



Institute of Development & Labour Law

DEVELOPMENT AND LABOUR MONOGRAPH SERIES

**'Remember me when your ship comes in':
Cooperatives and the need to
shift from a wage culture**

Jan Theron with Margareet Visser

**Monograph
1 / 2009**

UCT Faculty of Law



THE INSTITUTE OF DEVELOPMENT AND LABOUR LAW
University of Cape Town

The Institute of Development and Labour Law was established through the merger of the Labour Law Unit and the Institute of Development Law. The Institute's objectives are:

- To conduct and commission research into development and labour law issues in Southern Africa;
- To produce and disseminate publications arising out of the research undertaken;
- To convene conferences, seminars and workshops;
- To provide educational and advisory services;
- To establish and foster collaborative links in the region and elsewhere, and provide a reference point for policy and scholarship.

The Institute adopts a "law in context" approach which properly reflects the interdisciplinary character of its work.

The *Development and Labour Monograph Series* is an interdisciplinary forum for research and debate on development and labour issues in Southern Africa. The Institute also publishes occasional papers and reports about ongoing research as well as other types of publications.

Copies of publications and further information may be obtained from

The Institute of Development and Labour Law

University of Cape Town

Private Bag

Rondebosch 7701

South Africa

Tel: 27-21-650 5634

Fax: 27-21-650 5660

Email: faldielah.khan@uct.ac.za

<http://www.labourlaw.uct.ac.za>

Published by the Institute of Development and Labour Law

University of Cape Town, 7701

ISBN 978 0 7992 2351 4

Price in Southern Africa (including VAT and postage): R60.00

Abstract

‘Remember me when your ship comes in’: Cooperatives and the need to shift from a wage culture

Jan Theron with Margareet Visser

The productive sectors of the South African economy have been shedding jobs for the last thirty years or so. For many South Africans lacking skills in education, the only prospect of employment is in services. However with service providers competing on cost, this is not likely to be secure employment for a decent wage.

In this context the case for cooperatives, both as a vehicle for enhancing the livelihoods of the self-employed and as a source of employment, is assuming increased relevance. However to establish a sustainable cooperative movement in South Africa there needs to be a shift from what is characterised as a ‘wage culture’, in terms of which employment in a standard job is seen as the norm.

This monograph makes the case for cooperatives as a form of enterprise, and considers the new legislative and policy framework that has been introduced in South Africa since 2004, which is intended to create an enabling environment for cooperative. As a result of the adoption of this new framework as well as certain incentives government has provided there has been a proliferation of new cooperatives. However, a large proportion of these are not viable.

Drawing on empirical research, the monograph incorporates eight case studies of cooperatives in the Western and Eastern Cape that have proved viable, in order to illuminate both the potential and pitfalls of this form of enterprise.

Acknowledgements

The Research that went into this monograph was funded by a grant from the Research Committee of the University of Cape Town and the German Cooperative and Raiffeissen Confederation (DGRV).

The publication of this monograph was made possible by the grant from DGRV.

The Labour and Enterprise Policy Research Group (LEP) is based at the Institute of Development and Labour Law and the Department of Sociology, University of Cape town.

We also wish to acknowledge the comments by Shane Godfrey on an earlier draft of this monograph.

TABLE OF CONTENTS

Abstract & Acknowledgements	3
PART 1 : THE CASE FOR COOPERATIVES	7
1.1 The membership-based organisations that emerged in the period of the struggle against apartheid	7
1.2 Informalisation from above, informalisation from below	8
1.3 An organizational deficit	10
1.4 The cooperative alternative	12
1.5 The new regulatory environment	14
PART 2 : CASE STUDIES OF COOPERATIVES	18
2.1 Methodology for the case studies	18
2.2 The case studies	19
A cooperative that failed : The ‘arts and craft’ marketing cooperative	19
Distinguishing a co-operative from an NGO: An environmental cooperative (?)	21
Enrichment or empowerment? A transport cooperative	23
Cooperative housing: A housing co-operative	25
Creating a culture of savings: A savings and credit cooperative	27
Surviving without an office: A social cooperative	29
A small farmers’ cooperative and the question of government support	30
Workers cooperatives providing services: The question of cooperative autonomy	32
PART 3: CONCLUSIONS	35
References	39
Endnotes	41

Institute of Development and Labour Law Monographs	48
Notes for Contributors	49

**‘Remember me when your ship comes in’:
Cooperatives and the need to shift from a wage culture**

Jan Theron with Margaret Visser

What differentiates South Africa from the rest of Africa, some would argue, is that it has both high unemployment and a small informal economy.¹ It is also the smallness of its informal economy that differentiates it from other societies with extremes of inequality, such as India. Official statistics suggest that even though the ‘informal sector’ has been growing², it represents only about thirty percent of total employment (compared to about seventy percent in the rest of sub-Saharan Africa³, or ninety percent in India).

This paper questions the usefulness of the concept of an informal economy or sector, and the dualism it implies.⁴ Its point of departure is rather that what differentiates South Africa from the rest of Africa is the numerical and historical significance of its working class. This is of course a consequence of its industrialisation. Associated with this predominance of the working class, we suggest, are two other factors. The first is what we will refer to as a ‘wage culture’ (Theron, 2007). The second is the hegemony of trade unions as a form of organization in poor and working class communities.

A ‘wage culture’ is a societal norm in terms of which people in general, particularly men, aspire to or expect waged employment as a means to subsist. Waged employment is the equivalent of employment in a standard job, where workers receive a regular wage or salary each week. This is in contrast with societies in which there is no such expectation, and poor people are either self-employed or engage in the range of entrepreneurial activity that is generally conceived of as constituting the informal economy.⁵ It also translates into a demand for jobs, where this is understood to mean waged employment.

Trade unions, inevitably, tend to propagate a ‘wage culture’. At the same time trade unions also, historically, played a key role in establishing and defining a tradition of communal solidarity in poor and working-class communities in the *apartheid* era.⁶ While there is of course a danger of idealising something as intangible as communal solidarity, it appears self-evident that communities with a strong tradition of communal solidarity will be more coherent, and less susceptible to social problems such as crime. The perception that communal solidarity has declined significantly over the last decade or so is widespread. The broader questions this paper addresses is whether this decline is because trade unions are no longer able to play the same role they once did, and whether other forms of organization are needed to revive a tradition of communal solidarity.

The context in which these questions arise is what Sklair has termed the class polarization crisis under conditions of capitalist globalization (Sklair 2002, 48-53). Although the effects of class polarization have not been adequately theorised in South Africa, it is clear that it does not merely concern the widening gap between rich and poor. Inequality is increasing between what is traditionally conceived of as the working class and those who are relatively more deprived than it.⁷ At the same time the prospect of waged employment is increasingly unrealistic for ever larger numbers.

Thus the productive sectors of the economy have been shedding jobs for the last thirty or so years and there is no realistic prospect that this trend will be reversed under capitalist globalization. The only prospect of employment is in services, in which service providers are bound to compete with one another on cost.⁸ Especially for those lacking skills and education this represents the least tenable form of formal employment, as discussed below.

In a tacit acknowledgment that the prospects of waged employment are limited, individuals and groups have devised various strategies to enrich themselves. Personal greed, and the pursuit of sectional interests, is now the order of the day.⁹ Yet there are also groups articulating an alternative vision. One such group, identified in the course of a research project on cooperatives, comprised mineworkers who were retrenched in questionable circumstances in 1993, and had not been able to find secure employment ever since. The slogan they had adopted for their cooperative is a barbed reminder, directed at former comrades who had embarked on the pursuit of individual enrichment, of the value of communal solidarity. 'Remember me when your ship comes in' is a free translation from the Xhosa.¹⁰

Cooperatives are membership-based organizations that operate as enterprises.¹¹ In some parts of Africa, such as Kenya and Tanzania, it is the cooperative movement rather than trade unions that is predominant in poor and working class communities. The context for the research project referred to above was the South African government's steps to create an enabling environment for cooperative development, commencing with the adoption of a cooperative development policy in 2004 and new cooperative legislation in 2005¹², and indications of a proliferation of new cooperatives since (Theron, 2008). The underlying object was to explore the potential of cooperatives for reviving a tradition of communal solidarity, and economically empowering poor and working class communities.

This paper is in three parts. In the first part we develop the argument for the cooperative form of enterprise. Thus the next section, section 1.1, provides an historical outline of the role of trade unions in establishing and defining a tradition of communal solidarity. Section 1.2 provides an analysis as to how this tradition has been undermined by informalisation, both 'from above' and 'from below.' Corresponding with this process, there has been a segmentation of the working class. In section 1.3 we argue that this segmentation, which is also a contributor to class polarization, is exacerbated by the failure of trade unions to prevent or mitigate its effects. At the same time there is no other organization in the working class that can further its interests. As a result there is an organizational deficit. In section 1.4 we consider role the cooperatives could play in reducing this deficit, and in section 1.5 we consider the new regulatory environment for cooperatives.

The second part of the monograph concerns case studies of different cooperatives. In section 2.1 we discuss the methodology utilised in the research project on cooperatives, in terms of which the data on these case studies was obtained. We present the eight case studies of different kinds of cooperatives in section 2.2. The conclusions are in part three.

PART 1 : THE CASE FOR COOPERATIVES

1.1 The membership-based organisations that emerged in the period of the struggle against apartheid

South Africa in the 1970s had a relatively large industrial working class divided along racial lines. There was a white working class that was one of the beneficiaries of *apartheid*, and a black working class that was disadvantaged to varying degrees.¹³ However the black working class was generally perceived as poor, and the poor as working class. The following quotation accurately sums up how the national situation was conceived by a disparate set of individuals who, in today's terms, might be described as social entrepreneurs¹⁴ and who were committed to the establishment of a 'new' trade union movement in the 1970s.

"Most black South Africans are workers," it begins. "We believe, therefore, that to understand the problems facing black South Africans we must begin with the labour situation. It is the situation in which there is the greatest potential for forging new organisations through which blacks can reclaim their human dignity."¹⁵

In retrospect, the urban and gender bias of the statement "most black South Africans are workers" is apparent. Half of black South Africans are women. There were (and still are) black women workers, notably in low-wage manufacturing industries such as clothing and food manufacturing, and women also predominated in domestic work.¹⁶ Most women, however, were relegated to the rural areas and so-called homelands by apartheid's policy of influx control. There they were forced to live off traditional agriculture and the kind of survivalist activities (including self-employment) that are nowadays categorised as informal.

It was nevertheless true that the labour situation had the greatest potential for forging 'new' organizations, as the next decade was to prove. Of course the trade unions that emerged in the 1970s and 1980s did not represent a new form of organization. There was already a long established tradition of trade unionism, including of trade unions organising African workers¹⁷. But in the new political and economic environment with which these emergent unions were confronted, traditions had to be reinvented, that included many elements that were distinctive or new.

Thus unlike other organisations or institutions having a membership base, such as faith-based organisations, the emergent trade unions drew their support from a working class constituency, and implicitly or explicitly saw it as their mission to unite different strata of the working class. One gauge of their success in doing so was the extent to which they were able to recruit the 'ordinary worker.' The 'ordinary worker', in the low-wage manufacturing industries mentioned, was typically black and female. In most other industries the ordinary worker was unskilled and a so-called contract worker, from the rural areas. Because these unions also subscribed to the principle that the members should be in effective control of their organisation, they played a significant role in empowering the ordinary worker.

By way of contrast, the civic associations that began to emerge at about the same time as trade unions did not feel any need to recruit members, to justify their claim to represent the community. More importantly, almost without exception, they had no

presence amongst the poorest sections of the black African community: amongst contract workers living in the hostels and, with the influx of people from the rural areas, amongst shack-dwellers in informal settlements. The divide between these contract workers and recent arrivals, on the one hand, and urban 'insiders' on the other, was at the root of episodes of factional violence in 1976 and subsequently. The *apartheid* regime repeatedly exploited this division over the years, at the cost of thousands of lives. Undoubtedly the scars of this violence remain.

At the same time empowering the ordinary worker also gave rise to tensions within the emergent trade unions. It necessitated the adoption of procedures such as translating from vernacular into English, and report backs that some perceived as laborious and unnecessary. There were differences as to how to respond to the divide between the 'ordinary worker' and a comparatively sophisticated, urban-based, male leadership that was becoming increasingly ascendant. These tensions were exacerbated as the unions grew larger, and were inevitably drawn into a political role.

The tensions were not resolved with the formation of new trade union centre, the Congress of South African Trade Unions (COSATU) in 1985. It was accepted that the key policy that was to inform the structure of the new centre was broad based-industrial unions, formed on the basis of one union for one industry. But there was no debate as to how these unions should be constituted. Here there were conflicting traditions. There was a tradition that emphasised the importance of the financial autonomy of the union, and the autonomy of the branch or local structure over the head office, or national union.¹⁸ However with few exceptions the emergent unions had since their inception relied heavily on donor funding, and had no tradition of financial self-sufficiency. Partly as a consequence, most unions favoured a highly centralised structure, in which the branch or local structure was allocated funds (and hence controlled) by the head office. This 'top-down' approach prevailed.

1.2 Informalisation from above, informalisation from below

The trade unions' reward for their support during the struggle was to institutionalise a political role for them, and to enact supportive labour legislation. The former took the form of the establishment of a political structure, the National Economic, Development and Labour Council (NEDLAC), in terms of which organised labour and organised business would be consulted about the introduction of socio-economic policy. But for this corporatist project to be credible, it was necessary for government's 'social partners' to be seen as representative of those affected by social and economic policy.

Well before 1994 it was evident that business had embarked on a process of restructuring that was to have profound effects on how representative trade unions were. There had already been significant numbers of unskilled workers retrenched in a number of sectors, notably in manufacturing, where the emergent unions were primarily based (Hindson and Crankshaw, 1990). From now on the typical union member was less likely to be an 'ordinary worker' than to be skilled or semi-skilled.

In part this process of restructuring can be seen as an endeavour, endorsed by the new democratic government, to 'modernise' the economy and integrate it into the global economy. This required protectionist measures to be dismantled and tariffs to be

liberalised. In part it appears that restructuring was motivated by an aversion to employment as it was then structured, with the workplace as a locus of organisation, and the risks this entailed for employers. As a consequence employment was increasingly externalised.¹⁹

The first consequence of externalisation is that, increasingly, the workplace has ceased to comprise a community of workers with different skills, working in the same physical locality for a single employer (Supiot report, 1999). Instead the workplace has become a community of service providers or intermediaries, each of which employs its own workforce, but which is nevertheless subordinate to a core business. The core business determines not only the parameters within which services are provided, but the parameters within which the service provider or intermediary provides employment, whether by virtue of its greater economic power and control of the workplace, or by virtue of its ownership of the intellectual property rights to what is produced or sold there.

A second consequence of externalisation flows from the first. If informalisation is regarded as a process whereby economic activity takes place outside the scope of formal regulation, externalisation has the effect of informalising the formal workplace. Thus the workers employed by franchisees or temporary employment services or the like in the formal workplace are nominally employers to whom labour legislation applies. But labour legislation is ineffective in protecting the labour rights of these workers. First and foremost this is because someone who is legally not party to the employment relationship, namely the core business, in fact determines their security of employment.²⁰ So too the core business determines their remuneration. This process can therefore be described as ‘informalisation from above.’

