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Organizing in South Africa's Informal Economy: An Overview of Four Sectoral Case Studies

by

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InFocus Programme on Boosting Employment
through Small Enterprise 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/DECL), 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, four sectoral studies (on clothing, construction, street trading and taxi) have been conducted. This report places these four case studies in context and provides an overview of their findings. It is published under the series on "Representation and Organization Building" by IFP/SEED.

Organizing strategies in the informal economy are analysed in the general political, economic and social environment in which associations of informal economic actors operate. The South African context is a new democracy, having recently emerged from a history of apartheid and responding to economic globalization by lifting trade barriers and allowing increased capital mobility. Against this background the new institutional and legal framework is assessed, to gauge how conducive it is to enhanced organization and representation of informal economic actors.

This report was written by Tanya Goldman, researcher at CASE and coordinator of this country study research project. IFP/SEED supported this research and jointly with IFP/Declaration 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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Abbreviations and Acronyms

ANC	African National Congress
BCEA	Basic Conditions of Employment Act, 1997
CASE	Community Agency for Social Enquiry
CCMA	Commission for Conciliation, Mediation and Arbitration
COFESA	Confederation of Employers of South Africa
COSATU	Congress of South African Trade Unions
ECC	Employment Conditions Commission
FCWU	Food and Canning Workers Union
GDP	Gross Domestic Product
GEAR	Growth, Employment and Redistribution strategy
ILO	International Labour Organization
LFS	Labour Force Survey
LRA	Labour Relations Act, 1995
NACTU	National Council of Trade Unions
NAFCOC	National African Federated Chamber of Commerce
NALEDI	National Labour and Economic Development Institute
NATDO	National Taxi Drivers' Organisation
NEDLAC	National Economic, Development and Labour Council
NUM	National Union of Mineworkers
OHS	October Household Survey
SACCAWU	South African Commercial, Catering and Allied Workers' Union
SACO	South African Commuters' Organisation
SACOB	South African Chamber of Business
SACTWU	Southern African Clothing and Textile Workers' Union
SALGA	South African Local Government Association
SALRI	Southern African Labour Research Institute
SAMWU	South African Municipal Workers' Union
SANTACO	South African National Taxi Council
SATAWU	South African Transport and Allied Workers' Union
SEWU	Self Employed Women's Union
SMME	Small, Medium and Micro Enterprise
SNA	System of National Accounts
Stats SA	Statistics South Africa

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, 90th Session, 2002. ILO, Geneva, p. 120.

The ability of workers in the informal economy to exercise their right to freedom of association (establish or join organizations of their own choosing without fear of reprisal or intimidation) is critical to shaping regulatory frameworks and institutional environments that ultimately help informal workers and economic units to move into the formal economy. Lack of voice at work is marginalizing informal economic actors in the labour market and in society at large. This paper analyses strategies adopted by workers’ organizations – and to a lesser extent those adopted by employers’ organizations – to expand outreach and representation in South Africa’s informal economy. The paper is based on the findings of qualitative research conducted mainly throughout 2001 in South Africa, within the framework of an ILO interregional research project on organizing in the informal economy.

Four sectors were chosen for in-depth scrutiny: clothing, construction, street trading and taxi, in order to cover as wide a variety of conditions for organizing and organizing strategies as possible, with attention to a range of factors. First, the selected sectors differ in their relationships between the informal and formal economy. Second, their workforces differ in terms of gender composition. Third, some organizations within the sectors encompass those with a longer history of organizing informal workers (for example, construction) and others whose efforts are more recent (clothing). Fourth, the sectors have different relationships with different levels (referred to as “spheres” in South Africa) of government and other social institutions.

Organizing dynamics and strategies are analysed in the context of the general legal, institutional and economic environment in which informal economy actors and the organizations representing them operate.

The introduction of democracy in 1994 provided the opportunity to fundamentally restructure the labour relations system. Experience gained in implementing the post-1994 labour legislation exposed loopholes in relation to the realities of informal work both in the Labour Relations Act of 1995 (LRA) and the Basic Conditions of Employment Act of 1997 (BCEA). Recent labour amendments, which became law in August 2002, introduce a number of changes that are intended to provide a firmer basis for the organization of informal employees. A basic gap in the post-1994 labour legislation is that the definition of employee and employer explicitly excludes certain actors in the informal economy, such as self-employed and dependent contractors – a loophole employers have used to disguise employment relationships as commercial relationships. Two sets of changes to the law are intended to address this situation. An amendment to the BCEA now permits the Minister of Labour to deem any category of workers to be employees in terms of *any* employment law. Further amendments to both the LRA and the BCEA introduce a “rebuttable presumption” on who is an employee. Now, any person who earns under a certain income is presumed to be an employee, regardless of the form of contract the worker has with the work provider, if the

nature of the relationship meets one of seven criteria stipulated by the new law. Two LRA amendments are facilitating the improvement of conditions for informal employees through centralized collective bargaining in bargaining councils. These changes now allow bargaining councils to extend their services and functions to cover informal work. Thus, the legal tools are in place as a basis for organizing and bargaining around informal work. This creates the potential for organizations in bargaining councils to enter into agreements about payment, retirement funding, medical schemes, hours of work, safety and other conditions of employment for informal employees.

With democracy, new institutions were set up to create a partnership for economic development between government, business, labour and (sometimes) communities. At the national level, each constituency is represented in the National Economic Development and Labour Council (NEDLAC). Its four chambers deal with labour markets, fiscal and monetary policy, trade and industry, and development. The “community” constituency, composed of national organizations representing women, civic associations, youth, disabled people and cooperatives, is represented only in the development chamber, and as such is excluded from discussions on labour market and other economic policy matters. Nevertheless, NEDLAC has been an important forum for government, business and labour to develop a framework of labour legislation that is intended to accommodate the organization of informal workers and employers. At the local level, South Africa’s Constitution specifically gives local governments responsibility for local economic development and obliges them to consult with people – which would implicitly include street traders – in matters of local government. However, labour and business are not always explicitly included as constituencies of local forums.

Economic liberalization and resultant restructuring have threatened many of the gains South African workers have made since 1994. South African employers, in common with business in other countries, have responded to increased international competition by closing companies, retrenching workers and finding ways either to “casualize” employment or externalize production, often to informal operations. As a result, workers often face a downward pressure on wages and working conditions and greater threats to job security.

Compared with earlier surveys, the October Household Survey of 1999 shows an overall increase in the number of employed but a decrease in the number of those working in the formal economy. According to this source, 2,705,000 people were engaged in the informal sector¹ in 1999, of whom 1,544,000 were women. Of this total, 813,000 were employed by someone else in the informal sector. Another characteristic according to the Labour Force Survey of 2000 is that the African population working in the informal sector comprises one-third of all employed Africans and 7 per cent of all employed Indians and whites.

The case studies conducted for this research indicated that several affiliates of the Congress of South Africa Trade Unions (COSATU) have followed up on what COSATU’s 2000 National Congress identified as “a major and necessary challenge” – the recruitment and organizing of informal sector and atypical workers. The South African Transport and Allied

¹ As far as the statistical measurement of the informal economy in South Africa is concerned, data available cover the informal sector defined in terms of the characteristics of production units or enterprises in which activities take place, in accordance with the international definition adopted by the 15th International Conference of Labour Statisticians (ICLS) in 1993. However, Stats SA’s labour force survey (LFS), introduced in 2000, includes a range of questions which can be used within a wider interpretation of informal work and which better capture the process of informalization occurring in the labour market.

Workers' Union (SATAWU) has made considerable progress in recruiting minibus taxi drivers. The Southern African Clothing and Textile Workers' Union (SACTWU) has designed an organizing strategy but has only implemented a pilot organizing initiative. The National Union of Mineworkers (NUM) is still in the process of developing a strategy for organizing informal building workers. Meanwhile, the SEWU has distinguished itself by organizing women in the informal economy, mainly in the survivalist segment.

The only example of organizations of informal actors who have begun to recognize themselves as employers in the more traditional sense is provided by the taxi industry – the South African National Taxi Council (SANTACO). Interestingly, like some of the street trader organizations, associations of taxi owners are also involved in managing access to resources such as permits, routes and ranks. Organizations of employers in the formal economy appear to play an ambivalent role in relation to informal work. At the macro-level, employer representatives perceive the informal economy as the “panacea for development”. Some contend that this allows them to abdicate responsibility for preventing retrenchments and creating decent jobs. Others in formal business often make reference to “unfair” competition from the informal economy when arguing against improvements in working conditions for formally employed workers.

In terms of membership, the case studies indicate that informal workers are very weakly organized. Most worker organizations profiled in this research are registered as a trade union in terms of the LRA by virtue of their formal membership. The rights accrued by registering have been particularly important when dealing with employers who are hostile to trade union activities. While SEWU operates as a union, it is not registered as such with the Department of Labour and therefore is unable to make use of provisions in various labour laws. The case studies also show that informal workers join organizations to help them collectively tackle key issues (improving earnings and working conditions, distributing resources, advocacy and policy interventions, and facilitating access to benefits and services).

Changes to the legal framework can facilitate organization in the informal economy but do not remove the need to organize workers on the ground. To date, many efforts are new: while the legislation, plans and ideas are in place, the practice will take time to develop. If unions are to succeed, it will require a concerted effort to understand the particular conditions of informal workers, the investment of considerable resources, and specific mechanisms to ensure that their voices – particularly those of women informal workers – are heard clearly within organizations and more widely within society.

1. Introduction

1.1 Background

The right to freedom of association

The right to freedom of association is one of the fundamental labour rights promoted by the International Labour Organization (ILO). It is set out in the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and refers to the right of all workers and employers to establish and join organizations of their choice without fear of intimidation or reprisal.

The right to freedom of association is a fundamental human right. Through collective organization people can have a say in policy processes affecting their work and living conditions. This ability to exercise choice is one key component of human dignity. In addition to being a fundamental human right, the ILO sees it as an enabling right in that it paves the way to the exercise of a range of other rights at work (ILO, 2000). For example, having a worker organization helps employees to enter into consultation and negotiation with business people in order to obtain labour securities such as a safe working environment, regular and decent incomes as well as working conditions. Organization and representation also make it possible for workers to lobby policy-makers on issues such as economic policy, labour law, taxation and social security. Having an organization also makes it easier for business operators to participate in such processes. The exercise of this right is also good for governments, because it lays the foundations for concerted action that can help economic growth and poverty reduction. Because of its enabling character, the right to freedom of association is regarded as fundamental to sustainable and equitable development in that it contributes to distributive justice, democracy and social cohesion.

The right to freedom of association in the informal economy

Evidence from around the world shows that the right to freedom of association is often denied to those operating in the informal economy, particularly employees and self-employed survivalists workers (Lund and Srinivas, 2000).

Sometimes the right is denied *de jure* because informal economic activities and workers are not covered or insufficiently covered by law. Categories of actors specific to the informal economy – such as self-employed survivalists working for their own account, dependent contractors, unpaid family labour – are often not catered for when the right to freedom of association is codified in law or exercised through institutional representation. Some categories of actors – such as domestic workers and casual or more regular wage labour in small and micro-enterprises – may be only partially and inadequately covered under labour legislation.

At other times, the right to freedom of association is denied in practice in the informal economy even though it is recognized in law. This is likely to be, at least in part, because the precariousness and volatility of informal activities and undertakings create extremely difficult conditions for organizing. The opportunity cost entailed by participating in the activities of an organization often discourages active involvement by informal economic actors. For example, self-employed survivalists will lose money if they take time off to participate in organizational activities. Women's multiples roles and responsibilities at work and at home

and their unequal position relative to men in the labour market and in society make it even more difficult, yet also more pressing, for women in the informal economy to organize. In addition, inappropriate enforcement or monitoring of legal and administrative frameworks may also hinder organizational processes in the informal economy.

Organization in the informal economy may be further hampered in contexts where informal economic actors hold different employment statuses at the same time, change occupation frequently, and/or are engaged in employment relationships based on kinship or family ties.

Effective representation is important for actors in the informal economy as it can:

- improve access to assets, facilities, public and private services, and markets;
- lessen vulnerability to income loss, harassment, and arbitrary and abusive treatment;
- enhance business stability and ultimately promote higher productivity;
- promote social equity and more efficient allocation of public resources; and
- encourage greater social cohesion.

The ILO policy approach to the informal economy

The ILO's long-standing concern with the promotion of the right to freedom of association and its commitment to all workers, without distinction whatsoever, has regained new impetus in recent years with the endorsement of the Decent Work Agenda. Decent work means productive work, in which rights are protected, which generates adequate income and is sufficiently secure (ILO, 1999). It is in the informal economy that problems and constraints to decent work are most serious. Poor-quality, unproductive and non-remunerative jobs, characterized by inappropriate social protection and by the absence of voice and representation, as well as other rights at work are prominent features of the informal economy.

At the General Discussion on Decent Work and the Informal Economy in June 2002, the International Labour Conference reiterated the commitment of the ILO and its constituents to making decent work a reality for all workers and employers and adopted an approach based on decent work deficits to achieve this goal. "An approach based on decent work deficits has considerable merit and should be pursued. The ILO approach should reflect the diversity of situations and their underlying causes found in the informal economy. The approach should be comprehensive involving the promotion of rights, decent employment, social protection and social dialogue" (ILO, 2002a, p. 59). Within the four mutually reinforcing dimensions of decent work, the freedom of those working in the informal economy to organize and to collectively voice their concerns and aspirations is critical to bring about long-lasting and far-reaching changes. Indeed, the representational gap resulting from the lack of effective voice institutions and mechanisms is deemed to be "one important reason for their [those in the informal economy] inadequate legal and social protection and their lack of access to productive assets, capital and product markets, training systems, public services and amenities" (ILO, 2002b, p. 73). Against that background, a clear challenge lies in devising and implementing policies and programmes aimed at "bringing marginalized workers and economic units into the economic and social mainstream, thereby reducing their vulnerability and exclusion" (ILO, 2002a, p. 57). Making informal workers and operators visible and giving them voice is a fundamental stride towards the achievement of this goal.

Traditionally the specialized literature on the informal economy has placed great emphasis on the supply constraints confronting economic units in the informal economy. However, the lack of representation has been largely ignored as an obstacle to improving economic performance and productivity gains. Understanding the dynamics of the informal economy and its relations to the formal economy, the reasons why informal economic actors organize and act collectively, as well as factors favouring or hampering the emergence of genuine and representative organizations is crucial for the development of policy interventions conducive to poverty reduction and decent work.

With this goal in mind, in 2001 the ILO launched an international research project to gain insights into the representational 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 a deeper understanding of the nature of member-based organizations in the informal economy, their strengths and weaknesses, the factors that make it easier for them to function effectively and those that hinder their performance as effective institutions of “voice”. The research is rooted in the assumption that social justice is a natural corollary to economic justice and the effective exercise of representational rights in the informal economy engenders positive economic and social outcomes that ultimately can contribute to the narrowing of the formal-informal divide.

This research is part of the ILO’s broader ongoing effort to:

- identify factors shaping organizational processes in the informal economy, as a key means of upgrading labour standards to provide decent work for women and men;
- enhance the capacity of policy-makers, trade unions and employers’ associations to cater for the needs of informal economic actors and address them appropriately;
- acquire a better understanding of the participatory processes and ways of engaging that enable informal economic actors to have a recognized voice in decision-making structures and influence policy decisions in their favour; and
- devise actions and methods to help informal economic operators and workers increase their representation in employers’ organizations and trade unions and/or establish other democratic representative associations.

1.2 Research aims

The overall objective of the research reported here is to map organizational strategies – of worker organizations, but where appropriate employer organizations too – in South Africa’s informal economy, with a focus on how these strategies:

- build strong and sustainable organization at local and national level;
- ensure the inclusion of poor women and that their interests are addressed;
- empower informal economic actors with representational voice, as well as access to and influence over decision-making processes affecting them; and
- reduce the vulnerability of informal economic actors by enhancing their access to facilities, services, public institutions, markets and other resources.

An additional objective of this ILO research project is to strengthen local capacity for participatory and qualitative research on representational rights in the informal economy by fostering cooperation between different research institutions with a similar interest in improving working conditions in the informal economy. The Community Agency for Social

Enquiry (CASE) was commissioned to conduct this South African country study in partnership with the Southern African Labour Research Institute (SALRI).²

Such an approach presents a number of advantages. Partnership and dialogue between institutions enable them to draw on different strengths and learn from each other. On the one hand, the involvement of an institution experienced in primary research builds capacity to do this in institutions where there is not a specific focus on research methodology. It allows for a better research product by contributing experience in integrating primary research findings and writing reports for a wider audience than internal organizational documents or policy proposals usually address.

On the other hand, close institutional links with the labour movement ensure that the research is firmly grounded in organizational reality and enable worker organizations to engage in the process in more depth. The links broaden input into the research, facilitate access for fieldwork, and encourage stakeholder ownership of the research and dissemination of the research findings.

1.3 Research focus

Mapping organizing strategies in context

The research explored organizing strategies of membership-based associations through four sectoral case studies. The priorities were to:

- identify the motives behind the creation of the associations, their type and legal status;
- examine the organizational structure of the associations, their functioning and performance in terms of financial viability and services offered to members;
- assess the capacity of the associations to deal with coordination and management issues, and resolve conflicts among members;
- examine the representational stability of the associations, based on their accountability to members, responsiveness to members' needs, ability to foster cooperation among members, legitimacy in the eyes of public authorities, and interaction with non-governmental actors;
- identify the policy and institutional factors that encourage or hamper organizational processes and representation in the informal economy; and
- analyse gender-specific issues within the organizational and representational processes in the informal economy.

The organizing strategies were interpreted in the context of the general economic, social and political environment in which the associations of informal economic actors operate. The South African context is a new democracy, having recently emerged from a history of apartheid, responding to economic globalisation by lifting trade barriers and allowing increased capital mobility. In particular, an effort is made to understand the new institutional and legal framework and how associations in the informal economy relate to it.

² CASE is a non-governmental organization specializing in applied social research, with extensive experience in the areas of labour and gender. SALRI has direct links with the labour movement and was set up specifically to provide a range of applied research services to labour. The institute has an interest in building research capacity on issues relating to the informal economy within the labour movement.

The research has an urban focus. Within each sectoral case study, organizations in at least two urban centres are examined to enable comparison.

Selecting case studies

The four sectors chosen for the research are clothing, construction, street trading and the taxi industry. In the choice of sectors, an effort was made to cover as wide a range of conditions for organizing and organizing strategies as possible, with attention to a variety of factors.

