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THE PROSPECTS OF DECENT WORK IN MUNICIPAL SERVICES: Case studies in care work and waste management

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THE PROSPECTS OF DECENT WORK IN MUNICIPAL SERVICES:

Case studies in care work and waste management

1. INTRODUCTION

It is now clear that the global financial crisis that began in 2008 marks the end of an era, and that the policy prescriptions that have guided economic globalization no longer hold. What has still to emerge, however, is the policies that will replace them.

Perhaps it is inevitable in the circumstances that any attempt to plan for the next twenty or so years, as South Africa's National Development Plan (NDP) seeks to do, is bound to seem dated. If such a plan were to have any value, it would be in its boldness in confronting the hard realities the country currently faces: the kind of realities that call for a decisive change of direction.

Nowhere is this need more evident than in "the story we propose to write" (to use the Plan's own self-consciously seductive language) about "creating jobs and livelihoods." The need to create "jobs and livelihoods" relates to the fact that "too few people work". All would agree that this is a critical challenge. In fact it is one of the two most critical challenges facing government (the other one being the poor quality of education.)

All that is bold about the Plan, we would suggest, is the projected number of jobs it envisages will be created (reducing the rate of unemployment to 6 percent by 2030). This is also true of its sibling, the New Growth Path (NGP). Although the NDP does not say what precisely it means by a job it is indicative that, having introduced a distinction between jobs and livelihoods, it has little to say about livelihoods. For this and other reasons it appears that what it has in mind are jobs in the conventional sense of an employment relationship. It further appears that what it has in mind are standard jobs, namely jobs that are full-time and ongoing.

Given that it is well-known that the prospects of employment in standard jobs are diminishing, both globally and in South Africa, this is akin to the proverbial ostrich burying its head in the sand. The hard reality is that increasing numbers have to subsist from livelihoods derived from self-employment. Not only is there little or no acknowledgment of this reality in the NDP, but there is little that could be described as visionary, or even new, in how it says these jobs will be created. The bulk of these jobs are in the same sectors that are supposed to have generated jobs over the last twenty years or so.

In comparison with the relatively modest growth projected (even on its most optimistic scenario) in sectors such as mining, manufacturing and agriculture, however, the increase projected in so-called services seems huge. Here the NDP differentiates between what it terms "leader or high paid services (eg finance, transport)" and "follower services (eg retail, personal services)". The projected increase in the number of jobs is in the region of 100 and 157 percent respectively. It is somewhat ironic to depict

“finance” as a “leader or high paid” service, since its growth over the past decade can be attributed to the numbers employed by labour brokers, cleaning and security services. Many of these jobs were not new, in the sense that the same functions were previously performed in-house by a core business, in manufacturing, mining and agriculture. So the question arises how an increased demand for services of this order can possibly arise. The same question can be asked even more pertinently of the retail sector, now that access to credit is curtailed.

The focus of this paper is on a sub-sector in which there is perhaps potential for increased employment, namely services in the sphere of local government, or the municipality. That, we suggest, is because the services local government provides relate to human needs, rather than services to enhance the profitability of the private sector. To consider the question of employment in local government, or in municipal services, it is therefore necessary to re-visit the policy prescriptions that have guided the process of economic globalization. These include the policies of privatization and deregulation (which in South Africa has taken the form of the externalization of employment), as well the fiscal constraints imposed on local government, as well as other levels of government, in terms of policies of fiscal discipline.¹

The legacy of these policies is not easily reversed. If we are going to investigate the question of employment in local government, we will have to begin by acknowledging the hard reality that the prospects of significantly increasing the number of workers that are directly employed by local government is not realistic. A more realistic prospect is to focus on workers who are providing what may be regarded as municipal services, but are not directly employed by the local authority. The objective of our investigation should not only be to increase the numbers employed but to address the quality of the work they do. This in turn entails addressing the question of decent work.

2. WHAT WE MEAN BY DECENT WORK

The objective of this paper is to investigate the different ways in which the objectives of decent work are being realized, or might be realized, in the municipal sector, as part of a broader examination of the prospects of decent work in our society.

We will not elaborate in any detail on the origins of the concept of decent work here, other than to note that, as defined by ILO, decent work has four key objectives: creating employment, rights at work, social protection and social dialogue. Further, the term work denotes all forms of work, and therefore includes both jobs and livelihoods. It should also be regarded as including paid and unpaid work, although this does not appear to be a distinction that is explicitly considered in the ILO’s conception. In this paper, therefore “work” is used to encompass all forms of work, and the term “worker” refers to all who work, and not just workers in an employment relationship.

Decent work therefore encompasses those to whom labour legislation applies and those to whom it does not. It would not be correct to equate it with employment in a standard job. It would also not be correct to suppose that the decent work objective of “rights at work” can be realized simply by extending labour legislation to all workers. This is not to

say there may not be a case for extending the coverage of labour legislation in certain circumstances.²

In order to justify the particular interpretation or approach to decent work we have adopted in this investigation, it must firstly be noted that decent work is not a precise concept. Indeed, it is not obvious how the different objectives of decent work can be reconciled, in circumstances in which these objectives are not equally obtainable, if not contradictory.

What we regard as the primary contradiction is between the first objective, which can be regarded as the realization of the right to work, and the exercise of the rights and the maintenance of protections envisaged in the other three objectives, all of which come at a direct or indirect cost. Accordingly, many employers and certain economists regard them as impediments to the fulfillment of the first objective.

We therefore do not believe decent work should be regarded as a quantitative concept, although there may be aspects of decent work that are susceptible to quantitative measure. I therefore do not agree with those who treat it as if it were (this includes the position undertaken by LEP in previous research).³ We therefore hold that it cannot be measured by developing factors or indicators or the like. If the concept has any value, rather, it is as a qualitative concept, which is related to the specific context in which work is performed. This also implies that decent work can be realized in different ways in different contexts.

From a decent work perspective, the rejoinder to the argument that the fulfillment of second, third and fourth objectives frustrate the realization of a right to work must be twofold. Firstly, employment that does not meet the minimum objectives of the second, third and fourth objectives is not sustainable. We need to develop a concept of sustainable employment. Secondly, our concept of sustainable employment needs to incorporate the social economy (some prefer the term solidarity economy) that exists unacknowledged alongside what is traditionally regarded as the public and private sector. This comprises both non-profit organizations and not-for-profit organizations. We can no longer look only to the so-called private sector to generate jobs.

Although the distinction between non-profit and not-for-profit organizations may seem arcane, it is nevertheless important. A non-profit organization may or may not be an association, having a membership. It is not, however, or should not be, an enterprise with an economic objective. A not-for-profit organization, on the other hand, is an enterprise with an economic objective, although this may not be its only objective. The best-known forms of not-for-profit organization are the co-operative and mutual society. Although they may generate a surplus, which may colloquially be referred to as a profit, they serve the interests of their members, and in the case of a co-operative at least a portion of any surplus is not distributable amongst the members for the time being.

An emphasis on organisation and representation accords with what the ILO regards as its Fundamental Conventions, which can be regarded as the core of the rights at work envisaged in its second objective.⁴ It also accords with the objective of social dialogue (the fourth objective). Our point of departure is that no work can be considered decent

unless the workers undertaking it consider it decent. Workers are also best able to articulate their sense of what is decent if they are organised. By the same token, there can be no social dialogue unless workers are organised, and their organisations are recognised by other social partners.

However this does not mean that the objectives of decent work can only be achieved by an exclusive reliance on forms of organisation and representation that primarily serve the interests of workers in standard jobs, such as trade unions and centralised bargaining. At the same time organisations that cater only for a section of the workers cannot be said to be establishing conditions of decent work. It must be organisation that is bringing about greater equity in working conditions between the different categories of workers. By the same token representation or collective bargaining on behalf of a section of workers cannot be said to be creating conditions of decent work.

3. METHODOLOGY

How does one gauge whether greater equity in working conditions is being achieved? One of the ILO's Fundamental Convention concerns the principle for equal pay for work of equal value, as between men and women. Another concerns promoting "equality of opportunity and treatment in respect of employment and occupation..."⁵ However the difficulty that has to be overcome in enforcing any claim by workers to equal treatment nowadays is that inequality is increasingly not to be found amongst workers of the same employer. Rather, as a consequence of externalization, it exists primarily between the workers of a core business and various subsidiary workforces of employers engaged by that core business.

As a consequence, any attempt to address inequality on a sectoral basis has to confront the inadequacy of the notion of a sector in dealing with the consequences of externalization, as well as the absence of quantitative data. In this regard, we have already noted that workers employed by labour brokers or security or cleaning services are categorized as being employed in financial services rather than the sectors in which they actually work. The corollary of this situation is that the data on employment in sectors like mining and manufacturing which rely on these services to function are understated.

For the same reason, quantitative employment data in local government cannot be relied on. Amongst other reasons this is because they do not include workers who can be regarded as providing municipal services, but who are not directly employed by the local authority. To understand how the objectives of decent work are being realized, or might be realized, qualitative data is needed to supplement whatever quantitative data is available. We decided to obtain such data from case studies of specific workplaces, where the workplace is understood as the place or places where workers actually work.