The consequence of ‘informalisation from above’ is thus increased segmentation and polarization in the formal workplace, particularly in the primary and secondary sectors, the traditional membership constituency of the trade unions. Sectoral studies (Ndungu and Theron, 2008; Webster et al, 2008) support an analysis of the contemporary workplace in which there is segmentation and polarization between, on the one hand, workers in standard and non-standard employment, and on the other between workers employed by the ‘core’ business and those employed by franchisees, or by various service providers and intermediaries, including temporary employment services (Theron, 2008A).

Probably the most vulnerable of these workers are those employed by temporary employment services, whose wages and conditions of work are not regulated in any way.²¹ Interviews with employers pursuant to a study of temporary employment services suggest that the determinant of an appropriate level of remuneration for such workers is what is perceived to be the going rate for ‘casual’ labour (Theron et al, 2005). This is what one would expect, where ‘casual’ labour is able to be hired on a street corner or outside the factory gate, and there are such ‘casuals’ willing to sell their labour in order to survive, in much the same way as a street vendor selling her wares.

This, then, is the level at which informalisation from above merges with ‘informalisation from below’, and the range of activities or occupations comprising what some conceive of as the informal economy.²² These have been categorised as

comprising the following: the owners or employers of micro-enterprises (who may or may not be employers in their own right); own account workers, who work alone or with unpaid employees (such as apprentices and family members); and dependent workers (Birchall, 2006).

In summary, workers may be (and frequently are) working under conditions of informality because, in the case of ‘informalisation from above’, the economic entity that determines the conditions under which they are employed is not recognised as their employer, and the nominal employer is not compliant with labour regulation. In the case of ‘informalisation from below’ it is because, on the one hand, workers are not regarded as employed, and labour legislation is therefore by definition excluded, even though they may be in a relation of subordination little different from those in a standard employment relationship. On the other hand there are no alternative forms of social protection to protect them from the ravages of the market.

1.3 An organizational deficit

The most fundamental consequence of informalisation is to create an organizational deficit. In the case of ‘informalisation from above’, workers in informalised employment are not able to associate, let alone exercise rights that flow from an ability to associate, such as collective bargaining, because their employment is fundamentally insecure, and they are easily victimised. This in turn gives rise to a crisis of representation.²³ In the case of ‘informalisation from below’ the difficulties in organizing workers relate to the practical problems of linking-up isolated economic actors, in different locations, and in identifying how it can be to their mutual benefit to associate.

Organization is always a painstaking and time-consuming process, and the benefits of organization may only be realised in the longer term. An expectation of waged employment operates both as a disincentive to resorting to self-help, even where this may be the only realistic option, and as a disincentive to investing the human and other resources needed to build organization. At the same time it is questionable whether the trade union represents a suitable model for workers in these circumstances, and particularly the highly centralised type form of trade unionism that predominates in South Africa. The dearth of alternative forms of membership-based organizations can be attributed to trade union hegemony.

This dearth of membership-based organisations has not in any way been ameliorated by the creation of a third constituency in NEDLAC, alongside organised labour and business, to represent the interests of ‘the community’. The only way the community could be represented at this level is through federation(s) of membership-based organisations. But the claims of the federation of civic associations to fulfil this role are not credible. Indeed, corporatist arrangements such as NEDLAC do not encourage building such organisation from the bottom up, as much as lobbying in the corridors of power.

It is also important in this regard to differentiate membership-based organizations from non-governmental organizations (NGOs), or what (imprecisely) is sometimes referred to as the ‘non-profit sector’ or ‘voluntary sector’. NGOs, of course, may play a supportive role in developing membership-based organizations, or providing the

social entrepreneurs needed to sustain them. However, the dynamic of an NGO is quite different from a membership-based organisation: it is ultimately accountable to those that are the source of its funding, rather than its membership.

What, then, should be the organisational response to informalisation? Trade unions are the dominant form of organisation in the formal workplace. The obvious response to 'informalisation from above', and the segmentation and polarisation described, seems to be to organise workers into one union. But this has not happened in South Africa to any significant extent, although there are cases where it has been attempted. In the few instances where unions have succeeded in organising workers employed by service providers, it has been into separate unions.²⁴ This implies acceptance of their status as 'service' workers, belonging to a separate sector.

Even here, it is questionable to what extent a trade union is able to fulfil the traditional role of trade union, by safeguarding the security of employment of the workers, or bargaining collectively. Where such unions have made gains in organising 'service' workers, it has been through unorthodox strategies and campaigns, such as the 'justice for janitors' campaign in the United States (Milkman, 2006).

It is even less certain that a trade union is the appropriate paradigm for responding to 'informalisation from below.' The only model for organizing such workers into trade unions is the Self-Employed Women's Union (SEWU) of South Africa, which in turn modelled itself on the Self-Employed Women's Association of India (SEWA).²⁵ From its inception SEWU defined its membership constituency as the self-employed.²⁶ In so doing it broke with a conception of trade unionism that holds that its members must be workers in an employment relationship. The self-employed were defined as those who earn their living by their own effort as opposed to those who earn a regular wage or salary, including a person who employs not more than three others to assist her.

However, even though there may be sections of self-employed who are in an equivalent position to workers, insofar as they are dependent on a more powerful economic entity(ies) for a livelihood, this is not true of all the self-employed working under conditions of informality. To the extent that it is possible to bargain collectively on behalf of the self-employed, it seems more appropriate to conceive of this bargaining within an entrepreneurial paradigm, in which it is one of a number of strategies the association devises to promote each member's economic interests.

Whilst SEWU had initial success in negotiating with the local authority for facilities and services for street traders, it seems it was not able to consolidate and build on these gains. At a later juncture it began to focus on strategies to empower its members economically, such as entrepreneurial education and training, and the introduction of a micro-credit facility for its members (Devenish and Skinner, 2004). The question this gives rise to is whether the use of a trade union form is compatible with the function of creating entrepreneurs out of its members. Regrettably, SEWU was not allowed to resolve this question for itself. In 2004 it was forced to dissolve, rather than comply with a court order compelling it to reinstate two dismissed (and so far as it was concerned, discredited) officials. SEWU could simply not afford the cost of the accumulated back-pay this decision entailed and was liquidated.

The SA Owner-Driver Empowerment Federation has been confronted with essentially the same question. This is a voluntary association based in Johannesburg, representing owner-drivers.²⁷ As its name implies, it regards the owner-drivers as entrepreneurs, rather than workers in a relation of dependence on the firms they service. However for the owner-drivers who joined and paid their membership fees, the burning issue was that they were being exploited. Many found themselves economically worse off than when they had been employed.²⁸

There were two possible ways in which the Association could have responded to a situation of exploitation. The first was to adopt the strategies of a trade union. But the association, as we have seen, was conceived within an entrepreneurial paradigm, in which owner-drivers were seen as economic agents in their own right rather than workers. So this option was excluded from the outset. The other response was to become an enterprise that was able to advance the members' economic interests. This could be done in one of two ways: firstly, by providing services to its members (insurance, legal and business advice would be amongst a host of possible services); secondly, by negotiating a better deal for its members with the firms that engaged them. In the latter respect they would be bargaining collectively for their members, within an entrepreneurial paradigm. Evidently the possibility of the association becoming an enterprise was not contemplated. Instead the Association lingers on, with a declining membership. However we would argue that the only way of genuinely empowering owner-drivers might have been through forming a cooperative.

1.4 The cooperative alternative

In South Africa, as in many jurisdictions, the only way in which associations such as SEWU and SAODF could operate legally as an enterprise is as a registered cooperative.²⁹ What distinguishes a cooperative from other legal entities is that it is both an enterprise and an association.³⁰ And what distinguishes a cooperative from other enterprises is that it is not only concerned with meeting the economic needs of its members, although this is usually its primary objective.³¹

The statement that a cooperative does not have a purely economic function does not diminish the importance of clearly identifying the primary aims of a cooperative. In this regard two broad categories of cooperatives can be distinguished: a cooperative that provides services to its members, and a cooperative that provides employment to its members. In the case of owner-drivers, a cooperative that provided financial and legal services to enable its members to become owners in a real sense, rather than beholden to the user, would be an example of the former. The case of workers who work together in a productive enterprise would be an example of the latter.

Because a cooperative aims to meet the needs of its members, rather than to maximise profits, it is able to provide services that a company would not consider profitable. For the same reason it is able to retain members in employment in circumstances in which a company would not. Cooperatives can also be utilised flexibly, to enhance the income of the self-employed. Workers who are self-employed or employed may form a cooperative to enhance their income in a part-time activity, or to provide social protection. A savings and credit cooperative is a well-known example of the latter.

Informalisation, as we have seen, raises questions not only as to what form of trade union is appropriate, in the case of 'informalisation from above', but as to appropriateness of the trade union paradigm itself. Within an entrepreneurial paradigm, cooperatives represent a membership-based response to informalisation that at the same time is an alternative to the 'dog eat dog' mode of individual entrepreneurial endeavour.

The case for cooperatives is even more compelling in the context of the global economic crisis that broke at the end of 2008. Although the causes of this crisis will be debated for years to come, there is substantial consensus that it was precipitated by the greed of large financial corporations and the lack of regulation of financial markets. A general consequence has been the discrediting of the philosophical premise that underpinned the deregulatory thrust of the past several decades, which has inspired the externalisation of employment, including the privatisation of public services. Yet there is no indication that there will be any reversal of the externalisation that has already taken place, and the resulting 'informalisation from above.' Outside of public works programmes, whose sustainability will always be questionable, the only prospect for many will remain self-help and self-employment.

The appropriate conceptual framework for developing a response to informalisation based on the notions of communal solidarity and cooperation is the 'social economy' (Defourny and Develtere, 1999: 25-36): the idea that alongside the private and public sectors there exists a third sector, of which cooperatives, mutual societies and other associations are an integral part. Clearly this third sector assumes increasing significance in a context in which direct employment in both the private and public sector has been diminishing, as a consequence of externalisation, and public services have increasingly been cut-back. Arguments that cooperatives and mutual societies were outmoded business types have come back to haunt some of those that converted to companies in the United Kingdom and, according to Birchall, there is now a countertrend. Indeed cooperatives world-wide, and specifically financial cooperatives, are in a comparatively healthy position, and in some instances flourishing, notwithstanding the global financial crisis (Birchall, 2009: 9-10).

In part two we will consider cases of a variety of existing cooperatives, to take the argument further. But of course cooperatives are not the 'magic bullet' that will kill the vampire of market fundamentalism. A cooperative that is not clear about the needs it aims to meet, or is not able to meet these needs, or does not operate reasonably efficiently, will not be sustainable. South Africa provides all too many such examples, as discussed in part 2. Also, as with any form of entity, cooperatives are open to abuse. Further, like all forms of membership-based organisation, and particularly those catering for the disadvantaged, cooperatives are also vulnerable to capture by elites seeking to utilise the cooperative to their own advantage.

The strength of the cooperative tradition, as embodied in the internationally accepted cooperative values and principles, is critically important in this regard. These principles set up a creative tension between what 'is' and 'ought to be' in cooperative practice (Birchall, 2003). They also provide a necessary corrective to 'top down' approaches to cooperative development that arguably facilitate elite capture.³² The following quote from Munkner eloquently expresses contemporary thinking about what a cooperative is or should be:

“It is misleading to say that cooperatives have members. It is more correct to say that members have their cooperatives. Cooperatives do not help the poor but, by working together, pooling their resources, by submitting themselves to group discipline and by accepting to combine self-interest and group solidarity, the poor can solve some of their problems by way of organized self-help and mutual aid better than alone.” (Munckner, 2001: cited in Birchall, 2003:13)

1.5 The new regulatory environment

In the *apartheid* era cooperatives were regarded as a competency of the Department of Agriculture. The law regulating cooperatives at that time (referred to herein as the old Act) also catered primarily for agricultural marketing cooperatives.³³ These cooperatives had benefited from direct and indirect support measures by government over the years. But such measures had been mostly scrapped by 1994. The transition to democracy coincided with a vigorous and far-reaching programme of trade liberalisation in agriculture, which included the dismantling of a system of marketing agricultural products through marketing boards. Agricultural marketing cooperatives had been an integral part of this system.

There were also a variety of grassroots initiatives to establish cooperatives in the 1980s and 1990s, by community organisations, trade unions and others. Typically these cooperatives were established without an informed strategy as to how they were to operate as enterprises. Relatively few of them proved sustainable, or provided a model of organisation that could be replicated. Indeed the problem of being established without an adequate strategy persists until the present day, as already noted. Consequently there has been little development of the cooperative as a business form outside of agriculture.

The fact that the legislation did not adequately define a cooperative, or what distinguishes a cooperative from other legal entities, exacerbated the aforementioned problem. The principle that a cooperative is financed and controlled by its members was weakly articulated in the legislation. It is also questionable to what extent the members of these agricultural marketing cooperatives (as opposed to their management) in fact had effective control. Be that as it may, most of these cooperatives converted to companies in the 1990s, whether in response to government’s embrace of trade liberalisation, or because it was believed their assets would be more secure, or simply out of greed, in order to enable the members to appropriate reserves that had been accumulated over decades.

To understand how this was possible, it is necessary to appreciate an essential difference between the cooperative form and a company: the manner in which it raises and accumulates capital. Like a company, a cooperative raises capital by issuing shares. But these are shares issued only to members. They do not constitute a gainful investment (Henry, 2005) and cannot be traded, thereby immunising cooperatives against the hostile take-over. Although the term ‘profit’ rather than ‘surplus’ is used in some jurisdictions, it is an accepted principle that a portion of any surplus a cooperative generates must be retained in a reserve that is not divisible amongst the

members for the time being.³⁴ In the case of a cooperative such as KWV, the reserves accumulated were very substantial indeed.

Apart from government attempting to secure a slice of the windfall generated by KWV's conversion to a company for the development of small farmers,³⁵ very little happened in terms of cooperative development from 1994 until 2002. However in 2000 it was decided to transfer the responsibility for co-operatives from the Department of Agriculture to the Department of Trade and Industry (DTI) (although the physical transfer only took full effect in 2005). The following year a process of drafting new legislation commenced. The DTI in the meantime established a Co-operatives Development Unit, and more or less simultaneously with the process of drafting new legislation, began a process of consultation regarding cooperative policy. The Co-operative Development Policy was adopted in 2004 and the new Co-operatives Act in 2005.³⁶

The first of several purposes of the new Act is to "promote the development of sustainable co-operatives that comply with cooperative principles, thereby increasing the number and variety of economic enterprises operating in the formal economy."³⁷ This purpose must be understood in terms of the distinction drawn in the Policy between an "established cooperative movement", of which the agricultural marketing cooperatives discussed above were the significant component, and an emergent cooperative movement. Clearly promotion is targeted at the emergent component of the movement.