First, the sectors involve different relationships between the informal and formal economy. For example, the informal taxi industry developed in the absence of adequate formal transport services for black communities. On the other hand, outsourcing to informal homeworkers in the clothing industry is a business strategy actively pursued by formal establishments. Some see street trading as competition to formal retail outlets; others see it as catering for different needs and supplying goods and services at affordable prices to low- and middle-income population groups. Much of the informal work in the construction industry is done through labour-only subcontracting.

Second, the sectors differ in terms of the gender composition of their workforce. The clothing industry and street trading serve as examples of sectors that are important employers of women. To enable further exploration of possible gender differences in strategy, the clothing industry provides an example of a female-dominated sector, and the construction industry of a male-dominated sector. The street trading and the clothing industry studies describe an example of a women-based association.

Third, organizations within the sectors include some with a longer history of organizing informal workers, for example in the construction industry, and some whose efforts are more recent, for example in the clothing industry. Each case study includes efforts by trade unions to organize in the informal economy, although the street trading research focuses on other types of organization because of their relevance to workers in the sector. The taxi industry case study provides an example of a relatively strong employer organization.

Fourth, the sectors have different relationships with various levels (referred to as “spheres” in South Africa) of government and other social institutions. For example, local government is an important target for advocacy in the street trading sector, whereas campaigns in the clothing industry have been focused on influencing national government policy through national tripartite processes.

More detailed background on each sector and the related focus of the sectoral research is provided in Part 2, which looks at the context for organizing in South Africa’s informal economy.

Selecting organizations

Within each sector, the research audited the organizations operating in the informal economy. It did so, as far as possible, within the criteria set out by the ILO:

- a minimum existence of three years – a proxy measure of relevance to members on the assumption that associations would not survive for this length of time in such a difficult context without member support;

- financial and political independence – intended to ensure a legitimacy that can only come from membership and the members’ interests as represented by the organizations, and which cannot be easily co-opted by government or other interest groups;
- membership of not less than 500 – a measure of representativeness needed to create the critical mass required to defend members’ interests and achieve social and economic change; and
- licit organizations – excluding organizations that pursue criminal objectives, as the intention is to identify organizations that generate positive instead of negative results for the rest of society.

A comprehensive audit was achieved in the clothing, construction and taxi case studies as far as the researchers are aware. For the street trading case study, a different approach was adopted because previous research had audited organizations in the sector.

The organizations covered in each sector are set out in Table 1.1 below.

Table 1.1: Organizations covered in the case study research

Case study	Worker organizations	Employer organizations
Clothing	Southern African Clothing and Textile Workers’ Union (SACTWU)	
	Self Employed Women’s Union (SEWU)	
Construction	Amalgamated Union of Building Trade and Allied Workers of South Africa (AUBTWSA)	African Builders’ Association (ABA)
	Building, Construction and Allied Workers’ Union (BCAWU)	South African Subcontractors’ Association (SASCA)
	Building, Wood and Allied Workers’ Union of South Africa (BWAUSA)	
	National Union of Mineworkers (NUM)	
Street trading	Gauteng Hawkers Association (GHA)	
	Informal Traders Management Board (ITMB)	
	Self Employed Women’s Union (SEWU)	
Minibus taxi industry	South African Transport and Allied Workers’ Union (SATAWU)	South African National Taxi Council (SANTACO)
	National Taxi Drivers’ Organisation (NATDO)	

Where appropriate, organizations that did not meet all of the ILO’s criteria were included because they were of particular interest or because few, if any, organizations fitting the criteria existed in the given sector. For example, in the construction study, neither employer organization met all the criteria: SASCA has been operating for only just over two years and ABA had limited membership. In the taxi industry, SANTACO had only recently been formed. Yet the experiences of, and difficulties faced by, these organizations hold important lessons. The South African Commuters’ Organisation (SACO) is neither a worker nor employer organization. It was included in the taxi case study because it is membership-based and aims to voice the transport needs of poor black communities which were neglected under apartheid.

1.4 Case study methodology

Research team

Both CASE researchers involved in managing the project previously worked in the labour movement. The research was coordinated by Tanya Goldman who previously worked for Southern African Clothing and Textile Workers' Union (SACTWU) as a researcher in the areas of industrial and trade policy, skills development and employment, and did administrative coordination work for the Congress of South African Trade Unions (COSATU).

Debbie Budlender of CASE supervised the research. She serves on the Employment Conditions Commission (ECC), which advises the Minister of Labour on basic conditions of employment for marginalized workers. At the time, Debbie Budlender was seconded part-time to Statistics South Africa where she worked to integrate gender issues in the agency's work. She worked in the forerunner of the Transport and General Workers' Union and in the Food and Allied Workers' Union in the 1970s and 1980s when the independent labour movement emerged in South Africa.

Mark Bennett coordinated SALRI's participation in the research and conducted the clothing case study.³ He has been a trade unionist for over ten years, many of which were spent working in SACTWU. He has extensive experience in the areas of trade and industrial policy, union organization and bargaining. Mark Bennett represents SACTWU and the labour movement on a number of national tripartite structures.

Originally the construction case study was to be conducted by researchers in the National Union of Mineworkers (NUM) that had recently merged with the Construction and Allied Workers' Union (CAWU). However, they did not have the necessary capacity, and initial work done by NUM researchers was used as a starting point for CASE researchers to complete the case study. Tanya Goldman of CASE wrote the report.

In the absence of research capacity in the South African Commercial and Allied Workers' Union (SACCAWU) or in the Self Employed Women's Union (SEWU), an independent researcher, Shirin Motala, was contracted to complete the street trading case study. She has previously conducted work on street trading and the informal economy for a range of organizations.

Jane Barrett conducted the taxi industry case study. She works as policy and research officer in the South African Transport and Allied Workers' Union (SATAWU) and was previously the General Secretary of one of SATAWU's predecessors. She has been working in the labour movement's transport sector for the past 20 years, including at the international level where she worked for the International Transport Workers' Federation (ITF).

³ SACTWU has developed its internal capacity to conduct research for organizational purposes over a number of years. These efforts led to the formation of SALRI, located in SACTWU's head office, in early 2000. SALRI has provided applied research support mainly to SACTWU, but has also been involved in research and processes that assist the labour movement more broadly, for example in the area of trade policy and the "Buy South Africa" campaign.

Methods and instruments

The terms of reference for each sectoral study were developed in close consultation with the relevant COSATU union. This decision was made on the basis that COSATU is the only trade union federation in South Africa to have adopted a programme for organizing in the informal economy, and collectively its affiliates have the most experience and capacity in this area. It is also the largest federation, accounting for approximately two-thirds of the total membership of unions affiliated to a national federation. The key role of COSATU is discussed in more detail in section 5.1 on worker organizations and their approach to the challenge of organizing in the informal economy. Where appropriate, other researchers in the field were also consulted. For the street trading case study particularly, where SACCAWU had limited experience, Caroline Skinner at the Centre for Development Studies at the University of Natal in Durban provided extensive input based on her experience of working with SEWU and the City of Durban on issues affecting street traders.

The sectoral case studies used documentary review and key informant interviews to develop an understanding of the economic, social and political environment in which organizations in the informal economy operate, and to identify organizations in each sector that met ILO criteria. For the clothing and taxi industry case studies, the trade union researchers also drew on their own in-depth knowledge as actors in the sectors.

The strategies adopted by each organization identified were studied through interviews with organizational leadership. In addition, focus group discussions were conducted with ordinary members of these organizations to gather their views. In the street trading sector a series of interviews with traders was conducted because focus groups would have taken the traders away from their stands and jeopardized their earning potential. For the construction study, where informal workers were not in any organization in great numbers, focus groups were conducted with formally employed union members and workers seeking employment in the building industry.

Detailed leadership interview and focus group guidelines were developed by CASE in consultation with SALRI and the ILO, and adapted for each sector by the case study researchers. These are reproduced in Annexes 1 and 2 of the present report.

Timeframes and conditions

Almost all of the fieldwork for the clothing, street trading and taxi industry case studies was completed between August and November 2001, and draft reports written by the end of 2001. Some follow-up work was done on the taxi industry study in 2002. Initial fieldwork for the construction study was conducted in August and September 2001, but most of the fieldwork that contributed to the report took place in April and May 2002. The report was completed in June 2002.

In the original plan, the fieldwork was to be completed by the end of August 2001. However, mid-year strikes as a result of annual wage negotiations, COSATU's anti-privatization campaign and union congresses held during this period delayed the process. The priorities of union researchers are set by organizational structures, and this makes it difficult for researchers to predict their availability for this kind of research. Projects of this nature need to be structured so as to accommodate these difficulties.

In the clothing industry and construction industry, informal workers are still largely outside of organization. As a result, setting up focus groups with these workers through union organizers was not an easy task. The clothing case study researchers did not manage, despite numerous efforts, to speak to unorganized informal clothing workers in one site. All workers approached were frightened to talk for fear of losing their work if it became known they had spoken on issues relating to union organization. At the other site, a first attempt at running a focus group on a Saturday afternoon failed because the homeworkers had to work overtime. Eventually, homeworkers were offered compensation for lost earnings, collected from and returned to their homes, and given supper in order to facilitate participation in the discussion. Two focus groups for the construction study were set up independently of union organizers, by recruiting participants who were hoping to be picked up for work at the side of the road in the morning. Another was facilitated by a NUM shop steward at a building company plant yard where work seekers wait at the company gates.

Despite the difficulties encountered in setting up focus groups, the involvement of organizers and shop stewards in the process gave them valuable experience to start thinking through the issues related to organizing informal workers.

For the street trading sector, a focus group was organized through SEWU at the site where most of SEWU's members are located. This was conducted after trading hours. At the other site, where a range of organizations operate, the arrangements for interviews proved a more difficult task despite the support provided by the organization concerned in facilitating the process.

Taxi drivers were most easily recruited to participate in the focus group by the local organizer since they were all SATAWU members. They gave up their time freely to participate in the discussion, which was conducted in the union offices for three hours. But the timing of the discussion still had to be sensitive to their work pattern. It took place from mid-morning until lunch, which is considered an off-peak period.

Limitations and challenges

NUM, SACTWU and SATAWU are all affiliates of COSATU, South Africa's biggest trade union federation. The strong alignment of the case study researchers with particular organizations may mean that a greater emphasis has been placed on these organizations in the research. This may be justified by the key role of these organizations in the sector as a whole, for example in the clothing case study.

The potential bias arises also, in part, simply because the researchers had access to more information about their own organizations. In the taxi industry case study, the researcher had difficulty obtaining detailed information from the organizations outside SATAWU. However, in the construction and street trading case study, researchers with no direct organizational links also struggled to get cooperation from some organizations. The reasons for this appeared to be the capacity of these organizations to accommodate interview requests, and a related insecurity around providing information to outsiders without any direct and immediate benefit to their organizations, regardless of the outsider's affiliation.

Despite these limitations, the researchers' organizational links strengthened the research in other respects. They contributed in-depth, and often undocumented, knowledge of their sector, as actors in it. Further, they brought sensitivity to issues of organization and

strategy that is often limited in researchers who have not had practical organizing experience. Annex 3 provides a note on some additional insights into the overall research process and methodology adopted in conducting this research project in South Africa. The note critically assesses what worked and what didn't in the practical implementation of the research work with a view to distilling lessons in terms of tools and good practices, what to avoid in future research of this nature and what can be recommended for more effectively building up the knowledge base on organizational processes in the informal economy.

1.5 Structure of this report

This report places the sectoral case studies in context and provides an overview of the findings. Part 1 presents the underpinning thrust of the ILO research on organizing in the informal economy and highlights the objectives and methodology used in the country study of South Africa. Part 2 provides a brief outline of the political and economic context in which organizations in South Africa's informal economy operate. It also provides background to each of the sectoral case studies within this context. Part 3 attempts to develop a conceptual framework for understanding informal work and examines the nature and size of South Africa's informal economy. The legislative and institutional framework for organizing are analysed in Part 4. Part 5 provides an overview of organizing efforts from the case studies while Part 6 outlines the strategies used and issues confronted in organizing in the different sectors. Finally, Part 7 draws some conclusions on strategies and environmental factors that encourage or hinder organization in the informal economy, as well as issues that need to be explored further.

2. Context

2.1 Democracy

Apartheid in South Africa divided communities according to four major racial categories: African, coloured, Indian, and white. The first three categories, which currently constitute 77 per cent, 9 per cent and 3 per cent respectively of the total population, are commonly referred to by the generic term “black”. Under apartheid, all black people were denied basic human rights and citizenship, including worker rights (Statistics South Africa, 2000, p. 6). The difference in regard to racial discrimination between South Africa and countries such as North America and Europe is that racial inequity, discrimination and the denial of rights have disadvantaged the majority. The issue here is not about the treatment of ethnic minorities. Further, in South Africa this discrimination was entrenched in laws to an extent not found in other countries.

The struggle for worker rights in South Africa was very much part of the majority’s struggle for democracy. However, since 1994, worker rights are no longer conflated with black people’s general right to citizenship to the same extent as they were during the apartheid era. While worker rights are now enshrined in South Africa’s Constitution and labour laws, an emphasis on black business ownership under democracy means that in some ways broad societal support for worker rights has weakened.

South Africa’s Constitution, adopted after the first democratic elections in 1994, includes the right to freedom of association, and specifically the right of every worker to join and participate in the activities of a trade union, and the right of every employer to join and participate in an employers’ organization. The Constitution uses the wider term “worker”, rather than the narrower “employee”. It thus gives own-account workers the right to organize, even though this category of worker is not specifically addressed.

The introduction of democracy in 1994 provided the opportunity to fundamentally restructure the country’s labour relations system. When the new labour legislation was drafted, South Africa was able to draw on international best practice. The new labour legislation aims to ensure that the right to organize can be exercised by workers and employers. However, these laws sometimes use the narrower term “employee”. The legal framework and how it relates to organizing in the informal economy is addressed in this research. The post-1994 labour laws are described in section 4.2, and section 6.1 addresses the legal strategies that trade unions are pursuing for organizing in the informal economy.

Under democracy, a variety of new institutions have been set up at national, provincial, local and sectoral level to create a partnership for economic development between government, labour, and business, and sometimes communities. These are described in more detail in section 4.1. The extent to which workers and employers in the informal economy are able to influence policy through these institutions is an issue raised in the discussion on organizing strategies in section 6.

2.2 Economic policy

The process of restructuring South Africa’s labour relations system as outlined above unfolded at a time when, internationally, labour rights were under pressure due to economic globalization. Under apartheid, South Africa pursued protectionist economic policies aimed at

boosting local industry through import substitution. The economy was further closed to international competition by economic sanctions in opposition to apartheid. South Africa reintegrated into the global economy in the 1990s, lifting trade barriers and opening the economy increasingly to international competition. The Reconstruction and Development Programme (RDP) introduced after the 1994 elections emphasized local investment, including public sector investment in infrastructure, as a means of kick-starting growth in the South African economy. But the emphasis of the post-apartheid government's Growth, Employment and Redistribution (GEAR) strategy, which was introduced in 1996, is on export-led growth. Increased competition through accelerated trade liberalization is a key part of this programme.

Many of the gains South African workers have made since 1994 are threatened by economic liberalization and resultant restructuring. South African employers, in common with business in other countries, have responded to increased international competition by closing companies, retrenching workers, and finding ways to casualize employment or externalize production, often to informal operations. As a result, workers often face a downward pressure on wages and working conditions, and greater threats to job security.

The October Household Survey (OHS) of 1999, when compared with earlier surveys, shows, for example, an overall increase in the number of employed people, but a decrease in the number of those who are in the formal economy. The official formal establishment surveys confirm this ongoing decline in formal employment. Examples of how the informal economy can grow at the expense of formal jobs include the following:

- formal companies across a range of sectors externalize work by outsourcing certain functions like catering, cleaning, security and transport to informal operators;
- formal clothing companies retrench machinists and then contract their work out to homeworkers; and
- formal building companies retrench workers and then use the services of labour-only subcontractors.

In these situations the reality is that jobs are not necessarily destroyed – informal jobs increase while formal jobs decrease – but the restructuring process involves an overall decrease in the standard of living of workers, as informal jobs tend to leave workers worse-off than they were in formal jobs.

South Africa's unemployment rate is high. Even by the narrow official definition,⁴ unemployment stood at 26.7 per cent in February 2000. The expanded definition⁵ puts unemployment at 35.5 per cent for the same year. Unemployment is highest among Africans at 31.6 per cent in 2000. African women in urban areas have the highest official unemployment rate, at 40.2 per cent (Stats SA, 2001, p. 8).

GEAR has failed to meet its growth and employment targets. The intention was to reverse the upward trend in the unemployment rate and for 409,000 jobs to be created each year from 2000 onwards. However, OHS figures show that 162,000 formal sector jobs were lost between 1997 and 1999. GEAR's failure to even halt formal job losses, let alone create the targeted number of jobs, has pushed more people out of formal employment and increased

⁴ In terms of the official definition, the unemployed are people who did not work in the seven days prior to the interview, are available to start work within a week of the interview, and have taken active steps to look for work or start some form of self-employment in the four weeks prior to the interview.

⁵ This includes those who have given up looking for work because they have lost hope or because the search is beyond their financial means.

the pool of unemployed likely to engage in informal economic activity. Research by the Women's Budget Initiative (Valodia, 1996 and 1998) suggests that women's employment is likely to be most negatively affected by GEAR's trade reforms.

High rates of unemployment and poverty in South Africa mean that most people who work informally do so as a last resort. A recent study on entrepreneurship estimates that 50 per cent of entrepreneurial activity – formal and informal – in metropolitan areas and 83 per cent in rural areas is driven by a need for basic survival. This is racially skewed – it is estimated that 66 per cent of entrepreneurial activity among blacks is survival-driven compared to 23 per cent among whites (Driver, Wood, Segal and Herrington, 2001). Many also place their hope in the informal economy for job creation, even though – or because – it is the option of last resort.

During the apartheid era, most African people were prevented from being in business by repressive legislation. The few that managed to run businesses were mostly confined to the informal economy and were engaged in these activities as part of a survival strategy. In this context, the RDP presented a vision of economic policy based on democracy, participation and development. Support for small and micro enterprise is identified in the RDP as one of several ways to address extreme inequalities in incomes and wealth, and expand productive opportunities for black people and women particularly:

“Micro producers should develop from a set of marginalised survival strategies into dynamic small enterprises that can provide a decent living for both employees and entrepreneurs.” (RDP, 1994, p. 94).

