kinds of employers in the sector; the numbers, occupations, and gender and racial characteristics of workers in the sector; the types of employment contracts in the sector; wages and benefits in the sector; and levels of unionization in the sector. Access to such information will assist trade unions in identifying key targets for recruitment strategies, as well as key issues faced by these workers, and factors which would need to be taken into account in recruiting and retaining them as members.

### ***Collaboration between unions***

The COSATU policy of “one industry, one union” makes organizing informal workers in the municipal waste management sector a complex undertaking. While workers employed by municipalities clearly fall within the organizing jurisdiction of SAMWU, there is less clarity when it comes to waste management workers employed by private companies, CBOs, NGOs, poverty alleviation projects and volunteer initiatives. While SAMWU has resolutions

affirming that such workers should be SAMWU members, the SATAWU Road Freight Coordinator believes that, once the service has been externalized, the workers should be organized by SATAWU. The fact that work contracted by municipalities comprises only a portion of the work conducted by private waste management companies further complicates the matter.

The two COSATU affiliates will need to reach clear agreements on the recruiting and servicing of members. If it is agreed that SAMWU is the appropriate home for these workers, then the unions will have to agree on a process to hand over the workers currently organized by SATAWU. It is critical, however, that such an agreement be based on a firm commitment by SAMWU to actually recruit and service these workers. It is of little value to reach political agreements over organizing turf that do not translate into sustained and vigorous campaigns to organize and service workers.

### ***Enforcement as part of an organizing campaign***

This report has highlighted the fact that many workers in the municipal waste management sector have been pushed into the informal economy due to non-enforcement of labour laws and bargaining council agreements. In recent years, unions such as the South African Clothing and Textile Workers' Union (SACTWU) have collaborated effectively with the Department of Labour to pursue non-compliant employers. These high profile raids helped to raise public awareness of the poor conditions of workers, and the penalties for non-compliant employers. A joint campaign between SAMWU and the Department of Labour could help to improve the conditions of waste management workers, sensitize Department inspectors who are charged with enforcing the BCEA to the problems in the sector, and assist in recruiting workers to the union. A similar initiative could be embarked upon with the RFBC whose agents are responsible for enforcing agreements within the sector.

### ***Collective bargaining***

Regardless of whom they are employed by, municipal waste management workers all perform similar tasks and duties (though some may use more labour-intensive methods). The only arguments raised by employer representatives to justify excluding workers employed by external providers from the SALGBC related to the fact that this would result in a large increase in wages and benefits for workers and would undermine the financial benefits of externalization. The fact that private waste management companies were recently shifted into the LGWSETA on the basis of SAWMEA's argument that the skills used by workers employed by private companies are the same as those used by workers employed by municipalities serves to reaffirm the rationale for including these workers in the SALGBC. Based on this precedent, as well as the scope of coverage included in the SALGBC constitution, it should be clearly established that all municipal waste management workers should fall under the auspices of the SALGBC. The SALGBC agreements would then need to be extended to non-parties within the sector. Given that there is currently a large disparity in the wages and benefits of waste management workers employed by municipalities and those working for other employers, the parties would need to agree on an approach to equalizing wages and benefits between these different categories of workers over time.

As noted above, the definition of scope of coverage of the SALGBC is currently subject to a dispute between the parties. To date, SAMWU's resolution on the scope of coverage and its lodging of a formal dispute together with IMATU have not been accompanied by an active campaign mobilizing members to support the inclusion of all

workers providing municipal services under the auspices of the SALGBC. Given the recalcitrant stand of SALGA, such a campaign could be vital to ensuring not only the extended understanding of the scope of coverage, but also, given the threat of SALGA's withdrawal from the SALGBC, the future viability of the SALGBC itself. It could also help to raise awareness among unionized municipal workers regarding the need to organize these workers.

### ***Reaffirming the responsibilities of local government councils***

Many workers reported that they feared reprisals and even dismissals would result if they attempted to join trade unions, and indeed numerous instances of such dismissals were reported. This is clearly a violation of rights enshrined in the LRA. Management and councillors in municipalities for which information is available (Sol Plaatje, Thabazimbi and Johannesburg) refuse to take responsibility for ensuring that the companies that they contract to provide waste management services comply with labour laws. Regulations should require municipalities to include compliance with labour laws and bargaining council agreements in contracts with external providers, and should as well require municipalities to monitor and enforce such compliance. This would not only create a more hospitable environment for unions, but would also make municipalities responsible for halting the slide into the informal economy by ensuring that workers access their legal rights.