Further purposes of the Act are to enable cooperative enterprises to register and acquire a legal status separate from their members and "to establish a legal framework that preserves a cooperative as a distinct legal entity."³⁸ This entails, it is submitted, developing cooperative law as a distinct and coherent body of rules, in conformity with international instruments.³⁹

The Act defines a cooperative in a way that conforms with the internationally accepted definition, and cooperatives are required to adopt a constitution that complies with internationally accepted principles.⁴⁰ Although a cooperative has considerable latitude as to how it orders its affairs, in terms of its constitution, there are certain provisions that must be included in the constitution of all cooperatives. There are also certain provisions that are compulsory for specific categories of cooperatives, such as housing or financial services cooperatives, because of their particular nature.⁴¹ The cooperative principles are also given concrete expression in the legislation.⁴²

Thus, in contrast to the position in terms of the old Act, the new Act reaffirms the principle that each member has one vote in a primary cooperative, regardless of the number of shares held.⁴³ This relates to one of the essential differences between the cooperative as a form of enterprise, and the company, where voting in an annual general meeting is in accordance with one's share-holding.⁴⁴ Similarly, "to the extent feasible", members are required to contribute to the capital of the cooperative, and the return on member capital is limited.⁴⁵ Where a cooperative generates a surplus, at least five percent should be set aside in a reserve fund that is not divisible amongst its members.⁴⁶

One of the reasons why a statement of cooperative principles in the legislation is important is that the cooperative form, as with any other form of enterprise or association, is open to abuse. To protect the credibility of the cooperative form, it is therefore necessary to differentiate a genuine from a bogus 'cooperative'. Bogus cooperatives may be established for a variety of purposes, but most are usually formed to obtain some benefit that would be available to an enterprise that is supposedly member-based.⁴⁷

The categories of cooperative contemplated in the Act are firstly premised on a distinction between levels of cooperation. The distinction between a 'primary cooperative' and a 'secondary cooperative' is widely accepted, and a secondary cooperative is easily defined. It is a cooperative whose members are primary cooperatives.⁴⁸ It is less easy to define a primary cooperative, because although most jurisdictions specify the minimum number of persons that may form a primary cooperative, the question arises as to whether a 'person' should refer only to natural persons or include legal persons. At a yet higher level, there is a tertiary cooperative, whose members are secondary cooperatives.⁴⁹

In the Bill tabled in Parliament 'person' was defined to include legal persons. This was necessary because in agriculture, in particular, it is commonly the case that farm land is owned by a legal entity, be it a company or close corporation or trust. To exclude legal persons from membership of a primary cooperative would therefore be counter-productive. However the current definition limits membership of a primary cooperative to natural persons, and accordingly excludes legal entities.⁵⁰ This is one of a number of problematic aspects of the Act, as well as the Cooperative Development Policy. It suggests that the DTI, which was charged with piloting the legislation through the parliamentary process, and ensuring that there was consistency between the provisions of the policy and the legislation, had a limited grasp of the issues.

So too, the description of different kinds of cooperatives in the Act is also problematic. This relates to the second way cooperatives are categorized, that is according to the economic activity (or sector) in which they are engaged. As indicated above, there are two broad types of activity cooperatives may engage in, namely cooperatives providing services to their members and cooperatives providing employment to their members (worker cooperatives). The Policy speaks to this distinction, although it refers to them as 'user-owned' and 'worker-owned' cooperatives respectively. However neither the policy nor the Act applies this distinction when categorising cooperatives according to economic activity. There is also a potential overlap between the kinds of cooperatives listed in the Act.⁵¹

Thus a farm that is operated collectively might be categorised as a workers' cooperative, in that it provides employment to its members, or an agricultural cooperative, in that it produces agricultural produce, although it is clearly a different animal from the agricultural marketing cooperative, which markets its members' products.⁵² By the same token the cooperative marketing its members' produce could be correctly categorised in terms of the Act either as an agricultural cooperative, or as a marketing and distribution cooperative, along with cooperatives in other sectors with which it has little in common. Although these problems of categorisation are not insuperable, they create considerable difficulties when analysing the character of the

cooperative movement, and determining what kind of strategies and policies are appropriate.

‘Financial services cooperatives’ are amongst the kinds of cooperative listed in the Act. This kind of cooperative is defined as one that provides financial services to its members, and includes savings and credit cooperatives (SACCOs).⁵³ Together with housing cooperatives, worker cooperatives and agricultural cooperatives, there are special provisions relating to this form of cooperative, set out in a schedule to the Act⁵⁴.

Because SACCOs accept deposits from their members, they potentially fall foul of the Banks Act, which prohibits any person from conducting the business of a bank unless it is a public company and registered in terms of that Act.⁵⁵ Instead of requiring SACCOs to operate in terms of an exemption in terms of Banks Act, National Treasury has introduced the Co-operative Banks Act, providing for the “registration of deposit-taking financial cooperatives as cooperative banks” whose scale of operations exceed the stipulated level.⁵⁶ It has also established a Cooperative Banks Development Agency (CBDA) with the object of, amongst others, supporting, promoting and developing cooperative banking.⁵⁷ The CBDA is already operational. The swiftness with which National Treasury has proceeded is in marked contrast to the DTI in relation to a Cooperatives Advisory Board.⁵⁸ Such a Board is, arguably, urgently needed to advise the Minister on policy issues and matters related to the application of the Cooperatives Act. Yet it has still not been established.

As already noted, certain established cooperatives benefited in the past from the direct and indirect support measures of government. But these measures were integrated into a broader strategy to support commercial agriculture, in which cooperatives played an important part. If there is a broader strategy that now informs the support provided to cooperatives, it is probably directed at job creation. However this is not clear from the incentive scheme for cooperatives the DTI has developed, which amounts to the payment of a once-off grant to cooperatives, subject to certain conditions.⁵⁹

The risk of this kind of incentive is that cooperatives are formed to access the incentive, and not because they are sustainable. Although the grant is described as a ‘matching grant’, the cooperative needs to provide only ten percent of the approved costs of a project. It appears this can also be provided in kind. The DTI does, however, require cooperatives to have a business plan. This to some extent remedies what was arguably an ill-considered decision to drop the requirement that a cooperative applying for registration have a business plan.⁶⁰

To monitor the recipients of these grants, and to develop cooperatives from the bottom up, it is necessary to have the capacity to develop and sustain local initiatives, rather than to have resources at a national level. It is therefore important to have regard to the various strategies provincial governments have adopted to implement the cooperative policy.

A consideration of the regulatory environment would also be incomplete without reference to the legislation and policy regarding government’s objective of ‘broad based’ black economic empowerment (BBEEE).⁶¹ Cooperatives are a means of ‘empowering’ people that is genuinely broad-based. A genuinely broad-based form of

empowerment, as opposed to enriching a few well-connected individuals, was also the clear intent of the enabling legislation. However it has been argued that the BBE Codes that have been adopted in terms of the legislation in fact provide minimal incentives for cooperatives or other collectively-owned enterprises (Benjamin, 2008). The lesson would appear to be that if cooperatives are to benefit from these provisions, cooperatives will need to be far more assertive than is presently the case.

PART 2 : CASE STUDIES OF COOPERATIVES

2.1 Methodology for the case studies

The research project was initiated in 2006. The methodology adopted in the research project was to identify and document case studies of different kinds of cooperatives that had proved 'successful'. A 'successful' cooperative was one that had been in existence for a period of three years or longer. This approach was premised on the belief that three years was a reasonable period to determine whether the enterprise was sustainable, or had the potential to be sustainable, and would exclude enterprises that had been established but had yet to prove themselves. Accordingly cooperatives that had not been in existence for three years were also not considered. Enterprises that in our assessment were not operating cooperatively were also not considered, whether or not they were formally registered as cooperatives or not.

It was decided to focus only on emergent cooperatives. Inevitably these would be cooperatives whose members were predominantly black, in the generic sense. 'Established cooperatives' such as the wine cooperatives of the Western Cape were not considered, although there are undoubtedly lessons to be learned from these as well.

Initially the project focussed on cooperatives in the Western Cape. However because this is a relatively privileged province economically, it was decided to extend the study to include cooperatives in one of the poorest provinces, the Eastern Cape. We sought to identify cooperatives from government sources. However the DTI's lists of registered cooperatives were unreliable at the time. The cooperatives discussed below were identified through contacts made with various persons and organizations concerned with cooperative development. In the Eastern Cape cooperatives were identified by this method and through a secondary cooperative operating in the area.⁶²

The data contained in the case studies below was obtained through structured interviews with the leadership of cooperatives. These interviews sought to establish the essential facts regarding, amongst other topics, how each cooperative was established, what its activities were, its registered status, how it was managed, the role of the members in the cooperative, and how it was financed.

There was a marked difference between the cooperatives we identified in the Western Cape and those in the Eastern Cape. This can also be attributed to the different levels of development in these two provinces, as well as to the fact that the researchers were not based in the province, and that most emergent cooperatives are probably located in remote rural areas, and engaged in activities related to subsistence farming. Although we located a number of cooperatives that had been established⁶³, often in

adverse circumstances, only two met our criteria of having been in operation for three years. One of these is discussed below.

In 2006 and 2007, when the fieldwork of the research project was conducted, many aspects of the regulatory framework had not yet been implemented, or were not yet effective. In the meantime another study was being undertaken, very similar in conception to ours, but more ambitious in its scope: it included cooperatives in the entire sub-region of Southern and Eastern Africa (Satgar and Williams, 2008).

In order not to duplicate the latter study, it was decided to revisit the ‘successful’ cooperatives identified in 2006/2007, after a further period had elapsed. This would also give us an opportunity to assess what the impact of the changes in the regulatory environment had been, if any. It would also be an opportunity to assess how ‘successful’ the cooperatives previously interviewed really were.

Accordingly, follow up telephonic or in-person semi-structured interviews were conducted in March and April 2009. Each of the case studies below is in two parts. The first part summarises the position that prevailed when we first interviewed the cooperatives concerned in 2006 or 2007. The second part concerns what we found two or more years later. The outcome of both the initial and follow-up interviews is set out in the next section, starting with the one ‘successful’ cooperative identified in this project that failed in the period since the initial interview was conducted.

2.2 The case studies

A cooperative that failed: The ‘arts and craft’ marketing cooperative

Making ‘arts and crafts’ to sell to tourists is an obvious way to survive in a tourist town, but the problem is marketing: where to sell your goods. Many of course sell by the side of the road and at traffic lights. Better still to sell at a tourist site, like the renovated areas of the Cape Town docks, known as the Waterfront.⁶⁴ But access to the Waterfront is strictly controlled. An individual would simply not be able to trade there on her own. With the assistance of an NGO providing legal services, a co-operative was established in 1991 that successfully enabled its members to overcome this problem and market the ‘arts and crafts’ they produced.

It started with about ten members.⁶⁵ Fifteen years later it had forty. They were from a variety of backgrounds and range from those who employ workers to assist them, to those who work on their own, to those who have employment elsewhere and work in their spare time. About half the members were female and about half African. Coloured and white persons made up the rest. Everyone worked from home, and most depended entirely on the income from the goods they produced, which the cooperative sold on at a forty percent mark-up.

In 2006 the cooperative made a surplus. However the year before that it made a loss. It was not critical that the co-operative make a surplus, in the view of the leadership at the time, provided that losses did not accumulate. As long as the cooperative was able to continue paying the rent, and the manager’s salary, it would continue to serve its members’ interests.

The fact that the cooperative had been able to operate along these lines for as long as it had, without running into major difficulties, is surely ample proof of the viability of this kind of cooperative, providing this kind of service. In the final analysis the fact that it did run into major difficulties in 2007, and ultimately failed, is attributable to the unforgiving commercial environment that it operated in, and the lack of recognition or support for cooperatives. But it is also attributable in part to a lack of foresight on the part of its leadership, and perhaps the NGO that set it up.

Thus no thought was given to providing education and training to the members and leadership when the cooperative was established. Indeed it did not seem any of them had more than a vague appreciation as to what a cooperative was. Or that the fact that they were a cooperative whose members included people from a disadvantaged background might be a selling-point to the foreign tourist. So that when problems did arise neither the leadership nor members were equipped to deal with them. Similarly, no thought was given to setting aside a portion of the surplus generated in a reserve fund. So there was nothing to fall back on in an emergency.

The cooperative's most important asset was the lease it had secured to a stall in the Red Shed, a well-placed trading site on the Waterfront. However the company operating the Waterfront was for-profit, and the lease it had negotiated made no concessions to the kind of enterprise it was dealing with, or that it had members from a disadvantaged background. In addition to having to pay a fixed rent per month, the cooperative also had to pay a "turnover rent", calculated as percentage of its monthly turnover. As a result, the cooperative had sometimes to pay as much as R40 000 to R50 000 per month.

To make matters worse, the manager in charge of the lease at the Waterfront company saw the cooperative as a vehicle for developing the individual members' to the point where he or she would be able to break away and form their own enterprise. This notion is entirely inimical to the idea of cooperation, in which stronger members are often called upon to cooperate with weaker members. It is even more problematic where the weaker members are from a disadvantaged background, or women. About a year earlier the company had encouraged the cooperative's most financially successful member to break away and start his own business, also in the Waterfront. Then, without notice, in March 2007, the members learned their chairperson had also been prevailed upon to break away and start his own business, also in the Waterfront.

This happened at a critical time for the cooperative. It had recently been compelled to relocate, to allow the company to refurbish the Red Shed. The company did not contribute towards the costs of refurbishing or rewiring their new stall, and the cooperative was also unable to trade for a month. Then the cooperative was forced to move a second time. Not only was the rent linked to its new space higher, but it turned out to be "a dead corner". Trade dropped, and the cooperative was in arrears with its rent. Its difficulties were compounded by allegations that the manager had misappropriated money.

It became clear that there was no prospect of the cooperative repaying its debt to the Waterfront company. The chairperson, it transpired, had been responsible for almost half of the turn-over of the cooperative. He had also dominated the sale-space. The cooperative was left with little stock on display, after he had gone. Probably that

would not have been allowed to happen, if the members had realised that the cooperative was their own organization and they had the power to prevent it. Yet most members had stopped attending meetings. According to a previous treasurer, this was because the cooperative had stopped paying out the members their sales revenues at meetings. Instead it had begun to pay them electronically.

Two of the board members tried their best to get government assistance for the cooperative prior to its closure. The RED Door Project, an initiative of the Department of Economic Development and Tourism tasked with supporting small businesses, was repeatedly approached.⁶⁶ It never came to the assistance of the cooperative, even though cooperatives marketing 'arts and crafts' were specifically targeted in terms of provincial policy. Other government agencies were approached, to no avail. Four months after the exit of the chairperson, the cooperative closed down.

Three of the previous members of the cooperative have now entered an arrangement with a small business that traded from the Blue Shed at the Waterfront. They sell their products to the owner, who in turn sells them at a mark-up of between thirty and sixty percent (compared to the cooperative's 40 percent). The name under which the owner traded included the word "co-operative" and her business was also advertised on the Waterfront's website as a co-operative. This is illegal since in fact it is not a cooperative.⁶⁷

Some of these ex-members were grateful for the opportunity to be given a trading space. Others complained that she did not pay them regularly and did not give them regular feedback about which of their products she sold and how much of their product was still in stock. They preferred to trade under the cooperative system, because payments were made more regularly and accompanied by a report of products sold.

Distinguishing a co-operative from an NGO: an environmental cooperative (?)

One of the principal initiatives by government to address the issues of unemployment has been the establishment of public works programmes. Until 2002, when it committed itself to the adoption of the so-called Extended Public Works Programme (EPWP), its flagship programme has been the clearing of alien vegetation in various parts of the country, in terms of the Working for Water programme established under the auspices of the Department of Water Affairs and Forestry (DWAFF).

The alien vegetation in question comprises mostly trees imported from Australia in the colonial era. These trees have spread throughout the country and are choking the indigenous vegetation, as well as the water supply. They also are a potential source of timber, which can be processed or sold on. This represents a potential entrepreneurial opportunity.