The RDP – which is a broad vision and generally lacks detail on implementation strategies – calls for an integrated approach to overcoming the constraints small, medium and micro enterprises face, including specific elements such as a review of government procurement policy and an increase in the number of local SMME service centres, particularly in rural areas.

In South Africa, formal businesses often frame restructuring initiatives involving retrenchments and externalization as efforts to promote black economic empowerment as envisaged in the RDP. Yet many forms of externalization, including outsourcing to informal businesses and casualization of employment, implemented by formal businesses tend to disempower workers, most of whom are black. This issue has not been confronted openly in government trade and industrial policy, which focuses primarily on competitiveness. Government procurement policy emphasizes affirmative action for black-owned businesses without taking adherence to labour legislation and labour standards into account.

Theron (2000) argues that restructuring under the guise of black empowerment has weakened trade union organization. He concludes that the lack of strong opposition from organized labour is, in some cases, because shop-floor leaders of the trade unions benefit as individuals from such restructuring initiatives, and this undermines worker solidarity and the credibility of the unions. Specific evidence of this did not emerge in the case studies for this research. Union leaders claim their organizations have moved to discipline shop-floor leaders who have not served workers' interests in negotiations around restructuring or outsourcing because they have hoped to gain personally from the process.

The assumption underlying many SMME support policies and programmes is that the informal economy is a space for entrepreneurship development. In South Africa there is often a further assumption that, if black people are given the chance to participate in informal economic activity, their businesses will necessarily flourish and eventually become part of the formal economy. Underlying this view is a deeper assumption that the lack of black advancement in the past was primarily a result of apartheid laws, as opposed to economic forces, which continue and have increased in intensity.

Figures for 2001 indicate that more than three-quarters of informal economy workers earned ZAR 1,000 per month or less, whereas slightly than one-quarter of formal economy workers are in this income category (Meth, 2002). Survivalist activity is located in low-profit markets and these businesses are unlikely to develop and grow. This feature of the informal economy has a gender dimension, in that women are more likely to be involved in activities which are under-valued and therefore have low profit margins. Research suggests that the success rate of start-up businesses in South Africa is extremely low compared to other countries, even other developing countries (Driver et al., 2001).

A weakness in many countries' policies and programmes is for SMMEs to be dealt with uniformly, regardless of the sector in which they operate or their level of sophistication (Tendler, forthcoming). In South Africa this tendency is exacerbated because SMMEs are often conflated with black-owned businesses and seen as worthy of support and requiring the same types of support, regardless of other characteristics. Thus far, national, provincial and local government programmes to support small, medium and micro enterprises have not distinguished appropriately between the different needs of micro enterprises on the one hand and small and medium businesses on the other. This was recognized by the Women's Budget Initiative as early as 1995/6 (Valodia, 1996) and is now more widely acknowledged (*Mail and Guardian*, 28 June to 4 July 2002). It appears that policy and legislation, including trade and industrial policy and labour, have had little direct impact on the performance of the SMME sector as whole in terms of output or employment. Potential indirect effects are not clear from the limited data available (Mollentz, 2002).

Post-1994 Department of Trade and Industry policy, intended to implement the intentions of the RDP, specifically identifies support to women's advancement in all business sectors as one of its key objectives and acknowledges that women are heavily concentrated in the survivalist segment of the economy. But its interventions offer little if any concrete support to women survivalists (Skinner and Valodia, 2001). At the same time, the pattern of employment in South Africa's SMMEs indicates a growing and large number of survivalist enterprises providing a precarious living for many who work under poor labour conditions (Mollentz, 2002).

2.3 Sectoral background

Within the political and economic context outlined above, informal work in each sector covered in the case studies has developed differently, and informal operators in each sector have a different relationship to formal establishments. The background to each sector, the reasons for its inclusion, and the focus of the sectoral research is set out below.

Table 2.1 sets out employment – formal and informal – for each industry covered in this research, as far as this information is available from Statistics South Africa's Labour Force Survey (LFS). The construction industry is the only one covered in the sectoral case

studies that can be clearly distinguished. All other sectors covered are part of a larger categorization.

Informal sector employment in the construction industry comprises 12 per cent of total informal sector employment.⁶ The clothing industry falls under manufacturing, which absorbs 9 per cent of total informal sector employment. However, it is not known what percentage of this 9 per cent is in clothing. Street trading is likely to make up a large portion of informal sector employment in trade, which comprises up 42 per cent of total informal sector employment. The taxi industry is likely to correspond relatively well to informal sector employment in transport, which comprises 5 per cent of total informal sector employment.

Table 2.1: Employment in the formal and informal sectors by selected industry, September 2001

Industry	Formal		Informal		Total	
	Number ('000s)	%	Number ('000s)	%	Number ('000s)	%
Manufacturing	1,384	18	199	9	1,605	15
Construction	319	4	258	12	594	6
Trade	1,427	19	937	42	2,397	22
Transport	429	6	104	5	543	5
Total	7,539	100.0	2,232	100.0	10,833	100.0

Source: Stats SA (2001) Labour Force Survey, P0210.

Clothing

South Africa's clothing industry has changed fundamentally since 1994, largely due to the lowering of barriers to trade and competition from illegal imports. South African manufacturers came under increased pressure once local retailers and wholesalers had the option of sourcing garments internationally. Industrial restructuring processes have led to massive formal job losses and increased informal work, often with links to formal establishments. Many new informal businesses sewing garments that are sold in formal retail outlets are run by retrenched clothing workers who are assisted by family members or employ machinists who are also likely to have been retrenched. Often retrenched workers are assisted to set up their operations by their previous employer and become a supplier for that employer.

The clothing industry employs predominantly women. Women also account for most of those who have lost formal jobs and those who are now doing informal work. The informal operations described above are usually located in residential areas, and the workers are called industrial homeworkers. Some women may prefer the option of working in or nearer to their homes to balance productive work more easily with reproductive tasks.

The core of South Africa's clothing industry is located in two provinces – the Western Cape and KwaZulu-Natal. It is estimated that in Cape Town, the main urban centre of the Western Cape, over 280 formal establishments employ over 30,050 workers. In Durban, the major urban centre of KwaZulu-Natal, approximately 134 formal businesses employ over 14,360 workers (Bennett, 2003). There are no reliable statistics available on informal employment in the clothing industry.

⁶ The use of the term "informal sector" here is consistent with the statistical terminology used by Stats SA. See also Part 3 of this report.

The industrial restructuring process has challenged the main trade union in the sector, the Southern African Clothing and Textile Workers' Union (SACTWU), to initiate a serious organizing drive among informal industrial homeworkers. The research describes conditions in both major production regions but focuses on SACTWU's pilot organizing efforts in the Cape Town region.

The case study also draws lessons from the organizing efforts of the Self Employed Women's Union (SEWU) among informal clothing workers. Most of these workers are self-employed and are mainly engaged in survivalist economic activities. They produce mainly for informal markets in KwaZulu-Natal.

Construction

The mobility of building operations, and volatile demand for labour due to variation in overall demand and demand within projects, has meant that work arrangements in the building industry have always been precarious. Today, massive retrenchments from formal building companies and a new reliance on mostly informal labour-only subcontractors for a wider range of fragmented tasks, have increased the proportion of informal workers in the sector – and their vulnerability.

The building industry differs from other economic sectors in which increased informality and downward pressure on wages and working conditions are driven by increased international competition and globalized production networks. It appears that unemployment fuelled by this process in other sectors has created a similar pressure in an industry that relies on a local production and employment base.

Levels of unionization in the building industry have always been low. Now, it is even more difficult to organize the increasing numbers of people working informally in the sector (often for emerging black businesses) than to organize more formal workers. Organization is especially difficult when it involves one-off projects within poor communities where unemployment is extremely high.

The number of informal businesses operating in the industry has increased, and many of these new businesses have black owners. The case study also devotes attention to the organization of these employers.

Two provinces – Gauteng and the Western Cape – were covered in the case study because both are experiencing a high level of building activity, but both have different bargaining arrangements and union density. The study focus concentrated on a single urban centre in each province – Johannesburg and Cape Town respectively.

Street trading

Street trading is one of the most visible parts of the informal economy as it occurs in public spaces. The massive growth in street trading was also one of the most visible economic changes that took place in South African cities towards the end of the apartheid era. Under apartheid, the movement of black people into and within urban areas was severely restricted. Local municipal by-laws controlled informal trading and made it very difficult for street traders to operate. The State lost control of the migration of black people into urban areas in the 1980s. This massive influx of labour into South Africa's cities could not be absorbed by

the formal economy. Attitudes towards the informal economy began to change as part of a broader programme of deregulation aimed at addressing the employment crisis and giving black people a stake in the economy, albeit limited. The 1991 Business Act removed many of the legal barriers to informal economy operations, including restrictive by-laws, although in practice several factors still made it difficult for street traders to operate (Motala, 2002).

National estimates for 2000 indicate that there were approximately half a million street traders accounting for more than one-fifth of total informal sector employment. For the cities covered in the case study, an estimated 19,000 street traders were in the Durban metropolitan region in 1999 and between 3,000 and 7,000 in Johannesburg's central business district (Lund et al., 2000 in Motala, 2002).

Women make up a higher proportion of street traders than men. National estimates for 2000 indicate that just under 70 per cent of street traders are women. Given the scarcity of employment opportunities, street trading is an important source of income for women.

This research did not attempt to repeat a comprehensive study of street trader organizations in Cape Town, Durban and Johannesburg conducted by the Centre for Social and Development Studies at the University of Natal in Durban (Lund and Skinner, 1999). Rather, it focused on key organizations in Durban and Johannesburg in an effort to understand how organizations can best represent members, in particular in negotiations with local government. Durban and Johannesburg were chosen because of the different approaches their local governments adopt to informal trading.

Taxi

South Africa's minibus taxi industry operates on fixed commuter corridors, charging fares fixed by local taxi associations. Like street trading, the minibus taxi industry is highly visible in public places. It developed as an entirely informal industry and is a product of the country's apartheid history. The industry emerged in the late 1970s in response to the removal of black people from the commercial and industrial centres of cities, and the apartheid government's lack of effort to meet their transport needs. Initially the State moved to prevent the taxi owners, mostly black business people, from operating by refusing to issue permits and harassing those who operated illegally. In the 1980s, the government policy towards the industry vacillated from either wanting to eradicate it or allowing it to operate entirely unregulated (Barrett, 2003).

The industry grew at a rapid rate, and by the early 1990s many routes were over-saturated. This led to "taxi wars" – intense and often violent battles between associations of taxi owners. The post-apartheid government is encouraging the taxi industry to become more formalized, through a recapitalization initiative. Government's intention is to introduce new, safer and bigger vehicles into the industry by providing a scrapping allowance for old vehicles. The new vehicles will be fitted with electronic fare collection systems that are intended to benefit the owner and the Receiver of Revenue, and which will facilitate operation as a formal business (Barrett, 2003). Government has embarked on this initiative together with some industry stakeholders but it is a very slow process with frequent setbacks.

The development of strong employer organizations has been important for the industry to build a relationship with government and deal with the many problems it has faced. Most employers and the self-employed in the industry are members of the South African Taxi Council (SANTACO) through primary taxi-owner organizations.

The South African Transport and Allied Workers' Union (SATAWU), organizes employees in the taxi industry and has played an important role in industry restructuring efforts. SATAWU perceives the formalization that would take place through the recapitalization initiative as a means of establishing a bargaining relationship with employers to improve conditions for members in a sustainable way. The National Taxi Drivers' Organisation (NATDO) also organizes employees in the industry but has opposed the restructuring process because of possible job losses ensuing from it.

This case study focuses on organizational strategies as they relate to the industry restructuring process and the conditions for workers in the industry, based on national information and fieldwork in Johannesburg and Pretoria. These cities were selected because, although located in the same province of Gauteng, the ownership and organizational dynamics in the two sites differ considerably.

Part 3 of this report now reviews the nature and size of South Africa's informal economy.

3. Understanding South Africa's informal economy

There is no single way to define informal economic activities – the concept takes on different meanings in different contexts, depending on whether it is applied to data analysis, policy-making or statistics. In turn, the research purpose determines the scope and extent of its definition. Both within and across countries, as a result of the new organization of production processes and work, the borderline between formal and informal economic activities is becoming increasingly blurred, rendering a single definition even more difficult.

3.1 Statistical definitions

The definition of what informal economic activity encompasses and the methodologies used to measure it vary from country to country, making international comparability impossible. In addition data are often scattered, collected on an *ad hoc* basis or out of date. If it is true that an internationally agreed definition for the statistical measurement of the informal economy does not exist today, statistics have been compiled on employment in informal sector enterprises, the latter being the concept originally used by the ILO and for which an international definition was adopted by the 15th International Conference of Labour Statisticians (ICLS) in 1993. This definition describes the informal sector in terms of the characteristics of production units or enterprises where the activities take place, rather than the characteristics of persons involved or their jobs. Most national statistical agencies, including Statistics South Africa (Stats SA), use this method.⁷

Among the criteria of the informal sector definition adopted by the 15th ICLS some appear to have particular relevance for the present analysis. A production unit is classified as informal if it is not constituted as a separate legal entity independently from its owner, and for which no complete accounts are available. This criterion is difficult to implement in practice in surveys. Therefore, two additional criteria for classifying enterprises in the informal sector are included in the ICLS definition. The first focuses on the size of employment in a business, with countries commonly choosing five or ten workers as the cut-off. The second refers to the legal organization of the enterprise, thereby identifying non-registration under specific forms of national legislation as another criterion for defining the informal sector.⁸

The definition adopted by the 15th ICLS also makes it clear that informal sector activities should be distinguished from those of hidden or underground economies, in that the former (unlike the latter) are not necessarily performed with the deliberate intention of evading the payment of taxes or social security contributions, or infringing labour or other legislation or administrative provisions. Although a company with a large workforce or high turnover may avoid paying tax, or may try to disguise the employment relationship it has with its workers, this does not make it part of the informal sector, as defined by the ICLS. It is still a formal company, although it may be infringing the law.

⁷ For this reason, the term informal “economy” is not used by Stats SA. It is used here to refer to a broader conception of informal work than simply work in informal enterprises. This is discussed further in the next subsection.

⁸ There was no consensus at the 15th ICLS as to whether non-registration was an appropriate criterion for defining the informal sector. While some favoured this approach arguing that there is an intrinsic relation between non-registration and the notion of informality, others contended that the informal sector is not identical with the unregistered sector. Therefore, ultimately both the employment size and the non-registration criteria were retained in the definition adopted by the ICLS.

The practical implementation of the ICLS definition has faced a number of challenges in South Africa. In fact, Stats SA traditionally used the registration criterion for defining the informal or formal status of a business, taking registration for VAT – which implicitly includes a measure of turnover – as the relevant registration. The use of this definition means that employment figures for formal businesses may or may not include workers employed “casually” without consideration for South Africa’s labour legislation. They are very unlikely to include homeworkers or other outworkers dependent on the business.

Moreover problems arise if we move beyond consideration of the establishment to consider the individual worker. Misconceptions about the nature of the informal sector in the past meant that numerous studies focused only on the “owners” or “operators” of businesses and ignored the many employees who work in these businesses, often under extremely poor conditions. Until 1997, Stats SA questionnaires only asked the self-employed and employers whether they were in the formal or informal sector.

When considering the individual worker, “atypical” and disguised employment relationships complicate discussion on the informal sector. In some cases it may be useful to classify work according to the nature of the business as opposed to worker circumstances, so that work is viewed as part of the formal economy whenever it is directly linked to a formal business. This *should* happen currently in Stats SA’s approach in respect of casual workers, but would not happen with outworkers and homeworkers.

Even for quantitative surveys, it should be possible to specify particular combinations of enterprise and worker in a way that expresses a more social definition that is better able to draw what is often a fine line between informal and formal work. More realistically, it will capture the fact that there is a formal-informal continuum rather than a clear dividing line. A more nuanced approach would use a range of social factors that distinguish, for example, a homeworker supplying a formal retail chain through a formal manufacturer from an individual factory worker on an “independent” contract arrangement who works with others on a production line in a factory.

Stats SA’s labour force survey (LFS), introduced in 2000, includes a range of questions which can be used within a wider interpretation of informal work and which better capture the process of informalization occurring in the labour market. The LFS is a household survey of individuals rather than a survey of establishments. It attempts to capture the official ICLS definition by asking a number of relevant questions. One such question aimed at determining whether a worker was in the formal or informal sector by asking outright whether the worker concerned considers the business in which they work to be formal or informal. The problem with this question is that there are many different interpretations of what constitutes “informal”.⁹ Concerning the characteristics of the enterprises in which the individual worked, questions were asked about the employment size, whether or not the enterprise was registered as well as the location of the enterprise (i.e. in the owner’s home or in someone else’s home) (ILO, 2002c).

The LFS 2000 introduced a range of questions that would assist to include people who are informally employed in formal companies and the self-employed, in line with this broader

⁹ A definition is provided, but is not necessarily read out to the respondent. South Africa has 11 official languages, and language difficulties compound the problem. To take one example: in the Xhosa questionnaire for a small investigation commissioned by Stats SA several years ago, the word “informal” was translated in three different ways.

approach. In order to examine the formality of employment relationships among workers classified as employees, questions were asked about the duration of employment, whether the person has a written contract, whether they receive paid leave, and whether deductions are made for unemployment insurance. However, the standard tabulations of statistics retain a definition of the informal sector based on the registration or otherwise of the establishment.

The LFS is complemented by Stats SA's national time-use study, also conducted for the first time in 2000. Employment in the LFS is described in terms of what the person concerned did during the past seven days. Work activity in the time-use survey is described in terms of what the person did during the previous 24 hours. One advantage of the time-use survey is that it picks up people who were engaged in different types of economic activity within a day, for example formal and informal work, or more than one type of informal work.

For the time-use study, Stats SA used a classification system for activities that matches the concepts embodied in the System of National Accounts (SNA). There are ten main categories in the classification, aggregated into three super-categories. The first of these three super-categories covers work that should be included in calculations of GDP. (One exception is collecting fuel and water, which is classified in the first super-category, but is not included in the calculation of GDP in South Africa). Stats SA named the three super-categories: "SNA production", "Non-SNA production", and "Non-productive activities".

The SNA production super-category covers three of the ten main categories, as follows:

- work in establishments like government, factories, commercial farms or mines;
- primary production, for example growing vegetables or collecting fuel and water; and
- work in non-establishments, for example street trading, or hairdressing at home.