We decided to draw our case studies from a city, the City of Cape Town (the City), and to use a medium-sized town, Stellenbosch, as a comparator. We further decided to focus on case studies involving primarily two kinds of service: these were waste management and recycling (or waste minimisation) and what we initially conceived of as

care work, although we focused only on an aspect of care work. We set out in more detail the reasons for selecting these two services below.

The objectives of the case studies can be clustered as follows:

- The first set of objectives relates to the determinants of employment in municipal services. This entails a consideration of the extent of indirect or externalised employment in municipal services (ie workers providing municipal services who are not directly employed by local government) and to identify the different categories of such workers, including both workers in a employment relationship (and the different categories of employees) and self-employed. It further entails a consideration of the policies that inform the employment choices that have been made, and to investigate to what extent the kind of employment generated is sustainable;
- The second set of objectives relates to the potential for organisation and representation amongst workers providing municipal services, and the extent to which the applicable legislative and policy environment facilitates or is an obstacle to realising this potential. Linked to this investigation is a consideration of innovative ways in which stakeholders are attempting to create decent work in the sector (whether conceived in these terms or not), including initiatives to establish forums where bargaining or social dialogue takes place.

Ideally it would have been preferable to conduct more case studies, over a longer period, and in more detail, than was possible within the time-frame in which this research project had to be completed, due to circumstances beyond our control. We would therefore regard the value of this research as confirming the relevance of the questions being investigated, as well as the need for further research.

About the case studies

One of the reasons for focusing on waste management and recycling (or waste minimisation) was because of a 2009 study on the City (Visser and Theron, 2009;Theron and Visser, 2009) which showed the extent to which local authorities rely on private contractors to provide waste management services. This was evidently also the position in other metropolises in South Africa (Samson, 2004). So this study would give us an opportunity to evaluate whether the position had changed since 2009. We decided to focus on care work first and foremost because we had reason to believe there were significant numbers of people employed there, as well as offering potential for increased employment, and also because of the contrast between these two services. This, as we shall explain below, is a contrast between a service that is indubitably a municipal responsibility, in the case of waste management and recycling, and one that is not, or is not perceived to be a municipal responsibility, in the case of care work.

The distinction between waste management and recycling concerns primarily the collection and disposal of solid waste, which is the constitutional responsibility of local government, and the minimisation of waste by means of recycling, which is an obligation imposed by the Waste Act (No 59 of 2008), as well as being, increasingly, a

practical necessity. It also relates to the fashionable but imprecise notion of “green” jobs and the “green economy”.⁶

The data about waste management and recycling is drawn from two case studies. The first is based on interviews and observation of the operation of a drop-off facility in Delft managed by the City. This was supplemented by interviews with different representatives from the City, as well as an interview with a consultancy firm engaged by the City to advise on waste minimisation strategies.

The other case study concerns a recycling co-operative based in Hout Bay that manages a drop-off facility of the City, based on an interview with a representative of the co-operative and a representative of a NGO providing support to the co-operative, as well as another NGO in Hout Bay that promotes recycling in the community, with which the co-operative has a collaborative relationship.

To provide a perspective from a medium town to compare with the City of Cape Town, an interview was conducted with a representative from Stellenbosch Municipality. Stellenbosch has a permanent population of 222,575 and a student population of 30,000. There are 29,000 households and 10,000 informal dwellings.⁷ The interview focused on present and planned waste minimisation services in Stellenbosch.

What we initially envisaged as care work in terms of this research project could have encompassed a wide variety of activities, including the provision of home-based care. However the kind of care work we ultimately focused on in our case studies was the provision of crèches and centre based child-care, and therefore corresponds with what is regarded in terms of government policy as Early Childhood Development (ECD).⁸

Four case studies of ECD facilities, or crèches, were undertaken in Delft, a relatively newly developed suburb of Cape Town. Delft comprises predominantly poor and working class people from both the Coloured and African racial groups. However the facilities were accessed via a member of a local NGO who lives in Voorbrug, and were all located in Voorbrug. This is a predominantly Coloured area. Semi structured interviews were conducted, and the data obtained was supplemented with an interview with a representative from the Department of Social Development in the City. A 2011 study conducted by the Sustainable Livelihoods Foundation of 30 crèche facilities in Delft South provided further context for this investigation, although Delft South is a predominantly African area (the differences between the two parts of Delft are discussed in more detail in Appendix A).

A fifth case study involved a semi structured interview with an NGO supporting crèches in Kayamandi, in Stellenbosch, as well as site visits to three crèche facilities in Kayamandi.

4. THE CONSTITUTIONAL FRAMEWORK

Before considering the question of employment in municipal services it is useful to outline the constitutional framework that applies in more detail, and within it, to indicate certain relevant legislation and regulations.

Since the focus of this report concerns work it is appropriate at the outset to note that although the Constitution does not expressly recognise the right to work, South Africa has ratified international instruments that recognise the right to work.⁹ Further, the Constitution does provide that every person has the right to fair labour practices.¹⁰ It is therefore a right that applies to employers, employees as well workers who are not in an employment relationship.

Labour legislation, however with minor exceptions, only applies to employees ie workers in an employment relationship. The institutions of labour legislation, specifically the bargaining council for local government, regulate the wages and conditions of work of employees who are employed by local authorities belonging to the employers' association SALGA. The applicability of the bargaining council agreement to workers who are employed by employers who are not local authorities is contentious.

This is the case even where an employer is engaged by a local authority to provide a service that is indubitably municipal in nature. In this regard, it is necessary to outline the objects of local government, as set out in the Constitution, include the following:

- “to ensure the provision of services in a sustainable manner.”
- “to promote social and economic development”
- “to promote a self and healthy environment”
- “to encourage the involvement of communities and community organizations in the matters of local government.”¹¹

The collection and disposal of waste is an example of a service that is indubitably municipal, both because it is the constitutional responsibility of local government, but also because the Waste Act imposes an additional responsibility on local government: to avoid generating waste, and where it cannot be avoided, that it be minimised, reused, recycled or recovered, and treated and safely disposed of only as a last resort.

Since this Act was adopted, the National Waste Management Strategy (NWMS) has been published to give effect to the objectives of the Waste Act. It requires that ‘Municipalities must provide additional bins for separation at-source, and are responsible for diverting organic waste from landfill and composting it. Municipalities must facilitate local solutions such as Material Recovery Facilities and buy-back centres, rather than provide the entire recycling infrastructure themselves’ (Environmental Affairs, 2011, p.55).

The wording of the NWMS implies that local government may fulfil its obligation to minimize waste in various ways. Since it is also a constitutional imperative that local government “encourage the involvement of communities and community organizations” there seems to be a strong argument for a “local solution” involving enterprises rooted in local communities.

There is no equivalent constitutional obligation on local government to facilitate the provision of care for its citizens, although it would surely not be inconsistent with its obligations to do so. There is, however, an obligation on local government to provide “child care facilities.”¹² This was also a function historically performed by the City until after the transition to democracy in 1994.

Notwithstanding the foregoing, the perception appears to exist that local government has no constitutional obligation to provide pre-school childcare.¹³ However, recent policies released by national government place more emphasis on the need for government provision of pre-school education

In view of the fact that local authorities are utilising government’s Expanded Public Work Programme (EPWPs) to provide employment in both waste management and care work, and specifically ECDs, it is also necessary to refer briefly to the Ministerial Determination that regulates EPWPs.¹⁴ In terms of this Ministerial Determination, an EPWP means a programme “to provide public or community assets or services through a labour intensive programme initiated by government and funded by public resources.” Such a programme may include the “environment and culture sector” and “social sector.”

5. EMPLOYMENT IN MUNICIPAL SERVICES

Waste management and recycling

The NWMS is one of a plethora of official documents that emphasizes the potential of recycling to generate not only jobs, but decent jobs (Environmental Affairs, 2011, p.18). The NGP is another. The NGP projects that, with the right policies and cooperation, large numbers of green jobs can be created.

In terms of the NGP, there is also the Green Economy Accord. This is an accord between the “social partners” (organised business, organised labour and representatives of community organisations) which emphasizes the responsibility of government ‘to create an enabling environment, of business and citizens, to do things differently’. It also emphasizes that there are significant opportunities in recycling for the creation of small enterprises and in waste management in extracting re-usable resources from industrial waste streams (Economic Development Department, 2011: 6-7).

‘The goal to grow the contribution of the waste sector to the green economy intends to stimulate job creation and broaden participation by SMEs as well as marginalised communities in the waste sector. In line with the Green Economy Plan, measures will be implemented to strengthen and expand the waste economy so that it can generate and

sustain jobs as well as formalise existing jobs in the waste economy. The targets for 2015 are to create 69 000 new jobs in the waste sector. Further, it is create 2600 additional SMEs and cooperatives participating in waste service delivery and recycling' (Department of Environmental Affairs, 2011).

There are also a number of academic studies that confirm the importance of employment in recycling. 'On average, Capetonians produce more solid waste than their counterparts in Europe, where recycling is compulsory in most countries', according to one study. 'Enormous scope for increased recycling remains, with significant economic multipliers and job creation potential' with waste pickers cited as 'a key part of the solution especially when they become organised' (Crane and Swilling, 2008, 271-272).