As with any public works programme, the aim was to recruit unemployed workers to undertake the clearing of alien vegetation. But DWAFF was concerned that the workers should not have any expectation of permanent employment. The programme was designed so that employment was externalised: the teams of workers actually clearing the vegetation would not be employed by the programme at all. Rather they would be

employed by so-called emergent contractors, engaged by the programme on a contractual basis.

The same result could be achieved by engaging co-operatives composed of a group of workers. Such co-operatives were in fact formed in the Western Cape and elsewhere. However government was not prepared to support this initiative. To get work at all, one had either to be an emergent contractor, or employed by a worker of an emergent contractor.

In 2002 in Atlantis, a dormitory town of Cape Town, a group of fourteen persons who had become emergent contractors formed a cooperative.⁶⁸ Their experience as emergent contractors was that they had been compelled to undercut one another to secure the limited number of contracts DWAF provided. They were also compelled to incur expenditure on protective clothing and machinery which as a cooperative could easily be pooled. The objective was thus to enable members to pool expenses and eliminate competition amongst them.

In 2006 the cooperative had 65 members. When its manager was interviewed more than two years later, the cooperative was still going.⁶⁹ In fact it had received substantial financial support (amounting to more than R2.93 million)⁷⁰ for projects initiated under its auspices, from a variety of sources. These included the City of Cape Town, the Development Bank, who administered funds on behalf of the Job Creation Trust Fund, the National Development Agency⁷¹ and the Department of Environmental Affairs and Tourism. The co-operative broke even in the financial year ending February 2008. It employs eight people on a full-time basis.

Funds from the City of Cape Town were to enable the cooperative to renovate its offices in Atlantis and to landscape the area surrounding the office.⁷² A top-up grant from the Development Bank was to enable the cooperative to complete this work, and yet another grant was for building the capacity of cooperative members.⁷³ Funding from “national government” was used to convert its offices into a tourism information bureau; to establish conference facilities; to erect signage guiding tourists to the centre; and to restore the Old Mill in Mamre.

The grant from the National Development Agency was to launch a furniture making project under the auspices of the cooperative, using materials obtained from alien vegetation clearing.⁷⁴ It enabled the cooperative to appoint 30 people on two-year fixed-term contracts. About half of these were already members of the cooperative, and it was envisaged that the remainder would become members before the end of 2009.⁷⁵

Although the equipment for the project had been bought, no furniture had been manufactured by March 2009 as the workers appointed on the project were still in the midst of a six-week training course. They hoped to start making furniture by April 2009. The thirty workers will be divided into three teams. The three teams will respectively be responsible for alien vegetation clearing; the preparation of wood and vegetation material; and the actual making of the furniture.

In addition to the financial support listed above, the cooperative has also benefited from international volunteer support from a UK-based NGO. Every three months the

NGO sends a new group of 14 volunteers to assist the cooperative with its environmental education programme in schools in Atlantis and to tend the Atlantis Community Organic Garden as well as the Mamre Nature Garden.

Yet another project was in the pipe-line. The cooperative has been in discussion with the Premier's Office about piloting an ambitious renewable energy proposal. This will involve a joint venture with a UK partner who will provide the technology to enable the cooperative to separate organic and inorganic waste mechanically. The organic material will be put through "digesters" that will convert the waste into methane gas which will be used to operate electricity generators.

All in all, the cooperative has been highly successful in generating funds and support. Yet in doing so it has arguably been fulfilling the function of a NGO rather than a cooperative. As a cooperative enterprise, it has been much less successful. Twenty-three of the 65 members it had in 2006 were contractors. But the cooperative had not secured any contracts for the clearing of alien vegetation for its members since 2006, frustrating the objective for which it was formed in the first place.⁷⁶

In 2009 membership had decreased to 30 members, of which only 15 were contractors. According to the chairman of the co-operative, many of those who had left had done so to start up their own businesses. This in itself was an indication the cooperative was not meeting their needs. The co-operative had in the past three years shifted its focus to include making furniture from alien vegetation, harvesting reeds to be used for thatching houses and various activities related to tourism. It had also linked up with a crime prevention programme, in an endeavour to make the area safe for tourism.

It remains to be seen whether the cooperative will be able to successfully market the furniture it intends producing. According to its management, the cooperative has already entered an agreement with three landscape architects to supply them with custom-made garden furniture. Some of the 30 workers who are currently being trained are also being trained in marketing, and the Job Creation Trust Fund⁷⁷ has also agreed to assist in this regard. In addition, it claimed there was some agreement with the Working for Water's Value Added Industry's Programme⁷⁸ to market the furniture. However the Programme could not confirm this.⁷⁹

Enrichment or empowerment? A transport cooperative

Everyone needs transport. Until the 1980s in Cape Town the working class relied on public transport: to get workers to work, to get to shops or hospitals and the like. The government's railway service provided rail transport. Bus passenger transport was provided by the Golden Arrow Bus Service. The same company had had a virtual monopoly on bus transport for decades, and received a subsidy to make it more affordable. But for the working class communities that mainly used its services, the fares were steep. As happened elsewhere in the country, fare increases were often the subject of bitter bus boycotts.

No doubt this was one of the things that prompted the government of PW Botha to actively encourage mini-bus taxis as an alternative form of transport.⁸⁰ At the same time it was consistent with policies to encourage small business and de-regulate the

labour market, at a time when Reagan and Thatcher governments were vigorously promoting such policies in the US and Britain.

For the PW Botha government, the mini-bus taxi represented a proto-type of the sort of small business a black person could make a success of. The vehicles used were relatively affordable, and the overheads of running a mini-bus taxi could be met by the fares the passengers paid. The passengers in turn would have the salubrious experience of being exploited by one of their own, instead of by a faceless company, owned by whites. The social costs of this initiative, including lives lost in so-called taxi wars between the different operators and in many horrific accidents, were to prove enormous.⁸¹

If the apartheid government did not want the community united over an issue of public transport, one might have expected the converse to have applied in the case of the first democratic government. Converting a privatized taxi industry into cooperatives seemed the obvious way to do so. Yet the political will was evidently lacking, and taxi wars between private operators competing for business continue to flare-up until the present. Nevertheless a handful of cooperatives have been established.

In 1999 a cooperative was formed by 14 small bus operators, who at the time survived on small contracts, providing services to churches and schools.⁸² The object of forming a cooperative was to pool their resources, to enable them to tender collectively for larger and more lucrative contracts. The cooperative then obtained a 33 percent interest in Sibanye, a black-empowered company, registered in 2000. The other partners in Sibanye are Abahlobo (consisting of 10 shareholders) and the Golden Arrow Bus Service. In 2000, Sibanye managed to obtain a subsidised bus contract, known as the Atlantis Service. The latter provides a commuter service between Cape Town, Atlantis, Malmesbury, Marme, Pella and Darling. In 2005 Sibanye was awarded another lucrative contract, with the University of Cape Town. This was to operate a bus service known as the Jammie Shuttle, that provides free transport for staff and students of the university. The cooperative had 52 members in 2006 and generated a substantial surplus in that year.

In 2009 the cooperative had 51 members, and was continuing to generate a surplus. Sibanye receives a subsidy from the Department of Transport for operating the Atlantis service. Other than this, the cooperative has not received any direct financial or other support from government.⁸³ Yet the service it provides the University is of course funded by public money. Although the University regards the service as hugely successful, the manner in which the cooperative has operated has at times been controversial, necessitating the University taking a direct hand in the resolution of disputes.⁸⁴

Thus in October 2007 the service was disrupted by a bus drivers' strike. There are different accounts as to the causes of the strike, which was in breach of the prescribed procedures. It is clear however that it related to remuneration. It also appears that the introduction of a Code of Conduct applicable to all services providers, stipulating a minimum wage levels, was a contributory factor.⁸⁵ The strike was eventually settled on the basis there would be some improvement in remuneration, after an intervention by the University and trade union SATAWU. What it revealed was the divide

between the members of the cooperative and the drivers. The drivers were not members, but employees of the cooperative. But although the members included ex-drivers, it seems they behaved toward their drivers in a manner no different from any other employer. Indeed, the members of the cooperative had proposed driving the busses themselves, to break the strike, but were prevented from doing so by the University.⁸⁶

In the same year Sibanye was embroiled in a highly-public conflict with taxi operators which accused it of infringing on one of their routes. As a cooperative one might have hoped a dispute over routes would have been resolved applying cooperative principles, particularly since the taxi operators were represented by three associations that could with little difficulty have been converted to cooperatives.⁸⁷ Instead they were resolved through the formation of a company in which the taxi operators are members. It appears that this was an agreement which the cooperative had little part in negotiating.

The cooperative's conduct in the above regard displayed little awareness of cooperative principles. Then, in October 2006, while its CEO was in hospital, its Board took a decision in flagrant violation of those principles. Cooperative principles require that membership should be open to all who comply with the conditions of membership. However it was decided to close membership.

Sibanye had since 2002 paid out dividends to the cooperative as a result of its 33 percent shareholding. Consequently each member had received a bi-annual dividend. By 2009 the dividends each member had received amounted to R600 000. In short, the cooperative has enriched its members handsomely. The reason for the decision, which was subsequently ratified at an extraordinary general meeting, was to avoid the risk of having to dilute the dividend that it had received from Sibanye, by accepting new members.

Key leaders of the cooperative had opposed this decision. The purpose of the cooperative, one had argued, was to assist small bus operators who were members of SABOA. It was never intended to be an investment structure where members could "just sit back and relax and earn dividends...but this is what it has turned out to be."⁸⁸ The CEO of Sibanye said Southern Africa Bus Operators Association (SABOA) was now in the process of setting up another bus cooperative that would be open to all small bus operators.

Having effectively repudiated its identity as a cooperative, an AGM in 2008 had decided to convert into a company. At the time of writing the process to do so was in its final stages.

Cooperative housing: A housing co-operative

Until the 1980s urban housing for the working class comprised flats and houses rented usually from the local authority, and in African communities, hostels for the contract workers. Informal settlements were actively discouraged if not prohibited, although it was clear by the late 1980s that prohibition had not worked.

The hostels where contract workers used to live in the heyday of apartheid are to be found in every African working class community. Typically the hostels were designed to accommodate males only, and erected by the companies that they worked for, who leased or bought the land on which they are located. Nowadays they are sites of overcrowding and urban squalor.

In Hlazo Village, Nyanga, outside Cape Town, the land on which the hostels were sited, was leased from the local authority. When the contract labour system was abolished, several companies donated hostels to their occupants. In 2002 some of the occupants established a cooperative and began negotiating with the City of Cape Town to acquire the land on which their hostels are located. The City has now leased the land to the cooperative for a term of 30 years. The cooperative is now busy with an ambitious scheme to upgrade the hostels into 274 units, comprising two bedrooms, a lounge, a kitchen and a bathroom.⁸⁹

There are 274 members. Each member is issued with one share in the cooperative and allocated one unit. The fact that there is one unit for each member suggests that in effect the member is the 'head of the household'. This is often a gendered notion. However half the members are women.

Previously, workers stayed in the hostels for free. One of the biggest challenges the cooperative faced in 2006 was instilling a culture of payment amongst its members. As well as paying an entrance fee of R10, the members were expected to contribute to the costs of construction. The cooperative assisted the members in this regard by facilitating access to the housing subsidy the government provides. This was used to acquire building materials. Thereafter the costs of construction could be covered from the member's savings, or by 'sweat equity' (in other words, by providing their labour). The cooperative established a savings scheme to help the members to save.

Another challenge the cooperative had had to face was how to deal with people who had lived in the hostel, but refused to become members of the cooperative. The cooperative had eventually obtained a court order to evict them, so that building could proceed. Alternative accommodation was provided in two hostels that were not to be renovated. However conditions in these hostels are more cramped than these non-members had been used to.⁹⁰

The cooperative also received assistance from the Department of Housing nationally, in the form of an Institutional Subsidy.⁹¹ It has also received provincial grants to supplement the Subsidy.⁹² But it has not received any funding or assistance from the DTI, the department specifically tasked with supporting cooperatives.

The cooperative has also received assistance with project management and accounts administration from the City of Cape Town's Department of Housing. The City has appointed a project manager that supervises the building work of the co-operative. Only once sufficient progress has been made, is money paid over to service providers. Providers of building materials are likewise only paid once the material has been used by the builders.

While progress with the building of the units had been slow, a spokesperson of the City's Department of Housing argues that this model should be replicated.⁹³ He

argued that members of the co-operative had been involved in the design of the units, but also in problem solving. In the process they have acquired skills, but have also managed to build a house that is built better and offers more value than many of the houses built by commercial contractors.

Special rules are applicable to housing cooperatives in terms of the Act.⁹⁴ This is as a consequence of the fact that once the unit is completed the member is expected to contribute the equivalent of a rental or levy, in terms of a use agreement between the housing cooperative and the member. This is to cover the costs of maintenance of the structure, for services and the expenses of the cooperative. The rights of the member need to be protected in terms of such use agreements: for example against being arbitrarily evicted. At the same time the cooperative needs to be able to take effective steps where members are in default.

By March 2009, 252 of the proposed 274 houses were completed and occupied. Each house consists of at least two bedrooms, a bathroom, a toilet, a kitchen and a lounge. The size of houses varies from 52m² to 58m². An official from the City of Cape Town valued the units at approximately R54 000 each. However there was no use agreement between the cooperative and the members, and the members currently do not make any contribution to the cooperative.

Clearly this is not sustainable. Realising this, the cooperative plans to hold a meeting with members by July 2009 to discuss the introduction of a levy. The intention is that the cooperative will receive payments from the members and pay the City for the services it provides.⁹⁵ Time will tell how effectively it is able to fulfil this function.⁹⁶

Creating a culture of savings: A savings and credit cooperative

The working class have always needed to be able to access cash, whether to avoid debt or to cope with the contingencies of life, such as access to emergency medical care or funeral costs. What are commonly referred to as 'stokvels' in South Africa are in essence rotating savings and credit associations (ROCSAs), whose object is to meet this need, by providing a lump sum to their members. They are informal and unregulated. Funeral associations represent a different kind of informal strategy to cope with risk.⁹⁷

Yet these different kinds of self-help strategy have obviously not eliminated money-lending. Indeed one of the most pervasive signs of the impact of economic globalisation in the 1990s is the micro-lender, or 'loan shark', as they are less euphemistically known, who have their signs in towns large or small, rural or urban, advertising 'cash loans' in bold print. The activities of the micro-lender are supposed to be regulated, but the capacity of the authorities to do so effectively is lacking.

The limitation of stokvels relates to their scale. They work where the members are able to trust each other, usually because they live in close proximity to each other. That is also the reason they are able to get by without formal controls that safeguard against corruption. A savings and credit co-operative (SACCO) is able to overcome the limitation of scale, by being an autonomous local body that is affiliated to a secondary structure that is nationally based. There are some 26 such SACCOs

affiliated to a secondary co-operative, SACCOL, which also acts as a regulatory body for the SACCOs.

The members of most of these SACCOs are employed in the same workplace. The employer deducts a contribution from the payroll. This suggests that it is a form with limited application to workers who are not in formal employment. However there is one SACCO in the farming district of Stellenbosch that is not workplace based. Farm workers are generally regarded as amongst the most vulnerable sections of the employed, and include significant numbers of non-standard workers, particularly in fruit and wine areas, where employment tends to be seasonal.

The SACCO started with 10 members in 2002. In 2006 it had 300 members, the majority of whom are female and, in accordance with the demographics of the area, coloured.⁹⁸ The SACCO offers its members a variety of products tailored to meet their specific needs as farm workers, including a 'quick loan' which is re-payable over six weeks, and a 'long-term loan' payable over a longer period. The SACCO encourages members to save, and the amount of the loan for which they qualify depends on the amount of their savings.