In Stats SA's time-use survey, "establishment" is defined in terms of the national accounts approach. This means that the three categories correspond roughly, but not exactly, to formal (first category) and informal (second and third categories). The exceptions are:

- outworkers and home-based workers who are included in the first category if they perform work for (formal) establishments;
- domestic work, which is included in the first category because, in national accounts terms, a household which employs a domestic worker is considered an "establishment";
- fetching fuel and water, which are included in the second category, although most people would not regard them as economic work; and
- agriculture is included as part of the informal sector where it fits the other criteria.

Further, searching for work is included in the first category, although it falls into neither formal nor informal work. Findings from the time-use study are used to describe South Africa's informal economy in section 3.4.

3.2 Developing a broader conceptual framework

The social factors relating to informal work are most appropriately captured by the term “informal economy” rather than “informal sector” (Lund and Srinivas, 2000, p. 8). The new term has emerged as part of an effort to better grasp the complexity of the phenomenon and devise appropriate policy responses.

The background report on the informal economy prepared for the general discussion on this topic at the International Labour Conference in 2002 identified several reasons for moving away from the term informal “sector”. First, “sector” indicates a specific industry group or economic activity while reference to the informal economy allows an analysis of informal work across different economic sectors, such as the clothing, construction, street trading and taxi case studies included in this project. Second, the term “sector” is perceived as suggesting too clear-cut a dichotomy between formal and informal parts of the economy, rather than a continuum with strong inter-relationships between the different parts. Third, the broader concept allows employment relationships, working conditions and contractual arrangements to be taken into account. It looks at both the nature of the business in which the worker works and the position and situation of the individual worker (ILO, 2002b).

All these dimensions are well exemplified by the definition of informal economy embedded in the conclusions adopted by the International Labour Conference in 2002. The term “informal economy” is there 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. Their 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 not enforced; or the law discourages compliance because it is inappropriate, burdensome or imposes excessive costs” (ILO, 2002a, p. 53). Such a definition provides, therefore, for an expanded concept of informality in the sense that it covers both enterprise and employment relations.

The expanded definition provides a more comprehensive analytical framework for assessing and addressing the multi-rooted and multi-faceted dimensions of the informal economy. In general, the analysis of the informal economy cannot be divorced from the historical and cultural factors that shaped its emergence and evolution. The informal economy in South Africa has developed a particular character because of apartheid. Businesses that are located in black townships – for example shebeens – are more likely to be seen as part of the informal economy, even if they pay taxes according to the statistical definitions. Under apartheid, most forms of black business were forced to operate outside the legal framework, and were therefore automatically informal. Even now black business and informality are often conflated. The “taxi wars” that plagued the industry were a result of enforced informality under apartheid. Limited business opportunities and no regulation led to too many taxis covering a limited number of routes. The result was often violent confrontations over rights to the most profitable routes.

Location is another way in which the informal economy may be socially defined. Using this approach sometimes produces contradictions with some technical definitions that, as mentioned previously, use number of workers in a business as a criterion for informality. For example, in the clothing industry, a formal Cut Make and Trim (CMT) operation in an industrial area may employ only five people, but an informal enterprise in a township garage

may employ 20. The formal operation would legally qualify for exemption from bargaining council agreements; the township operation would not. Whereas work in a factory in an industrial or commercial area is more likely to be seen as formal, work that happens on the streets or at home or at scattered temporary building sites is more likely to be perceived as informal.

A feature of the informal economy that is particularly relevant to organizing is that the contractual relationship between parties is not as explicit or clear-cut as in the formal economy. Confusion often arises between employment relationships and commercial relationships. When studies focused only on employers and the self-employed, this was not recognized as an issue. However, the recognition grew that some of those who were being designated as “independent” contractors or self-employed (and, as such, excluded from labour protection) were in reality in subordinate relationships to other economic actors outside their business. The issue was discussed at length by the International Labour Conference in 2003 on the occasion of the general discussion on the scope of the employment relationship. In particular, the conclusions adopted on that occasion acknowledge the prevalence of ambiguous and disguised employment relationships in the informal economy and highlight the gender dimension of the problem, particularly in women-dominated sectors such as domestic work and home work where these types of relationship are relatively high (ILO, 2003).

These relationships vary across different sectors. Further, a variety of relationships may exist within a sector. Some examples from the case studies conducted under this ILO research project are:

- In the clothing industry, a home-based operator is contracted by small CMT operations or full manufacturers to sew clothes. In the formal economy, sewing machinists would be employees of the CMT or full manufacturers and be paid union-negotiated wage rates. In the informal economy, the manufacturer or agent has a commercial relationship with the home-based operator. But the home-based operator is usually dependent on the formal company or agent, and has no power to negotiate the piece-rate price. In practice the retail companies set the prices; they have the power to determine what they will pay to CMTs and other manufacturers, which in turn determines what these workers will earn.
- In the construction industry, labour-only subcontractors perform a narrowly defined task, usually not requiring a great deal of skill. Materials and tools are supplied by the main contractor with whom the labour-only subcontractor has a commercial relationship. The status of labour-only subcontractors’ workers varies from that of employees working on fixed-term contracts to that of commercial contractors working as “independent contractors” or “partners”.
- Few taxi drivers own their own minibus. Most drivers are perceived as “self-employed” workers, leasing their vehicles from someone else (who is likely to own several taxis). However, these drivers are dependent on the use of the taxi to earn a living. The taxi owner has the power to set the payment method (even though it is usually not called a “wage”) and to determine fares (often in collaboration with other owners).

- Some street traders sell goods from a single supplier, for example a soft drink or nylon stocking company. The supplier is able to determine the price at which the goods must be sold. It is not clear how common this practice is.

Some of these situations have been addressed in the recent reform of the labour legislation, discussed further in section 6.1.

3.3 The organizing challenge

The complexity ensuing from the different situations described above means that workers' organizing efforts require necessarily to involve creative ways of establishing a collective bargaining relationship with employers and/or employer associations. It may also mean empowering self-employed or owners of informal operations to negotiate collectively the terms of commercial contracts with those on whom they are dependent, so that they are then able to improve conditions for their employees. This second aspect is not catered for – or even recognized – as part of the traditional industrial relation system – and presents a major challenge to those organizing in the informal economy.

Different strategies have been applied in different sectors.

- In the clothing industry, SACTWU is attempting to establish a collective negotiating relationship with retailers who indirectly contract to homeworkers through outsourcing arrangements. SACTWU also advocates for an industrial strategy that promotes economic organization among workers in the informal economy so that they are able to bargain more effectively with suppliers.
- Some unions in the construction industry see it as in their interest to support efforts by labour-only subcontractors to organize, so that they are able to bargain with them as employers. They also understand that this will empower the labour-only subcontractors to negotiate contracts at rates that will enable them to pay employees decently. Existing collective bargaining structures have collapsed or are under serious threat because the labour-only subcontractors do not participate or abide by the agreements reached.
- Since the late 1990s, SATAWU's strategy has been to get taxi industry operators who "lease" taxis to drivers to recognize themselves as employers.
- In the street trading sector, traders who are dependent on a single supplier or who sell similar goods may come together to increase their power in negotiating with suppliers, for example through cooperative buying arrangements.

These initiatives are still new and it is too early to assess their impact on incomes and working conditions in the various sectors.

Strategies for organizing informal workers may also involve social and political bargaining with legislative bodies at various levels and other institutions. Street trading is a sector where the key target of collective bargaining efforts is local government and not an employer. It is the State that is able to prevent access to pavements or provide markets that attract customers and other important facilities such as toilets. This removes the power of some traditional weapons of workers in trade unions, for example strikes. At the same time it opens opportunities for other forms of economic and political pressure. Protest marches are

often the first line of action in the sector because of the absence of avenues for negotiation. In the street trading sector, workers claim their rights as citizens in relation to government, rather than as employees in relation to employers.

The taxi industry is an example of where, under apartheid, employers had to struggle with the State for permits to operate routes. Under post-apartheid, the State is encouraging formalization of the industry through its recapitalization programme.¹⁰ In street trading, control over the allocation of sites or permits to trade in particular areas usually lies with local government. However, street trader organizations are sometimes involved in the process. For example, in Johannesburg a large number of aspects of the management of street trading have been outsourced to different agencies.

A characteristic of much of the informal economy is that it is hidden, happening in homes or backyard operations. This presents particular challenges in organizing. So in most sectors in the informal economy, a key focus for organizing is breaking the anonymity of informal workers and rendering them visible in society.

Street trading is one sector of the informal economy that is highly visible. Yet, just because street traders are visible, does not mean that their interests are taken into account by government or other institutions. Often they are seen as intruding on space that more powerful citizens want to use for other purposes, such as walking, shopping and parking. The lesson from this sector is that ensuring that informal workers are seen and recognized as workers is only effective if it is part of a wider strategy aimed at ensuring that they are heard as citizens. Another aspect of invisibility concerns foreign workers, as Box 3.1 shows.

Box 3.1: Foreign workers and the right to freedom of association

Many street traders are not South African citizens, and come from elsewhere in Africa. Many of these traders are living and/or working in South Africa without permission and are in a particularly vulnerable position. This also applies to those who are not working legally in other formal and informal businesses. For example, in the building industry many informal workers are undocumented migrants from Mozambique.

South Africa's Constitution does not distinguish between citizens and non-citizens in granting rights such as the right to freedom of association. But it is much more difficult for workers in such a vulnerable position to exercise these rights. In the building industry, undocumented migrant workers rely on employer complicity in order to hide their status, which makes them more dependent on their employer. The major unions in the building industry are in principle committed to organizing undocumented migrants, but admit to having very few such members. Street traders have the added difficulty of needing to negotiate with a government for which they do not have the right to vote. In the past, some street trader organizations did not allow foreigners to become members, although this has changed recently.

3.4 The nature of work

While work done in the informal economy may be exactly the same as that done for formal companies (loading or laying bricks, sewing on a machine, driving a vehicle, or selling goods), important differences exist between the nature of formal and informal work from the perspective of workers.

¹⁰ See under Taxi, section 2.3 of this report.

For example, informal workers are much less likely to have written contracts, regardless of whether they are involved in an employment or a commercial relationship with those who pay or supply them. This makes them more vulnerable to disagreements over payment for work and conditions of work. In the building industry particularly, informal workers claim they are often not paid for work they have done, or the amount they are paid is varied at the sole discretion of the labour-only subcontractor who employs them.

A wider range of payment methods is likely to apply to informal work. Formal work, particularly at lower-paid levels, is most commonly paid at a rate per hour or per week. Informal work is more likely to include payment by other methods. For example, a rate for the job (piecework) often applies to industrial workers in the clothing and building industries; street trader assistants may be paid a commission for sales. In the taxi industry, drivers are paid by one of at least four methods, including pocketing the takings only from one day of the week, say Wednesdays.

Income is also likely to be more irregular in the informal economy. For example, taxi drivers and street traders may have fewer customers and therefore earn less when the weather is bad. Street traders may even be unable to work under certain weather conditions. Industrial homeworkers in the clothing industry may get more work at peak times for the industry. Informal building-worker interviewees reported being without work for months at a time, to the extent that they identify themselves as unemployed.

Low and irregular earnings in the informal economy motivate many informal workers to be involved in more than one income-generating activity. They may do different types of seasonal work at different times of the year or perform a range of activities at the same time. This was most evident in the case study of the building industry, where informal workers are often without work for long periods of time. The irregularity of work makes organizing particularly difficult. Informal workers may find it hard to make themselves available for organizational meetings, and may not be able to commit to set times. Involvement in a range of activities may mean they are less committed to spending time on issues related to only one area of involvement.

Informal workers sometimes appear to have more control over their work than workers in the formal economy. However, often employer control is exercised in more subtle ways through economic pressure rather than direct supervision. Areas where economic pressure is exerted on informal workers include the following:

- *Quality*: Informal workers who market their work independently may have more freedom to determine the quality of their work. However the quality of their work may still be restricted by a lack of access to technology and training, which will result in lower income. Less independent informal workers, like those paid on a piecework basis, may find that they are not paid for goods that do not meet the customer's quality standards or for time spent repairing rejected goods, even though pressure created by the customer may be the cause. This is the case for homeworkers in the clothing industry and informal building workers. In the building industry, skills levels and the standard of work have dropped with the emergence of labour-only subcontracting.
- *Pace of work*: Informal workers may appear to have more freedom to determine how fast they work and at what times during the day, but again this depends on their degree of independence. For example, a self-employed taxi driver may decide how fast to drive. But a driver who is obliged to fill a certain quota to cover vehicle-leasing fees

may not have this freedom. And at certain times, even if the worker wants to work, work may not be available.

- *Rhythm of work:* Informal workers may have more freedom to determine the times at which they work. For example, a woman sewing at home may decide to start her working day only after she has taken her children to school or to take time off to help with homework in the afternoon, but then work late in the evening when they have gone to bed. She may have more freedom to go to the toilet when she needs to than workers have in the factory. However, her work patterns may be dictated by the contractor on which she depends. The contractor may give her a big order with very little time to complete it. So she – possibly with the involvement of her children – then has to work through the night without any rest.

A last characteristic of the informal economy is that people involved in it, particularly workers, are less likely than formally employed workers to have access to social protection such as healthcare, retirement funding, insurance against loss of income, funds for study, and death benefits. So addressing the social needs of workers is likely to be a useful component of organizing strategies. And, because there is often not a direct or obvious employment relationship, strategies to address the social needs of informal workers might need to be directed to the State. This is discussed in more detail in section 6.4.

3.5 Data outlook

As far as the magnitude of the informal economy in South Africa is concerned, data available only cover the informal sector defined in terms of the characteristics of production units or enterprises in which activities take place. In addition, figures are only available from 1997 onwards in respect of employees as well as the self-employed and employers. Despite these difficulties, figures from the October Household Survey (OHS) can be used as a guide to the size of informal sector employment. They suggest that informal sector employment – outside of domestic work and agriculture – ranged from 1.6 million in 1997 to 1.7 million in 1999. This is roughly 17 per cent of total employment.

According to the 1999 OHS, a total of 2,705,000 people work in the informal sector, of whom 1,544,000 are women. Table 3.1 shows that of the total, 813,000 are employed by someone else in the informal sector; 1,030,000 are own-account workers; 64,000 are involved in both the formal and informal sectors; and 799,000 are domestic workers.

Table 3.1: South Africa’s informal sector in 1999

	Total (‘000s)	Women (‘000s)	% Women
Employed by someone else informal	813	264	32%
Own account	1,030	491	48%
Involved in formal and informal	64	25	39%
Domestic workers	799	763	95%
Total informal sector	2,705	1,544	57%

Source: Adapted from Stats SA (1999) October Household Survey, P0317.

The LFS of 2000 shows a slight decrease in non-agricultural informal sector employment from the October Household Survey of 1999. But the difference between results for the two surveys could be due to differences in the instruments and because they were

conducted at different times of the year. Similarly, an increase in domestic work captured by the LFS may simply be due to better coverage by the survey, rather than a significant increase in employment in this sector.

The LFS also shows that African people are more likely than others to be working in the informal sector, which comprises one-third of employed Africans. Indian and white people are least likely to work in the informal sector, comprising only 7 per cent of the employed in these population groups (Budlender, 2001, p. 8).

The LFS provides a breakdown of informal sector employment by economic sector, with the highest percentage of informal workers (45 per cent) involved in agriculture (Stats SA, 2001b, p. 5). Domestic work is categorized separately from other informal work for the purposes of these figures. Domestic employment is equal to over half that in the non-agricultural informal sector.

The time-use survey found that men, on average, spend more time than women on all types of economic work. However, the difference between men and women is most marked when it comes to work in establishments, which is more likely to be formal. On average, men spent just under twice as much time as women on work in establishments. Men spent only slightly more time on average than women on primary production and work in non-establishments. This suggests that, overall, women spend a relatively higher proportion of their economic work time on informal economic activity than men do.

In the time-use survey, a clear pattern of sex segregation emerged between activities related to various economic sectors of the informal sector, as Table 3.2 shows. Domestic work and the making and selling of textile goods are highly female-dominated (over 85 per cent women). Women also predominate in the street trading sector. Men are more likely than women to be involved in building activity and to do outwork for an establishment.

Table 3.2: Percentage distribution, according to sex of respondents, selected non-agricultural activities in the informal sector, South Africa, 2001

Activity	Women	Men
Outwork/home-based work for an establishment	41%	59%
Paid domestic work	87%	14%
Making and selling textile and related craft	88%	13%
Building and extension of dwelling	33%	68%
Petty trading and door-to-door vending	61%	39%
Total informal (non-establishment, home-based, domestic)	62%	38%

Source: Calculated from Budlender, Chobokoane and Mpetsheni (2001, pp. 96, 108).

A range of studies indicates that within the informal sector, women are likely to be at a disadvantage. The time-use figures show that informal women workers are usually less skilled than men. Only 27 per cent of women who worked in their own business had completed high school, in contrast to 40 per cent of men. At the same time, the proportion of women (11 per cent) who worked in their own business – self-employed – with no formal education was higher than that of men (4 per cent) (Budlender, Chobokoane and Mpetsheni, 2001, p. 54).

Ntsika (1998, p. 7) estimates that women account for more than three-quarters of survivalists in the informal sector. Street traders tend to be poorer than other workers in the informal sector, and more women than men tend to trade on the streets (Lund, Nicholson and

Skinner, 2000, p. 6). Women are more likely to combine informal work with unpaid domestic work. They are also more likely to work in sectors where skills, such as sewing, are related to domestic work and therefore undervalued.

Women are often at a disadvantage even within a sector of the informal sector. In the street trading sector, for example, women predominate among the fruit and vegetable sellers, where it is most difficult to make money (Lund et al., 2000).

Part 4 of this report now explores the institutional and legislative framework for organizing in South Africa.

4. Institutional and legislative framework

4.1 Economic decision-making

As mentioned earlier, under democracy new institutions have been set up to create a partnership for economic development between government, labour, business and (sometimes) communities.

National Economic Development and Labour Council

At a national level each of these constituencies is represented in the National Economic Development and Labour Council (NEDLAC). NEDLAC has four chambers dealing with labour markets, fiscal and monetary policy, trade and industry, and development.

The Congress of South African Trade Unions (COSATU) and two other trade union federations, the National Council of Trade Unions (NACTU) and Federation of Unions of South Africa (FEDUSA) have a substantial voice in national policy development through their participation in NEDLAC. In proportion to their membership, COSATU occupies four of labour's six seats in the executive council, and the other federations one seat each. The "community" constituency, made up of national organizations representing women, civic associations, youth, the disabled and cooperatives, is represented in the development chamber only. The Self Employed Women's Union is represented as part of the "community" constituency through its membership of the Women's National Coalition. As part of this constituency, the organization is excluded from discussions on labour market and other economic policy matters.

