

Unions

and the co-operative alternative

While scepticism exists around the role of co-operatives amongst policy makers, the debate hots up as cabinet discusses the Co-operatives Bill. **Jan Theron** provides an insight into the issues the labour movement needs to consider.

There is a NGO on the outskirts of Khayalitsha that operates a training centre for the unemployed. It is located in an upmarket centre, within easy reach of the tourist busses. It is obviously well resourced. Training is after all something funders are willing to cough up for, as opposed to salaries. Funders cannot be expected to employ the unemployed, they say. The salaries of the NGO staff that provide the training, or keep the centre going, is of course a different matter.

The NGO's role is to help the unemployed acquire marketable skills. After that they are expected to make a go of it themselves. But how, precisely, are they expected to do so?

One of the skills the NGO offers is woodwork and carpentry. In a workshop at the centre, trainees produce various items of furniture. Each is able to keep an item of furniture they have produced, as part of their portfolio, to demonstrate what they are capable of doing. But all the trainees produce similar items, in a similar style. Who will buy their products, in the impoverished communities they come from? Where will they find employment?

A permanent job would be the answer if there were jobs available. But jobs of any description are in short supply. Like the funders, employers everywhere are averse to providing employment and taking on the obligations it entails.

Self-employment is another model, where the individual entrepreneur establishes his or her own small enterprise. For a number of years this model has been most favoured. But it was surely never realistic to suppose that small enterprises would somehow mop up unemployment. This has now become obvious.

A few blocks away, in a shack squeezed between some municipal houses, there is a group of five workers trying to establish a small enterprise of a different kind. Although none of them had any formal training, they had all once done welding work, in various capacities, in the formal economy. All had been retrenched. So they had decided to form a co-operative that made steel products.

What they understood a co-operative to be, it seems, was working together, and pooling what rudimentary equipment they had between them. The co-operative was not able to pay its members a regular wage. Instead, the members divided the money received for any job equally

between them. The income of five members supports 27 people, of which 15 are adults (18 years old or above) and 12 are children. When there is no work, as happens from time to time, the members have no income.

WHAT CONSTITUTES A CO-OPERATIVE?

The Khayalitsha steel co-operative is one of 13 functioning enterprises in the Western Cape that are either registered as co-operatives, or regard themselves as co-operatives, whose members were interviewed in the course of 2003. The interviews were conducted as part of a broader survey into worker co-operatives commissioned by the Department of Labour.

In terms of a narrower definition, 'workers co-operative' refers to a co-operative whose members are together engaged in some form of productive activity. In the broader sense, it could include any form of co-operative that provides employment to its members, including co-operatives providing services. A co-operative in turn means an enterprise that is jointly owned and democratically controlled by its members.

What distinguishes a co-operative from other forms of enterprise? In a partnership, the partners share the profits and losses of the business. The disadvantage is that each membership member is liable, if there is a loss. The legal concept of a juristic person was devised to get around this kind of difficulty.

Thus, a company is a juristic person separate from its shareholders. Their liability, in the event that the company is not able to pay its debts, is limited to the extent of their shareholding. The historical success of the company as a form of

enterprise can in large part be attributed to the legislation that introduced this concept, in South Africa and elsewhere. The company is an internationally recognised form of enterprise but close corporations are a South African invention. In essence they are intended to make the benefits of juristic personality accessible to small enterprises.

Like a company, a co-operative is an internationally recognised form of enterprise, and in South Africa and elsewhere legislation has been enacted to enable co-operatives to be a juristic person. But unlike a public company, the members of a co-operative contribute the capital required. The object is to generate a surplus, rather than to make a profit. A portion of that surplus is then utilised for purposes that will benefit not only the members for the time being, but the community. And unlike a company, it is not controlled by the shareholders with the most money.

THE STAGES OF CO-OPERATION

Co-operatives, and specifically worker co-operatives, have attracted a degree of scepticism amongst policy-makers and others over the years. In part, it is the scepticism that any alternative to the dominant economic form and ethos is bound to attract. In part, it is because it is inherently demanding to operate democratically, on top of the other difficulties of operating an enterprise. Co-operatives in this country have also had a chequered history.

What has contributed to this scepticism is the number of co-operatives that are established without any clear conception as to how they are to function as an enterprise. We encountered a 'fishing' co-operative in Hout Bay with some 126 members. They do not fish. There is also no certainty they ever will. They do not have quotas. Their objective in forming a co-operative was in fact to secure quota rights. For the purposes of this survey, they were not regarded as a functioning enterprise.

The misuse of the co-operative form represents another dimension of this problem. The primary reason the members of the fishing co-operative did not get quotas, they believe, is because of


unscrupulous operators who did get quotas. These formed what was supposed to be a co-operative, to which the Hout Bay fisherman would belong. In fact this 'co-operative' was no more than a front for an entity in which the fisherman had no say.