The interest rate the SACCO charges on its loans is only 2 percent. Yet despite the low interest rates it charges, it still faces competition from loan sharks, who have a foot in the market primarily because of the high rates of alcoholism amongst farm workers, and their vulnerability to sharp operators. Also, despite its low interest rates, in 2006 for the first time the SACCO succeeded in making a surplus.

In the same year the cooperative received a grant from the South African Wine Industry Trust (SAWIT), the trust established in terms of the settlement agreement with KWV when it was seeking to convert from a cooperative to a company.⁹⁹ The object of the grant was to enable the cooperative to buy office equipment and, for the period of a year, enhance its capacity. It appointed an administrative assistant and a field worker responsible for recruiting new members. In the course of that year its membership more than doubled to 662.

In July 2007 the cooperative entered into negotiations with the South African Micro Finance Apex Fund (SAMAF), a government agency. SAMAF is mandated to facilitate the provision of affordable access to finance by micro, small and survivalists business for the purpose of growing their income and asset base.¹⁰⁰ The SACCO applied for a five-year loan, to cover its operating costs and for on-lending to members. A year later, after protracted negotiations, the cooperative received a fraction of what they were asking for. It was to be paid in two tranches.

Apart from the fact that they felt the SAMAF loan was ungenerous, representatives of the cooperative complained that it came with restrictions, and that it was entangled in red tape. Numerous forms had to be filled in, and despite its mission, SAMAF appeared to have no appreciation of the fact that the administrative capacity of such an organisation was limited.

Although the loan has enabled the co-operative to appoint two more fieldworkers, SAMAF has stipulated that each field worker must recruit 25 new members per month. Representatives of the cooperative complained that this condition was

unrealistic, although they had in fact recruited new members. In 2009 they had 900 members. Then SAMAF failed to pay the second of the two tranches, precipitating a financial crisis in the SACCO that was not resolved at the time of writing.

Surviving without an office: A social cooperative

There were minimal social services for the working class in the apartheid era and certainly none in the informal settlements that started mushrooming around the big cities in the 1980s and subsequently. One such settlement was Crossroads. It was notorious for its factional conflicts, and the warlords who presided over the allocation of houses and resources, in collusion with the apartheid authorities. Now it is integrated into the adjacent townships, and the building once occupied by the most notorious of the warlords is home to a crèche and pre-school.

The crèche was started in 1985, when its founder and chairperson learned there were women in Crossroads desperate enough to abandon their babies on a nearby rubbish dump.¹⁰¹ During the day there are 63 children in it, up to the age of six years. There is also a large and flourishing vegetable garden. Produce is sold to the community. To the elderly and sick it is given away.

In 1999 this crèche and pre-school was one of fifteen in the area that banded together to form a care cooperative. The largest of these leases premises from the local authority and receives a subsidy from the government. Others operate 'backyard crèches', from their homes. The costs of administering the cooperative are minimal, since it does not employ anyone itself. But it provides at least two important services to its members.

The first is to negotiate with the local authority and government on a variety of issues affecting the members. The second is training, to enhance the skills of both the members themselves and the persons they employ. Each member employs between three and six such assistants, called teachers. Strictly speaking, then, the members are employers, in a relationship of power over those who work for them. However the cooperative subscribes to the principle that what each crèche earns should be equally shared between the member and those who work for her.

The incomes of these crèches fluctuate from month to month. People do not require care all the year round, and there are poor parents who cannot afford to pay regularly, or at all. The cooperative regards it as a demonstration of its commitment to the community, in accordance with cooperative principles, that it will accept the children of such poor parents.¹⁰² No doubt the community has greater confidence in entrusting their children to a cooperative that displays such commitment. A cooperative is also accountable to the community for the standard of care its members provide in a way an individual operating on her own, or an organisation for profit, could not be.

This cooperative was one of the flagship projects of the Western Cape office of the National Cooperative Alliance of South Africa (NCASA). Ostensibly NCASA was an apex body representing cooperatives in South Africa. However, because of the weakness of the cooperative movement, it was always reliant on external funding. In about 2000, presumably because of funding constraints, the Western Cape office was summarily closed. The field-worker employed there was concerned that the

cooperative might not survive without guidance from a higher structure. However it was still going in 2006, whilst NCASA had in the interim collapsed.

In 2009 the same person was still chairperson. The cooperative was still going, she explained, “without an office”.¹⁰³ Clearly it was not an office of the cooperative to which she was referring, because it had never had one. It was the NCASA office that had been closed-down. Its membership had even increased: there were now nineteen crèches and day cares, all still in the Crossroads area, although the subscription had dropped from R50 to R30 a year.

There was nothing planted in the vegetable garden at the moment, because they were waiting for a delivery of manure. But it still gives free vegetables to the elderly and sick. The City provides free seed for the garden, and the Department of Agriculture a fence, but otherwise the cooperative has received no form of external support. However, the chairperson, together with most of the members, now receive a subsidy from the Department of Social Welfare of R 8 000 a month towards the costs of operating the crèches or day-cares. Previously they had to rely only on fees contributed by the parents.

Undoubtedly the subsidy explains in part the growth in membership of the cooperative. At the same time government, arguably, ought more easily to grant this kind of subsidy in the knowledge that there is an organisation to which each recipient is accountable.

A small farmers’ cooperative and the question of government support

Government has identified agriculture and agro-processing as a priority sector, amongst other reasons because it is labour-intensive.¹⁰⁴ However any attempt to galvanise the sector will be constrained by the slow pace of land reform, and by the pressures farmers face as a result of the government’s overzealous liberalisation of tariffs in the 1990s.¹⁰⁵ Small farmers, in particular, cannot hope to compete in a global market with heavily subsidised farmers from the global North. But there is some hope if small farmers cooperate with one another.

Rooibos is a plant that occurs naturally in a dry, mountainous region north of Cape Town. In 2000 fourteen small farmers decided to form the rooibos tea cooperative. Some owned small tracts of land. Some were part of a group that collectively owned a farm.¹⁰⁶ Some rented land. Their original object in forming a cooperative was an extremely limited one: to establish a facility to process each member’s tea, so that it could be delivered to a company marketing rooibos tea. The marketing company was formerly a cooperative, but had converted to a company, and some of the small farmers were contractually bound to deliver all their produce to it. However there was unhappiness at the price it paid. It soon became apparent that the newly established cooperative could get a much better price by marketing their tea through an agent, under a fair trade label and as organically produced.

During the first year of its operation the cooperative leased a centrally located facility to produce the tea, some of which was then marketed through an agent. So successful was this that the following year all the members were marketing their tea through the cooperative, and the cooperative realised a substantial surplus. By 2004 the

cooperative was confident enough to eliminate the agent, and deal directly with the buyers. This required that they obtain the requisite certification from the Fairtrade Labelling Organisation (FLO), a relatively sophisticated process.

One of the potential benefits of the cooperative form is that collectively producers are able to engage in such a process, as well as to achieve vertical integration of the different units making up the enterprise, by means of pooling equipment and collectivising the costs of seasonal labour. As organic producers, and having received Fairtrade accreditation, the cooperative was able to get a significantly better price on the market. This price included a 'social premium' paid by the Fairtrade labelling organisation, to be utilised by the cooperative for community development purposes.

In 2006 the cooperative still seemed to be growing from strength to strength.¹⁰⁷ Each year it had generated a surplus. It had utilised the 'social premium' to promote the participation of women in the cooperative. There were thirty-six members at the time, twelve of whom were women. This is in contrast to the situation when the cooperative was established, when only two of the founding members were women. The cooperative had also had a significant impact on employment in the small town where its office is located.

The cooperative itself employed two full time employees and about eleven employees during the harvesting season. In addition the cooperative has supported the establishment of enterprises. Five women's groups have been established to make the cotton bags and boxes the cooperative uses to market its tea, and are paid per item produced. Women's groups were also established to provide hospitality services to the tourist trade. At the same time the cooperative has sponsored a number of training and development programmes, which have included topics ranging from financial management to global climate change, an issue of direct relevance to the sustainable cultivation of the tea.

The position was quite different in 2009, when the cooperative was interviewed again. The membership had grown significantly, and stood at fifty-three. But for the previous two years the cooperative had made a loss.¹⁰⁸ The losses were attributable to a glut of rooibos tea on the world markets, and overproduction in the domestic market. It was a situation affecting the entire industry, and not the worst problem confronting the cooperative. The worst problem, or set of problems, was as direct consequence of government's decision to intervene in the rooibos industry.

In 2007, following a visit to a communal farm where a number of the members were based, the MEC for Agriculture and Land Reform of the Northern Cape resolved to 'help the small farmers', although no help had been requested. Soon afterwards, under the auspices of the National Department of Agriculture (NDA), a joint project with the government of Limpopo province was initiated. The rationale for involving Limpopo province was that the government operated estates there producing Ceylon tea, although there is little commonality in the manner in which Ceylon and rooibos tea is produced.

The upshot was that the NDA established an entity in the town to receive, process and market rooibos tea, as well a facility which is in the process of being expanded to include sterilization and packaging plants. This entity, which has now been registered

as a company, began buying tea from farmers in the area at well above the prevailing market price. This was presumably justified to the NDA, which funded the project, as help to small farmers. But it was a well-connected local commercial farmer that was in effective control. He decided whose tea would be bought and whose not.

At the time the cooperative was also sitting with a large volume of tea it was not able to market. It would have been beneficial for the cooperative to have sold this surplus to the new entity, at the price it was offering. However, it would appear that from the outset the cooperative was seen as a competitor. So instead of buying its produce, it bought tea from other commercial farmers. Small farmers alleged they were flagrantly discriminated against. One of the allegations against the farmer who controlled the process was that when small farmers sought to deliver tea to the new entity, he would refuse to provide them with a receipt. If they persisted in demanding a receipt he would inform them that they should take their tea elsewhere.

It is true that the support of the vice-chairperson of the cooperative for the new entity was enlisted from the outset. Also, when the entity was established as a company, he was 'elected' as one of two directors that were ostensibly to represent small farmers on its board. However the election appears to have been rigged. At a meeting called for this purpose, it was announced that only those who could speak English fluently and had a matriculation certificate were eligible. Out of seventy small farmers in the district, that left three. Of the three, the small farmer who received far and away the most votes was not appointed. The vice-chairperson was one of the two remaining.

The cooperative itself was also not consulted about the vice-chairperson's participation in the new entity, and he himself made no disclosure of his role in this regard. This obviously constituted a conflict of interests. It was allegedly at his instance that two employees of the cooperative, one of whom was the manager, resigned upon one day's notice to take up positions in the new entity. The new entity is now offering small farmers free rooibos seedlings, presumably courtesy of NDA. They are referred to by the members as 'gifplantjies' (poison plants).

The effect of small farmers accepting the 'gifplantjies' will be that they will lose their organic status, and no longer be able to market under the 'Fairtrade' label. The cooperative anticipates it will lose members. However, the members who are resolved not to take the 'gifplantjies' have come to a realisation about 'help' from the government. They established their cooperative, and grew it, without help from the government. Maybe that was not a bad thing.

Workers cooperatives providing services: The question of cooperative autonomy

Universities can be said to have been a 'soft target' for militant unionism, particularly given the political context of the early 1990s. Consequently wages, particularly for unskilled workers, were set at far higher levels than the 'going rate' in the market, namely the rate at which a service provider employing unskilled workers is able to pitch his or her tender. This was depressed both by job-shedding and migration from the countryside to the urban centres.¹⁰⁹

The University of Fort Hare, as *alma mater* of many luminaries of 'the struggle', is one of the best known of South Africa's historically disadvantaged universities. In

1997, a year after government's adoption of the macro-economic policy GEAR, a financial crisis loomed at the University. Accordingly it tabled a proposal to reduce its wage bill by retrenching workers employed in cleaning, catering and gardening, and engage external service-providers instead. The union to which the workers belonged challenged the retrenchment in the courts, but lost.¹¹⁰

By all accounts the financial crisis at Fort Hare was genuine. Yet the university is the only employer of consequence in the small rural town where it is located, and the political fall-out from the decision was considerable. A new vice-chancellor was appointed with a background in the political struggle, and the union approached him with the proposal of forming cooperatives to employ the retrenched workers. The cooperative would in turn provide the same services the workers had previously performed as employees. Under new leadership, the university was receptive to the proposal.

Three cooperatives were established at Fort Hare. Although they were not able to employ all the workers who were retrenched, they did employ a substantial number.¹¹¹ The largest of the three (with about 145 members) provided cleaning services, and comprised mainly women. A separate cooperative was responsible for maintenance of the university's gardens and grounds, and comprised mainly men (it has about 60 members). A third cooperative (with about 60 members) was to provide catering services.

Cooperatives providing employment to their members, as discussed above, are defined in terms of the Act as worker cooperatives. However worker cooperatives may operate in different sectors. Some jurisdictions refer to worker cooperatives engaged in a productive activity, such as manufacturing, as production cooperatives. Others refer to labour service cooperatives, meaning cooperatives that employ workers with a view to providing services. The Fort Hare cooperatives were clearly akin to the latter.

There is not a well-established tradition of worker cooperatives in South Africa, and some commentators caution against a naïve belief that worker cooperatives provide a model for job-creation.¹¹² It must therefore be emphasised that these cooperatives have benefited from the ongoing involvement and support of the university. In 2002 this took institutional form, with the establishment of a Community Business Development Centre. The Centre, which is attached to the University's administration, provides training and conducts research relevant to community business development. Cooperatives are one of its anchor projects.¹¹³

The question this gives rise to is whether these cooperatives are truly autonomous. The stated position of the Centre is that the cooperatives must stand or fall as autonomous enterprises. By the time of the initial interview in 2006, one had already fallen. This was the catering cooperative. According to the Centre it had difficulty from the outset in delivering an effective or competitive service. It had also disregarded the Centre's advice to ally itself with an established catering enterprise, in order to acquire the skills that would enable it to become sustainable. In 2007 the university decided not to renew the catering cooperative's contract.

Whether or not it was prudent to do so, disregard of the Centre's advice does suggest the cooperative was in fact operating autonomously. The cleaning cooperative was clearly also not receptive to the Centre's advice, and in 2006 relations between the cooperative and the Centre were strained. Partly because the researchers did not want to become involved in a complex investigation into the dynamic between this cooperative and the Centre, it was decided rather to select the gardening cooperative for the purposes of a case study. However in the light of subsequent events, some of which are a matter of public record, it is also useful to discuss this cooperative here.

One of the issues between the cleaning cooperative and the Centre was a decision by the cooperative to diversify its activities, initially by producing its own cleaning materials, then by producing toilet rolls.¹¹⁴ Some regard the cooperative's decision to diversify commendable and indicative of an impressive degree of entrepreneurial self-reliance.¹¹⁵ The Centre's concern, however, was whether these activities were sustainable.¹¹⁶ The quality of the cleaning service the cooperative was providing was also a concern.

The most usual objection to worker cooperatives concerns the difficulties of managing a workforce made-up of members who have a voice in the way it is run. Discipline, in particular, is difficult to maintain in this context. This was also the experience of the cleaning cooperative. In 2003 it expelled eleven members for alleged ill-discipline. Expulsion from a workers' cooperative is tantamount to dismissal. A protracted legal battle resulted, in which one of the points to be determined was whether this was a matter to be determined in terms of the cooperative's constitution or labour legislation regulating unfair dismissal.