NEDLAC has generally been constrained in its ability to agree on macroeconomic policy, largely because of reluctance from government to discuss its choices. This is despite one of NEDLAC's objectives, as contained in the NEDLAC Act (1994) being to "consider *all* significant changes to social and economic policy *before* it is implemented or introduced in Parliament" [author's emphasis]. A later clause states that none of the stated objectives should prevent NEDLAC from "considering any matter pertaining to social and economic policy". Government's approach has limited the scope for constituencies represented in the institution to debate the Growth, Employment and Redistribution Strategy (GEAR) and other policies that have a direct impact on the size and nature of work in the informal economy.

However, NEDLAC has been an important forum for government, business and labour to develop a framework of labour legislation that is intended to accommodate the organization of informal workers and employers. Labour law amendments have recently been negotiated in NEDLAC and are discussed in more detail below.

Sector summits

At the Presidential Jobs Summit in 1998, government, business, labour and community representatives agreed that, in sectors with a high potential to either create or lose jobs, sector summits should be held. The purpose of these summits is to develop industrial strategies that expand output and create or save jobs.

The clothing and textile industry held a sector summit in 2000 in the light of major job losses in the sector. The summit provided a forum for SACTWU to raise problems of

disguised employment in the sector, and the need for bargaining councils to transform their services and extend their scope to cover informal workers. This motivated some of the recently introduced changes to labour legislation described in section 6.1.

The summit agreed to the establishment of an industry forum with a labour market/SMME working group that might provide a space for engagement over issues relating to informal work. However, the forum has not yet met formally.

Local government

Similarly to NEDLAC, a variety of forums aiming to create partnerships for economic development exist at local level. South Africa's Constitution specifically gives local government responsibility for local economic development and obliges local government to consult with people – which would implicitly include street traders – in matters of local government. However, labour and business are not always explicitly included as constituencies of local forums.

The constitutional provision strengthens the arguments for strong, effective and representative street trader organizations, but has been variously interpreted by different local governments. For example, in 2000 the Informal Traders Small Business Opportunities Department of the Durban Municipality set up a Trader Representative Forum to which trader associations were invited. On the other hand, for several years the Johannesburg Metropolitan Council has been determined to remove all traders from the streets of the Johannesburg central business district.

In addition to forums around specific issues such as street trading, there are often development forums – sometimes called RDP committees – at community level, through which local government and residential communities interact. The development forums are often involved in giving direction to building projects in their communities. Because the forums negotiate for the use of local labour at low wage rates, they are sometimes perceived by unions in the building industry as undermining conditions of work. The building case study identified it as important for unions in the sector to develop a working relationship with organizations in these structures if they are to be successful in organizing informal workers and improving conditions of work.

4.2 Labour law

The Labour Relations Act of 1995 (LRA) and the Basic Conditions of Employment Act of 1997 (BCEA) are the key laws relating to the working conditions and organization of informal employees. Both the LRA and the BCEA refer to “employees”. The definition of “employee” explicitly excludes independent contractors, and leaves out informal own-account workers. Recently adopted amendments intended to avoid placing people inappropriately into these two categories are discussed in section 6.1.

The LRA sets out how employees can exercise their rights, including their right to join and be represented by a trade union. The BCEA sets out minimum employment conditions for almost all employees. Employees who work less than 24 hours a month are excluded from some provisions. Legal provisions for the right to organize, collective bargaining and setting minimum labour standards, and how they relate to organizing workers in the informal economy, are discussed in more detail below.

The right to organize

The LRA provides for the registration of trade unions and employers' organizations. Among the requirements for a trade union to register is the need for the organization to be independent of control, interference or influence by any employer or employers' association. This provision may make it difficult for organizations of only self-employed members to register as a trade union if many of them employ other workers, even if they are survivalists. It is unlikely to prevent existing registered trade unions from admitting self-employed workers as members, as long as the constitution of the union allows them to join.

The LRA gives registered trade unions a wide range of rights that assist them to organize and make gains for members. These include the right to:

- gain access to any workplace in order to recruit members, to communicate with members, and to serve members' interests;
- hold meetings with employees at the employer's premises, outside of their normal working hours;
- hold ballots of members (to elect union representatives and for any other purpose, for example strikes);
- compel employers to deduct union membership fees and/or other levies from their member's wages;
- elect union representatives in establishments where there are ten or more employees. These shop stewards are also entitled to take time off work, paid by the employer, to attend to union business; and
- require the employer to provide representatives with relevant information that will allow the representatives to perform their duties effectively.

While these rights should apply in all workplaces, they are more difficult to implement in the informal economy. For example, informal establishments are likely to have fewer than ten employees, so the right to elect shop stewards and for shop stewards to have paid time off for union business is less likely to be a reality. SACTWU has begun thinking through creative ways to surmount these difficulties. For example, it intends to explore introducing "area shop stewards" elected within a specified geographic community of informal workers to represent those workers. SACTWU also intends asking providers of work to informal producers to contribute to a fund to pay for the time of an elected shop steward from a specific residential area. As these methods are yet to be implemented, it will only be possible to assess their efficacy at a later stage.

The impact of the legal status of worker organizations is discussed further in section 6.3.

Centralized collective bargaining

Bargaining with an employer or negotiating with another party that has the ability to impact on earnings and working conditions of workers is an important way in which their organizations serve them. Post-1994 labour law in South Africa encourages centralized collective bargaining with employers on a sectoral basis. The value of the centralized bargaining system is that, if parties to an agreement meet certain criteria for representativeness, they can request the Minister of Labour to extend the agreement to non-parties within the scope of the bargaining council's jurisdiction. This allows for a single set of wages and working conditions to apply to all workers in each sector, including informal

workers. The intention is to secure decent jobs and encourage competition on the basis of factors other than exploitative wages and working conditions.

In practice, difficulties are experienced with extending and enforcing agreements reached in bargaining councils. In the clothing industry and the building industry, bargaining councils are battling to police agreements. In other sectors such as food manufacturing, mining and retail, bargaining councils have not been established. Some argue that the economic restructuring outlined earlier makes bargaining councils inappropriate institutions for regulating wages and working conditions because of enforcement difficulties (Theron, 2000). However, the approach of most unions is to confront the difficulties associated with restructuring at the level of industrial and trade policy on the one hand, and challenge problematic outcomes such as retrenchments from formal companies on the other.

In terms of the LRA, registered trade unions can:

- make an application to establish a bargaining council;
- participate in the affairs of a bargaining council;
- process disputes in the councils; and
- request the Minister of Labour to extend a bargaining council agreement to non-parties within the scope of a bargaining council.

A key advantage of centralized collective bargaining for workers is that it allows them to use their collective strength in negotiating with employers. This is particularly important for informal workers who often work together in small numbers and in isolation from each other, hidden in homes and garages or scattered across a wide range of building sites. Ultimately, a strategy linked to centralized collective bargaining will only be effective in sectors where there are employers and where employers are also organized. So, for example, bargaining councils are an inappropriate forum for self-employed street traders to use for negotiation because there is no employer party (Motala, 2002). In the taxi industry a significant first step towards centralized collective bargaining has been the formation of a representative employers' association with which the union can negotiate (Barrett, 2003). Also, for agreement to be reached in the forum and a reasonable level of enforcement to be possible, worker organizations need a strong presence in the sector. For example, unions in the building industry were unable to prevent the collapse of key regional bargaining councils because membership levels, even among formal employees, were too low.

Theron (2000, p. 53) argues that, rather than focus on trying to improve members' wages through negotiation in bargaining councils, unions should serve as non-profit labour brokers. The case study on organizing in the building industry revealed some support from informal workers for unions to play a role in job placement. However, their support for unions performing this function was not set in opposition to the role and importance of centralized bargaining forums in improving wages and conditions of work for all employees in the sector.

Minimum labour standards

The Basic Conditions of Employment Act (BCEA) sets minimum standards on key areas such as hours of work, working time, leave and termination of employment. Further, the BCEA provides for sectoral determinations to be made by the Minister. These can cover wages as well as other conditions of work. The provision is intended to assist, in particular, marginalized employees in sectors that are weakly organized, often due to the nature of the

work. Within some sectors, employees in the informal economy are among the most marginalized employees.

The Minister of Labour can request the Employment Conditions Commission (ECC) – a statutory body appointed by the Minister – to investigate employment conditions in a particular industry and to make recommendations for a sectoral determination. In most instances the Department of Labour conducts the investigation and passes the information on to the ECC to make recommendations.

In 1999 the Minister gazetted a small business determination, which provides concessions for businesses with five or fewer workers. The Minister overrode the recommendations of the ECC, which supported only those concessions related directly to difficulties created by having few workers. The Minister's determination provides for additional concessions. This was presumably done in line with the government's intention to encourage small (black) business. In practice, however, it means lessened protection for those employed within these businesses.

As with collective bargaining agreements reached in bargaining councils and extended to non-parties, the enforcement of minimum standards set through sectoral determinations is a major problem. This impacts directly on informal employees who may not even know what they are entitled to in terms of a sectoral determination, and are often unorganized and in too vulnerable a position to pressurize employers to comply on their own.

Job flexibility and security

The BCEA makes provision only for those employed for less than 24 hours a month to be excluded from basic conditions relating to hours of work and leave without defining these workers as casual. The building industry case study revealed that in practice it is common for "casual" informal employees to be distinguished from "permanent" formal employees. Yet this distinction has no basis in South Africa's current labour laws (Goldman, 2003).

Theron (2000) argues that the removal of the casual definition from the BCEA has created pressure for employers to externalize the labour relationship. The old BCEA (1983) defined a casual worker as a worker employed not more than three days a week, and it entitled casual workers to be paid no less than the applicable hourly rate as well as overtime. However, employers were not required to contribute unemployment insurance or pay social benefits for casual workers. It is difficult to assess the number of workers currently informally employed in the construction sector who would be covered by such a provision (i.e. who work three days or less a week). Also, given the way employers in the industry avoid registering even those workers on longer fixed-term contracts, it is not certain that the inclusion of a restrictive definition of casual in the law would encourage employers to register those employed for shorter periods and/or pay them the legislated wage. Theoretically, Theron's argument could hold. But more empirical evidence is needed before we can be sure that the change in the BCEA has had this effect, or that the inclusion of a restrictive definition of a casual would remedy the situation (Goldman, 2003).

Some employers argue that allowing flexibility around termination of employment would encourage employers to abide by other regulatory instruments. Yet, the construction industry already has this flexibility in the practice of hiring workers on fixed-term contracts. A fixed-term contract usually has a clause on termination of contract, and the employer does

not follow a retrenchment procedure in terms of the LRA when the contract is over (Goldman, 2003).

Part 5 is an overview of organizing efforts gleaned from the four sectoral studies on the clothing, construction, street trading and taxi industries.

5. Organizing in the informal economy

This section looks at how worker and employer organizations approach the challenge of organizing in the informal economy.

5.1 Worker organizations

Trade unions

As is the case internationally, the South African labour movement has focused largely on organizing workers in the formal economy. In South Africa, however, rights differed between workers of different races until relatively recently, including for those formally employed. The organizing activities of the emerging independent black trade unions in the 1970s were conducted in the absence of entrenched worker rights and in a context of severe repression. Although many organizers from this period have since left the labour movement, there is historical knowledge about organizing in conditions of illegality, without the benefit of recognition of worker rights and facilities for stop-order deduction of union subscriptions.

Further, organizing informal workers is not entirely new to trade unions in South Africa. For example, COSATU, from its inception, included an affiliate organizing domestic workers. This organization has since collapsed and there are currently efforts to revive it. Organizing in the context of precarious employment is not a new phenomenon in the building industry, although informal workers in the sector are not organized, and the current pervasiveness of labour-only subcontracting in the building industry makes organizing even more difficult. The clothing case study shows how unions have “followed the work”, adapting organizing techniques to changed conditions, for example a shift in work to racially defined homelands and other “decentralized” areas under apartheid.

The biggest of the three national trade union federations, COSATU, has over two million members. COSATU is in an alliance with the ruling African National Congress (ANC), which facilitated the adoption of worker-friendly post-apartheid labour laws. COSATU’s political alignment is one of the reasons why the federations have remained separate. Yet there are increasing tensions in the alliance over economic policy and COSATU has stated that its relationship with the ruling alliance is not a precondition for worker unity (*Business Day*, 2001).

Internationally speaking, the trade union movement in South Africa is one of the few with membership growth. This is mainly because of the post-1994 increase in public sector membership rather than growth in the private enterprises of the formal economy where COSATU traditionally attracted most members, or among informal workers. The growth in membership masks decreased membership in the manufacturing, transport, mining and communications sectors, which have experienced major job cuts (*Business Day*, 2001).

In 1990 it was estimated that women were represented among COSATU’s membership roughly in proportion to their employment in the economy – 36 per cent (Baskin, 1994), although what this estimate was based on is not clear. Women, however, are seriously under-represented among the leadership (Orr, 2000). The federation and its affiliates have committed themselves to a range of measures – including quotas and training programmes – to improve the representation and participation of women within the organizations. A number

of reports suggest that the action on this front has been patchy so far, even in affiliates with a large proportion of women members.

In 2000, COSATU's 7th National Congress, the federation's highest decision-making body, adopted a Gender policy, which commits the federation to making a particular effort to organize women workers.¹¹ The policy recognizes that this "requires a shift in mindset, organizing style and approach". It identifies informal workers as an important target group of women workers. The gender policy links gender equality within the unions to the day-to-day organizing work that they do. Gender advocates in the labour movement learned from experience that the impact of women's or gender structures and/or increased representation of women in the ordinary structures of the union is severely limited unless there is a clear programme to address the organizing, needs and interests of women workers. The relevant section of the COSATU Gender policy is set out in full in Box 5.1 below.

Box 5.1: Organizing women workers

"COSATU has committed itself to the strategic objective of organizing vulnerable sectors and vulnerable layers of worker, which are predominantly women. This requires a shift in mindset, organizing style and approach, and has implications for changing the culture of the federation. There will be a need to develop new organizing strategies, to employ more women as organizers and to train existing organizers. Organizing strategies will need to take into account the specific conditions of women workers, and particularly women workers in vulnerable sectors. Important target groups include domestic workers, informal sector workers, casual workers and farm workers. The framework paper on organizing the informal sector and other forms of workers should be used as a basis to elaborate a clear strategy in this regard."

Source: COSATU's Gender policy, 7th National Congress, 2000.

COSATU has also taken on the challenge of organizing informal workers. In 1997, the September Commission on the Future of the Unions recommended that the federation commit itself to organizing informal workers and begin a process of interacting with existing organizations in the informal economy. The recommendation was based on an understanding that, globally, increased labour market flexibility is resulting in increased differentiation and fragmentation of workers. It is an attempt to address the concern that this trend has left unions in some countries organizing a shrinking segment of workers that excludes a large mass of vulnerable workers who are more difficult to organize.

COSATU's 2000 National Congress identified the recruitment and organizing of informal and atypical workers as "a major and necessary challenge". It commits each affiliate to develop a strategy for recruitment of informal and atypical workers. The adoption of this approach represents an acknowledgement of the need to organize informal workers beyond those in distinct sectors such as domestic work or agriculture. It recognizes that informal work is pervasive across different sectors of the economy, and that improving conditions for those working in it requires an organizational approach, rather than simple opposition to its existence. It also allows for different strategies to be adopted by affiliates to accommodate sectoral differences in the nature of the informal work. Details of the resolution are set out in Box 5.2 below.

¹¹ See COSATU web site for details at www.cosatu.org.za

Box 5.2: COSATU's recruitment campaign

“Affiliates commit to recruitment and unionisation of informal sector and atypical workers as a major part of the recruitment drive, as well as their overall work and resource allocation. A committee of affiliates must drive the campaign and integrate into COSATU's functioning workers in the informal sector and other workers in new forms of work.”

“The federation must develop a plan of action for organizing workers in difficult areas, including:

- The development of sectoral organizing strategies by individual unions that identify target groups, work out links and areas of potential organization, and develop strategies with support from the federation and other affiliates where this would assist.
- The federation and its affiliates should release adequate resources for the campaign.
- The federation must actively support the taxi worker recruitment campaign recently launched by SATAWU.”

Source: Resolution on organizational renewal, 7th National Congress, 2000.

For most affiliates, however, this commitment on paper still needs to be translated into action. Nevertheless, the case studies conducted for this research indicated that SATAWU has made considerable progress in recruiting minibus taxi drivers. SACTWU has designed an organizing strategy, but only a pilot organizing initiative has been implemented. NUM is still in the process of developing a strategy for organizing informal building workers.

Naledi, the research institute linked to COSATU, has conducted studies with a view to supporting organization in the informal economy. Examples include research on organizing undocumented migrants in the construction sector (Rees, 1999a) and recruiting casual workers in the formal retail sector (Rees, 1999b). Naledi also conducted a survey of changes in work patterns experienced by different COSATU affiliates, and what they had done in relation to organizing informal workers, in preparation for the 2000 National Congress. The results are contained in an appendix to the draft report presented to the Congress. Overall, the research indicates that almost every sector is affected by an increase in informal work and that wages and conditions of work for informal workers are worse than for those formally employed. In addition, informal workers are often exposed to a less safe and unhealthier working environment. Unions are beginning to understand the obstacles to organizing informal workers, and most are at best in the early stages of developing strategies to overcome these.

In 2000, Horn posed four key challenges in encouraging COSATU to implement the Congress decision to organize in the informal economy more speedily:

- Organize a range of types of workers in the informal economy but target certain categories of workers first;
- Address the gender dynamics of the informal economy in the context of historical difficulties to implement gender equality in union structures;
- Develop creative organizing strategies for informal workers whose work situation does not fit existing formal categories of work;
- Recognize the voice of informal workers and do not try to speak on their behalf (Horn, 2000).

In line with the Congress resolutions, COSATU's annual "Red October" recruitment drive in 2001 focused on increasing membership among informal workers, with each affiliate developing sectoral organizing strategies for targeting informal workers appropriately. According to COSATU's national organizer, a major obstacle faced in the campaign was the mindset of formally employed members, who often see informal workers – either "casual" workers at their employers' companies or those in informal businesses with which their employers compete – as a threat to their job security. Also, many informal workers were previously retrenched from formal jobs. They are often dissatisfied with the service they received from their union in the process, and ceased to be union members afterwards because they did not find another formal job (telephone interview).