It is widely accepted that 'recycling is both an environmental and an economic development tool', Maia et al argue (2011, 131) 'Discarded materials are a local resource that can contribute to revenue generation, job creation'. Based on production levels in 2007 and 'certain population and economic growth projections until 2015, the recycling industry could, at full capacity, sustain 190,000 job opportunities, some 90% of which would be unskilled employment (ie largely in the collecting segment)' (Maia et al, 2011, 132).¹⁵

However it is unclear whether the authors of this study and others like it are aware of how many workers engaged in waste collection in different local authorities are not directly employed by such local authority, but by contractors engaged by such local authority. The 2009 study on waste management in the City referred to above revealed that there were as many as 39 "one man contractors" engaged in waste collection in so-called informal settlements (Theron and Visser, 2009). Each of these contractors employed a team comprising an unknown number of workers on fixed-term contracts.

There is no indication that the City has reduced its reliance on such contractors, but it seems that there may be an increased utilisation of firms that style themselves as cleaning or waste specialists, rather than what were referred to as "one-man contractors", as well as increased utilisation of EPWPs.¹⁶ However trying to get data from the City about how many people are employed in waste management remains a challenge for at least two reasons. Firstly, waste management is divided and subdivided into a number of departments, none of which have an overall picture of the number of workers that are indirectly employed, but rather only know what is happening in their geographical area or area of responsibility.

Secondly, and more importantly, the nature of the relationship is such that the City does not need to know how many people the contractors it engages employ. The only documentation in terms of which contractors state the number of workers they employ is by way of an estimate stated in their bid to win the tender. This number may or may not change over the duration of the tender. The exception to this, discussed in more detail below, was in respect of the drop-off facilities, where contractors submit monthly returns in respect of the numbers they employ. Although the numbers employed at these drop-off facilities are small, there seems to be no reason while all contractors engaged by the City to provide similar services should not be required to do likewise.

The best indication of the extent of indirect employment was in respect of Impuma, one of the four areas into which the City is divided for the purposes of general household waste collection. A City representative estimated that 50% of waste in this area is collected by the City itself and 50% is collected by private contractors, together with 110 people employed through EPWPs. Three contractors alone collected a total of between 12,500 and 15,000 tons of waste a month, which represented between 20 and 25% of the 60,000 tons per month that is collected from Cape Town as a whole¹⁷.

Two of these contractors had their request for an increase in the contract period approved in June 2012. It indicates that they are contracted to do 'conventional refuse collection' in Kraaifontein, Bloekombos, Wallacedene and surrounding areas as well as Delft and Mfuleni, for over R14 million, although the period is not specified. The same document gives an indication of the amount of money being paid to contractors for the provision of waste services. One of these firms, Waste Mart, has also been awarded separate contracts in excess of R30 million to transport solid waste to Visserhok landfills. Contracts to remove and dispose of waste in informal settlements, presumably by "one man contractors", amount to over R3 million "approximately".¹⁸

The only department that has records was in the waste collection department. According to this department, the City employs 57 workers in drop-off sites. If management is included, this figure rises to 88. These workers supervise the drop-off areas that are owned by the City. Rival firms then bid to operate a container to collect recycling that is dropped off. These firms employ people to sort the waste that is dropped off by the public, and put it in the correct container¹⁹.

All of these firms were privately-owned small enterprises that employed fewer than 20 people, except the co-operative in Hout Bay. In total the contracted firms that operated at drop-off facilities employed 109 people in the month that the interview was conducted. This makes a total of 197 employees working as some part of recycling drop off collections. 44% of these were employed by the City. The reliance on privately-owned enterprises at the drop-off facilities is consistent with what appears to be the City's conviction that recycling is best carried out by the private sector.

Mention must also be made of the introduction of a scheme to minimise waste by the City engaging private contractors to collect recyclable material from households. Currently such a scheme is in operation in Durbanville, where waste is deposited in bins with an embedded microchip. Durbanville residents must present their ID book and municipal rates account document in order to be issued with such a bin (that they must then transport home)²⁰. The microchip enables the City to monitor how many households the contractors claim are participating in the scheme, by checking that the details of people that have signed to confirm their participation is consistent with City records of who lives at each address. There is a similar scheme in Hout Bay, the difference being that residents are issued with plastic bags in which to deposit recyclables²¹.

Although door-to-door collection of recyclables began in 2007, they are still being referred to as a pilot project. This, and the fact that they do not apply to large swathes of

the City, must presumably be a function of the cost of running such schemes. Residents in parts of the City that do not benefit from schemes therefore have to collect and store recyclables in their home, which of course discourages recycling, particularly by residents who do not have a car. To encourage recycling at a minimal cost, informal waste collectors could be enabled to fulfil this function. The potential obstacle to doing so is the class barrier. As one respondent put it, speaking of the leafy suburbs, “you can’t give it [the tender to recycle] to just anyone.”²²

In the light of the above the following categories of workers employed in waste management services can be differentiated:

- Workers employed in door to door collection of general household waste in formal areas, who are directly employed by the City.
- Workers employed by private firms in the door to door collection of general household waste in formal areas.
- Workers employed in door to door collection of general household waste in informal areas: These are workers employed by various contractors engaged by the City, on a temporary basis. The contractors concerned range from one man contractors to small “empowered” cleaning services to large, specialist waste management firms, as well as EPWP workers.
- Workers employed by specialist waste management firms.
- Workers employed in door to door collection of dry recyclables from households in formal areas: These are workers employed by recycling firms engaged by the City to collect such material.
- Workers employed at drop off facilities to collect recyclable waste. These comprise both workers employed by the City and workers employed by firms engaged by the City. City workers manage the drop off site. For example, they check that it is clean and tidy and keep records of who brings what. The firms operating on the site sort the material to be recycled as it is brought in by the public. However, to further complicate matters, quite often these firms sub-contract other firms to carry out their responsibilities.
- Self-employed workers who collect waste on the streets or pick through waste from bins in search of recyclable waste to sell. These may be regarded as waste pickers or recyclers, and are referred to as such in this paper.

If one is to relate the above categories of workers to the distinction between formal and informal employment, all that could be said with certainty is that the workers in the first category are certainly in formal jobs and the workers in the last category are certainly in informal jobs.²³ As regards the categories in between, certain provisions of labour legislation apply, such as the protection against unfair dismissal. However labour legislation is ineffective in protecting the rights of workers to organise in the workplace

where they actually work, or creating a forum where the interests of these workers maybe voiced.

As regards the informal workers in the last category, as long as they work in isolation from one another they have no bargaining power. The potential they have to enhance their income from collecting waste is therefore limited.

Care work (creches and ECDs)

A number of studies have identified the potential for ECD to generate affordable jobs (du Toit, 2005; Altman, 2006). 'ECD for children from birth to five years offers the largest employment opportunity, since this is where the largest service gap lies' potentially creating half a million jobs (Altman, 2006, 640) depending on the type of model implemented by government to intensify services and relieve backlogs. At the same time ECD has also attracted the attention of policy-makers.

In 2004, the Office of the President declared ECD a national priority, putting in place directives that municipalities include ECD planning in their Integrated Development Plans. Since then, and especially after the publication of the National Integrated Plan for ECD in South Africa (2005) and passage of the Children's Amendment Act (2007), ECD has become a national priority' (Ilifa Labantwana 2012).

More recently, the Department for Social Development aimed to increase access to early childhood development programs for children between 0 and school going age by 10% in 2012/13 (Department for Social Development, 2012, p.31). A proposal of the NDP that all children have at least two years of preschool education before grade 1 coupled with a commitment by the state to the basic funding of ECD programmes gives added incentive to the development of ECDs (National Planning Commission, 2012: 24, 301).

It has been estimated that there are 160,000 ECD practitioners working in South Africa (Mail and Guardian, 2011). According to a report by the Western Cape Department of Social Development (2009) there are 8 039 ECD practitioners/educators in the Western Cape. 17.4% of this number are categorised as managers and 20.9% as administrative support staff. The report containing these figures does not define exactly what is meant by an ECD practitioner/educator, but we may assume it means workers whose principle area of responsibility is caring for and/or teaching children attending the crèche. DSD claims that 62% of ECD's in the Western Cape are in Cape Town, which would represent some 4984 workers. In line with provincial demographics, 51.4% of staff are coloured, 34% are black, 13.6% white and 0.8% Indian/Asian. 20.4% of ECD staff had completed grade 12. 56.6% do not have an accredited level 1-5 training (Department of Social Development, 2009, p.49).

For the purposes of our case study, data gathered in Delft South (Sustainable Livelihoods, 2011) provides a more useful indication of the employment potential of crèches. There were as many 30 ECDs operating in Delft South, employing between 1 to 6 employees. The average number of employees was 2.8, and the total number of staff was 106. This comprised 83 teaching staff and 23 support staff.²⁴

Based on 978 children being cared for by 83 teaching practitioners, in Delft South there is an average of 11.7 children per teaching practitioner across all 30 crèches. This is broadly in line with the minimum ratio stipulated for children between the ages of 18 months and three years, although the guidelines state that there should be an additional assistant and therefore the data indicates that crèches may be understaffed (though recommended ratios vary from one age group to another).

The availability of funding, and the conditions under which funding is provided, critically determines the size of ECD-facilities, and their potential to provide sustainable employment. Currently, funding takes the form of the provision of a subsidy by the Department of Social Development (DSD). However only a facility having more than six children qualify for funding, in compliance with the definition of a “place of care” in terms of the Child Care Act 74 of 1983 (Giese et al, p. 39).