The cooperative won the latest round of this battle in 2008, by which time this point was arguably moot.¹¹⁷ In 2005 a new Cooperative Act was adopted.¹¹⁸ This states that the Labour Relations Act of 1995 and the Basic Conditions of Employment Act do not apply in the case of a workers' cooperative.¹¹⁹ Yet the tension between the scope of labour legislation and cooperative law still persist, as a consequence of recent endeavours by certain employers to evade the provisions of labour legislation through establishing bogus cooperatives.¹²⁰ It also appears that the legal battle may have cost the cleaning cooperative the support of the union, which took the view that the 'dismissals' of the eleven was unfair.

Whether it was because it had lost the support of the union or whether, as the Centre maintains, the cooperative was not providing a satisfactory cleaning service, or for other reasons, the University announced it was appointing a new service-provider with effect from April 2008. The majority of the members accepted positions as workers with the new service provider, a conventional company.¹²¹ It is unclear whether what remains of the cleaning cooperative will be able to survive without its contract with the University. However thus far it has not been prepared to lie down and die, and has been trying to secure alternative contracts, as well as outlets for its materials. However in the Eastern Cape hinterland the prospects are limited.

Relations between the gardening cooperative and the union were more cordial, and in 2006 the Centre regarded it as providing an effective service. Over the previous three years the gardening cooperative had also achieved a surplus. Although there had been no increase in the wages the workers were paid they had, in addition to their wages,

received substantial bonuses.¹²² The management function was carried out by one of the members, in conjunction with a manager appointed by the Centre to serve all the cooperatives.

The application of discipline had also not given rise to any significant dispute in the gardening cooperative. The practice, in cases of ill-discipline, was to summon the worker concerned to appear before a disciplinary committee composed of fellow members. If she or he persisted in being ill-disciplined, the worker would be summoned before a general meeting. This was obviously a cumbersome procedure, and had only happened four times in the five years since the cooperative was established. The workers also knew that if they delivered a sub-standard service, they might lose the contract.

But in 2008 the gardening cooperative had a more significant disciplinary issue to deal with. The cooperative was required to submit audited financial statements to the Registrar of Cooperatives, and the membership became suspicious when the manager and board members resisted all attempts to engage an external auditor. It transpired that some of them had been misappropriating funds. A disciplinary committee recommended the manager and three board members be dismissed, and they were removed at an AGM.¹²³

What the members learned, as a consequence, was the extent to which information and skills had been centralised with the manager and board members they had removed.¹²⁴ The contract with the University had in the meantime expired, and it was necessary for the gardening cooperative to tender for a new contract.¹²⁵ The Centre appointed a consultant to assist them with preparing a tender, and a temporary manager to assist them with the administration. It also appointed a horticulturalist to advise them on technical matters relating to the service the cooperative provides. It remains to be seen whether the cooperative will emerge weakened from its internal crisis, or strengthened.

However the contract with the University has been renewed for one year. If the cooperative is able to demonstrate it is still viable after the elapse of that year, it will be granted a contract for a further four years.¹²⁶ If, moreover, the cooperative is able to learn a fundamental lesson of all organisations - not to place too much trust in your leadership, and to ensure that there is accountability at all times – it should be strengthened. It is therefore encouraging that resources are now being put into cooperative education, with precisely this in mind.

PART 3: CONCLUSIONS

There has been an exponential growth of entities registering as cooperatives since 2005. There are now 16 694 cooperatives on DTI's database, of which 12 188 were registered in the period from 2005 until 2007. But it appears this number is also a function of DTI's inability to deregister cooperatives that are not able to meet its requirements fast enough, since DTI itself regards a significant proportion of the cooperatives on its data base as no longer functional.¹²⁷ This suggests that many cooperatives have been established for opportunistic reasons, in order to access grants, or without a viable strategy to become sustainable enterprises.

It would be an understatement to say that this situation is regrettable. It was entirely foreseeable that cooperatives would be established for opportunistic reasons where funding was easily available and there was no capacity to guide the development of a cooperative movement. One could blame government for its failure to take the appropriate steps to develop capacity, and in this regard its failure to establish a Cooperative Advisory Board as envisaged in the Act is inexplicable.¹²⁸ Yet there is a more deep-seated problem than government capacity, or institutional factors. This, we have argued, concerns the predominance of a 'wage culture' that does not value self-reliance. Consequently hand-outs from government are simply consumed, and do not result in self-sustaining enterprises.

It would be premature, therefore, to talk of a 'new' cooperative movement in South Africa. The case studies of cooperatives we have discussed are rather intended to demonstrate the potential scope of this form of enterprise to create self-sustaining enterprises, and bring about a shift from a wage culture. But they also demonstrate the limitations and pitfalls of the cooperative form. That was not the initial intention of the research project that gave rise to this paper. Instead of the case studies of 'successful' cooperatives that we envisaged when this research project was initiated in 2006 (cooperatives that had sustained themselves for a minimum of three years) these cooperatives have been tracked over a significantly longer period, of five years or longer.

To start with the case studies remind us that in the conventional typology of enterprises in a capitalist economy, cooperatives represent an alternative model in two respects: firstly, they are associations as well as enterprises; secondly, they are, or should be operated according to certain ethical values, embodied in the cooperative values and principles. In both respects, it can be expected that cooperatives will attract both scepticism and hostility. The dominant paradigm in a capitalist economy is of course the individual pursuit of wealth. Associational forms are not consistent with this paradigm, or are perceived as threatening to it.

However for poor and working class communities it is far-fetched to suppose that individuals can aspire to attaining wealth. Under the conditions of capitalist globalisation even the prospects of employment or a stable income are becoming increasingly remote for those without education, skills or any kind of capital. Equally, it is a fiction to suppose that small business is going to create jobs, let alone sufficient jobs, to provide employment for the unemployed and underemployed. In the thirty or so years that this fiction has been propagated, there is little evidence of it being realised anywhere. Moreover the growth of small business, such as it has been, has very often been of businesses dependent on big business, to whom they provide services that have been externalised, or as franchisees.

Where members have some capital, or education and skills, cooperatives can of course facilitate the individual pursuit of wealth. To this extent cooperatives are not incompatible with the dominant paradigm. But the pursuit of wealth within a cooperative is constrained by the recognition that it is only made possible by working together with others, coupled with the recognition that individual members belong to a community. A refusal or failure to accept these constraints is incompatible with cooperative identity, as the decision of the transport cooperative to convert to a company illustrates. One can of course defend this decision in terms of the dominant

economic paradigm. But then one must also be prepared to consider the assumptions on which this paradigm is premised, and the social and economic consequences of such decisions.

Most immediately, in the case of the transport cooperative, the individual pursuit of wealth is already associated with a more adversarial and conflicted relationship with the drivers who, in a cooperative, would be the constituency from which new members would be recruited. At a societal level, it would contribute to increasing class polarization: between a select few that, for what appear to be an essentially arbitrary combination of circumstances are the beneficiaries of an empowerment scheme, and the community at large. The case of the transport cooperative in the process of converting to a company also enables us to interrogate whether this is truly an independent economic entity, as would arguably be assumed in terms of the dominant paradigm.

In this regard a comparison with the workers cooperative providing gardening services at the University of Fort Hare is instructive. Both in the case of the transport cooperative and the gardening cooperative an independent entity was required to tender along with other entities to provide a service to an organ of state. In both instances the employer has had to involve itself in decisions that in the case of an independent entity in a market economy would be regarded as the province of its management. We would argue that such interventions are necessary and justified, and represent an acknowledgment of the economic reality that the service providers are dependent on the universities in question. The important policy question is rather what form this intervention should take.

This is a political and moral question, as much as an economic one. But the mere fact that, as enterprises, nine out of ten cooperatives have still proved sustainable is significant, and gives the lie to the notion that cooperatives are not economically viable. Moreover the reasons why one of the cooperatives failed have no bearing on the viability of the cooperative form. These include its failure to allocate resources to the education and training of its members. If resources had been allocated to this end, and the cooperative had been developed in accordance with cooperative principles, it would be remembered for more than the way it administered payments.

Other things being equal, there can be no doubt that the producers of 'arts and crafts' should be better off in a cooperative than any other form of enterprise, both economically and socially. The same argument applies to an agricultural cooperative marketing its members' products. Compared with the situation of a producer who is compelled to sell through an intermediary, a cooperative serving its members' interests ought to be able to pay its members a better price than an intermediary in pursuit of personal profit. This is not least because the members have some voice in the price that is paid.

A further indication of the viability of the cooperatives considered in this case study was that in most instances the membership had grown, or at least remained the same. It is a membership that is overwhelmingly black (in the generic sense) and from a disadvantaged background. Women are well represented, even in sectors where they are generally not. True, not all members are from a disadvantaged background and some are relatively well off. Indeed, a mix of members with different skills, and from

different economic backgrounds, appears to be one of the ingredients of a successful cooperative. This may be because of the skills such members have, or because of the bigger volumes their participation brings. In the case of the rooibos tea cooperative, it was because better off members were willing to sacrifice a proportion of the surplus that would otherwise be due to them in order to encourage participation by poorer members. That is what a culture of solidarity entails.

Of course cooperatives do not always serve their members interests, or may fail their members for a variety of reasons. The same is true of companies that do not serve the interests of their shareholders, or trade unions that are not controlled by their members, or that serve narrow sectional interests. By the same token, as with any form of collective human endeavour, cooperatives are sometimes riven by internal conflict. Today's democratic and accountable leadership can become tomorrow's autocracy.

The reason for this is obvious. Like trade unions, cooperatives are a source and medium for the exercise of power. They are also a means, as already noted, whereby individuals may pursue the acquisition of wealth. There will always be those who seek to divert a collective enterprise to further their material gain, whether by lawful means, as in the case of the transport cooperative, in deciding to convert to a company, or unlawful means, as in the case of the gardening cooperative. Clearly the regulatory environment in which cooperatives operate is a critical factor in the development of this form of enterprise. It needs to provide mechanisms that effectively safeguard against abuse. At the same time it needs to be enabling, so as not to create obstacles to cooperative development. The balance between what may be characterised as a supervisory and promotional approach to regulation is a difficult one to strike, and also depends on the institutions and resources that are made available for the purpose, and the capacity of government.

Certain of the cooperatives have been the recipient of grants and other forms of financial support from government. It would scarcely be conceivable to embark on a project of the magnitude of the housing cooperative without significant resources behind it. This is a project underwritten by the Social Housing Agency. But none of the cooperatives had received support from DTI, in terms of government's scheme to promote cooperatives. This is probably because the incentives did not exist in 2006, at the time our research project commenced, but it does also raise a question regarding the appropriateness of this incentive scheme that bears further investigation.

On the other hand there were cooperatives that have thrived without any assistance whatsoever, or with relatively modest contributions to capital projects. In most instances the cooperative, once established, was resilient enough to carry on without external financial support. This is also what a culture of self-sufficiency requires. The case of the rooibos tea cooperative also illustrates how government support, whether intentionally or not, can be used (or abused) to undermine a successful cooperative venture.

Self-sufficiency should also not be confused with the kind of models promoted by 'bootlace ideologues' that hold the poor responsible for its own deliverance. Cooperatives should therefore not become 'stand alone' institutions providing welfare services to their own members without regard to the obligations of the state to do so

(Satgar, 2006: 39). The care cooperative is an example of how cooperatives can lever resources from government to provide social services that otherwise would not have been prioritised.

Undoubtedly there is enormous potential for social cooperatives of this kind. The same is also true of the other kinds of cooperatives. What the case studies are intended to generate is a broader debate as to what kind of cooperatives are possible, if a vibrant cooperative movement is to develop. Part of this debate is also to consider the role institutions such as government, universities and other large organisations can play, in the choices they make regarding what kind of enterprises they engage to provide services.

A vibrant cooperative movement is not possible without agency. Ideally it ought to be developed by successful cooperatives setting an example of what can be achieved, and helping other cooperatives get started. The only indication of this kind of organic development has been the small enterprises that were established by the rooibos tea cooperative. In most of the case studies, however, the 'success' of the cooperative depended on key figures that have either occupied a leadership role in the cooperative or a mentorship role. Some of them were located within the cooperatives. But it is also true that leadership provided by persons external to the cooperative has played a critical role in their development. The NGO that is in a supportive relationship to the rooibos tea cooperative, or the volunteer who helped establish the SACCO, are examples.

There is no simple description of the national issue that could motivate social entrepreneurs in the first decade of the new millennium, equivalent to the 1970s formulation "most black South Africans are workers...". Yet a useful starting point would be to acknowledge the need to shift from a 'wage culture'. Raising the profile of cooperatives and contributing to the development of the social economy, founded on values of self-help and self-reliance, is a credible way to do so. But to build organisation from the bottom up will require a paradigm shift from those social entrepreneurs whose *modus operandi* is the funding proposal and elaborate 'top-down' intervention.

References

J.Birchall, 2001 Organising workers in the informal sector : A strategy for trade-union cooperative action. ILO Cooperative Branch Working paper 01-1.

J.Birchall, 2003. Rediscovering the cooperative advantage: Poverty reduction through self-help. ILO, Geneva. 1-75

J.Birchall, 2009. Responses to the global economic crisis: Resilience of the cooperative business model in times of crisis. ILO Sustainable Enterprise Programme, 1- 40.

P.Benjamin. 2008. Different routes to equality and empowerment. Unpublished paper, Conference on equality in the workplace, Stellenbosch University.

M.Davis, 2006. Planet of slums. Verso, London.

- A. Devenish, 2006. Organising informal economy workers in the South: A comparative history of the Self Employed Women's Association in India and the Self-Employed Women's Union in South Africa, Unpublished paper, University of Witwatersrand
- J. Defourny and P. Develtere, 1999. The Social Economy: The worldwide making of a third sector. In 'Social Economy North and South'. J. Defourny, P. Develtere and B.Fonteneau (Eds.), De Boeck, Bruxelles.
- D. Hindson, 1987. Overview : Trade unions and politics. In J.Maree (Ed), 1987. The independent trade unions : 1974-1984. Ravan, Johannesburg.
- H.Henry, 2005. Guidelines for cooperative legislation. 2nd edition. International Labour Office, Geneva, 1-94.
- M.Herrington, J.Kew and P.Kew. 2008.Global entrepreneurship monitor 2008, Centre for Innovation and Entrepreneurship, University of Cape Town, 1-56.
- K. Ndungu and Theron, J. 2008. What kind of jobs? Creating opportunities for decent work. Unpublished report, NALEDI (Johannesburg) and Labour and Enterprise Policy Research Group, University of Cape Town.
- V.Satgar, 2006. Cooperative alternatives to capitalist globalisation. Report on conference proceedings, Rosa Luxemburg Foundation.
- V.Satgar and M.Williams, 2008. The passion of the people: Successful cooperative experiences in Africa, COPAC, Johannesburg.
- L.Sklair, 2002. Globalization : Capitalism and its alterantives. Oxford University Press, Oxford.
- J. Seekings and N. Natrass, 2006. Class, Race and Inequality in South Africa. University of Kwazulu-Natal Press.
- C. Skinner, 2006. Dealing with the informal economy: A challenge for trade unions. Unpublished paper, School of Development Studies, University of Kwa-Zulu Natal.
- Supiot report, 1999. Transformation of labour and the future of labour law in Europe. European Commission, June 1999.
- J.Theron with S.Godfrey and P.Lewis, 2005. The rise of labour broking and its policy implications. Labour and development monograph. University of Cape Town.
- J.Theron. 2006. 'Membership based organizations of the poor: The South African tradition', in 'Membership based organizations of the poor', ed.s Martha Chan, Renana Jhabvala, Ravi Kanbur and Carol Thomas. Routledges.
- J. Theron. 2007. Remember me when it goes well for you -what role can South African worker co-ops play? South African Labour Bulletin, 31: 13-15.