This assessment of the 2001 campaign will feed into COSATU's recruitment strategy for 2002. The intention is for COSATU to play a stronger coordinating role, and for affiliates that experience similar location of informal work or similar relationships between the formal and informal sectors to work together in the recruitment drive, for example in areas that were demarcated as homelands under apartheid (telephone interview).

The other trade union federations, FEDUSA and NACTU do not have policies or programmes around organizing informal workers. FEDUSA's membership is largely made up of skilled artisans and white-collar workers, and the federation is therefore less likely to target informal workers for recruitment. NACTU's approach, as articulated by the Deputy General Secretary, is that informal work should not be allowed (telephone interview). The NACTU affiliate in the construction industry recognized the need to organize informal building workers but acknowledged that the union had not made much progress in that regard.

Self Employed Women's Union

SEWU operates as a trade union although it is not registered as such with the Department of Labour.¹² It stands out because it organizes only women working in the informal economy. It began doing so as early as 1993 when there was little focus on informal work in South Africa and at a time when street trading was increasingly attracting numbers of poor black women. SEWU's aims are to make self-employed women and their work visible, to enable collective self-empowerment of these women, and to build leadership among women situated at the bottom end of the economy.

SEWU is the exception among street trader organizations where the democratic structure of trade unions is not the norm, and where the role and position of women tends to be marginal or tokenistic. It also differs from trade unions in that most of its members are not involved in a traditional employer-employee relationship.

SEWU organizes women engaged in a wide range of informal occupations. But SEWU's current recruitment drive is focused on the recruitment of street traders, home-based workers, and women engaged in agricultural work. The majority of its membership is located in urban areas, although it does have a presence in rural areas and peri-urban towns.

SEWU's members earn very low incomes – their activities are best described as survivalist. Its membership is likely to differ even from membership among informal workers organized by other trade unions. For example, the home-based clothing workers SEWU

¹² Recently SEWU has registered with the Department of Social Welfare as a non-profit organization. The organization's legal status is discussed in more detail in section 6.3.

organizes work for their own account, producing clothes from their own designs, using fabrics they purchase themselves, and selling directly to customers near to where they live. SACTWU, on the other hand, has begun organizing homeworkers who make up clothes from fabric purchased and cut by formal manufacturers or design houses according to their customers' designs or those supplied by retailers. SEWU and SACTWU have agreed that, for the moment, this division best draws on each organization's strengths. SACTWU is ideally placed to organize homeworkers with links to the formal economy in which the union is well established, whereas SEWU has a depth of experience in organizing self-employed survivalists usually selling for informal markets. At the same time, SEWU does not encourage members to enter the clothing industry because competition is so great, even for informal markets.

SEWU has informal links with the trade union movement, and has actively advocated for the rights and interests of self-employed women within the movement. SEWU is also part of international networks of organizations of street traders and other informal workers.

Other organizations

There are other organizations that operate in particular areas of the informal economy exclusively. The street trading case study profiles two other organizations of street traders.

An interesting aspect of one of them – the Gauteng Hawkers Association (GHA) – is that it plays a role in the management of street trading, and mediating access to facilities such as pavement or market space and storage. This creates the danger of organizations representing sectional interests only, rather than those of the street trading community as a whole. This can have a racial dimension, for example organizations in Cape Town that work to protect trading space for coloured people only, and exclude Africans.

The membership of unions may be skewed along race and gender lines because of historical segmentation of the labour market. For example, SACTWU's membership in the clothing industry is largely coloured women in Cape Town and Indian women in Durban because of apartheid geography and labour preference policies. SEWU's membership is almost exclusively African women, because the majority of those at the bottom end of the economy are African women. Yet the unions do not act to exclude others from working within their scope because their interest is in building worker solidarity across racial divisions.

In addition, the construction case study revealed a range of organizations that attempt to attract informal workers as clients for services that trade unions may or may not offer. Key services are job placement, legal and financial services. The organizations offer their service often in return for a monthly fee similar to union subscriptions, or sometimes for a one-off payment, particularly in the case of job placement services. Often work seekers are robbed of their money by people claiming to represent such organizations. Experiences with these types of organizations make informal workers mistrustful of organizations that require subscription payments, and can create a barrier to legitimate union organization.

5.2 Employer organizations

The case study on the taxi industry provides the only example of organizations of informal operators who have begun to recognize themselves as employers in the more

traditional sense. Interestingly, like some of the street trader organizations, associations of taxi owners are also involved in managing access to resources such as permits, routes and ranks.

Organizations of employers in the formal economy appear to play an ambivalent role in relation to informal work. At the macro-level employer representatives appear to support the notion of the informal economy as the panacea for development. Some contend that this allows them to abdicate responsibility for preventing retrenchments and creating decent jobs. On the other hand, formal business often makes reference to “unfair” competition from the informal economy when arguing against improvements in working conditions for formally employed workers.

Informal employers, for example taxi owners or informal clothing operation owners or emerging labour-only subcontractors in the building industry, are unlikely to join the more established employer organizations in their sector even where this is possible. Often they argue against joining on the grounds that these associations are dominated by white business people who do not have a real concern for the development of black business. Racial barriers to organizing informal employers were not a focus of this research and merit further study. This approach is common among formal as well as informal black employers. At a national level, in 2001 the National African Federated Chamber of Commerce (NAFCOC) was divided over a decision to merge with the South African Chamber of Business (SACOB), a historically white organization. Opposition resulted in the expulsion from NAFCOC of at least three national and provincial leaders (*Mail and Guardian*, 2001).

The case studies revealed that unions have an understanding of these dynamics and often make a particular effort to communicate with black business people or work together with them on specific issues such as access to training. In the taxi and construction sectors particularly, unions have recognized the need to encourage and assist these employers to organize if they want them to participate as bargaining partners. At the same time, unionists are generally wary of excusing exploitative labour practices by black business people and have argued that the implementation of government’s affirmative action procurement policy should emphasize the maintenance of labour standards to a greater extent.

The Confederation of Employers of South Africa (COFESA), discussed in more detail in Box 5.3, is an employers’ association that specifically encourages members to disguise employment relationships as commercial relationships with informal workers. The organization appears to be motivated by an effort to avoid increases in labour costs – actual or perceived – associated with implementing the post-apartheid labour legislation. COFESA is an important phenomenon because it has undermined the effort of legitimate informal operators to have their needs and interests taken seriously by government, labour and policy-makers.

Representatives of both white and black business – formal and informal – are usually men. Women’s interests are seldom addressed as an issue by these organizations. Strategies for addressing women’s interests in employer organizations did not emerge from the case studies, because there is little experience in this area. Women are also poorly represented among employers in the building and taxi industries. Worker and employer organizations that are serious about addressing the particular needs of women in the informal economy will have to ensure that these needs are reflected in their demands and educate their bargaining partners in order to achieve this.

Box 5.3: Confederation of Employers of South Africa (COFESA)

COFESA is a national organization. It emerged around 1995, bringing together mainly those who were supportive of apartheid and wanted to preserve the prerogative of management under apartheid labour legislation to determine wages and working conditions, without having to negotiate with unions.

COFESA represents employers who operate in a range of industries, but is heavily concentrated in the clothing and footwear industries. It is a national organization, but its clothing and footwear membership appears to be confined mainly to KwaZulu-Natal, where its impact on these sectors has been extensive. It is not known whether informal clothing manufacturers are COFESA members. It is, however, certain that many of the informal operators in these industries are a result of COFESA's activities.

The core of COFESA's work undermines the new labour legislation. Apart from offering basic industrial relations advice, COFESA focuses on transforming real existing employment relationships into disguised employment relationships as independent contractors or subcontractors. Often workers are offered a financial incentive to make the shift and they do so for short-term gain.

Some argue that the impending changes to the LRA – which will make it difficult to prove that a worker is in fact a legitimate independent contractor, rather than a disguised employee – will put significant pressure on COFESA. Theron (2000) is sceptical about the ability of a legal approach to thwart COFESA's efforts.

Part 6 now outlines the strategies used and the issues confronted in organizing in the South African context in the four selected sectors.

6. Organizing strategies

Part 6 explores strategies for organizing in the informal economy in relation to a number of areas: labour law amendments, membership, legal status, functions of organizations, organizational processes, financial sustainability, links with other organizations and long-term transformation. It evaluates strategies currently being used and how effectively they are addressing some of the barriers that exist.

6.1 Labour law amendments

As mentioned earlier, experience gained in implementing the post-1994 labour legislation exposed loopholes in relation to the realities of informal work. While some provisions in the law in their original form could assist with the organization of informal employees, there were gaps. Recently adopted labour law amendments introduce a number of changes intended to provide a firmer basis for the organization of informal employees.

The innovative amendments were largely driven by the trade union movement. The General Secretary of SACTWU led the labour negotiation team around the labour law amendments. The union's experiences in campaigns against COFESA found expression in the amendments. The process of negotiating these and other amendments to the labour law was controversial. The labour movement used a range of strategies, including bilateral negotiations with employers in a bipartite forum set up for this purpose, the Millennium Labour Council.

Even before the promulgation of the new amendments in August 2002, some observers were sceptical of their ability to improve conditions for informal workers: "The effect of externalization is to replace a labour law regime with a commercial contractual regime... The question is rather how such a contractual regime can be regulated" (Theron, 2000, p. 54). The impact of the labour law amendments will only be apparent in time and any assessment will require further research at a later date. There appears to be broad acceptance – even among proponents – that the amendments will not provide a 'quick fix'; they merely open up space for union organizing.

Definition of an employee

A basic gap in the post-1994 labour legislation is that the definition of employee and employer implicitly excludes certain actors in the informal economy, for example, self-employed and dependent contractors – a loophole employers have used to disguise employment relationships as commercial relationships. For example, in the clothing industry COFESA has encouraged employers to retrench production workers and sign business contracts with them as "independent contractors". In the taxi industry, an improved definition may reinforce workers' efforts to get their employers to recognize themselves as employers who have legal responsibilities towards their employees.

Two sets of amendments relate to the recognition of certain categories of informal workers as employees. One change deals with the recognition of a broader range of workers as employees. An amendment to section 83 of BCEA now permits the Minister to deem any category of workers to be employees in terms of *any* employment law. As a result, workers in the informal economy may be legally covered by the LRA as well, and trade unions may have

the legal right to cover informal workers such as homeworkers. Deeming is, however, dependent on action by the Minister.

Further changes (to section 200 of the LRA and section 83 of the BCEA) aim to give worker organizations the tools to expose hidden employment relationships that may appear informal. The amendments introduce a “rebuttable presumption” on who is an employee. In terms of the amendment, any person who earns under a certain income is presumed to be an employee. This occurs regardless of the form of contract the worker has with the work provider if the nature of the relationship meets one of seven criteria:

- the way in which the person works is controlled or directed by another person;
- hours of work are controlled or directed by another person;
- in the case of a person who works for an organization, the person forms part of that organization;
- the person has worked for that other person for an average of at least 40 hours per month over the last three months;
- the person is economically dependent on the other person for whom he or she works or renders services;
- the person is provided with tools of trade or work equipment by the other person; or
- the person only works for or renders services to one person.

The criteria are based on unions’ real experiences of employers’ attempts to disguise employment relationships. For example, COFESA encourages members to retrench employees involved in production in, say, a clothing factory and then to enter into commercial contracts with each worker individually as an independent contractor. These workers would often still sew on the same machine in the same premises under the same management controls. In terms of the new provisions, such workers are presumed to be employees.

The amendment also introduces an earnings threshold, initially ZAR 7,500 per month, which means that most blue-collar workers (sewing machinists and labourers on building sites) will be covered but more specialized workers such as electricians, plumbers and information technology specialists can continue to operate legitimately as independent contractors.

Previously, workers had to prove that they were in an employment relationship with the work provider. The amendments shift responsibility to the work provider to prove in court that the worker is not an employee. But it will require organization or at least awareness of worker rights on the part of informal employees for such cases to get to court in the first place.

Power of bargaining councils

Two changes to the LRA are intended to facilitate the improvement of conditions for informal employees through centralized collective bargaining in the bargaining councils. A change to section 28 of the LRA, which sets out the powers of bargaining councils, now allows bargaining councils to extend their services and functions to cover informal work. The amendment gives bargaining councils the opportunity to register to cover informal work and to enter into collective agreements that can be extended to cover informal employees.

This creates the potential for organizations in bargaining councils to enter into agreements about payment, retirement funding, medical schemes, hours of work, safety and other conditions of employment for informal employees. The amendment provides only a facilitative legal tool. For informal employees to win improvements in their working conditions still requires the worker and employer organizations that are parties in the bargaining council to reach agreement.

Even before this change became law, SACTWU had already reached agreement with employers in the clothing industry that the bargaining councils would explore extending their scope to cover industrial homeworkers. In January 2002 employer associations also agreed to establish a working group with the union to agree on a range of benefits for informal employees, including earning levels. SACTWU has also raised the prospect of bargaining councils extending a range of additional services (such as health care) to informal workers with employers and government officials from the Departments of Labour and Trade and Industry.

Extension of bargaining council agreements

A change to section 32 of the LRA has strengthened the Minister's discretion to extend the agreement to non-parties within the registered scope of the council, even if the employer party to the agreement does not meet all the criteria for representativeness. This is particularly useful for bargaining in the informal economy, where workers may organize, but employers may choose to remain unorganized or may be too weakly organized.

By allowing for the scope of bargaining councils to cover informal work, and for the extension of bargaining council agreements to informal work, the legal tools are in place as a basis for organizing and bargaining around informal work. It is now up to workers and their organizations to take advantage of the space that is opening up.

6.2 Membership

Numbers

In terms of numbers of members, the case studies indicate that informal workers are very weakly organized (and the sectors chosen are possibly among the better organized in relation to informal workers).

SACTWU has a total paid-up membership of approximately 110,000, plus approximately 4,000 signed-up members, almost all of whom are formally employed. The union's membership has been dramatically affected by retrenchments, with numbers down from about 190,000 at the time of its founding Congress in 1989. Yet the union still represents approximately 90 per cent of formal clothing workers. SACTWU started to recruit informal members in a pilot organizing initiative among industrial homeworkers in Cape Town, but has had difficulty in making arrangements for these members to pay up because the area of work is still new, and because these workers have faced intimidation from operation owners.

The construction industry has one of the lowest union densities of all major economic sectors in South Africa, and even most formal building workers remain unorganized. Nationally, 65,000 construction workers – just under 20 per cent of the formally employed, or 11 per cent of the total employed – belonged to a trade union in 2000 (Stats SA, 2001a). Of

the unions surveyed in the construction sector, the COSATU affiliate NUM is by far the largest and most powerful. It has a construction membership of over 49,000 and a total membership of around 300,000, which includes workers in the mining and energy sectors. BCAWU, the NACTU affiliate in the building industry, claims a membership of 15,000 to 25,000. Neither national union claims to have a meaningful number of informal economy members. Two smaller regionally based unions do make such claims, but are not able to provide figures or verification of membership.

SATAWU claims a taxi industry membership of approximately 10,000 workers – mostly drivers – with 2,500 of these being paid-up. They join just over 100,000 workers from the railways, docks, airports and from cleaning, security and related industries in the Union. NATDO claims a membership of 25,000 taxi drivers. As it is not a registered trade union, it is not possible to verify these figures.

SEWU claims a national membership of 2,276 paid-up members. This figure is not verified and some argue that SEWU membership has dropped below 1,000. Horn (personal communication) argues that, while the numbers appear low, this compares favourably with similar organizations in other countries when they were at this stage of SEWU's history.

Coverage

COSATU's 7th National Congress in 2000 resolved to strengthen the links between employed and unemployed workers. To do this, it was resolved that “unions should explore the possibility of permitting workers who become unemployed to remain in the union, and the possibility of involving them in broader organization to organize the unemployed.” Workers who become unemployed are likely to enter the informal economy at some point or in some way, even if limited. COSATU's openness to developing different categories of members creates space for the recruitment of informal workers into the federation's affiliates.

Union members are usually required to pay subscriptions in order to remain a member and participate in the organization. This requirement creates barriers for the unemployed and often excludes informally employed workers who are more likely to work irregularly. Strategies for achieving financial sustainability are discussed in section 6.6.

Organizations have a decision to make about which segment of the informal economy to organize. For the first phase of its campaign, SACTWU has defined its target narrowly as industrial homeworkers, who sew pre-cut work for the more formal manufacturers and retailers. In this phase the union is not attempting to organize “own-account” clothing producers, such as those in SEWU who use their own designs, buy their own material and sell directly to customers, often near to where they live. COSATU's overall approach allows for affiliates to select target groups on a sectoral basis in this manner, within a broadly defined informal economy. This should enable affiliates to build experience organizing informal workers in a sector-appropriate way – without being overwhelmed by the challenges of the new organizing environment.

The confusion with regards to worker status in the informal economy means that defining membership is not easy. Informal workers who employ others may very well be earning lower incomes than factory workers. They also may have little or no independence to determine the price they receive for the work of their operation.

SEWU has dealt with these difficulties by opening its membership to all women workers who are over the age of 18 and, among other factors:

- earn their living by their own effort (without regular or salaried employment); and
- do not employ more than three other persons on a permanent basis.

In practice this means that if a street trader joins SEWU, the organizers insist that her “*bambelas*” (assistants) are also allowed to join.

SACTWU is likely to take a similarly pragmatic approach to organizing homeworkers in the clothing industry, where some homeworking operations are known to be run by someone who in turn employs others. Interestingly, SATAWU has chosen not to organize taxi washers. The washers are paid by the drivers – who are SATAWU members – rather than the taxi owners, and are employed on a “casual” basis. Unions in the building industry all see labour-only subcontractors as employers. They are unlikely to accept the owners of labour-only subcontracting businesses as members, even though many are retrenched artisans who are earning less regularly and, therefore, often less than when they were formally employed. However, unions in the sector differ in the extent to which they are willing to accept compromises in labour standards in order to support emerging black labour-only subcontractors. NUM’s emphasis is on improving wages and conditions of employment in the industry as a whole, whereas BCAWU emphasizes the importance of empowering emerging black entrepreneurs.

More often than in formal businesses, employees of informal business owners may be family members. This complicates initiatives to organize employees in informal businesses. For example, a taxi owner may see it as a sign of personal disloyalty if a family member joins a union. In fact union organizers indicated that some taxi owners respond to organizing efforts by firing their workers and employing family members instead. At the same time, the owners of homeworking operations may be more likely to see themselves as representing the family members working for them in an organization, even though they are not elected to do so. This may particularly disadvantage women if the owner is a man in the family.