Although local government does not provide any funding, they play an important role in facilitating the registration of crèches as NPOs. To operate a registered crèche, it will also be necessary for the crèche to have the requisite zoning to operate a business. This is of course also a local government function. The City also offers free training to crèche workers and their governing bodies. The increased emphasis on training of ECD practitioners has been described as one of the most significant shifts in ECD services over the past 5 years (Giese et al, 2011, p.37).

To qualify for a subsidy it is necessary for a facility to register as an NPO. After successful registration as an NPO, crèches can apply for funding from the DSD. In the Western Cape this entails completing a standard application form, and then registering as a supplier with the DSD. At this point the crèche submits details of eligible children and the subsidy is calculated on this basis. Although crèches submit a monthly claim form with details of enrolment and attendance, it seems the subsidy is paid on the basis of the original submission. This is not the case in other provinces, where the subsidy fluctuates from month to month, depending on attendance.

Taken together, the requirements regarding qualification for subsidies as well as zoning, coupled with the increased emphasis on training, represents a process of formalising an activity that, in the absence of municipal crèches, is carried out in poor and working class communities in peoples’ homes and informal localities. Various studies suggest that crèches in such areas find it difficult to meet all the requirements of formality. Giese et al, for example, cite ignorance of registration requirements and funding processes, as well as backlog of organisations seeking registration (Giese et al, 2011, p.44). A City representative estimates the cost of re-zoning to be upwards of R2,500.²⁵

There is a perception that the number of crèches has mushroomed, and related to it, a perception that supply outstrips demand, which is sometimes accompanied by an attitude that crèches are money-making ventures engaged in profiteering (Giese et al, 2011, p.49). A number of studies confirm that there is no basis for the latter perception (Carter et al, 2009; Van der Berg et al, 2009). Even where centres have successfully gained subsidies for children in low-income families, the DSD subsidies ‘do not cover even the minimum staff ratios at low salaries’ (Carter et al, 2009, cited in

Giese et al, 2011). In fact crèches struggle to pay decent salaries to staff, and many run at a loss. 'Often workers volunteer their labour for little or no income' (Banu Ibrahim, 2012, p.69).

This study confirmed the difficulties crèches face both in formalising their operation and providing sustainable employment. A representative from the department for Social Development at the City of Cape Town expressed the view that there was potential for sustainable employment only in centres that did not rely on parental contributions as their sole source of income²⁶. However this might only be true as a consequence of the particular cost structure imposed on creches as a result of formalising them.

It also appears there might be perverse consequences to the drive to professionalise ECDs, from the perspective of creating sustainable employment. A representative from an NGO supporting crèches in a neighbouring area said that the stipends paid to practitioners through EPWP to attend training was more than many owners could pay in salaries, so qualified ECD educators often found themselves earning less than when they were training. This also contributes to attrition of ECD professionals and the struggle to attract people to the profession.²⁷

From the in-depth interviews conducted at the facilities in Delft north, it emerged that all of the people in charge could be described as owner-managers, except one, who described himself as a project manager, and also had a full time job in addition to managing the crèche. This was also the only man observed working in any of these facilities. The other three, as well as being owner-managers, also worked full time in the crèche with the children as ECD practitioners²⁸.

One crèche owner interviewed described the process of applying for funding from DSD and other sources as a full time job, particularly without access to a computer. This crèche was large enough to employ two administrative staff, but other smaller crèches the owners occupied the positions of teachers, manager/owner and administrator. The owners interviewed all said that their own pay depended on whatever money was left after all other expenses had been paid, and that this sometimes left them with nothing. There was clearly no great social distance, therefore, between the employer and the workers they employed. The number of other workers employed was in line with recommended ratios, but it was not clear whether practitioners had an assistant for each cohort of children as stipulated in guidelines²⁹.

It also emerged that there were a number of crèches in the area that are not able or willing to formalise, and operate without state funding or subsidies, as facilities for 6 children or less, or as unregistered crèches.³⁰ Making significant amounts of additional funding available to ECD will do nothing to address this situation. It would probably only benefit those crèches that are already successfully navigating the convoluted process of accessing state funds.

6. ISSUES OF EQUITY IN THE MUNICIPAL WORKPLACE: PAY, CONDITIONS OF WORK AND SOCIAL PROTECTION

In a 2009 study, the lowest paid general worker employed by a contractor engaged by the City to collect waste earned 34 percent of what the lowest paid municipal worker earned in terms of the bargaining council agreement. The highest paid general worker interviewed in terms of that study earned 67 percent of the wage the worker covered by the agreement earned (Theron and Visser, 2009). That excluded the social wage that workers covered by the bargaining council agreement qualify for: membership of a pension or provident fund or medical aid. From the perspective of the employer, the social wage is a significant portion of the total cost of employment.

There is no reason to suppose that this gap would have narrowed since. On the contrary, it is more likely to have widened. The workers that are directly employed are unionised, and have negotiated further wage increases through their unions. The agreed minimum wage of a general worker is now R4 902 a month. These increases have probably inadvertently widened the existing wage gap. It is impossible to know by how much, or how significant this gap is, without accurate information about both the numbers of workers employed in these services, and what they earn.

It is true that the trade union SAMWU has addressed the situation of a section of the municipal workforce in indirect employment, namely the workers employed by labour brokers engaged by the City. Their demand has been that these workers are directly employed. If, however, anything like fifty percent of the workforce involved in waste collection in one area of the City are indirectly employed (Theron and Visser's 2009 estimate was forty percent for the entire City) then the fiscal implications of a demand that all workers should be directly employed are huge.

It should be borne in mind here that we are talking about a phenomenon that is not peculiar to the City. Although we do not know the extent to which other local authorities rely on indirect employment, there are studies that suggest this practice is widespread.

What our case studies are intended to demonstrate is also that the workers engaged through contractors to collect waste are only the most obvious example of workers that should be regarded as performing municipal work, but that currently are not. Where we draw the line between what is municipal work and what is not is not a matter of law, but a matter of convention, or perhaps convenience. "Whose convenience?" is the question that then arises. Alternatively, how is the convention in operation arrived at, and does it comply with the objectives of decent work?

One has only to pose the question to realise that a convention that excludes large numbers of workers engaged in municipal work is inequitable, and is also not the outcome of social dialogue. This study also suggests its effect is to introduce or reinforce a process of class differentiation, which can be illustrated with reference to the situation observed at the drop-off facilities.

The workers employed directly by the City at Delft drop off facility, for example, were members of SAMWU and their conditions of employment appeared to comply with the

bargaining council agreement. Medical aid and pension fund contributions, as well as UIF and union subscriptions, were deducted from wages. They work a five day week and alternate weekends, and are issued with protective clothing. They have an office, in the form of a converted container, with a toilet and shower. They are also given cleaning products and toiletries.

Working alongside them were workers employed by contractors engaged by the City. One of them worked seven days a week for a daily rate of R100 a day. If he worked every day, which would of course be unlawful, he would only earn 61 percent of the bargaining council minimum, without any of the benefits that the social wage represents. He is not allowed to use the same facilities as the municipal workers that are directly employed, and instead had a portable toilet. It was not clear who had imposed this rule.³¹

The only section of the indirectly employed workforce engaged in waste removal or recycling that is covered by any other collective agreement are those that are regarded as falling under the agreement of the National Bargaining Council for the Road Freight Industry (NBCRFI), which covers drivers and their assistants. These wages are significantly lower than their equivalents in the employ of a local authority. There is also no sectoral determination that applies, although it could be argued that the sectoral determination for contract cleaning might apply in some circumstances.

Be that as it may, the City does not monitor compliance with labour legislation by the contractors it engages, even though it is a formal requirement of a tender. The attitude of the City can be gauged by the explanation given by a representative interviewed, who said that the prerequisites of tenders for the collection and sorting of recyclable waste are deliberately very few in order to encourage smaller businesses to emerge and grow and gain industry experience. Its primary concern is that a firm can deliver the service efficiently, and the only point at which the City will start questioning its labour practices is if they are failing to meet their targets, at which point they may suggest they are not employing enough workers. The contractors are not required to necessarily employ the same number of workers as they stated in the tender application.³² The question of the wages and conditions of work in EPWPs is discussed more fully below.

There is also no minimum wage for workers providing child-care, although the definition of domestic worker in terms of the sectoral determination for domestic work is not only broad enough to cover a domestic worker in an employment relationship, but also purports to apply to “any domestic worker or independent contractor” that is entitled to, or receives, remuneration.³³ The minimum wage for domestic workers should perhaps be indicative of what would be a fair wage, especially in the case of home based crèches. Assuming that workers work for more than 27 hours a week, this minimum is R1625.70 a month (Department of Labour, 2011).

The only other provisions setting minimum wages, apart from the Ministerial Determination for EPWPs, is that prescribed as a “learnership allowance”. This is dependent on the level of qualification and the number of credits earned by the learner. It also varies according to the stipulated percentages of the wage that can be paid as an

allowance. This ranges from 8% to 69%. The minimum allowance ranges from R120 to R700 per week (Wage Indicator Foundation, 2012).

