

# Non-standard work case studies

## Manufacturing, retail and local government

The different ways in which employment has been restructured, and the effects of industrial concentration, can be illustrated by considering three sectors which provide employment in significant numbers, namely manufacturing, retail and local government, writes **Jan Theron**.



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It is very difficult to obtain accurate data about the extent of externalisation (and specifically labour broking).

The most important reason for this is that statistical data about employment is collected per sector, and externalisation undermines the notion of a sector. Jobs that are externalised in productive sectors of the economy, such as manufacturing or mining, are re-categorised as jobs in services, because this is how it suits employers to categorise these jobs even though, in reality, these 'services' are an integral part of the production process, but for which they would not exist. This re-categorisation has in turn led to inflated claims about job growth, specifically in services. It is likely that many of the 'new' jobs supposedly created over the last ten or so years are jobs that were previously performed in-house, as part of the production process, and not new at all.

### MANUFACTURING

Manufacturing is a sector which has always relied on temporary employment to meet temporary upturns in demand. From the employers' point of view, however, it may be as feasible to employ additional workers on fixed-term contracts as to engage a labour broker, in order to meet a temporary upturn in demand. It appears that both forms of temporary employment are utilised.

However, it appears that all manufacturers now rely on external service providers to provide certain services, such as security, industrial cleaning and transport. As a result, there are now multiple workforces in the manufacturing workplace. As well as the workforce of the manufacturer concerned, which is probably unionised, there are the workforces of a variety of service providers. In some sectors of manufacturing, the number

employed by the manufacturer is roughly equal to the former.

The only workers of service providers which are unionised belong to trade unions organising industries such as cleaning and security. These trade unions have implicitly accepted that workers engaged in industrial cleaning, for example, are not part of the manufacturing sector. In effect this has meant accepting a definition of the industry that suits the employers, rather than holding out for a definition that suits workers.

Manufacturing has been affected by industrial concentration in different ways. In the case of motor assembly, the South African industry is made up of assembly plants that are wholly dependent on the transnational corporations (TNCs) which own them, or own the licence in terms of which motor cars are assembled there. These TNCs represent lead firms in the global value chain. In the case of clothing, the lead firms are generally retailers, which determine the prices at which manufacturers must produce goods.

Bargaining in the clothing sector, and the extension of the collective agreement to smaller firms that are not party to the bargaining council in places like Newcastle, has been particularly problematic for this reason. Manufacturers are now 'price-takers', who are not able to compensate for wage increases, by adjusting the prices for which they sell their goods.

In some sectors of manufacturing, the manufacturer contracts someone else to make a component of whatever articles they produce. Sometimes this is done directly, by way of a contract between the manufacturer and the person concerned, in which case it may be described as contracting or sub-contracting. Sometimes it is done through an intermediary. Persons contracted to provide components of articles range

from small or medium firms in the formal economy, to sweat-shops and home-based enterprises in the informal economy.

### RETAIL

Employment in the retail sector ranges from workers employed by the large retailers in SERs to street-traders working for themselves in the so-called informal economy. In the formal economy, there has been significant casualisation. This is the only sector where casualisation has primarily taken the form of an increase in part-time employment. The reason is that the extension of shopping hours makes part-time employment viable. Because part-timers are in continuous employment, it has been possible to organise some of them. Some part-timers in the retail sector have been organised into trade unions.

The large retailers also utilise labour brokers in certain circumstances, and have externalised certain functions such as security. An externalised function that is specific to retail is merchandising, where an external agency is responsible for packing product on the shelves. Another form of externalisation found in the retail sector is franchising. In the case of franchising, the franchisor, directly or indirectly determines the conditions under which workers employed by smaller retail outlets operate, but avoids accountability for this.

### LOCAL GOVERNMENT

Employment in the public sector has been restructured as a result of both casualisation and externalisation, although the extent to which this has happened is often difficult to determine. As well as the difficulty with data about externalisation already noted, this is because there is no consistent approach, across departments and across provinces, as to how data concerning employment should be reported. However, unlike in the

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private sector, the employer in this instance is under some obligation to be transparent about the extent of externalisation, since it concerns how public money is being expended.

Local government is a case in point. Waste collection is certainly a local government function, and local government is spending large sums engaging private contractors to do so. But it seems local authorities do not consider themselves obliged to report how many workers are employed by such contractors. The indications are that it is a significant number. Attempts to extend the bargaining council agreement to them have thus far been successfully resisted.

In cases such as recycling, where it is not as clear-cut whether it is a local authority function or not, it suits local government not to be held accountable for the conditions under which workers engage in recycling work. However, from the workers' point of view, there is a close relation between waste collection and recycling, since the manner in which waste is collected determines the flow of recyclables.

Self-employed waste pickers operating on land-fills belonging to the local authority or elsewhere are an example of workers who are independent but in need of protection. This is most obvious in respect of health and safety, since the nature of their work exposes them to hazardous situations.

### **POLICY IMPLICATIONS**

In each sector there is a core of workers in standard employment, and workers in various forms of non-standard employment, as well as independent workers in need of protection. The make-up of the

workforces depends on the nature of the sector. It also depends on how the sector is defined. Certain forms of non-standard employment may not be seen as part of the sector. In the local government sector, for example, waste pickers on land-fills, or workers engaged by private contractors to collect waste, are disregarded.

The reason trade unions have had somewhat more success in organising workers in part-time employment in retail is that this is continuous employment. It is therefore relatively more secure than other forms of non-standard employment. In theory, a part-time worker should be as effectively protected against unfair dismissal as a worker in standard employment. In practice, a lot depends on whether a part-time worker is employed for a guaranteed number of hours a week, and for how many hours a week. Currently, part-time employment is primarily confined to the retail sector. The Sectoral Determination gives employers a great deal of latitude regarding the hours for which they may employ part-time workers.

Temporary employment is by definition for a fixed term, and ends when that term expires. It is therefore not continuous, and relatively less secure for this reason. There is a big difference, however, between temporary employment for a longer term (six months or longer, for example) and for a short-term. There is also a big difference between temporary employment as a result of casualisation, where workers are still in a bilateral relationship, and where employment is externalised.

Externalised employment is inherently insecure employment,

insofar as it depends on a commercial contract entered into between a client or core business and the actual employer, whether it be a service provider or contractor or other entity. If the contract with the client is terminated, the workers employed by that employer may automatically be without a job. In this event, these workers will also have no recourse against the core business. They may not even have recourse against their employer.

Arguably they should have legal recourse, where the contract is terminated on account of their membership of a workers' organisation. This should represent a violation of a constitutional right, to freedom of association. However, in practice it is difficult to see how workers or their organisations would ever be able to do so, except in the unlikely event that the workers' employer was party to an action against the client or core business.

The core business is also able to control workers employed by contractors in other ways. In the case of manufacturing, the core business need merely issue an instruction to the service provider or its security personnel to refuse to allow the worker of a service provider access to the premises, in order to get rid of perceived trouble-makers. For the same reason workers are also not able to exercise the organisational rights the LRA provides. <sup>18</sup>

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