J.Theron. 2007. Informalization from above, informalization from below: Options for organization. Unpublished paper presented at a conference of the Nordic Africa Institute, Uppsala, April 2007.

J.Theron, 2008. Cooperatives in South Africa : A movement (re)emerging. In P.Develtere, I.Pollet and F.Wanyama. 2008. Cooperating out of poverty. ILO, Geneva. 306-329

J.Theron, 2008A. The shift to services and triangular employment: Implications for labour market reform. *Industrial Law Journal*, January 2008.

E. Webster, A.Benya, X.Dilata, K.Joynt, K.Ngoepe and M.Tsoeu. 2008. Making visible the invisible: Confronting South Africa's decent work deficit. Unpublished report prepared for Department of Labour.

Endnotes

¹ According to the latest available statistics, formal sector employment (excluding agriculture) accounts for 68 percent of total employment. See Statistics SA, Labour Force Survey, September 2007, page x.

² A 2004 study conducted by the UNDP indicates the shift away from formal employment in South Africa. Those in formal and informal employment are given as 67,5 percent and 32,5 percent of a total of 10 896 420 persons employed in 2002. What is significant about this figure is that the total of unemployed is given as 4 783 502, and that the total of unemployed plus those in informal employment significantly exceeds the number in formal employment. This is compared to a situation in 1990, when the number in formal employment was 82,7 percent of the total employed compared with 19,2 percent in informal employment, and those in formal employment far exceeded the combined total of the informally employed and the unemployed (UNDP Report, 2004: 238-239). Of course there might have been changes in the way categories were measured over this period. There is also the problem of capturing informal survivalist workers as unemployed in SA. Standing raised this issue in 1995.

³ According to Rodrik (cited in Skinner, 2006), the average urban unemployment rate in sub-Saharan Africa (excluding South Africa) is 16 percent, in comparison to South Africa's 29,3 percent in a comparable period. The percentage of informal employment as a share of non-agricultural employment in sub-Saharan Africa (excluding South Africa) is 74.8 percent. See D. Rodrik, 2006. 'Understanding South Africa's economic puzzles.' Unpublished paper, Harvard University.

⁴ As South Africa's official statistics agency would have it, 'formal sector' employment occurs where the employer is registered to perform the activity in which the worker concerned is employed. This should be objectively determinable but is in fact determined by the 'self-perception' of the respondent. Not only does the reliance on the 'self-perception' of respondents affect the reliability of the data, but there is no clarity as to how the term 'registered' should be interpreted. For an employer may be (and often is) registered with one authority but not another. An employer may also be registered and not compliant. Statistics SA, Labour force survey, September 2007, issued 27 March 2008, page x.

⁵ The existence of such a culture would go some way to explain why, according to a global survey of entrepreneurship, South Africa has a consistently lower rate of entrepreneurial activity given its per capita income than equivalent countries. See M. Herrington, J.Kew and P.Kew, 2008: 13-24. See also Seekings and Natrass who claim, based on labour force data, that those who lose jobs in the formal economy in Latin America tend to find work in the informal economy, whereas in South Africa they end up unemployed (Seekings and Natrass, 2006: 320-321).

⁶ For a discussion of the concept of tradition in relation to membership-based organisations, see J.Theron, 2006.

⁷ Seekings and Natrass, writing about South Africa, speak of a 'second' class divide, between "those who had jobs, or more precisely those who had jobs most of the time, and those who either did not have jobs or had jobs in sectors (especially agriculture and domestic work) that were especially precarious". Accordingly, they distinguish between a 'core' and 'marginal working class' (Seekings

and Natrass, 2006: 271-299; 377). Davis, writing about the global situation, speaks of the 'informal working class' (Davis, 2006).

⁸ It should also be noted that the capacity of services to create employment, as I have elsewhere argued, is exaggerated.

⁹ The political commentator Alister Sparks used the phrase 'culture of personal greed' a propos a finding in a recent social survey that 77 percent of people between the ages of 16 and 25 have, as their main ambition in life, to make more money. However he was by no means the first to do so. See A. Sparks, 'Crime's become a routine part of life', Cape Times, 7 February 2007.

¹⁰ J. Theron. 2007. 'Remember me when it goes well for you - what role can South African worker co-ops play?' South African Labour Bulletin, 31: 13-15.

¹¹ The ILO has defined a cooperative as an autonomous association of persons united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly-owned and democratically-controlled enterprise. See Article 2, Recommendation 193 of 2002.

¹² See part 2, section 2.1 below.

¹³ The term 'black' is used here in its generic sense, to include coloured, Indian and African persons.

¹⁴ A social entrepreneur is defined by Wikipedia as "someone who recognises a social problem and uses entrepreneurial principles to organize, create and manage a venture to make a social change."

¹⁵ Foszia Fischer and Harold Nxasana, undated. The labour situation in South Africa.

¹⁶ It should be noted, however, that female participation in the labour market has increased enormously since the 1970s.

¹⁷ Africans were not regarded as 'employees' in terms of labour legislation, but it was not illegal to organise for or belong to a trade union.

¹⁸ The Food and Canning Workers Union was the primary exponent of this tradition. The primary writer was the General Secretary of the Food and Canning Workers Union (FCWU) from 1976 until 1986, and subsequently became General Secretary of the Food and Allied Workers Union.

¹⁹ Externalisation refers to a process whereby the employment relationship is being restructured, so that it is in effect or actually regulated by a commercial contract, rather than a contract of employment. This occurs when someone is engaged as a contractor rather than an employee, and labour legislation is by definition excluded, or where workers are employed by an intermediary to work for someone else, usually regarded as the client, and labour legislation is in effect excluded. In most such cases the terms of employment of the externalised workers are in effect determined by the commercial contract the client has with their nominal employer.

²⁰ This is a consequence of the so-called triangular nature of such employment relationships. Typically a client (or core business) may decide at will that it is not prepared to allow a particular worker(s) on its premises. Employment may either be regarded as terminated automatically (depending on the contractual regime) or the intermediary or provider is compelled to terminate employment, or risk losing the contract. By the same token the client will determine what workers of the service provider are to be paid, in terms of the commercial contract with the service provider.

²¹ Regulation could occur where a bargaining council agreement is extended to non-parties, in terms of the Labour Relations Act of 1995, or through a sectoral determination.

²² The distinction between informalisation 'from above' and 'from below' corresponds with the a distinction drawn between informalisation from the demand side and from the supply side drawn by Birchall (Birchall, 2001: 13).

²³ Webster et al, utilising Standing's notion that there are seven criteria for security, argue that workers in this situation lack representational security (Standing, 2007; Webster et al, 2008: 20-21).

²⁴ Thus workers in the private security and the so-called 'contract cleaning' industry have been organised into a separate industrial union, the SA Transport and Allied Workers Union.

²⁵ It has been suggested that SEWA has changed the conventional wisdom as to who trade unions can organise and what they can do for their members, and represents a third-world model of a new form of union (Rose, 1992 cited in Devenish, 2006). I am not persuaded that this is the case. Impressive though many of its achievements may be, the impression SEWA creates is of a well-resourced NGO rather than a trade union. The SEWA model has also proved difficult to replicate in other countries.

²⁶ SEWU was established in 1994.

²⁷ This can be considered a classic instance of 'informalisation from above', under the guise of empowerment. Thus manufacturers and other companies externalised the function of driving vehicles to deliver their products, by 'empowering' drivers to own their vehicles. These owner-drivers in turn became the employers of their assistants.

²⁸ Interviews, members of SAODF, 14 June 2005.

²⁹ A partnership is the other form of association that may operate as enterprise, but it may not exceed twenty partners in terms of section 30(1) of the Companies Act, No 61 of 1973. The same section prohibits associations formed “for the purpose of carrying on any business that has as its object the acquisition of gain ...unless it is registered as a company or formed in pursuance of some other law...”

³⁰ The term ‘cooperative society’, used in some jurisdictions, reflects this dual character of cooperatives.

³¹ There are cooperatives primarily concerned with meeting the social needs of the members, such as the social cooperative discussed in part 2 below.

³² For a discussion of the current international thinking on the role of cooperatives in development and poverty alleviation, see Birchall (2003: 1-13) and Develtere, Pollet and Wanyama (2008: 1-37)

³³ Act 91 of 1981. The first national legislation for cooperatives was introduced in South Africa in 1922 (Act 28 of 1922).

³⁴ Third principle, Member economic participation. ‘Statement on the cooperative identity’, International Cooperative Alliance, Manchester, 1995.

³⁵ The South African Wine Industry Trust (SAWIT) was established with funds contributed by KWW in terms of an out of court settlement with the then Minister of Agriculture, with the object of advancing transformation in the wine industry.

³⁶ The Cooperatives Act 14 of 2005. It was assented to on 18 August 2005.

³⁷ Section 2(a), Cooperatives Act, 14 of 2005.

³⁸ Sections 2 (c) and (e), Cooperatives Act, 14 of 2005.

³⁹ For a discussion of the scope of cooperative law, see Henry. (Henry, 2005: 11-16). The most significant cooperative instruments are the International Labour Organisation’s Recommendation 193, Promotion of Cooperatives Recommendation, 2002, and the Statement on the Cooperative Identity, adopted by the International Cooperative Alliance, Manchester, 1995

⁴⁰ See section 1, Cooperatives Act, 14 of 2005, and note 11 above.

⁴¹ Section 14 specifies both compulsory and optional provisions applicable to all cooperatives, and section 15 specifies provisions where members are required to hold shares. (The Act permits both cooperatives in which members pay a subscription, and members are required to take out a minimum number of shares.) Section 16 concerns provisions applicable to secondary and tertiary cooperative. Cooperatives Act, 14 of 2005, and the Schedule 2 to the Act concerns provisions specific to certain kinds of cooperatives. A cooperative whose constitution does not comply with the Act cannot be registered.

⁴² Section 3, Cooperatives Act, 14 of 2005.

⁴³ Section 3(1)(b). This refers to the second principle, of democratic member control. ‘Statement on the Cooperative Identity’, International Cooperative Alliance, Manchester, 1995.

⁴⁴ In terms of Act 144 of 1981,

⁴⁵ Section 3(1)(c) and (d). This refers to the third principle, of member economic participation. See note 33 above.

⁴⁶ Section 3(1)(e). This also refers to the third principle, of member economic participation. See note 33 above.

⁴⁷ Examples of bogus cooperatives that have been established are ‘cooperatives’ established to obtain quotas for fishing, and ‘worker cooperatives’ established in the clothing industry with the object of evading the provisions of labour legislation.

⁴⁸ A secondary cooperative is referred to as a ‘cooperative union’ in some jurisdictions. Its object is to provide services to the primary cooperatives that are its members. Henry describes this as “horizontal integration”, which has the aim of preserving the independence of individual cooperatives while creating the advantages of economies of scale (Henry, 2005: 53).

⁴⁹ Section 4 (1), Cooperatives Act, 14 of 2005.

⁵⁰ Definition of “primary cooperative”, Section 1, Cooperatives Act, 14 of 2005.

⁵¹ Compare paragraph 5(a) of the Cooperative Development Policy, which lists eight kinds of cooperative, and section 4(2) of the Act, which lists nine kinds of cooperative. Different terminology is sometimes used, and certain of the definitions of the different kinds of cooperative in the Act are also problematic. For example section 1 of the Act refers to a “social cooperative” as a “non-profit cooperative” providing social services to its members. The notion of a “non-profit” cooperative is anomalous, for reasons already indicated.

⁵² Section 1(1), Cooperatives Act, 14 of 2005.

⁵³ Section 1(!), Cooperatives Act, 14 of 2005.

⁵⁴ Schedule 1, Special provisions relating to certain kinds of cooperatives. Cooperatives Act, 14 of 2005.

⁵⁵ Section 11(1), read with the definition of ‘the business of a bank’ in section 1, of Act 94 of 1990.

⁵⁶ Section 2 (i), Act 40 of 2007. The Act only applies, in terms of section 3(1), to cooperatives with more than 200 members and holding deposits of members in excess of R1 million.

⁵⁷ Section 55 (1), Act 40 of 2007.

⁵⁸ Chapter 12, Act 14 of 2005. The latest indications are that DTI is contemplating establishing one board for cooperatives and small and medium enterprises. This would probably be disastrous for cooperative development.

⁵⁹ Cooperative Incentive Scheme Operational Guidelines, DTI.

⁶⁰ In the old Act, Act 91 of 1981, cooperatives applying for registration had to submit a business plan to the Registrar. A similar provision was retained in early drafts of the Cooperative Bill but was dropped in the course of consultation with stakeholders.

⁶¹ Broad-Based Black Economic Empowerment Act, 53 of 2003.

⁶² Yebo Cooperative Ltd.

⁶³ See also J. Theron (2007) for a discussion of some of these cooperatives.

⁶⁴ Tourism has been identified by government as a priority sector in terms of its Accelerated and Shared Growth Initiative (Asgisa).

⁶⁵ Interview with Bonita De Kock, Masizakhe Cooperative, 29 November 2006

⁶⁶ The RED Door project is an initiative of the Enterprise Development sub-directorate within the Western Cape’s Department of Economic Development and Tourism. The sub-directorate aims to promote the development of small and/or black-owned enterprises. (Source: http://www.capegateway.gov.za/eng/your_gov/13464).

⁶⁷ Section 12, Act 14 of 2005.

⁶⁸ Interview with Martinus Fredericks, 2 November 2006.

⁶⁹ Telephone interview with Martinus Fredericks, 2 March and 13 May 2009

⁷⁰ This financial support was for the period since 2005, i.e. over approximately three years.

⁷¹ The National Development Agency (NDA) is a section 3A statutory organisation, which was established by the National Development Agency Act (Act No. 108 of 1998) in November 1998. The NDA is a public entity listed under schedule 3A of the Public Finance Management Act (PFMA) and reports to the Parliament of the Republic of South Africa through the Minister for Social Development. Its mandate is twofold. Its primary mandate is to contribute towards the eradication of poverty and its causes by granting funds to civil society organisations. Grants are made to implement development projects in poor communities and to strengthen the institutional capacity of civil society organisations that provide services to poor communities. (Source: Website of the NDA. See: http://www.nda.org.za/?option=3&id=1&com_id=156&parent_id=156&com_task=1)

⁷² Under the auspices of the City of Cape Town’s Local Agenda 21 campaign, the City gave the co-op two grants: R150 000 in 2005 and R80 000 in 2006.

⁷³ Some attended health and safety and first aid courses (which they needed to operate alien vegetation clearing businesses) while others attended a course in business management and marketing at the University of Stellenbosch’s Business School.

⁷⁴ This was an amount of R900 000 received in May 2008.

⁷⁵ Individual membership to the co-op cost R100 per year.