From Sustainable Livelihoods data, total crèche income from parent fees across all 30 sites is an average of R7,722 a month. As indicated above, the owners of the crèches interviewed in Voorbrug in Delft did not take a regular salary, and their income was based on whatever was left at the end of the month, which was sometimes zero. Employees salary ranged from R800 a month to R3,000 a month for a fully qualified pre-school educator. Pay depended on the level of training. By way of comparison, care workers are estimated to earn R600 a month in Khayamandi, in terms of the Stellenbosch case study.

Two of the crèches interviewed were registered as employers with the Department of Labour, and contributed to the Unemployment Insurance Fund (UIF). One was not and another said that she was intending to do so but was waiting for an NPO number (although this was not a valid reason not to register).

The SA Congress for ECD has established a Provident Fund for ECD practitioners. This fund 'offers a lump sum retirement and withdrawals for employees' (South Africa Congress for Early Childhood Development, 2011). The employer pays 7.5% of the monthly salary of each employee into the provident fund and 7.5% of the monthly salary deducted from each employee's salary is paid by the employer into the provident fund. None of the crèche owners interviewed were members of SACECD, or knew of it.

7. QUESTIONS OF POLICY

In this section we consider a number of inter-related policy questions that arise from the above analysis. It is convenient to begin with the policy towards informal workers, and proceed from there to a consideration of the extent to which policies on privatisation still prevail, and the extent to which job creation is prioritised in existing policies.

Attitudes towards informality

The case studies of waste management and care-work concern very different questions of what formal is understood to represent. The policy of the local authority towards formality is to be inferred from the conduct of its officials, rather than an express policy document.

In the case of waste management, it is the waste pickers, namely workers engaged in the collection and sale of recyclables, who are most clearly informal. These are often seen as a nuisance by local government and criticised for actively making the job of running waste collection more expensive due to illegal dumping.³⁴ If, however, informality is understood to include workers who are effectively unable to exercise their rights, the net must be cast far wider.

The attitude of the City towards waste pickers was expressed by one respondent as follows "And what happens is you put your bin out on collection day and some people

do that the night before. And then the trolley brigade comes by and then they raid the bins. So they are actually taking recyclables out of the bins. The City doesn't stop that... because there's a recognition that subsistence living must happen. Especially where people cannot be employed into the formal economy, that's how they put food on the table. So the question there is, is it employment, no it's not. Is it informal collection, it's absolutely voluntary."³⁵

Another City representative was even more hostile: "it's extremely inefficient because those guys are cherry picking like nobody's business and then they will only take the fraction of the recyclables that they know they can get enough to survive for that day on, so I mean like the guys in our area, I live near Epping and they just collect cans because Collect-a-can is right there, so they don't even bother. I mean sometimes they will just throw the other types of recyclables on the street and then it becomes waste for us to clean up. Which costs seven times as much as it does for us to collect from the "wheelie" bins. So firstly you are not getting a collection of all the types of recyclables that you want out of the waste streams and you are also getting a mess on the streets. If you look at the economics of it, it just doesn't make sense at all to even try to support that."³⁶

What is evident in the afore-going quotes is both an unwillingness to acknowledge that waste-pickers are workers, and to engage with them, for example regarding their conduct in going through waste, as described.³⁷ Perhaps it would be unfair, however, to lay this at the door of City management. A similar attitude is evident on the part of unionised workers who do not question why workers who work from the same site as they do cannot enjoy the same facilities, for example.

In the case of crèches and ECDs, it seems there is a willingness on the part of the City to engage with unregistered crèches, but the primary purpose of this engagement would be to encourage them to register.³⁸ The question this gives rise to is whether this is realistic in areas where the costs of formalisation are perceived to outweigh the benefits. A further related question, discussed more fully below, is whether registration as an NPO provides any benefits, apart from being a qualification for a subsidy.

The resilience of policies of privatisation

Utilising the argument that the majority of jobs lie in the processing of recyclable materials rather than in their collection, some City representatives feel that the City's role in job creation should be one of facilitator. The facilitation it envisages is creating the conditions for private firms to form and grow. Businesses can then respond to market demand and employment opportunities are created as these businesses grow. Private firms are posited as "experts" best left to do what government is not good at.

Recycling or waste minimisation, as already indicated, is seen as the realm of private enterprise. "Let them trade with the waste, that's their business. They are commodity traders, you need a very good operator who can make money out of that as a business...", a city representative said. You can argue any which way you want but government is not good at that. We don't want to go there. We will make the opportunity

available, that's the argument, and based on that industry response it [presumably job creation?] will then start happening".³⁹

This is to disregard the extent to which the mandate of a firm that seeks to minimise its costs and maximise its profits is potentially in conflict with local government's mandate, which is to collect and dispose of waste, whether it is possible to turn a profit from doing so or not. The notion that the relationship between the City and any contractor engaged to carry out any waste management services is a partnership is a fiction.

Attitude toward labour intensive methods of minimisation

Somewhat at odds with its professed belief that the processing of recyclable materials is the realm of the private sector, the City has expanded its own capacity to process recyclables, which was previously carried out at a transfer stations at Athlone. It has now opened a new facility at Kraaifontein where it directly employs 26 persons.

Currently the City utilises a system of positive separation at these facilities, where people pick recyclables out from waste (known as 'positive sorting'). However recovery is less than 2% compared to mechanical separation (known as 'negative sorting'). Athlone will probably be re-built to operate on a negative sorting basis.

A representative from the City justified the loss of jobs that would result in the following terms "...in positive sorting the myth is that 'ja there are plenty of jobs' but you are not being optimal here. You've got to look at all the factors to make sure the labour's actually working properly. I have been to Europe and seen some of the stations there and it's all on negative sorting. They are all built on that basis... I still say collection, sorting, separation: it's not where the jobs really are. The jobs should be in manufacturing. That's real economic development and growth not this."⁴⁰

This argument assumes that applying European waste management technology in Cape Town is desirable. Some literature points to the 'multiple and repeated failure of American and European waste management technology in developing countries' (Medina, 2000). At the same time countries in the global North do not experience the same levels of unemployment as are found in South Africa. Automated methods may be more efficient, but in this context job creation needs to be prioritised. This requires that strategies that yield similar results but employ more people have to be considered, even where they do so at a greater cost.⁴¹

The role of enterprise policy

While the City claims that their tender conditions are kept to a minimum to encourage the inclusion of small businesses, in certain respects these in fact favour larger businesses. An example is the introduction of a requirement of an Environmental Impact Assessment (EIA) as part of an application to run a recycling operation. A small business might be expected to pay R75,000 for an EIA without any guarantee it will be selected.⁴² Similarly, the conditions upon which the City put its house-to-house

collections scheme out to tender include a requirement that firms bidding for household collection services must have a R300,000 budget for marketing.

Not only does this preclude small businesses from tendering, but the introduction of this kind of scheme has a detrimental impact on smaller, local initiatives. For example the introduction of household door-to-door collections mean fewer recyclables are delivered to operators at drop off facilities. In the case of Hout Bay, the reduction in the amount of waste delivered to the drop off facility resulted in the co-operative having to shed workers, as there was not enough sorting to be done.⁴³ A second effect has been to eliminate the possibility of waste pickers benefiting from households separating their dry recyclable waste.

The ethos of professionalism

No-one would argue with the need to raise the level of education and training of care workers. But the fact that care workers may be earning as little as R600 or R800 a month, and the fact that half of the crèches in our Delft case studies have not registered for UIF, suggests that a drive to professionalise this form of care work may be misplaced.

This drive is epitomized by the adoption of a National Integrated Plan for ECD (Department of Social Development and Unicef, 2005, p.10) which envisages that all ECD practitioners will be supported as professionals with a career ladder, ongoing professional development opportunities, and compensation that will attract and retain high quality educators are misplaced. Although this plan also recognizes the role of ECDs in providing employment, the objective of creating employment and professionalisation do not necessarily coincide.

In the context of disadvantaged communities, an ethos of service to the community, or the co-operative principle of care for the community, coupled with effective mechanisms of accountability, would be more appropriate than an emphasis on career paths based on accreditation and professional qualifications.

Attitude toward self-organisation

Self-organisation by workers needs to be distinguished from forms of organisation imposed by the employer or party to whom workers are contracted to deliver services. In the case of workers in an employment relationship, the obvious form self-organisation would take is the trade union. Trade unions representing municipal employees of the City have long been recognised, but it seems there are no trade unions recognised in respect of workers of contractors engaged by the City. It also does not seem the City encourages contractors to do so.

The other form of self-organisation that is possible is co-operatives or associations that are formed to advance the collective interests of workers who are not in an employment relationship. It does not appear the City has any policy toward co-operatives, although it has (to its credit) awarded a contract to the Hout Bay co-operative to manage the drop-off facility there.

The co-operative has also been successfully used to promote the interest of crèches in the Cape Town township of Crossroads (Theron, 2008). A co-operative is or should be a registered legal entity, and its role in this context would be to serve the interests of its member crèches. These members would have to be located in a given area, because in a co-operative, the board is accountable to its members, who could be registered or unregistered. In this model, up-scaling would be achieved by primary co-operatives forming secondary co-operatives.

This is a bottom-up model of organisation in contrast to a top-down initiative such as the South Africa Congress for Early Childhood Development (SACECD). This is an association that was launched in 1994 and is based in Pretoria. Both individuals and ECD centres and training organisations can join the organisation, but it is unclear how many members it in fact has. It is funded by the state (Department of Labour and the City of Tshwane Municipality) and private businesses such as the ABSA Foundation.