There was a wave of co-operatives established in Khayalitsha around the turn of the century, it appears, in the expectation that the members would soon be able to secure an income. Sometimes this expectation was premised on the co-operative being able to secure government tenders. These expectations were clearly unrealistic. It was also obvious that the co-operatives were in need of practical business advice to enable them to break out of the local market in Khayalitsha, which was itself too impoverished to support such enterprises. Such advice was not forthcoming. Accordingly, many of these co-operatives failed and their members became disillusioned.

The members of the steel co-operative have come together despite this unfortunate history. In part, it was because they have no alternative. Like other co-operative members interviewed, they have long since abandoned hope of employment in the formal economy. But it was also because they are committed to co-operative values.

They now hope to join the formal economy in another way, by renting premises in an industrial sector of Phillipi. Ironically, the very same premises were once occupied by a NGO involved in job creation that has since disbanded or relocated. Time will tell whether the move to new premises will prove an over-ambitious step, forcing the co-operative to pay a rental it cannot afford.

It is useful to distinguish three stages co-operation may take. In the survivalist stage, members are engaged in economic activities that enable them to subsist but there is no question of their generating a surplus. In the second stage the members are primarily concerned with subsistence, but there is some prospect of the co-operative making a surplus and accumulating some capital. The third stage comprises established co-operatives that are



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generating a surplus and accumulating capital on a sustainable basis.

Of the 13 co-operatives interviewed, at least five were in the survivalist stage category. Another two had just commenced business. Only three could claim to be established. All of the co-operatives are small or very small, having regard to the number of persons they employ. The membership of the enterprises varied in size from three to 38 members, with all but four having ten members or less. Most of the co-operatives only employed their members. A few employed non-members to help complete an order or meet a deadline.

AN ALTERNATIVE FORM OF ENTERPRISE

Marginal though employment numbers such

as these may seem, the fact that there are co-operatives that have not only survived, but also proved to be economically viable enterprises, is significant for persons in the same predicament as the members of the steel co-operative. These established co-operatives represent a model of self-help in a context where the prospects of formal employment are minimal, and self-employment not an alternative. Moreover they provide proof that it is possible to become viable notwithstanding an economic and business environment in which there is little or no support for co-operatives.

Included in the survey were two co-operatives that employed non-members on a permanent basis. For this reason and others, they cannot be regarded as worker co-

operatives. One marketed arts and crafts produced by the members in their homes or elsewhere. While most members worked on their own, some employed others to assist them. The other was a co-operative whose members provided pre-school childcare and crèches in Nyanga and Gugulethu. Some members operated from a dedicated pre-school, others did so from their homes. The members employed between three and six teachers.

The pre-school co-operative demonstrates the potential of the co-operative form, as well as what distinguishes it from other forms of enterprise. One of its most impressive achievements has been in the training it has provided to its members. It is also able to add value to the service it provides in a way

an organisation for profit would not do. By virtue of its commitment to the community, it accepts the children of poor parents who cannot afford to pay. As a result of this commitment, parents are likely have greater confidence in entrusting their children to the co-operative. There is also a sense of accountability to the community for the standard of care provided.

WORKER CO-OPERATIVES AND ORGANISED LABOUR

We would categorise a co-operative providing child-care as a social co-operative. It is one of a number of other kinds of co-operatives that arguably might have a greater social impact than worker co-operatives in the South African context. The focus on worker co-operatives in this study is firstly because of their potential to create employment at a low cost, as the case of the steel co-operative illustrates. Secondly, it is because worker co-operatives raise a particular problem for organised labour.

For while the members of the co-operative may be employed in an extended sense of the word, we would argue that they should not be regarded as employees, having an employment contract, since as members they are the owners of their enterprise. There is thus no employment relationship in the strict sense, as envisaged in labour legislation.

The initial response of most trade unionists to this argument would probably be that labour legislation should apply to workers' co-operatives. In the case of UIF, occupational health and safety as well as skills development, they would have a point. Indeed two of the co-operatives interviewed had registered with Setas and were contributing levies, although it was not clear how they would be able to benefit from doing so. But the matter is complex, as the case of the BCEA illustrates.

One of the established co-operatives interviewed operated a printing enterprise. Its members were from a trade union tradition, and were paid a regular monthly salary. They regarded themselves as