### ***Revisiting the provincial poverty alleviation and volunteer projects***

The Ministerial Determination for Special Public Works Programmes was developed to protect the rights of workers employed on short-term poverty alleviation projects. However, within the waste management sector it is being used to create a new, vulnerable labour force which supplements, and indeed undermines full-time permanent employment in the sector. It is eroding, rather than creating employment, and is creating a layer of extremely vulnerable, informal workers. The poverty alleviation projects are, in particular, facilitating a minimisation of permanent posts in the street cleaning section, where virtually all women in the sector are employed. Through the poverty alleviation projects, women are gaining access to short-term, low-paid jobs without benefits, and are ultimately losing out on the prospect of full-time permanent employment in the sector. Volunteer initiatives are creating a similar dynamic in the sector. There is an urgent need to revisit policy on Special Public Works Programmes and Letsema and challenge their utilization to provide waste management services. If government continues to utilise poverty alleviation projects and volunteer initiatives to provide waste management services, it will be imperative for trade unions to launch a vigorous campaign to recruit and organize these workers and fight for their rights.

### ***Links with community organizations***

MCPs, small-scale black empowerment PPPs, volunteer initiatives, and provincial poverty alleviation projects are all firmly located within the community. Some community organizations, such as SANCO, and structures set up to run MCPs actively promote externalization. In the case of Msunduzi, BESSG and the community structures endorsed and promoted the lower wages paid to workers in the MCP. Other community organizations, such as the OWCC, actively oppose externalization and informalization, and are supporting informal workers in fighting for their rights. Community organizations can, therefore, play a pivotal role in either hindering or assisting unions to organize these informal workers. Unions will need to analyse the positions of specific community organizations, and develop strategies

to engage them, win them over to supporting the rights of informal workers, and work with them to recruit and organize these workers and protect their rights.

***Breaking down divisions between workers, and linking the organizing drive to the fight against externalization***

Externalization of municipal waste management is a form of privatization, which SAMWU actively opposes. Although its policy is clear that it should recruit all workers employed to provide municipal services (including workers employed via externalized waste management contracts), there is much confusion on the ground regarding this policy. Many shopstewards and organizers from SAMWU still see the workers employed by private companies, CBOs, etc., as enemies who are undermining their jobs. SAMWU needs a vigorous education campaign to ensure that all members, shopstewards and organizers are committed to recruiting, servicing and fighting for the rights of these workers. Organizing joint meetings for waste management workers employed by different employers could assist in breaking down these barriers, making links with workers belonging to other unions, recruiting new members, and developing joint strategies. This will require the union to overcome attempts by employers, such as management at Pikitup, to prevent workers employed by different companies from attending the same meetings.

Given that externalization is prevalent throughout the sector, and that a large number of workers are currently covered by the RFBC, SAMWU and SATAWU will need to work together to develop a comprehensive strategy which includes opposing externalization, fighting for the rights of workers once externalization has happened, recruiting and servicing these workers, and progressively transferring them to the SALGBC.

***Overcoming weaknesses in the unions***

Any drive to organize workers in the informal economy needs to be placed within the context of broader challenges facing the union movement. Membership of both SATAWU and SAMWU has decreased in recent years. Union representatives in both unions were candid in noting that the unions are failing to service and retain current members. Despite strong policy opposing privatization/externalization, SAMWU has done little to take forward a coherent, national campaign to prevent new externalization contracts in the waste management sector and terminate existing ones. A successful campaign to recruit and organize workers in the informal waste management economy will require strong policy, a well-defined campaign with committed human and financial resources, support in the form of education and capacity building, and serious political commitment to addressing the needs of vulnerable workers in the municipal waste management sector.



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## Annex 1: Individuals, organizations and institutions contacted in the study