Although SACECD does offer some services to its members, of the kind a co-operative would offer (a payroll service for employees of ECDs, for example) its main role appears to be advocacy. Amongst the issues raised in a recent march by its members was the process and costs of rezoning home-based sites, which is regarded as un-affordable, and the lack of adequate sites for practitioners to buy and develop (Sowetan Live, 2011).

SACECD is an example of an association that is registered as an NPO. However, not all NPOs are associations, in the sense that they have an open membership. Probably all ECDs that purport to be associations have a closed membership, in which the founding members determine if and when any new members are admitted to membership, and elect an executive committee or board from amongst their number. There is therefore no real accountability in such an NPO. Coupled with the fact that the Department of Social Development (which is responsible for administering NPOs) does not remotely have the capacity to monitor their operation, the fixation in registering crèches as an NPO is puzzling to say the least.

Policy toward forums for social dialogue

Social dialogue is not possible without organisation representing the workers engaging in that dialogue. The more effective the organisation the richer the potential for meaningful dialogue. But it follows from what is said above that the mere fact that an organisation is registered as an NPO does not qualify it to engage in social dialogue. It should also go without saying that social dialogue can only take place in mutually agreed fora, and in terms of agreed rules.

There is no social dialogue taking place at all in respect of waste management, apart from dialogue between the recognised trade unions and City management in the bargaining council and other fora. The problem with this, however, is that the workers employed by contractors as well as the self-employed are not represented.

In the case of crèches and ECDs, the City engages with crèches through a structure referred to as 'the forum'. Information about training that the City offers, or possible funding opportunities, is for example disseminated through such forums, located in different parts of the City.⁴⁴ The City does not stipulate how such forums should function. The fact that both registered and unregistered crèches may attend forum meetings in the case of Delft also suggest it has a measure of autonomy. This, however, is clearly not the case.

In fact the forum exists at the insistence of the City, and its reluctance to stipulate rules according to which crèches are able to participate in the forum inevitably means it cannot be regarded as creating the opportunity for genuine social dialogue. It is therefore not surprising that crèche owners in Voorburg interviewed expressed mixed feelings about the forum.

One crèche said that the forum had been particularly helpful in helping the crèche handle a particularly sensitive incident with a staff member that ended with her dismissal. The other three were more sceptical about its effectiveness. One owner found that the board was made up of people who were friendly with each other. They also did not have time to carry out their responsibilities to the forum due to the demands of running a crèche.

More serious problems were mentioned, as might be anticipated. "If you challenge the forum you immediately become unpopular with them," one said.⁴⁵ This manifested in not being given the same opportunity as others to speak in meetings. The perception exists that the leadership of the forum pursue their own interests, and also get the most benefit from any funding given to forums. Another had come to the following conclusion: "it is the same stories that they discuss over and over and over, there is never any progress regarding those things, never any progress. There's no positive feedback on issues that have been tabled in the previous meeting."⁴⁶

The utilisation of EPWP

The rationale for all forms of public works is that the jobs provided will not displace workers in standard jobs, or deprive people of the opportunity of gaining employment in a standard job. This would be why workers have to be providing what the Ministerial Determination refers to as a "public or community...service". In the case of waste management and ECDs, this would presumably have to be a service located in the "social sector."

Since the City makes extensive use of private contractors in waste management, and it does not regard the provision of ECDs as primarily its responsibility, the question that arises in both cases is on what basis EPWPs are being utilised by the City. It is not apparent, however, there is anything different about the services EPWPS provide.

In the case of crèches, for example, it appears the objective of utilising EPWPs was not to create employment opportunities. Rather it was to increase the number of registered crèches, and enhance their financial viability (both in terms of the number of children who receive subsidies and the value of the subsidy per child, which varies in some

provinces). A further component was to provide training for practitioners, with a focus on those caring for 0-4 year olds (Giese et al, 2011, p.28).

Stipends are paid in respect of crèche workers' training. The minimum a practitioner who is funded through EPWP can be paid was R60 per day at the time the field work for this study was done. However, this training stipend is often more than a crèche can afford to pay practitioners.⁴⁷ This may make it difficult for some crèches to be able to afford trained staff. Equally, qualified staff may find it difficult to find a post that can match the EPWP stipend.

It seems EPWPs have had other perverse consequences. Incentive grants were introduced to government entities that had created 35% of their target number of EPWP jobs. However the condition of the grant states that only new workers can be counted. This discourages the continued employment of existing EPWP employees, although the nature of care work ongoing. 'The need to create more jobs has also resulted in non-teaching staff such as gardeners and cooks being included as ECD job opportunities' (Giese et al, 2011, p.31).

The pressure to create new jobs jeopardises the continued employment of crèche workers who have training and skills. Therefore creating sustainable employment appears to be less valued compared to job creation, making it difficult for crèches to receive EPWP funding for anyone other than new untrained staff.

8. IS THERE ANOTHER WAY?

The object in this section of the paper is to examine the alternatives to the status quo, as outlined above, and the policies that inform the status quo. Specifically, it is to look at alternatives that advance the objectives of decent work. This requires, as argued above, that workers are organised.

The only form of organisation that is currently recognised as representing municipal workers is the trade union. In the period since 2009 the SA Municipal Workers Union (SAMWU), the trade union affiliate of COSATU, has campaigned with some success against the utilisation of labour brokers by the City. This has been in support of demand by COSATU to ban labour broking. SAMWU has also challenged the City regarding its utilisation of EPWPs.

Without in any way minimising the seriousness of the problem of labour broking, one of the reasons why it can be argued it was never a realistic proposition to ban it was because labour broking is only an element of a larger problem, which relates to how employment is now structured, as a consequence of externalisation. The situation of the municipal workers this paper is concerned with illustrates the dimensions of this larger problem. These are not of course municipal workers recognised as such by the City.

It does not appear this problem has diminished since 2009, but there is no way of telling, in the absence of reliable data. The fact that the City does not itself have such data, even concerning the number of workers that are indirectly employed by the City,

providing waste management services, suggests the City does not feel under pressure to address the inequities that result from the way that employment is structured. This is firstly because these workers are unorganised. Secondly, it is because there is no forum in which these workers could hold the City to account, as well as the contractors who are their legal employer. These are decent work deficits.

The question this analysis gives rise to is whether the fact that these workers are not organised is attributable to a failure of the recognised trade unions, or the inability of the trade union as a form of organisation to respond to externalised forms of employment. Coupled to this question, is the question as to whether the creation of a forum might be the stimulus to self-organisation amongst such workers. Our quest for innovative forms of organisation was motivated in part by the hope that we would come across existing initiatives to address these deficits, which might also suggest how best they can be overcome. Unfortunately there was none. These deficits nevertheless clearly exist, and there are such initiatives elsewhere. The establishment of an advice office for what are called 'casual workers' in Germiston has, at the time of writing, spurred workers engaged by a contractor there to demand that they should be directly employed by the local authority in question.

The demand of workers is understandable, and perhaps justifiable. However the question we now have to consider is whether such a demand is realisable. Partly this is a question as to whether local authorities are able to wean themselves altogether off their reliance on indirect labour, given the fiscal constraints within which they currently operate. Partly it also depends on how many workers we are talking about, and which workers we are talking about. How for example, do we differentiate between workers employed by a contractor engaged to collect waste, and those employed by a specialist waste management service. How do we respond toward waste pickers?

Waste pickers, in this analysis, are in analogous position to care workers engaged in providing child-care services. These are in essence self-employed workers, who in some instances employ other workers to assist them. Although the service they provide is a municipal one, and was once provided by the City, as mentioned, this was prior to its consolidation with other municipalities, and appears to have been an isolated example of a municipality assuming this function, at least in South Africa. It seems highly unlikely that the current trajectory of ECD development can be reversed. But this is not to say that it cannot be modified, and that trade unions do not have a role to play in addressing the decent work deficits that exist.

There is an obvious need to foster organisation for workers in the sector, and social dialogue. However the appropriate form of organisation should be a co-operative or association. It is indeed ironic that crèches that are forced to adopt the constitution of an NPO in order to qualify for funding are expected to engage with the City on issues of collective importance, without an organisation that is able to voice their interests, in a forum that has no constitution or even agreed rules.

Is it possible that self-organisation amongst waste pickers could be the stimulus to changing the way employment is currently structured, and diminishing the reliance of local authorities on indirect employment? In the case of the self-employed, like the care

workers, the appropriate form of organisation should be a co-operative or association, and the existence of such organisations should not be seen to compromise trade union organisation. Rather it should be seen to complement it.

'As the City struggles to find affordable land and money for new landfill development, it is increasingly obvious that a radical mindshift is required', Crane and Swilling argue. 'A new economic model is needed that creates incentives for waste minimisation and actively promotes the emergence of recycling as a major economic sector and job generator' (Crane and Swilling, 2008, p. 273). Similarly, Helmsing (2003) argues for a shift in thinking which recognises that in the context of metropolises like the City 'self-employment and household based economic activity are the predominant form of livelihood rather than wage employment' (Helmsing, 2003, p. 71).