⁷⁶ The primary reason for this appears to be that for the Working for Water programme, the environment and rivers in Atlantis/Mamre was not a priority area. It had advised the cooperative to contract with the City of Cape Town instead, but thus far no contracts had materialised. DWAF (Western Cape) has identified the Berg and Breede River as well as all the provincial nature reserves as its priority areas. Interview with Aadielah Moerat, Regional Programme Leader of the Working for Water Programme, Western Cape, DWAF.

⁷⁷ On 30 October 1998, at the Presidential Job Summit, the three major trade union federations, namely the Congress of South African Trade Unions (COSATU), National Council of Trade Unions (NACTU) and the Federation of Unions of South Africa (FEDUSA), called on their members to make a financial contribution of one day’s wages in order to help create jobs. This invitation was extended to the entire South African society. Business was challenged to contribute one day’s profit to the Job Creation Fund. The primary objectives of the JCT are to minimise unemployment. (Source: <http://www.cosatu.org.za/shop/shop0903/shop0903-06.htm>)

⁷⁸ Working for Water’s Value Added Industries (VAI) programme promotes the utilisation of biomass from alien clearing operations. Launched in 1998, the programme encourages the manufacturing of products created from alien biomass, such as screens and blinds, décor items, and indoor and outdoor furniture. The programme has three primary objectives: to maximise the positive economic benefits of the Working for Water (WfW) programme, by creating extra jobs through the harvesting and

processing of plant material; to reduce the net cost of clearing, thereby contributing to the sustainability of the WfW programme; and to minimise potential negative environmental impacts, such as fire damage, by leaving less biomass behind after clearing. (Source:

<http://www.dwaf.gov.za/wfw/Partnerships/>). According to Nceba Ngcobo, Deputy Director: Strategic Partnerships, Working for Water, DWAF promotes the products of businesses contracted to do alien vegetation clearing on its website and at garden shows.

⁷⁹ Telephone interviews with Aldielah Moerat and Nceba Ngcobo on 17 March 2009. Neither were aware of such an agreement. According to Moerat, her department was currently conducting feasibility studies to assess the viability of the alien vegetation value-added industry in the Western Cape. She specifically mentioned that previous initiatives had failed because they lacked the marketing and advertising resources to sell their products.

⁸⁰ The government of PW Botha preceded the transitional regime of FW De Klerk.

⁸¹ After many delays and much wrangling, government is, at the time of writing, implementing a taxi recapitalisation scheme that aims to address some of the social problems that have arisen in the taxi industry.

⁸² Interview with Gretel Hornischer, Western Cape Bus Operators Transport Cooperative, November 2006.

⁸³ Telephone interview with George Maluka, CEO, 6 March 2009

⁸⁴ Interview, Martin Hall, formerly Deputy Vice-Chancellor, University of Cape Town, 24 March 2009. The Jammie shuttle provides about 50,000 trips a day, relieving pressure for parking facilities as well as reducing the carbon emissions associated with traffic congestion on campus.

⁸⁵ Interviews with Mr John Critien, Executive Director of Properties and Services, University of Cape Town, March 2009, Martin Hall (see note 80 above) and with Mr Evan Abrahamse, provincial secretary of SATAWU, 18 March 2009.

⁸⁶ Interview, Martin Hall. See note 80 above.

⁸⁷ The cooperative principles that could conceivably have been invoked are 'cooperation amongst cooperatives' and 'care for the community'.

⁸⁸ Interview. See note 79 above.

⁸⁹ Interview with Godfrey Qolweni, Ilinge Labahlali Housing Cooperative, 22 November 2006.

⁹⁰ In fact the space the non-members were allotted after their relocation was no less than they had been entitled to previously, whereby four persons were supposed to share a room. However many of them had been able to appropriate more room space as a consequence of people moving out, and in some cases had a room to themselves.

⁹¹ The Institutional Subsidy is available to qualifying institutions to enable them to create affordable housing stock for persons who qualify for housing subsidies. This housing subsidy mechanism provides capital for the construction of housing units in respect of qualifying beneficiaries who do not earn more than R3 500. The subsidy is paid to approved institutions to provide subsidised housing on deed of sale, rental or rent to buy options, on condition that the beneficiaries may not be compelled to pay the full purchase price and take transfer within the first four years of receipt of the subsidy. Source: National Department of Housing.

<http://www.housing.gov.za/Content/Subsidy%20Information/Subsidies%20Home.htm>

⁹² Funds received from the Provincial Department of Housing were in terms of a Coastal Condensation Grant, an Establishment Grant and a Facilitation Grant.

⁹³ Telephone interview with Sivuyile Mxokozeli, head of project co-ordination, Department of Housing, City of Cape Town, 4 March 2009.

⁹⁴ Schedule 1, Part 1 of Act 14, 2005.

⁹⁵ Interview with Godfrey Qolweni, Ilinge Labahlali Housing Cooperative, 13 May 2009.

⁹⁶ For an analysis of the housing cooperative model, see Afesis-corporation, 2008. Housing cooperatives: Lessons from Afesis-corporation's cooperative housing experience (<http://www.afesis.org.za>).

⁹⁷ Funeral societies are obliged in law to register in terms of the Friendly Societies Act, but many do not. According to Finasol, 37 percent of adult South Africans are not banked with commercial banks (<http://www.finscope.co.za>).

⁹⁸ Interview, Harriet Stewart, Stellenbosch Winelands and Employees Savings and Credit Cooperative, 24 October 2006.

⁹⁹ See note 34 above. The grant was R350 000.

¹⁰⁰ SAMAF was established in 2006 and accounts to the executive authority of the Department of Trade and Industry.

¹⁰¹ Interview, Nosiseko Care Cooperative, November 2004.

¹⁰² The seventh cooperative principle, as adopted by the International Cooperative Alliance, is headed “concern for community.” See I.McPherson, *Cooperative Principles for the Twenty First Century*, ICA Communications, Geneva.

¹⁰³ Interview, 28 April 2009.

¹⁰⁴ This is in terms of the Accelerated and Shared Growth Initiative – South Africa (Asgisa), p 8. Government is in the process of devising a strategy for the sector.

¹⁰⁵ The pattern of land-ownership established by the 1913 Land Act, in terms of which thirteen percent of the land was allocated to non-Whites, has not changed much. According to official figures, only four percent of land has been transferred to black persons since 1994.

¹⁰⁶ As well as being interviewed in 2006, the cooperative was the subject of a 2005 case study (Theron, 2005: 306-327) and a 2008 case study (Satgar and Williams: 80).

¹⁰⁷ For a fuller discussion of the cooperative, see Satgar and William (2008: 72-80).

¹⁰⁸ Interview, Noel Oettle, Environmental Monitoring Group, 23 April 2009.

¹⁰⁹ The introduction of sectoral determinations in terms of the Basic Conditions of Employment, 1997, has to some extent modified this position. Minimum wages of workers in both security and contract cleaning are now set in terms of such determinations. However these minima are relatively low.

¹¹⁰ *National Education Health and Allied Workers Union v University of Fort Hare* (1998) 19 ILJ 122 (LC). The case was decided on the fairly narrow ground of whether there was adequate consultation or not. It was also decided on an urgent basis, without full papers being filed on behalf of the union.

¹¹¹ There is a case study of the cleaning cooperative in a recent publication of Satgar and Williams. See V. Satgar and M.Williams, 2008. ‘The passion of the People’, Cooperative Policy Advice Centre, Johannesburg.

¹¹² K Philip 2007. SA Labour Bulletin, Vol 31, No 1.

¹¹³ Interview, Siyabonga Kobese and Xola Horo, 30 May 2007. Apart from the three worker cooperatives providing services to the university, the university has set aside four hectares of land where there is, amongst other activities, a poultry cooperative, a nursery cooperative and a soup kitchen.

¹¹⁴ There is a case study of the cleaning cooperative in Satgar and Williams (2008: 109-112)

¹¹⁵ Telephonic interview, M. Jara, 16 March 2009.

¹¹⁶ See note 109 above. According to the Centre about forty percent of the cleaning cooperative’s expenditure was on these diversified activities, and it was a drain on its resources. It had advised the cooperative to establish a separate cooperative for the production of cleaning materials and toilet paper.

¹¹⁷ *Nonzano (sic) Cleaning Services Cooperative v. Ntomboxolo Appie and Ten Others*, High Court (Bhisho), Case 5227/203, 10 July 2008. The decision of the High Court was that it did not have jurisdiction to hear the matter, but that it was a matter to be decided in the Labour Court. Costs were awarded against the eleven ex-members, who were not represented or present at the hearing, suggesting that it is highly unlikely they will be in a position to pursue a claim of unfair dismissal.

¹¹⁸ Act 14 of 2005. The cooperative was registered in terms of the Cooperatives Act of 1981, which is the predecessor of the current Act.

¹¹⁹ Section 6(1), Part 2 of Schedule 1, Act 14 of 2005.

¹²⁰ So far this only appears to have happened in the clothing industry, which is regulated by a bargaining council agreement, mainly in the province of KwaZulu Natal. There is a history of non-compliance in this sector in this province.

¹²¹ Telephonic interview, Siyabonga Kobese, 28 April 2009.

¹²² Interview, Makabela Bongani and others, 31 May 2007. The cooperative was formally registered in 2002. In 2005 the cooperative distributed a bonus of R11,000 to each of its members, a significant amount of money in the rural Eastern Cape. In 2006 it distributed a bonus of R4 000 to each member.

¹²³ See note 118 above. In terms of the Cooperatives Act the members would not be entitled to refer a dispute concerning unfair dismissal, in terms of the Labour Relations Act. However there are reportedly moves afoot to revise this position, initiated by organised labour.

¹²⁴ It is not clear whether the cooperative regards the members as having been expelled, or as having been dismissed.

¹²⁵ This was at the same time as the cleaning cooperative was required to tender.

¹²⁶ This was in terms of an agreed ‘turn-around’ strategy. It did not appear it would be difficult for the cooperative to meet this condition. The primary problems the cooperative currently faces are replacing old equipment (as a result of not having made adequate provision for depreciation) and the fact that some of its members are at retirement age, and need to be replaced.

¹²⁷ DTI, 2009. The DTI baseline study on cooperatives in South Africa. Final Draft report, January 2009. At the time of writing, this ‘baseline’ study by DTI had been completed, but not yet published. In

terms of the final draft report, 40 percent of the cooperatives on DTI's CIPRO database are in Kwazulu Natal, and 19 percent in the Eastern Cape. Ten percent are in Gauteng and seven percent in the Western Cape.

¹²⁸It would also be instructive to compare the resources that have gone into promoting BBBEE and cooperative development.

DEVELOPMENT AND LABOUR MONOGRAPHS
(Incorporating Southern African Labour Monographs)

General Editors

D Collier E Kalula R le Roux R van Voore

MONOGRAPHS AND OCCASIONAL PAPERS IN STOCK

- 2/92 Workers in small business: a challenge for the unions by *Darcy du Toit with Deena Bosch* (Occasional paper)
- 1/93 Small businesses: the scope for worker participation by *Rowena Fester and Darcy du Toit* (Occasional paper)
- 1/95 Legal regulation of industrial relations in Tanzania Past experience and future prospects by *Bonaventure Rutinwa*
- 3/95 Labour migrancy in Southern Africa: Prospects for post-apartheid transformation by *Jonathan Crush & Wilmot James Fion de Vletter David Coplan*
- 4/95 Constitutional review of social reform legislation in South Africa: ‘A civil society’ model by *Theunis Roux*
- 1/96 Occupational health and safety legislation in Southern Africa: Current trends by *Rene Loewenson*
- 1/98 Terms of Employment by *Jan Theron* (Occasional paper)
- 1/99 Labour standards versus job creation? An investigation of the likely impact of the new Basic Conditions of Employment Act on small businesses by *Shane Godfrey with Jan Theron*
- 2/99 Labour standards and regional integration in Southern Africa: Prospects for harmonisation by *Marlea Clarke, Tom Feys and Evance Kalula*
- 1/00 Protecting workers on the periphery by *Jan Theron and Shane Godfrey*
- 1/00 The role of international labour standards in Southern African labour courts by *Joost Kooijmans* (Occasional paper)
- 2/01 The CCMA and small business: The impact of the labour dispute resolution system by *Jan Theron and Shane Godfrey*
- 1/01 Trends in occupational health and safety policy and regulation – issues and challenges for South Africa by *May Hermanus*
- 1/02 Agricultural Workers: A historical and contemporary perspective by *Rochelle Le Roux* (Occasional paper)
- 2003 Le Roux, R & Cornelius, S. *Sport the Right to Participate and Other Legal Issues* Selected papers from the Sports Law Conference held at the University of Cape Town 6-7 February 2003.
- 1/04 Solo, K. Discipline and dismissals in the Botswana public service (*Monograph*)
- 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).
- 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*).

-
- 02/05 On the outskirts of fashion: homeworking in the South African clothing industry: the challenge to organisations and regulation. *By Shane Godfrey, Marlea Clarke and Jan Theron, with Jennifer Greenburg.* (Monograph)
- 1/07 Black Economic Empowerment in South Africa: A Critical Appraisal. *By Andrea M'paradzi and Evance Kalula.* (Monograph).
- 2/07 Employee Polygraph Testing in the South African Workplace. *By Anne Scheithauer and Evance Kalula.* (Monograph).
- 1/07 Occupational Health and Safety in the SADC Region: Exploring an Economic Approach. *By Zolomphi Nkowni.* (Occasional Paper).
- 01/08 Social Security Fragmentation in Tanzania: The Challenge of Governance. *By Tulia Ackson, Evance Kalula and Bonaventure Rutinwa* (Monograph).
- 02/08 Freedom of Association and Trade Unionism in South Africa: From Apartheid to the Democratic Constitutional Order. *By Mpfariseni Budeli, Evance Kalula & Chucks Okpaluba* (Monograph).

DEVELOPMENT AND LABOUR MONOGRAPH SERIES

Notes for Contributors

Editorial policy

The *Development and Labour Monograph Series* is an interdisciplinary forum for research and debate. It welcomes contributions on development and labour issues in Southern Africa.

Form and style of submissions:

1. The title of the paper, author's name and address, and a biographical note on her/him should be typed on a coversheet which can be detached from the article. The article can then be sent anonymously to our readers. The biographical notes should be brief and should include such relevant information as your name and institutional affiliation.
2. Abstract: An abstract of up to 200 words should be included. It should be labelled 'Abstract' and should be double-spaced on a separate sheet of paper.
3. Body: All copy should be double-spaced on A4 white bond paper, on one side of each sheet. Margins should be at least 2cms on all sides. The pages should be numbered. Two copies of the paper should be submitted. These will not be returned to the author. Section headings and sub-headings should be clearly indicated.
4. Endnotes: These should be at the end of the text, before the bibliography. They should be indicated by numerals placed in the text. Endnotes are for explanation and comments, not references; they may themselves refer the reader to the bibliography.
5. Bibliography: Either the MLA style or the Harvard style are acceptable. The author will be responsible for submitting the paper in one of these two forms, should a paper be accepted for publication. Once you have chosen one of these styles, you must be consistent throughout the paper.
6. Spelling: Spelling practices should be consistent throughout the paper and should follow the Oxford English Dictionary.
7. If a paper is accepted for publication, authors MUST submit their work on disk in MSWord. Files may be submitted via email to the following address: faldielah.khan@uct.ac.za

Copyright/authors' copies

1. Authors retain copyright and may reproduce their papers elsewhere as long as acknowledgement is made.
2. Contributors will receive five free copies of the monograph.

Further guidelines are available upon request from the Institute of Development and Labour Law.