Name	Organization/Institution	Date of interview
Ighsaan Schroeder	Khanya College	09/09/2003
Lindiwe Musane	Consultant, Zivuseni Poverty Alleviation Project	23/07/2003
Petros Mashishi	South African Municipal Workers' Union	11/08/2003
Abner Ramakgolo	South African Transport and Allied Workers' Union	11/09/2003
Dirk van Niekerk	South African Waste Management Employers' Association	15/09/2003
Reggie Nkosi	Phambili Wasteman; Black Waste Management Forum	17/09/2003
Bob Thobejane	South African Local Government Association; Johannesburg Council	30/09/2003
JJ (Bhubesi) van Rensburg	Independent Municipal and Allied Trade Union	3/10/2003
Riaz Jogiat and Mthoko Dlamini	Built Environment Support Group	7/10/2003
Councillor Frances Grantham	Msunduzi Municipality; BESG Board of Directors	7/10/2003
Daphney Zimu	Community Based Maintenance Committee, Msunduzi	7/10/2003
Workers on Community Based Maintenance Project	Community Based Maintenance Project, Msunduzi	7/10/2003
Kevin Perumal	Msunduzi Municipality, formerly South African Local Government Bargaining Council	8/10/2003
Richard Rajah	Waste Management Department, Msunduzi Municipality	8/10/2003
Desmond Mtolo and Themba Lyons	South African Municipal Workers' Union, Pietermaritzburg Branch	8/10/2003
Dino Singh	Independent Municipal and Allied Workers' Union, Pietermaritzburg Branch	8/10/2003
Basil Gratz	Road Freight Bargaining Council	10/10/2003
Jane Barrett	SATAWU	14/10/2003
Zama Nofomela	Department of Provincial and Local Government	14/10/2003
SAMWU Pikitup Shopstewards	SAMWU	15/10/2003





## **Annex 2: Guidelines for leadership interviews**

### **Note to interviewers**

The aim of the interviews is to get an in-depth understanding of who is organized and how, how the organization actually operates and what it really does – not just what the leadership people you interview think their organization should be doing or wish it was doing. This means that you need to get people to talk as concretely and honestly/self-critically as possible. We don't just want the official "line". So feel free to ask them how they know something or what makes them have a particular view. Obviously, you need to do this politely and in a way that builds trust.

When you ask people who they organize, you need to get as much clarity as possible about differences between workers in the informal economy. For example there may be workers who own their own informal operations (for example a street trading stall, a building subcontracting outfit, a home-based operation, a taxi). These people may work alone. Or they may be helped by family members – a husband, a wife, children, sisters, brothers, aunts, uncles, cousins. Or they may have people who are not family members who work for them (for example a stall assistant, a labourer, a machinist or ironer, a *gaatjie*). The people who work for them may be "employed" in a range of ways – regularly or irregularly; part-time or full-time; piecework, commission-based or hourly paid. We can refer to these different situations as differences in "employment status".

There are a couple of confusing situations to look out for. The first is that some organizations' members may see themselves as working for themselves – on their own or with others. But they may actually be dependent on a single customer (like a homemaker who sews clothing for one agent or company, or an owner-driver who provides transport for only one company) or a single supplier (like a street trader who relies on a soft drink or pantyhose distributor). The second confusing situation is where some members do dependent work as described above – as well as independent work. They may shift from one kind of work to the other in the course of a year (for example, a clothing homemaker may sew for a company in peak season and independently for her neighbours in between), depending on the season, or even during the same day (a taxi driver may drive for an employer by day, and use the taxi or a self-owned vehicle to work for his/her own account at night). So some organizations may organize both independent and dependent workers.

Get interviewees to describe how the organization understands employment status and ask them what the employment status of their members is. Don't be too concerned about terms – use the terms they use. What is most important is to find out what the terms they use mean about who the workers and members are and what they do. For example, some organizations may only be organizing people who own their own informal operations, and may not be reaching or representing the people who work for them. They may not be doing this on purpose. They may not even be aware of it. It may just work that way because people who own their own operation are more likely to be able to take time off and have the skills and knowledge to participate in organization, or access to facilities like a telephone. On the other hand, it might be their conscious decision only to focus on this group.

These guidelines are as general as possible. But in some cases they apply specifically to leaders of worker organizations and are geared towards the taxi industry. They can be adapted to your sector, and for use with employer organizations.

### **Organizational leadership interview guidelines**

#### ***Introduction***

- What is your position in your organization?
- How long have you served in this position?

- How does someone become a member of your organization?
- What are the criteria for joining and remaining a member?

### ***Organizational history***

- (For those previously organizing in the formal economy only...) Why did you start organizing in the informal economy? (For those set up to organize in the informal economy...) What factors or problems led to the creation of your organization?
- What is the organization's legal status (trade union, employer organization, NGO, not formally registered, other – specify)?
- What are the good and bad effects of having this legal status?
- Has this changed at all? Why? What good things came of any changes? Did the changes have any bad effects?
- On which levels do you organize (local/metro, provincial, national, international)?
- Which level did you start organizing on first? How did you progress? Why did you do it this way?
- What are the advantages of organizing on only this level/more than one level? What are the disadvantages?
- Is your legal status and level(s) of organization the same or different from other organizations in the industry?
- Why was the organization designed this way?
- What does your organization aim to achieve overall?