There is surely a case to be made for co-operatives or associations of waste pickers having a central role in a new economic model. Some of the benefits of such approach might be:

- The elimination of a chain of sub-contractors and intermediaries that results from engaging large contractors to provide recycling services, and which leaves workers at the bottom of the chain vulnerable and exploited.
- The opportunity for local actors to take their own economic development in hand.
- More effective minimisation of waste, on the assumption that not-for-profit enterprises should be willing to recycle products that would not be considered profitable by for-profit firms.
- Increased levels of participation in the separation of different recyclables, on the assumption that different sections of the community would support projects, properly motivated, that were also seen as creating employment.

The last mentioned assumption was validated by a consultant interviewed, who described how it had used the slogan 'Your recycling is saving resources and creating jobs!' as part of a poster campaign to increase participation in recycling in False Bay. However in this instance the recycling was run by a family business 'False Bay Recycling is run by the [name] family...since the service began in March, staff numbers from the local community have increased from six to 25 people,'⁴⁸

In this instance the family business had been sub-contracted to sort dry recyclables by a larger firm. However when that firm lost the contract, so did workers, only to win it back at a later juncture. This is illustrative of the difficulties faced by small enterprises, and the workers they employ. At the same time it is problematic for the City to be in any way associated with a campaign to promote a for-profit enterprise, however exemplary it might be. The same problems do not arise in promoting not-for-profit enterprises.

Another study on waste pickers in Cape Town found that although most worked independently, 'there are instances in which groups of reclaimers come together to collectively organise their work. These are self-initiatives driven by their own interests to

obtain reasonable payments...by sharing duties and combin(ing) all waste collected to sell this where they will share the proceeds equally' (Benson and Vanqa-Mgijima, 2010, p. 18). In the same study, waste pickers were reported as complaining about not being 'informed of possible opportunities in the business or activity' of waste collection.'

Further, 'many showed interest in hearing about how this work is organised elsewhere and were open to alternative ways of tackling the hardships that they face in their lives that have resulted in their taking up reclaiming' (p.19). Successful cooperatives engaged in waste management and recycling have been documented in the Philippines, India and Indonesia, but particularly in Latin America (Medina, 2000).

Hout Bay Cooperative

An objection voiced by representatives of the City to adopting a co-operative model for waste pickers was that they lacked the skills to be able to manage their own business. The only example of a co-operative engaged in waste minimisation uncovered in this study is the Hout Bay Recyclers co-operative (HBR) that we have already referred to.

The HBR co-operative has run since 2008. They started off operating on the drop-off site that is owned by the City, without any facilities whatever. They now have indoor space and an office equipped with a laptop and printer. The office was built by a volunteer and the equipment was donated. They collect waste that is brought in by the public but one of the members has a vehicle which he uses to collect from businesses to bolster the waste that they can collect and sell.

The co-operative started off with 10 members but this was reduced to four after a private firm was contracted by the City to do door-to-door collections. HBR persuaded this firm to employ the six members who lost their jobs. Since then the co-operative has gained two new members, and there are now six. The co-operative originally sold the recycled material unsorted but then realised they could make more money if they sold it already sorted. Sales from scrap metal go towards the upkeep of the bakkie. The rest is sorted and sold, which generates revenue to pay each member approximately R2000 a month. At times when they have got behind with sorting, they hire casual workers to help.⁴⁹

When it was pointed out to City representatives during the interview that HBR was an example of how a co-operative could successfully operate, the City representatives' retort was that they had heard that those responsible for the financial management of the co-operative were fed up at earning the same as everyone else. Our study found no evidence of this, although it is not, of course, requisite that a manager should earn the same as the members do. In fact, the main concern of the person concerned was not that she had more responsible work but whether or not they would successfully win the tender to continue to operate the site.

The cooperative gets support from a local NGO with administration and tasks like filling in the tender application form. There is also the Zero Waste Volunteer group that helps. Both organisations act as mentors. The founder and administrator of the cooperative

has received some computer training from a family member of one of the people from Trash Back so now they can email rather than wait for phone calls.

Undoubtedly the success of the co-operative is partly attributable to the support it receives, and at present the relationship with Trash Back seems to be a symbiotic one. In 2011 Trash Back started a recycling initiative in Imizamo Yethu, the local township, known as Uphinda Phinda. The object is to encourage Imizamo Yethu residents to collect and bring in recyclables to the drop off and in return the top 40 collectors receive vouchers. The vouchers are donated by local businesses such as Spaza shops where vouchers can be spent. At the moment HBR weigh and record any recycling that is brought in as part of the scheme. The co-operative benefits from the increased volume of recycling, and the NGO in turn staffs the HBR office on a Saturday so that collectors can receive their vouchers.

The challenge with the scheme so far is that some people feel that the value of the vouchers is too low to make it worth their while. This is compounded by the stigma attached to collecting rubbish. This means there is little competition to collect more than other people and it's the same people each week who are eligible for vouchers. Two collectors are responsible for a quarter of the 5 tons that is reported collected each month. One is a resident who has a good relationship with shebeens in the area, and residents who leave recyclables out for her to collect. She also lives near to the drop off. The second works as a street sweeper and keeps a bag with him to collect material that is recyclable.

Conclusion

The most problematic aspect of the concept of decent work, our case studies suggest, is its failure to acknowledge the complexities that arise as a result of the triangulation of employment, where workers are indirectly employed. We have tried to explore how these problems might be addressed through organisation and bargaining.

There is no particular magic in any organisational form, be it a trade union or a co-operative or an association, be it registered or unregistered. Indeed all membership-based organisations have the potential to end up serving the interests of a section of those whom they purport to represent, or of their leadership. But this does not mean there is an alternative to membership-based organisations.

If we are to take the objectives of decent work seriously, we not only need organisations that are capable of engaging with employers and government as to the inequities in how employment is currently structured, but which are able to create sustainable employment themselves.

(NOTE: This paper is in draft form, and is being circulated for comments and corrections, which can be directed to Jan Theron (Jan.Theron@uct.ac.za) or Teresa Perez (tpz031@googlemail.com))

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Appendix A

Differences between Delft South and Delft North research sites.

The 2001 Population Census records a total of 6,258 households in Delft South comprising 3,758 African households (450 of which were in informal housing), 2,466 coloured households (200 of which were in informal housing), and a tiny number of Indian and white households (Seekings et al, 2010, p.69). Delft South was established in 1996 and was a housing project purposely designed to be racially mixed with the state allocating houses to beneficiaries previously classified as coloured and Black African with the aim of creating more integrated communities. Delft South is a green field site for a housing project to be made up of Black African and coloured households that were relocated to form part of a newly created neighbourhood (Seekings et al, 2010, p.45).

According to research carried out in Delft South published in 2010 few interviewees were in steady employment. Some were unemployed, some had casual work, and many received pensions or grants (Seekings et al, 2010, p.74)

The 2001 Census recorded about 750 backyard dwellings in Delft, compared to almost 12,000 independent brick dwellings; it is unclear what were the proportions in Delft North or Delft South (Seekings et al, 2010, p.75).

Delft North was constructed between 1989 and 1994. Construction in Delft South began in about 1994 and 1996 respectively. Construction in Delft Leiden began at the end of the 1990s (Seekings et al, 2010, p.67).

Delft North is the oldest of these neighbourhoods, and reflects the housing policy of the apartheid era. Planning began in the 1980s, and construction was completed by 1994. The House of Representatives (i.e. part of the racially- segregated, late apartheid-era Tricameral Parliament), development was funded through the House of Representatives and the beneficiaries were 'coloured' people from the House of Representatives' housing list.

The 2001 Population Census records that three of the four sections of Delft North i.e. Voorbrug, Rosendal and Eindhoven, together had a population of almost 6,000 households, 96% of whom were classified as coloured. Residents purchased their houses on a subsidized mortgage (or bond) scheme. Many residents reportedly fell into arrears (Seekings et al, 2010, p.68).

The Population Census suggests that coloured residents of Delft South were slightly better off than their African neighbours in Delft South, but were still poorer than coloured residents in Delft North (Seekings et al, 2010, p.69).

Employment was more prevalent in Delft North than in Delft South. Some grant-recipients also supplemented their grants with earnings from casual work or from running shops, apparently out of their homes (Seekings et al, 2010, p.75).

The 2001 Census recorded about 750 backyard dwellings in Delft, compared to almost 12,000 independent brick dwellings; it is unclear what were the proportions in Delft North specifically (Seekings et al, 2010, p.75).

Appendix B

Break down of figures for Western Cape ECD staff, management and educator information

Total staff (62 % of which are in Cape Town)

	<u>Western Cape</u>		<u>Cape Town</u> (based on reports that 62% of ECD's in the Western Cape are in Cape Town)
Categories of workers	n	%	n
All Staff			
Full time	12 853	95.3	7971
Part time	637	4.7	393
Total	13 490	100	8364
ECD practitioners			
Full time	9768	97	6067
Part time	321	3	188
Total	10 089	100	6255
Support staff			
Full time	3 085	91	1919
Part time	316	9	190
Total	3 401	100	2109

Appendix C

The Beach buddies case study

A further example of an informal co-operative is known as Beach Buddies project, based in Muizenberg. It is dealt with in an appendix because it is not engaged in care work or waste management, although the members do provide a municipal service. It is indicative of how readily informal workers operate as a collective rather than pursuing individualistic goal in competition with one another. This was a project instigated by a Muizenberg Improvement District board member responsible for safety and security.