6.3 Legal status

Most worker organizations profiled in this research are registered as a trade union in terms of the LRA by virtue of their formal membership. Section 4.2 of this report outlines the relevant requirements for registration and a range of organizational rights held by registered trade unions. These rights have been salient for registered unions when dealing with employers who are hostile to trade union activity.

Unions such as SACTWU are beginning to use these rights to gain access to institutions such as bargaining councils for informal workers. SATAWU is also moving towards establishing a national collective bargaining forum in the taxi industry – a process that may be facilitated by the legal framework. In the construction industry, NUM hopes to establish a national bargaining council that will cover all workers in the sector, formal and informal.

There is, however, debate around the ability of government and other agencies to enforce agreements reached in centralized collective bargaining forums, when there is no social commitment to these agreements. Agreements in the clothing industry are often undermined even by employer parties to the bargaining councils, at the same time as they

argue that the informal economy generates “unfair” competition. Formal employers in the construction industry have forced the collapse of some regional bargaining councils, justifying their actions with the same argument.

Unregistered trade unions and other organizations that may take up worker issues, for example non-governmental organizations and advice offices, are unable to access organizational rights in terms of the LRA. They may, however, assist workers to take advantage of the dispute resolution mechanisms set out in the LRA, through the Commission for Conciliation, Mediation and Arbitration (CCMA). The CCMA can assist informal workers with issues such as unfair dismissal. The body has a history of being accessed for such cases, in particular by domestic workers, which is the largest single group of informal workers. The problem is, of course, that these cases are dealt with on an individual basis and often only once the worker has actually lost the job.

SEWU is not a registered trade union and is therefore unable to make use of provisions in the various labour laws. The union has not registered because members are not in a direct employment relationship, so it was felt that there would be little benefit from provisions such as access to employers’ premises for organizing purposes, and those related to collective bargaining with employers. However, the union has established itself as a bona fide worker organization, and it is possible that it could be approved for registration on this basis.

Given the absence of an employer bargaining partner, a preferred option for street trader organizations appears to be to register with the national Department of Social Welfare as a non-profit organization. Practically, this option entails tax exemptions for the organization. SEWU also believes that registration may encourage all levels of government to grant the organization greater recognition.

6.4 Functions of organizations

Informal workers join organizations for a range of reasons. The key issues that organizations tackle for informal workers are set out below.

Improving earnings and conditions of work

As mentioned in section 2.2, worker rights have been introduced in South Africa at a time when internationally they are under pressure – much of it driven by structural changes in the economy. These are steering wages and working conditions downwards and encouraging business people to look for new (and often indirect) forms of control over workers. In this changed economic environment, employers are not the only actors upon which informal workers depend to earn a living. More than ever, organizing needs to focus on organization for the unity of workers rather than narrowly organizing against employers.

A key function of worker organizations is members identifying their collective needs and developing a set of collective demands based on them. An added step for worker organizations in the informal economy is to decide where these demands must be directed.

- In the construction industry, for example, demands for compliance with minimum wages in the sector need to be directed towards labour-only subcontractors. But at the same time, pressure must be exerted on the larger formal contractors to subcontract out to the labour-only subcontractors at rates that enable them to afford these minimums.

- In the clothing industry it is necessary to demand that the owners of home-based operations pay employees at the agreed rate for the industry, but pressure also needs to be exerted on the retailers who ultimately set prices in the sector. The situation is complicated by the fact that industrial homeworkers may work through agents, and do not know of others who work for the same customer, or where the products they sew are finally sold.
- In the case of street traders, SEWU (1996) has, for example, directed demands for facilities to local government; a demand for lower prices at suppliers; and a demand for higher prices for cardboard waste collected for customers (paper waste companies).

In many sectors it is harder to make short-term gains for informal workers because of the difficulties they face in defining a bargaining partner, their geographical isolation and the temporary or irregular nature of much informal work.

SACTWU's strategy for improving conditions of industrial homeworkers in the clothing industry includes the following:

- establishing a register of homeworkers and then reaching agreement with retailers and manufacturers to limit subcontracting to those who are registered;
- eventually establishing a bargaining relationship with formal retailers so as to negotiate with them and manufacturers around the conditions under which work is contracted out.

In 2001, SACTWU tabled a notice of protest action against retailers in terms of the LRA, declaring a dispute around, among other issues, the way they deal with informal clothing producers. SACTWU has achieved success in previous campaigns targeting retailers, for example by convincing the major retail chains to sign a code of conduct aimed at halting illegal imports of clothing.

NUM intends to establish a national bargaining forum to cover formal and informal workers in all segments of the construction industry: building, civil engineering and materials supply. This is a massive challenge in a context where some regional building industry bargaining councils have collapsed and others are under threat. Enforcement of any agreements reached in a national bargaining forum will need to be supported by strong organization and education on the ground. Until this is achieved, one option may be to incorporate building workers under the sectoral determination for the civil engineering industry.

Street traders in Durban have managed to bargain with local government to improve conditions in their workplace. These include the provision of markets, and storage and toilet facilities near trading sites. SEWU has also engaged the local authorities around local economic development policy. However, these successes are dependent on building a bargaining relationship with local government, which is hard to do. In Johannesburg, where such a relationship has been more difficult to establish, street trader organizations often resort to public protest as a first line of action. Street traders are unlikely to be assisted by traditional collective bargaining forums, which are based on the existence of an employment relationship between the parties.

SATAWU is in the process of establishing a bargaining relationship with taxi owners. Although it is proving difficult because of historical divisions among taxi owner associations, the government's recapitalization programme for the taxi industry has provided an incentive

for owners to work together at the national level and strengthened them as a potential bargaining partner for the union.

Recent changes in the labour legislation, described in section 6.1, are intended to make it easier for unions to use the bargaining councils as forums where informal workers can bargain over their earnings and working conditions. These will need to be used differently in each sector, to accommodate the diverse range of conditions described above. They are unlikely to assist workers in some sectors, for example, street trading where the key relationship between the self-employed workers and local government is one of citizenship only.

Once the institutional mechanisms for bargaining are established in each sector, the challenge is to find creative ways of exerting pressure to ensure that agreements favourable to informal workers are reached with the bargaining partner, be it employer associations or government institutions. After this, organizations need to ensure that agreements are implemented.

Distribution of resources

In the taxi industry and in the street trading sector, the absence of government intervention sometimes means that associations of informal operators play a role in trying to ensure that there are not too many people doing business in any one area. This is a complex task: in some cases it means involvement of organizational leadership in distribution of resources such as routes for taxis or storage facilities or sites for street traders. It also involves the exclusion of some individuals, which can often be done on the basis of defined groups, and may be discriminatory. For example, a street trader organization in Durban, thought to play a role in managing a waiting list of traders looking for a site, used to exclude foreigners from membership, hence preventing them from making a living in the sector.

In the taxi industry, historically, this distribution role has led to serious violence, often resulting in deaths, between different taxi associations. Government intervention, together with the moves towards the formation of a national taxi organization with provincial structures, has attempted to assist in dealing with these conflicts and ensure that those operating in the industry are able to earn a decent living. To date, it has not been wholly successful.

In the street trading sector, local governments have also recognized that they have a role to play in regulating the number of operators. At times this is done from a perspective of the general public, for example clearing pavements for pedestrian traffic. At other times it is motivated by the need to ensure that areas are not over-traded so that traders are able to earn a decent living. These two aims are not necessarily mutually exclusive, but both are not always considered.

Work seekers in the building industry suggested that NUM provide a job placement service that fairly distributes available building work among casual job seekers in the industry. Their vision is for the union to serve as a cooperative or non-profit labour broker. In the clothing industry, SACTWU is proposing that the bargaining council keep a register of homeworkers who contract and/or pay their workers at council rates.

Economic organizing

Various types of cooperative arrangements can assist informal operators to improve their earnings. These “economic organizing” initiatives also serve to break the isolation, particularly of women working on their own, and gain increased access to markets by bypassing intermediaries (Esim, 2001, p. 4).

Some street trader organizations operate bulk buying schemes for members. At the time this research was conducted, SEWU was in discussions with local government about the establishment of a foreign traders market, which would include a wholesale facility.

SACTWU has encouraged informal clothing operations in the coloured township of Mitchells Plain to move into a small business hive established with government support. Here small manufacturers are able to co-operate in securing orders and sharing know-how. The gathering of several businesses in one hive made organizing much easier, and most of the clothing workers in the hive are SACTWU members. The union intends to promote this idea more widely.

The concept of economic organizing is not new to the labour movement. COSATU’s September Commission into the Future of Unions recommended the building of the cooperative movement as part of a programme to develop alternatives to capitalism. The Mineworkers’ Development Agency, set up by NUM to assist retrenched mineworkers and their families, has experience in such projects, particularly in the rural areas.

Access to benefits and services

In the absence of a clear collective bargaining relationship with the employers/employers’ associations and in conditions in which it is difficult to make short-term bargaining gains, organizations have recognized the need to offer members a range of services that provide social protection and/or have the potential to increase their earnings.

Organizations are starting to explore ways in which private benefit schemes can be adapted to accommodate workers who work and earn irregularly. These workers have the same or even more of a need for a social security net covering areas such as health care, retirement funding, and death benefits, but are unlikely to have access to these services because of their precarious employment position. Worker organizations are looking for creative ways for informal workers to contribute to and access these benefits. A historical precedent for extending benefits to atypical workers in South Africa is the Food and Canning Workers Union (FCWU). During the darkest days of apartheid, seasonal workers in fruit and vegetable canning (who formed the backbone of this union) were entitled to medical benefits extending beyond the duration of employment. Arguably, it was these benefits which resulted in FCWU being the only affiliate of the South African Congress of Trade Unions to survive through these years.

The case studies highlighted a range of services that organizations provide, intend to provide, or could usefully provide for informal workers:

- child care;
- health care;
- access to training in business and productive skills;
- legal advice; and
- access to financial services.

The provision of such services needs to be financially sustainable. This presents a particular challenge when providing services for informal workers whose earnings are likely to be low and irregular.

In sectors where they are relevant, bargaining councils potentially provide an institutional space through which benefits packages and access to services can be negotiated and implemented. In the clothing industry, for example, the two major regional bargaining councils in which SACTWU is a party run an extensive network of primary health care clinics. The clinics are co-funded by contributions from formal sector employers and employees. The clinics are run on a non-profit basis, unlike typical private medical funds and facilities. Economies of scale would enable the bargaining councils to make the clinic services available to informal workers at relatively low user fees.

In the street trading sector, SEWU has overcome resource constraints by working in partnership with other NGOs to provide skills development training for members.

Advocacy and policy intervention

The labour law amendment process has been used to make changes to the law that may help to combat disguised employment relationships and create space for informal workers to be covered by bargaining councils and for the extension of agreements to informal workers.

The ability of the trade union movement to influence national policy and legislation is an important motivation for organizations to join a federation, for example COSATU. An organization like SEWU has, however, avoided affiliation to a federation because of the links federations have to political parties. There is also a possibility that COSATU would not accept an affiliate that is not a registered trade union and whose membership is only open to women, although COSATU has expressed a willingness to work with such organizations as part of a cooperative movement. The LRA provides for the registration of federations of trade union and employers' organizations, but does not specify criteria for membership of such federations.

SEWU has also managed to have substantial influence over economic policy, albeit largely at a local level in Durban. The organization did this by developing strong links with researchers and conducting and commissioning its own research. Despite its small size, SEWU's existence has also pushed trade unions to pay attention to organizing informal workers and addressing their needs and interests.

Other street trader organizations have made gains around specific issues, for example evictions from trading in stations, through one-off protest action that has captured media attention and influenced policy-makers. In the absence of appropriate negotiating forums,

mass mobilization is often the first line of action for these organizations and they are able to claim successes using this method.

6.5 Organizational processes

It is more difficult for informal workers to participate in organization than formally employed workers. They face a range of additional barriers. For most, time away from work to attend meetings means a loss in earnings.

Informal workers are more likely to be isolated and scattered over a wider area. There is not an obvious easy meeting place, like factory canteens. As was the case in the 1970s, organizing informal workers often means waiting to speak to them as they leave their work premises, house visits to homeworkers one at a time, meeting with informal building workers in community halls, or talking to individual street traders or taxi drivers as they work. One informant said that homeworkers are more likely than street traders to want to attend meetings as this breaks their isolation, but the clothing researchers still battled to get homeworkers to attend a focus group meeting – even when daytime and night time options were provided. SATAWU makes an effort to meet with taxi drivers on taxi ranks or at the union offices at off-peak times of the day.

There are particular challenges that arise in organizing women workers. For some, home work is the only option due to childcare and other domestic responsibilities. These responsibilities mean that women have even less time to attend meetings and are likely to be less flexible about the time of day they are able to meet. There also might be restrictions placed on their movement by male partners or by cultural mores.

Most organizations have systems of area representatives who then elect representatives to broader structures. Attendance at these broader structures is even more difficult for informal workers (women in particular) than participating in local area structures. It usually involves travelling a longer distance and taking more time away from income-generating activities. Some street trader organizations appear to address these difficulties by holding meetings infrequently and mobilizing on a one-off basis around very specific issues as they arise. In the clothing industry, SACTWU is proposing a system of residential area committees and exploring ways of getting providers of work to homeworkers to pool funds so that shop stewards elected by these area committees can be paid for time off on union business.

SACTWU is also developing training programmes specifically to build the capacity and confidence of shop stewards from the informal economy. In street trading, the absence of such training programmes was noted as a major barrier to building organization.

Regardless of arrangements made to encourage organizational participation from informal workers, they are always likely to be under-represented in trade unions relative to their numbers in any given sector. Unions will need to think through how to ensure that their voices are heard internally and their interests addressed by existing organizational programmes.

Coordination, management and conflict resolution

Organizational management and coordination do not appear to be problem areas for the trade unions profiled in the case studies, such as NUM, SACTWU and SATAWU. This

may be because they are better resourced and have a longer experience than those organizing only informal actors – employers and employees or own-account survivalists. However, it could also be that they did not raise their internal organizational difficulties with the researchers for this study.

Difficulties of coordination, management and internal conflict only surfaced as an issue for street trader organizations. While SEWU appeared to have procedures in place to deal with this, it was not clear if other street trader organizations had the same capacity. Of all the organizations, SEWU was the only one clearly guided by its constitution in its day-to-day operation. In terms of the constitution, decision-making follows a clear hierarchy, and if a problem cannot be solved by organizational structures at one level it is referred to the next.

The taxi industry has a history of violent conflict between rival associations, largely caused by competition over routes in a saturated market. The formation by informal employers in this sector of a single national organization, with provincial structures, is seen as a step forward in resolving the problem.

Addressing the interests of women

With the exception of SEWU, women are under-represented in the leadership of all the organizations covered by this research. It is also apparent that women tend to participate less than men in organizational processes. Some unions appear to have an understanding of the particular issues and interests of their women members. They also have programmes in place to address imbalances in leadership and participation. However, as noted in section 5.1, many of these programmes have been in place a long time, and progress is not encouraging.

6.6 Financial sustainability

As discussed in section 3.4, informal workers' earnings are likely to be lower and more irregular than those of the formally employed. They are also more likely to come from a range of sources, rather than a single employer. This poses particular challenges for the collection of membership subscriptions, which are vital if an organization is to be self-sustaining and financially independent.

Most organizations in the informal economy are forced to collect subscriptions by hand. This again resembles conditions under which unions organized in the 1970s, with the added difficulty of more irregular earnings. By now unions have become accustomed to stop-order facilities being granted by formal businesses. Trying to maintain and increase membership on the basis of hand-collected subscriptions is a hard task. The construction case study revealed that a major barrier to organizing informal building workers in the sector is the conception by organizers and formally employed workers of union members as workers who have signed a form enabling their employers to make stop-order deductions in favour of the union to pay monthly subscriptions.

SEWU introduced a debit order system in 1999 in an attempt to address the problem. The strategy resulted in the organization losing about 35 per cent of its membership, including a disproportionate number of street traders. Debit orders are difficult for informal workers for a range of reasons, including:

- irregular earnings;
- insufficient income to justify opening an account;

- lack of familiarity with the concept of a bank account; and
- unwillingness of the banks to accommodate informal workers, for example requiring a salary slip to open a bank account, and minimum balances way beyond the means of survivalists.

SEWU met with the banks to address some of these problems, and ran educational workshops with members. However, the system still does not appear to be working well and there are no clear plans to deal with the difficulties. As a result, at present SEWU remains dependent on donor funding.

Some construction unions allow informal workers to pay subscriptions by hand at the union offices. However, these offices are often far from where workers live or seek work. Few workers go to the effort or expense of doing so, even when they are earning. An option raised in the case study is for COSATU or individual affiliates to have offices in the residential areas where informal work seekers live, even if these offices are only open one or two days a month. SACTWU is exploring the option of getting members to pay subscriptions monthly at local advice offices or clinics. This will depend on workers visiting and using these services.

One of the benefits unions with a large formal sector membership, such as NUM, SACTWU and SATAWU, are able to offer to informal workers is a physical and human resource infrastructure. Such a union typically has well-equipped offices and staff who deal exclusively with areas like education, health and safety, skills development, research, and advocacy. This would be beyond the means of organizations relying solely on subscriptions of informal workers. Access to such services was cited as a major benefit of the integration of COSATU's construction affiliate into NUM. The vulnerability of workers in the construction industry – both formal and informal – was assessed as making separate organization unsustainable. SACTWU has committed substantial resources to organizing homeworkers, and recognizes that there is always likely to be some level of cross-subsidization of organization work relating to the informal economy by formal members.

Cross-subsidization may, in practice, give rise to dissatisfaction among formally employed members who are already often dissatisfied with unions' inability to avoid retrenchments and may feel that scarce resources are being spent on workers who contribute irregularly and in fact threaten their position. However, many unionized workers are familiar with the basic organizing principle of worker solidarity. COSATU's efforts to raise awareness around informal work and links with restructuring in the formal economy, as well as the introduction of a membership category for members who become unemployed, may impact positively on this strategy.

6.7 Links with other organizations

The case studies illustrated a range of ways in which cooperation with other organizations can benefit workers in the informal economy.

SACTWU's affiliation to COSATU has assisted the union to make extensive input into the labour law amendments. Through its links with the South African Commercial, Catering and Allied Workers' Union (SACCAWU), another COSATU affiliate that organizes in the formal retail sector, the union has also been able to put pressure on formal clothing retailers and assist with access to information.