### ***Membership profile***

- Who do you organize in the sector?
- Who don't you organize in the sector? Why don't you organize them? Are these people in another organization?
- Do you also organize workers/employers in the formal economy?
- Did you start organizing workers/employers in the formal economy or informal economy first? How did you progress? Why did you do it this way?

*[For the following questions, ask for as concrete information as is available. If there are problems with the figures you are given, explain these in your report. If specific figures aren't available, ask for estimates, ask how they were worked out, and explain this in your report.]*

- How many members do you have:
  - by race and sex; [race and sex, at least, should be cross-tabulated if possible]
  - by income level;
  - by job category: [for example, in the taxi industry: drivers, administrators, washers, queue marshals, *gaatjies*];
  - by employment status (see common definitions);
  - by membership status: signed up or paid up;
  - by province.
- What is total employment in the industry? And what is your source for this? *[You may have this information from your document review. But you may also want to cross-check different sources, and get an understanding of what leaders know and how leaders see the position of their organization relative to the industry as a whole.]*

- by race and sex; [race and sex, at least, should be cross-tabulated if possible]
  - by job category: [for example, in the taxi industry: drivers, administrators, washers, queue marshals, *gaatjies*];
  - by employment status [describe how the organization understands employment status – don't worry about terms, worry about what they mean to your interviewee];
  - by province?
- How is your membership the same as that of other organizations in the industry? How is your membership different from that of other organizations in the industry?
  - Has your membership in the informal part of the sector increased or decreased? Why?
  - Has your membership in the formal part of the sector increased or decreased? Why?
  - What are the problems with statistics for employment and organizational membership in the sector?

### ***Organizing strategies***

- What is the main thing your organization does for its members (representing interests – bargaining, policy; service – marketing, training, pension, health; single issue-driven)?
- What else does your organization do for its members?
- What strategies for organizing in the informal economy have worked? Why?
- What strategies for organizing in the informal economy have not worked? Why?
- How are organizing strategies in the informal economy the same or different from those in the formal economy?
- What makes it easier or more difficult to organize in specific areas?
- What things make it easy or difficult to keep members once you have recruited them?
- What kind of public policies would help you to recruit more members and keep those you have recruited? [*Press interviewees to be as concrete as possible, e.g. if they say laws, ask what do you want the law to say and how will this help you?*]

### ***Organizational processes and capacity***

- Do members pay membership fees?
- How are they collected?
- What are your organization's main sources of funding?
- What percentage of your total budget comes from each of these sources?
- Who staffs your organization (employees and/or members who volunteer and/or outside volunteers)? How has this changed over the past year? How has this changed over the past five years?
- How many people are there in each category?
- Does the organization rely on outside organizations (e.g. labour support organization, research institutions, legal firms) for support, planning, management, negotiation, or representation?
- Does your organization have offices (national, provincial, local)? How many and where? Are these permanent or temporary, rented or owned?
- What office equipment do you have? If you had to buy one new item of office equipment, what would it be?

- Does your organization have a constitution?
- What leadership structures does your organization have?
- How is your leadership chosen?
- How are decisions made in the organization?
- If decisions are made at structural meetings, ask: How many times has each structure met in the past year? What was attendance at the most recent meeting of each structure like?
- How do ordinary members participate in the organization?
- What is the main method you use to communicate with your members?
- Is your organization contactable by telephone at the office? Is somebody there all the time to answer the phone? How else can your organization be contacted?