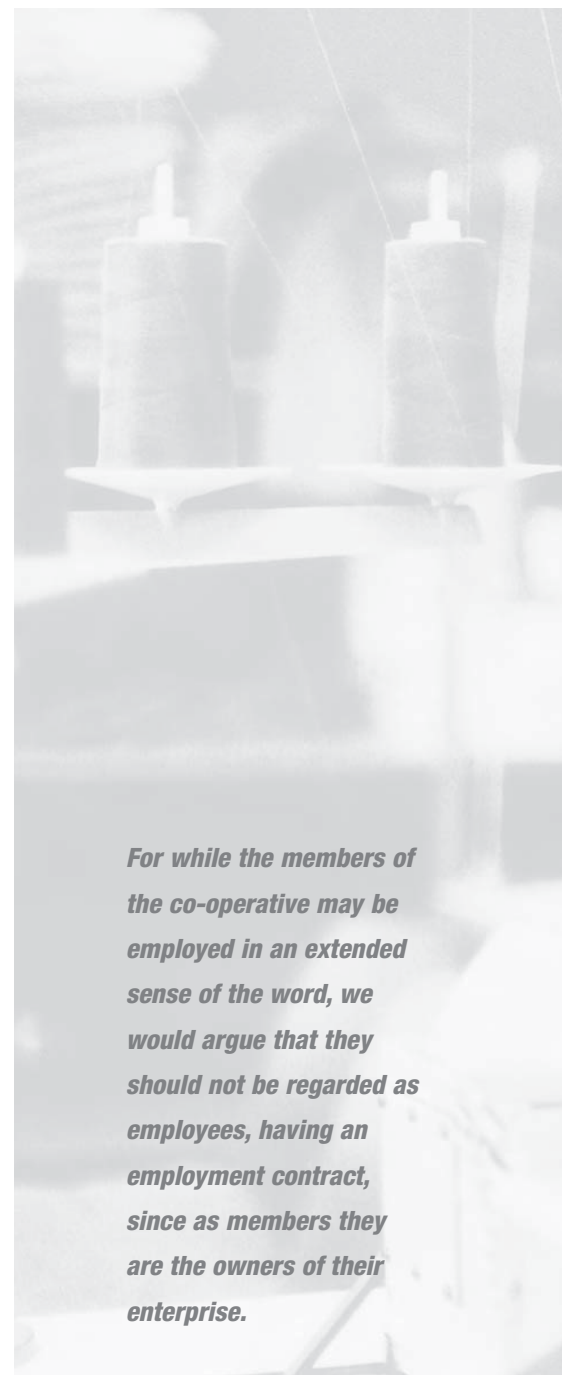
complying with the BCEA. Indeed, they emphasised the importance of working regular hours, taking meal breaks and the like, which they regarded as necessary for maintaining discipline. However, it transpired they were not paid overtime. Instead, they kept a record of overtime worked, with a view to compensating members by way of a bonus. There was also no way in which they could see themselves complying with this provision in future.

But for 'survivalist' co-operatives there were no regular hours, and no regular breaks. Provision for annual leave and sick leave was inconceivable. Even in a more-established co-operative, it is difficult to make provision for these eventualities. In one instance, the question of annual leave was resolved by having an agreed period when the business is shut down at the end of the year. If there is a surplus that year members will be paid a bonus. Otherwise leave is unpaid. Evidently the members are willing to accept these conditions, since the co-operative is their own enterprise, and this is how they choose to work. Even the situation where a co-operative is always able to pay a wage or salary was the exception rather than the rule, in our sample.

Thus for co-operatives producing for the tourist market, the winter months are a lean period. In the case of one such co-operative, the members might be without income for as long as three months. For a co-operative clearing alien vegetation, employment opportunities were dependent on contracts with Cape Nature Conservation, in terms of government's Working for Water Programme. In effect, the 38 members rotate the jobs available in terms of these contracts between them, resulting in periods of between a month to a month and a half without employment, between contracts.

CONTRACTORS VS CO-OPERANTS

The reason the alien vegetation co-operative rotates the jobs is to provide employment to all its members. One would think that this is a model government might



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wish to promote. In fact it is not. The Working for Water Programme promotes a different model, that of the so-called 'emergent contractor'.

In theory, a contractor is supposed to be independent. As such, the contractor must employ whatever labour is required to undertake the work. In terms of the 'emergent contractor' model, persons are identified by the programme and given special training. The declared object is to enable these emergent contractors to become independent. The undeclared object is to let the programme avoid the obligations employing teams of workers would entail (although they do require the contractors to comply with certain standards).



Co-operatives do not conform to this model of the so-called 'emergent contractor', since the enterprise is owned by the members not the entrepreneur. Nevertheless, this co-operative has succeeded in negotiating an arrangement whereby it has designated three of its members to act as contractors, each having a team of members under them. The co-operative regards them as team leaders. As team leaders, they earn somewhat more than other workers. But they do not profit to the extent 'real' contractors do.

Valerie was a member of the co-operative who was designated a 'contractor'. As a 'contractor' she had attended training courses provided by the Department of Nature Conservation. There she had rubbed shoulders with 'real' contractors, who were able to take

decisions relating to their businesses there and then, without the bother of having to refer back to the members. The focus of these courses was on how to become genuinely independent, and not at all on co-operation.

She decided it would be to her personal benefit if she was a contractor in her own right, rather than under the co-operative. So she tried to secure her own contract with the Department of Nature Conservation, and to induce members of the co-operative to become her employees. The other members accused her of acting against the interests of the co-operative, and expelled her. It was a valid decision in terms of the co-operative's constitution. But had she been dismissed? If so, was the dismissal valid in terms of labour legislation?

In the second part of this article we will discuss Valerie's case in more detail, to illustrate the kind of problems that will result for co-operatives if certain provisions of labour legislation are held to apply to them. At the same time we discuss the important role of government in promoting co-operatives or, as in this instance, promoting another model instead.

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