While SEWU is numerically weak, its ability to influence local economic development policy has been strengthened through its networking with other organizations internationally and with the local university. International organizations provided an important source of information and policy direction. Local researchers are well positioned to provide insights into the policy development process. The case study also showed the possibility for stronger collective bargaining relationship with a wider range of local government authorities through a relationship with the South African Municipal Workers' Union (SAMWU), which has the South African Local Government Association (SALGA) as its employer bargaining partner.

Given the scattered nature of work in the informal economy, there also appears to be scope for unions and other organizations to develop closer relationships with community advice offices, and build the capacity of these offices to service informal workers. However, there are now fewer of these offices than during apartheid, owing to the large-scale withdrawal of foreign donor funding to this sector even before 1994. These offices historically played an important anti-apartheid organizing role, and there was one in almost every township. The fewer than 400 that remain assist poor communities in areas as diverse as legal advice and accessing government grants and housing subsidies. They have their own weaknesses, including financial difficulties due to the scarcity of funding and the lack of training around financial management in most cases. This means that worker organizations would need to provide financial support, capacity building and monitoring for this work.

6.8 Long-term transformation

COSATU's long-term approach to the informal economy is to attempt to formalize it. This entails creating conditions in which informal business have an incentive and are empowered to register for tax purposes and in which both formal and informal businesses are encouraged and able to employ workers formally within the relevant labour standards. Examples of this approach include SACTWU's efforts to institute a register of homeworkers and SATAWU's support for government efforts to ensure that taxi owners register their businesses. Lund and Skinner (1999) argue that this approach ignores the reality of the extent of current informalization, and that the large survivalist segment of the informal economy will never be formalized. It is likely that the federation will engage further with this reality as its affiliates gain more experience in organizing.

At the same time, the federation is also committed to building a cooperative movement that would include many of the self-employed. For example, while SACTWU's strategy focuses on the formalization of home-based businesses, the union also intends to explore options of cooperative buying, negotiation of contracts and direct relationships with retailers.

SEWU has participated in a range of initiatives around local economic policy development, social security, skills development in potential growth areas and cooperative buying and selling. These programmes are aimed at assisting members to move beyond their current position as informal survivalists and develop opportunities for decent jobs in the long-term. SEWU's approach is in line with COSATU's vision for an economically vibrant cooperative movement. However, SEWU appears to have difficulty in regularly showing members short-term gains that will encourage them to participate in organization in the long-term.

7. Conclusions

Organizing is never easy. It is even less so in the informal economy, where work is irregular and irregularly paid, employment relationships are often ambiguous or disguised and individuals are generally vulnerable as workers and citizens. Many resort to collective organization to address problems that they cannot solve as individuals, but often tend to lose sight of the long-term benefits of membership. Most workers ignore their right to organize – either because they remain unaware of their entitlement to rights or because they do not perceive the exercise of this right as the gateway to a better life.

The limited evidence gathered in this research shows that, despite the constraints, many efforts are underway to reach out to and organize informal economic actors in South Africa. Important elements of organizing strategies in the informal economy currently include:

- Providing social benefits and social protection for members in the absence of being able to achieve short-term bargaining gains in more traditional areas such as pay, leaves, etc.
- Providing access to a range of relevant services (credit, training, childcare facilities, etc.).
- Identifying bargaining partner(s) and establishing a bargaining relationship.
- Identifying points of leverage within and, if necessary, outside the sector to use in efforts to reach agreement with bargaining partner(s).
- A long-term vision to improve earnings and conditions of work through a range of methods, and a practical programme to achieve this.

Changes to the legal framework can facilitate organization in the informal economy. But laws are only tools. Recent legislative amendments still do not remove the need to organize workers on the ground. This is still the biggest strategic challenge. Many efforts are new, so the ideas and plans are in place, but the practice will take time to develop. Theron (2000, p. 55) argues that unions need to redefine their role in relation to peripheral workers “in no less radical a way than the restructuring that confronts their members”. This is only likely to happen once unions begin to engage more in the task of organizing these workers and their voices are heard within organizations.

The inclusion of informal workers’ organizations in institutional arrangements (such as bargaining councils and forums where economic development is discussed) has the potential to greatly enhance the ability of organizations to improve conditions for their members in the informal economy. However, their success in these forums depends on their capacity to engage in the debates as well as their ability to mobilize their members and to exercise power on the ground.

Among the organizations surveyed in this research, SEWU is playing a distinctly important role by highlighting the needs and interests of the informally self-employed, particularly self-employed women workers. Trade unions are unlikely to organize self-employed survivalists for a long time to come and women are poorly organized and represented in the leadership of most unions.

At this time, the labour movement in South Africa is well placed to organize informal workers across a range of sectors. Many unions’ organizing strategies have yet to be

implemented and tested to the full. If unions are to achieve success, it will require a concerted effort to understand the particular conditions of informal workers, the investment of considerable resources, and specific mechanisms to ensure that their voices – particularly those of women informal workers – are heard clearly within organization and more widely within society. It is now up to workers and their organizations to take advantage of the space that is opening up.

The right to freedom of association – in law and in practice – provides a basis on which informal workers can organize in order to challenge poverty and contribute to sustainable development in South Africa.

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Annex 1: 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 2: Guidelines for focus group discussions

Introduction (± 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 (± 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 (± 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 (± 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 (± 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 (± 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.

Annex 3: Note on the research process and methodology

This note outlines methodological issues that arose in the case study research for the South African country study of organizational strategies in the informal economy. It looks at the partnership that was established to conduct the research, the advantages and disadvantages of involving researchers who are linked to stakeholders, the overall nature of the research process, specific issues relating to interviews with leaders and members, ways of capturing the gender dimensions of organizing in the informal economy and issues of safety.

Research partnership

The partners

The ILO intended this research project to strengthen local capacity for participatory and qualitative research on representational rights in the informal economy by fostering cooperation between different types of research organizations with an interest in improving working conditions in the informal economy. On this basis, the Community Agency for Social Enquiry (CASE) was commissioned to conduct the South African country study in partnership with the Southern African Labour Research Institute (SALRI). CASE is a non-governmental organization specializing in applied social research and with extensive experience in the areas of labour and gender. SALRI has direct links with the labour movement and was set up specifically to provide a range of applied research services to trade unions. The institute has an interest in building research capacity on issues relating to the informal economy within the labour movement.

Partnership and dialogue between organizations enabled them to draw on different strengths and learn from each other. CASE brought with it, among other things, experience in primary research. Its presence was intended to help build capacity to do primary research in organizations where research is usually drawn from secondary sources and/or aimed at supporting or popularizing positions that have already been decided rather than discovering something new. It allowed for a specific focus on research methodology. Further, the research product benefited from CASE's experience in integrating primary research findings and writing reports for a wider audience than internal organizational documents, popular materials or policy proposals usually address.

SALRI's close organizational links with the labour movement helped to ensure that the research was firmly grounded in organizational reality and enabled worker organizations to engage in the process in more depth. It broadened input into the research, facilitated access for fieldwork and, it is hoped, will encourage stakeholder ownership of the research and dissemination of the research findings.

Division of labour between the partners

CASE was responsible for the overall coordination of the research. The organization drafted the overall project proposal and terms of reference for the case studies in consultation with the ILO and SALRI. The case study terms of reference were also discussed with the COSATU union in each chosen sector and other researchers who have done work on the informal economy.

This project used researchers who are either based in worker organizations, or have close links with these organizations. This was facilitated largely through the partnership with SALRI. Two of the case studies could not be completed by union-linked researchers because organizations in the sectors did not have the necessary capacity. One was completed by CASE in consultation with the relevant union's researchers and the other by an independent researcher who had previously conducted studies on the specific sector and on the informal economy.

A contractual difficulty in the partnership was that the union-based researchers did not see themselves as accountable to either CASE or SALRI. Their priorities are dictated by organizational structures and programmes. Further, the organizations are not accustomed to accommodating tight timeframes set outside the organization for a relatively time-consuming research project that does not have direct or

explicit links to their immediate programmes. This difficulty might have been solved if the project had been conducted within more of an action-research framework, clearly linked to organizational processes and programmes, over a timeframe.

Location of the researchers

Both CASE researchers involved in coordinating the project have worked in the labour movement. Of the case study researchers, only one was based in a union but two of the others had worked in the unions and one of them was located in SALRI. The fourth had extensive experience working with a range of community-based organizations.

Using researchers in worker organizations, or closely linked to them, for this type of research is advantageous as they are more likely to:

- Understand work in the sector broadly, including formal and informal work, and any changes taking place;
- Have practical knowledge and experience of the institutional arrangements affecting the sector, and the relevant policies and policy processes;
- Draw out issues that are of strategic importance for organizing;
- Access workers and organizational leadership in their organization easily;
- Know the leadership in other stakeholder organizations;
- Have contact with a wide range of key informants and role players;
- Use the findings and insight gained in practical organizing initiatives;
- Disseminate the findings to others through their other day-to-day work.

Disadvantages include that they are likely to be:

- Less critical of the views of their own organization and organizational leadership;
- Less able to describe the work of other organizations because of limited access and organizational/political bias;
- Less able to view the work of their organization and others in perspective;
- Less well trained in primary research methods;
- Less willing to be surprised by findings in the field – this is especially serious when looking at the informal economy, because their assumptions are so much shaped by formal sector employee experiences as a result of the historical focus of unions;
- Less likely to get interviews with antagonistic or rival stakeholders; and
- Less focused on the research, and more likely to be distracted from the process to deal with other priority issues.

These disadvantages do not mean that the involvement of stakeholders in research is not important. However, the limitations need to be recognized and addressed. Ways of addressing them are discussed in the following section.

Research process

As noted previously, the overall project proposal was drafted by CASE in consultation with the ILO and SALRI. In terms of this proposal, detailed terms of reference were drawn up for the case studies in consultation with the relevant unions and other researchers. For the street trading case study specifically, a researcher at the University of Natal in Durban was consulted as she had previously audited organizations in the sector.

The terms of reference provided a common framework for the case studies, but allowed for differences to accommodate each sector. For example, the study sites differed across the various sectors. Further, the street trading case study focused on specific organizations selected according to narrower criteria because an audit in the sector had already been completed. The terms of reference included clear timeframes.

The terms of reference were largely followed, although in one case union researchers misunderstood the brief because their conception of a union member was a formally employed worker. Researchers with strong union links also battled to stick to timeframes, as they were forced to address other organizational priorities, such as strikes, policy processes and a nation-wide anti-privatization campaign.

The research process began by drawing on the researchers' personal knowledge of their sector through an initial background paper, incorporating a documentary review. This was helpful in providing a basis for further fieldwork and to exposing assumptions that needed to be tested empirically. Key informant interviews also assisted in this process.

From this first step, the researchers had a fairly clear picture of the organizations they needed to cover. Within each organization, they were required to interview leadership at each site and, where appropriate, national leadership. In addition, they were required to conduct a focus group with members of the organizations at each site.

Case study researchers were given detailed interview and focus group guidelines. Where necessary, these were adapted to suit each sector. In most sectors this meant adapting references to the relevant key categories of workers. In the construction sector it was found that none of the unions were organizing informal workers, so it was decided to hold discussion groups with informal work seekers, and the focus group guidelines were adapted accordingly.

Given that organizing in the informal economy is largely a new area of work for trade unions in South Africa, the research may have benefited from a more process-orientated approach. Such a process could have included workshops with researchers and organizational leadership at the following points in the process:

- at the beginning: to share ideas across sectors around the terms of reference and research tools;
- after the fieldwork stage: to challenge assumptions and develop a sharper analysis; and
- at the end: to facilitate the formulation of recommendations for further action based on draft reports.

For this research, a workshop was planned only for the end of the process. Workshops at earlier stages could also involve training in primary research skills for researchers who more commonly work at a policy or advocacy level. This would build the capacity of stakeholder-linked researchers, and ensure that organizational leadership is able to engage with the issues in more depth. Ultimately these outcomes would contribute to stronger organizing initiatives.

Gathering the views of leadership

Access

Access to organizational leadership is often a challenge and can delay fieldwork substantially. Problems arise for a range of reasons:

- organizations are under-resourced and when leaders are under pressure, research is not prioritized. Further, leaders are sometimes not good at managing their time;
- leaders are inexperienced in dealing with researchers or have had bad experiences with researchers and journalists and react with insecurity and suspicion, sometimes deferring to superiors for a mandate or often simply avoiding calls;
- organizations do not see any benefit for themselves or their members arising from the research;
- organizations guard their strategy closely and do not want to share it with rivals;
- some organizations are so under-resourced that they lack the means to be contacted easily – they do not have an office with a telephone, and/or they do not have airtime on a mobile phone – or their contact details are not easily available outside their immediate membership.

The fact that most of the researchers were from a union or may have been seen as aligned to a union may have influenced the response from other unions.

Researchers need to be aware of the potential difficulties and assess what the actual problem is. In some cases showing goodwill by being highly flexible about the location and time of the interview will secure an appointment. At other times a telephone interview may be the only option.

Where organizational jealousy is involved, it sometimes helps to accept that all the information will not be provided and to limit questions to those that will appear less threatening. Later, gather further information from actors outside the organization who nevertheless understand its operation. It is also important to ensure that the leaders understand the aims of the research and who has commissioned it.

Content

Sometimes when interviewing organizational leaders it is a challenge to get them to talk about concrete experiences in the organization, and not simply in broad policy terms. The interview guidelines were designed to get interviewees to describe what they have done and what actually happens, rather than what they intend to do or what should happen.

At other times, grassroots leaders provide too much detail on issues that are not directly relevant, and the point can be lost to the interviewer. The interview guidelines were focused so as to avoid this happening. However, sticking to the point in an interview also requires a skilled interviewer.

Process

The interview guidelines were comprehensive, covering all areas in detail. Researchers found that the interviews took too long. This proved particularly challenging when interviewing leaders who were under time pressures and/or were not supportive of the research.

Researchers managed this by gathering as much information as possible before the interviews, by prioritizing some questions over others, and by attempting to fill gaps in information by asking for documents and speaking to external sources after the interview. The researchers were also able to rely on their own insight and understanding of organizations in the sector to interpret the limited information.

This sometimes resulted in information on different organizations being uneven in depth.

Gathering the views of workers

Access

Originally it was intended to conduct focus group discussion with workers. This method allows similarities and differences in experiences and views to emerge through an exchange between workers. However, the researchers battled to get workers to attend focus group meetings for reasons related to the informal nature of their work.

Informal workers sacrifice their earnings if they leave their work, and if they are employed it is possible that their job security may be threatened. Women often have added childcare responsibilities and will be less likely to be in a position to attend a discussion in the evening.

In the end, most researchers opted for in-depth interviews with informal workers, using the focus group discussion outline as a guide.

For the case studies where union organizing initiatives are still in their early stages, it was not easy for organizers to recruit workers to participate in in-depth interviews or focus groups. Organizers and researchers had to work within the constraints of the workers. So, for example, taxi drivers and street traders were interviewed during off-peak times of the day. Homeworkers were interviewed in the evenings, provided with compensation for foregone earnings, collected from and returned to their homes, and given a meal in order to facilitate participation in the discussion. For one focus group, casual work seekers in the construction industry were recruited on a specific day when work is

allocated at a specific company yard. They were assured they would be called from the discussion if work became available. For the groups where work seekers were recruited from the side of the road, they were compensated for potential loss of income.

The process in itself was educative for those who had not had previous contact with informal workers.

Content

Researchers who had previously conducted discussions with focus groups stressed the importance of addressing concerns about loss of income due to participation in the interview at the beginning. The guidelines provided for this, even though in most instances these concerns were thought through and addressed beforehand.

In designing the questions, it was important to allow workers to define their position from their perspective. For example, in the construction case studies the workers did not identify themselves as informal workers at all, but described themselves as unemployed. When probing, the researchers had to be careful to check assumptions and understand what workers meant. For example, when people said they had not worked for six months, the researchers needed to check whether they had not worked in formal permanent employment for this period, or whether they had also not done any informal 'casual' work in this period.

In most cases, the researchers spoke to workers who are members of organizations. In the absence of speaking to workers who are not members, it is important to ask questions about why members think others do not join so as to pick up barriers to organizing. This issue was therefore included in the guidelines.

Process

For some of the worker focus groups and interviews, the researcher did not speak the language of some workers. In the street trading case study, a translator accompanied the researcher. In the construction case study, a shop steward provided translation assistance in one focus group and, in another, participants translated for each other. This introduced a potential for bias, particularly in the case of translation by the shop steward. However, the researchers understood the context well enough to follow the spirit of the discussion and check for appropriate translation.

The gender dimension

In order to develop an understanding of the gender dimension of organizing in the informal economy, it is important to have background on the situation of women and men in the sector being studied and to follow up by asking questions about representation, participation, and the content of programmes.

In terms of representation, it is important to look at numbers. The physical presence of women in organizational decision-making structures makes a difference in that they are seen to be present, and they learn about organizational processes and issues. Also, their presence affirms the message that women have a right to be in leadership. They are also more likely to raise gender-related issues because of their personal experience.

It is equally important to assess women's participation. For example, the street trading case study revealed that in one organization, even where women were well represented in a leadership structure, few said anything in the meeting observed, and the organization did little to serve the particular interests of women members. Conversely, some organizations may not have women proportionately represented in leadership, but nevertheless may have programmes in place that address their needs.

Each researcher needed to develop her or his own sense of what the issues are for women in the sector, and assess the extent to which organizational leadership was aware of these, and programmes were in place to address them. For example, in the construction industry, which is male-dominated, the main issue for women is access to work. Yet in the research interviews, most union leaders argued that there

is nothing specific they can do for women or that women need from their organization, because the industry mostly employs men.

Safety

None of the case study researchers reported threats to their personal safety in the course of their work for this project. However, other researchers are known to have been threatened when speaking to informal operation owners in residential areas who know they are operating outside the law. Some of these areas are gang-ridden and it is not uncommon for people to carry guns and/or knives, particularly those who deal in large amounts of cash. Difficulties in this regard are more likely to have arisen in some sectors, such as the taxi industry, than in others such as street trading. For this project, making contact with informal workers through organizational leadership, rather than scouting around informal operations where owners are present, made it easier to avoid such situations.

For the construction case study, where informal building work seekers were involved in focus group discussions, the male fieldworker was able to recruit participants from the side of the road and under bridges where they wait for work. However it may not have been safe for a female fieldworker to use this method. Similarly, organizational leadership assisted with recruitment from a building yard where work seekers gather on certain days of the week.

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