### ***Representation and voice***

- How many people are on each of your main leadership structure(s) (national, provincial and/or local)? How many of these are women?
- If your organization includes workers/employers from the formal *and* the informal economy, how many people on the leadership structure(s) operate in the informal economy?
- Are there any conflicts of interest between different groups of members (e.g. taxi members vs. public bus company drivers, between employers over routes, between long-distance taxi companies and others, conflicts that are defined in terms of race or gender)
- What has happened in these conflicts?
- What has the organization done?
- What are the particular interests and needs of women workers/employers in the industry?
- What has the organization done to meet these needs or address these interests?
- How has this changed over the past year? How has this changed over the past five years?
- Does the organization bargain around wages and conditions of employment with informal worker/employer organizations in the industry? Or are there other collective agreements that apply to informal workers/employers in the industry?
- How long has this been the case?
- What happens in the bargaining process? [*Probe to develop an understanding of skills, practices and systems. Also, ask about changes in the last year and the past five years (or longer) to catch changes from the apartheid institutional arrangements.*]
- Does the organization participate in policy-making forums where it interacts with government (local, provincial and/or national)?
- How and when did the organization get representation?
- What has happened in these negotiations/discussions? [*Probe to develop an understanding of skills, practices and systems relevant to members in the informal economy. Also, ask about changes in the past year and the past five years.*]
- Are there policy-making or rule-setting bodies (local, provincial and/or national) from which the organization has been excluded? Why?
- Where should the organization be represented?
- What will it take to win representation?
- What relationship does the organization have with other worker/employer organizations in the industry?

- Does the organization belong to a national or international federation? Why? What are the advantages and disadvantages of these connections?
- Does the organization interact with other NGOs? What does this interaction involve?
- Does the organization have any contact with international agencies? What does this contact involve?



## **Annex 3: Guidelines for focus group discussions**

### **Introduction ( $\pm 20$ minutes)**

*[Introduce yourself and say where you're from.]*

We have asked you to come here today because we want to learn about how to organize workers in the [ $>>>$ ] sector/like yourselves better.

Before we begin, I must explain that discussion in the group is informal and it is very important that everyone participates. There are no right or wrong answers. Even though I'm from [the union], I still want to know what is right about what we do and what we can do better. So relax and feel free to say what you really think. You are also free to disagree with one another.

We are taping the discussion, but that is just to help us remember your input. The discussion is confidential, so you don't need to worry about us using your name in our reports. Do you have any questions we need to clear up about how this discussion group works?

To start with it will be good for us to get to know something about each other. Please tell us your name, what work you do, and what is happening with your work while you are part of this discussion. *[Spend a bit of time on each participant, asking about their work history.]*

- How long have you been doing this work?
- What were you doing before?
- Were you a member of a worker or other organization before?

### **Opening discussion on joining the union ( $\pm 20$ minutes)**

Let's talk about how it was that you came to join the union. *[Make sure each person gets a turn to answer the first question so that everyone speaks, but be more flexible afterwards.]*

- How did you find out about the union?
- When did you join the union and what did you have to do?
- Was it easy or difficult to join?
- What do you have to do to stay a member of the union?
- When you joined, what did you hope the union would do for you?

### **Discussion about what the union does ( $\pm 30$ minutes)**

Now let's talk about what the union actually does.

- What happened after you joined the union? Has the union done what you expected?
- What are the main things the union does for you?
- What are things that the union doesn't do that you would like it to do?
- Are there things the union does that you think it shouldn't?
- Can you describe a typical member of the union? *[Probe for race, gender and give pen sketches of different types of informal workers according to job category and/or job status to see if there are certain categories of workers that are more likely to join, and others that are less likely to join. And how this relates to different organizing strategies.]*
- Why do they join? Why do others not join?

### **Discussion about how the union works ( $\pm 20$ minutes)**

Let's move on to talk about how decisions are made about what the union does.



- How does the union make decisions about what to do for its members and how to spend its money? [*Probe for workers' understanding of what the structures and decision-making processes are.*]
- Do you have any influence on what decisions are made?
- What can you do if you don't like the decisions that are made?
- How do you find out about what decisions have been made?
  
- What are the kinds of things that members disagree about in the union? [*Probe to understand if disagreements have anything to do with different interests of workers in the formal/informal economy or of different categories of workers or on race and gender issues as appropriate.*]
- What has happened with these disagreements? Were they resolved? Are they still there?

**Discussion about organizing strategies ( $\pm 20$  minutes – depending on what has been covered)**

The last part of our discussion is to make sure we get all your suggestions about how best to organize workers like you.

- What are the things that make the union strong for workers like you?
- What are the things that the union needs to improve to better organize workers like you?
- Are there opportunities for organizing more people like you, or for better serving members like you that the union could take better advantage of?
- What are some of the things that could make it difficult for the union to organize people like you?

**Concluding comments ( $\pm 10$  minutes – depending on how much time you have left)**

Take a minute to think about this, and then we can talk about it. Thinking about all the things we have talked about today, what do you think the union should be doing to recruit the most workers or serve workers in [ $>>>$ ] sector better?

Thank you all for making the time to come here and for participating in the discussion.

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