The Beach Buddies scheme operates along the beach not only in what is commonly referred to as 'car guarding' but also offering basic first aid and patrolling the beach. They collect tips which are collected and distributed among the team equally. New members are vetted by the team who meet fortnightly. There are a range of workers drawn from the local area that vary in languages spoken, nationality and level of literacy. They receive support from the police and the local security service contractors. After an initial investment from the improvement district budget for radios and uniform, the group financially sustained themselves.

The group have been approached to expand their services to other areas of Muizenberg. Income varies from R3 to R20 an hour depending on the weather and therefore how busy the beach gets. The group having been established for 6 months are now looking to other sources of funding such as window cleaning which can be easily combined with duties on the beach to supplement their income during times when the beach is quiet. "There are any number of car guards but this is different. You've got a different focus and different values" (Beach Buddies representative, 26th March 2012).

Both HBR and the Beach Buddies disprove the notion that workers are in some way not equipped with the skills to organise themselves and take ownership of a organisation through its various stages from start up to more established business venture. For example, a representative from the City implied that the problem with co-operative ways of working was that no one wanted to take the lead. Reasons that were suggested for this was that because everyone earns the same that they do not want to take on more responsibility beyond the day-to-day duties that work involves such as planning and administrative tasks. In Hout Bay it was commented that the only reason that the co-op worked was because of the support from the community, and that the recycling co-op needed a lot of support with the tendering process, accounting and invoicing. It was implied that this may account for the co-op not growing. Though in this case, the limited supply of recyclable waste and the impact of door-to-door collections by private contractors have also heavily impacted the potential for the co-op to expand.

The difference between the Hout Bay Co-op and the private contract run drop of site in Delft, is that the Co-operative does more than merely sort recyclables that are brought in by people. In Delft it was one person working outside on his own. In Hout Bay, the Co-op has sought to create a more comfortable working environment. Sorters can sit down to sort the material that is brought in, in an undercover space that to protect

workers from the weather. Workers are able to fill in for each other when individuals need to take time off. There is more of a sense of group identity rather than in Delft who was more isolated. The Co-op is actively seeking ways to increase the volume of waste that they can sort, where as in Delft, the worker is paid the same, no matter how much waste he sorts. The look and feel of the two sites is very different. Both have made use of tyres to form plant pots to put around the drop off site, though Hout Bay has a more comprehensive garden. The Co-op are actively seeking ways to capitalise from electronic and household goods that are brought in, whereas the Delft site only has collects standard materials that tendered companies choose to collect.

END NOTES

- 1 The most authoritative formulation of these policies remains the so-called Washington Consensus, a term coined by economist John Williamson for ten policies, including fiscal discipline, privatisation and deregulation, although there is of course considerable scope for disagreement as to how these policies should be applied. See en.wikipedia.org/wiki/Washington_Consensus.
- 2 We define a standard job, or standard employment, as employment that is ongoing and that is full-time time. It is also, for the purposes of this study, direct employment, ie employment that has not been externalised, although in the case of workers engaged in services it may not be obvious that employment has been externalised.
- 3 Theron and Visser (2009)
- 4 There are eight fundamental conventions: Forced Labour, No 29 of 1930; Freedom of Association and the Protection of Rights to Organize, No 87 of 1948; Right to Organise and Collective Bargaining, No 98 of 1949; Equal Remuneration, No 100 of 1951; Abolition of Forced Labour, No 105; Discrimination (Employment and Occupation), No 111 of 1958; Minimum Age, No 138 of 1973; Worst forms of Child Labour, No 182 of 1999.
- 5 Convention 111 of 1958.
- 6 The green economy has been defined as a 'system of economic activities related to the production, distribution and consumption of goods and services that result in improved human well-being over the long term, while not exposing future generations to significant environmental risks or ecological scarcities.' (Department of Environmental Affairs, 2012).
- 7 Interview with municipal representative, 18th October 2012.
- 8 Early Childhood Development has been defined as 'a comprehensive approach to policies and programmes for children from birth to 9 years of age, with the active participation of their parents and caregivers. Its purpose is to protect a child's right to develop his or her full cognitive, emotional, social and physical potential' (Department of Social Development and Unicef, 2005, p.6).
- 9 The most important of these is also the most recent, namely the International Covenant on Social, Economic and Cultural Rights. See statement on Cabinet meeting of 10 October 2012, Government Communication and Information Service.
- 10 Section 23(1), Constitution.
- 11 Section 152(1),(b) –(e), Constitution of the Republic of SA, 1996.
- 12 Part B, Schedule 4, Constitution.
- 13 Interview with representative from Social Development, 13th March, 2012; 'There is no obligation on local government to fund ECD activities' (Giese et al, 2011, p.9)
- 14 Ministerial Determination 4: Expanded Public Works Programmes (2012).

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- 15 In 2007, the Department of Trade and Industry commissioned a study that estimated between 36,960 and 131,130 people were employed directly in the recycling industry.
- 16 The names of firms awarded tenders in June 2012 are indicative. They include Tedcor Women in Waste Joint Venture (Pty) Ltd, Siqualo Cleaning and Gardening Services CC, Nyamana Maintenance and Cleaning CC and Empolweni Cleaners CC.:
- 17 Interview with City representative, 21st May 2012.
- 18 City of Cape Town, Tenders awarded in June 2012.
- 19 Interview with City representative, 21st May 2012.
- 20 Interview with consultant to the City, 22nd May 2012
- 21 Interview with NGO in Hout Bay, 2nd May 2012
- 22 Interview with a City representative, 15th May 2012.
- 23 Although it is contested how best to define the informal economy, the distinction between formal and informal concerns whether or not the economic activity in question is regulated by the state.
- 24 The ratio of teaching practitioners to support staff in the Delft South is 78% of employees are in educational positions and 22% are in supporting roles. This is loosely in line with Provincial figures which reflected a 3:1 teacher support staff ratio.
- 25 Interview with City representative, 13th March 2012.
- 26 Interview with City representative, 13th March 2012
- 27 Interview with NGO representative, 25th July 2012
- 28 Four interviews conducted on 1st March 2012, 8th March 2012, 15th March 2012.
- 29 1:6 for children between the ages one month and 18 months, plus an assistant
1:12 for children between the ages 18 months and three years, plus an assistant
1:20 for children between the ages three and four years, plus an assistant
1:30 for children between the ages five and six years, plus an assistant in terms of the Childrens Act (2005) Part 1, Annexure B.
- 30 'Childminding (caring for six or fewer children in the home of the provider) is a potentially significant small business opportunity, particularly if it could be linked with supervisory support, and should be further explored' (Biersteker, 2008, p.6).
- 31 Visit to Delft drop off site, 30th April 2012.
- 32 Interview with City representative, 15th May 2012
- 33 Sectoral Determination 7, definition of domestic worker. There is an apparent conflict between the provisions of section 1 of the BCEA, which defines employees to exclude independent contractors, and section 55(1)(k), which empowers the Minister to make a determination specifying minimum conditions of work "for persons other than employees."

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- 34 See for example Medina (2000) who argues that the exclusion of 'scavenging' from the design of policies and plans ignores the social, economic and environmental benefits of the recycling carried out informally by individuals.
- 35 Interview with City representative, 27th July 2012.
- 36 Interview with City representative 27th July 2012.
- 37 Another example of the hostile attitude of some local authorities, according to an interviewee, is the warning printed on the bags issued by Drakenstein municipality to deter waste pickers from opening them. This reportedly reads to the effect that: "this bag and its contents is actually the property of the issued by Drakenstein municipality, any unauthorised person found moving contents will be subject to prosecution." (Interview with consultant, 22nd May 2012)
- 38 An NGO interviewed also said that it had adopted a policy of refusing to engage with crèches unless they had begun the process of registering with the department of Social Development.
- 39 Interview with city representative, 27th July 2012
- 40 Interview with City representative, 27th July 2012.
- 41 Hermanus provides an example of the failure to prioritise job creation. A project was instituted targeting children aged 2-12, who collect recyclable material after school and at weekends, which they take to a collection yard once a week. In return they receive a voucher which they may exchange for items donated by local people and businesses such as toiletries, stationary or clothes. They also receive a free snack. The Recycle Swop Shop motto is that 'hands turned up to receive handouts, creates beggars. Hands turned down to work, creates responsible citizens' (Hermanus Recycle Swop Shop, 2008).
- 42 Interview with consultant, 22nd May 2012.
- 43 Interview with Hout Bay Recyclers representative, 30th July 2012.
- 44 Interestingly, amongst the courses that the City offers are organisational development training.
- 45 Interview with crèche owner, 15th March 2012.
- 46 Interview with crèche owner, 15th March 2012
- 47 Interview, NGO representative, 25th July 2012.
- 48 Interview, Tyrell, 2010, 22nd May 2012.
- 49 Interview with Hout Bay Recyclers representative, 30th July 2012.

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- 1/04 Professor H Arthurs & Professor Sir Bob Hepple. Constitutionalization of Labour Rights. (*Occasional Paper*)
- 2/04 Law and Labour Market Regulation in East Asia and Southern Africa: Comparative Perspectives by *Colin Fenwick and Evance Kalula* (Monograph).

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- 1/05 Bamu, P & Collier, D. Reforming the Microcredit Industry in South Africa: will the proposed National Credit Bill address existing problems and developmental concerns? (*Occasional Paper*).
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