

**An exploratory study of the perceptions of people  
affecting and affected by day labourers at hiring sites  
in Tshwane.**

By

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## SUMMARY

This dissertation explores the perceptions of different groups of people (subsystems) who affect and are affected by the phenomenon of day labourers in Tshwane.

Three "day labourer sites" were identified. Businesses, residents, police, metro-police and the municipality directly connected to these sites were interviewed. Their perceptions were analysed using the systemic frame of reference.

The data was processed to describe perceptual relational patterns between the day labourers and the different subsystems. The following themes amongst these relational patterns were identified and described: employment, law and order, contact between subsystems, sharing the environment / community and resources / facilities. These themes were described in relation to the Bill of Rights (Chapter 2 of the Constitution of the Republic of South Africa, 1996).

This research aims to highlight some of the voices of the groups affecting and affected by the phenomenon of day labourers.

## KEY TERMS

### List of concepts:

Day labourer

Hiring site / site

Resident

Business

Employer                   - Building contractor  
                                  - Individual employers

Community

Community members

**CHAPTER 1:**

**PURPOSE AND OVERVIEW**

**OF THIS STUDY**

### **1.1. INTRODUCTION:**

A research team at the University of South Africa, Social Work Department (UNISA), consisting of Prof. CJ Schenck and three students, is exploring the phenomenon of day labourers in Tshwane. Each researcher's study forms part of the bigger picture of day labourers in Tshwane, the aim being to illustrate the multidimensional nature of the phenomenon.

This research follows research done by Prof. CJ Schenck and Mrs. H Louw, of the Department of Social Work at UNISA during 2001. There was a growing concern amongst the permanent residents in the Elarduspark (Pretoria, Gauteng) area as the number of day labourers as well as the crime rate in the area had increased. The labourers were sleeping in open areas in the community and serious crime related incidents had occurred in the community. Residents were concerned that the day labourers might be involved in crime or mask the criminals.

Schenck & Louw's (2005) preliminary research indicated that these men perform a range of low skilled jobs mostly in the construction industry, gardening and home improvements. Most of the men included in their study were African men from other regions surrounding Gauteng. There is a supportive relationship between the day labourers; they share food, places to sleep and income with each other in order to survive. Although their circumstances are harsh, they perceive themselves as responsible people who want to support their families. (Schenck & Louw 2005:10)

To define the workers the researchers used the term "day labourers" as documented by Valenzuela (2002:5): "...men gathering at informal hiring sites or pick up points, hoping to sell their labour for a day or longer or for a specific job in order to earn something". These "informal hiring sites", are usually just street corners or sidewalks, in residential or business areas, depending on the demand for labour.

After the preliminary research phase it became evident that the phenomenon is multifaceted encompassing the employment state of the day labourers, the formation of hiring sites, "squatting" practices of day labourers close to hiring sites and the concerns of permanent residents of the areas concerned.

In the broader economic context of South Africa, it is a phenomenon that is becoming more prevalent. Prof CJ Schenck of UNISA's Social Work Department is currently engaged in countrywide research on the day labour phenomenon.

## **1.2. PROBLEM STATEMENT / OBJECTIVES**

As indicated, four researchers are involved in different aspects of the research on day labourers. Their research complements each other's. The objective of each researcher is listed below:

### **1.2.1. THE AIMS OF THE BROADER RESEARCH TEAM:** (See Figure 1)

- a. A description of the informal **hiring sites** in Tshwane
- b. The exploration and description of the **context of the informal hiring** sites in Tshwane
- c. The exploration and description of the **day labourers in Tshwane** at informal hiring sites
- d. Countrywide research regarding the phenomenon.

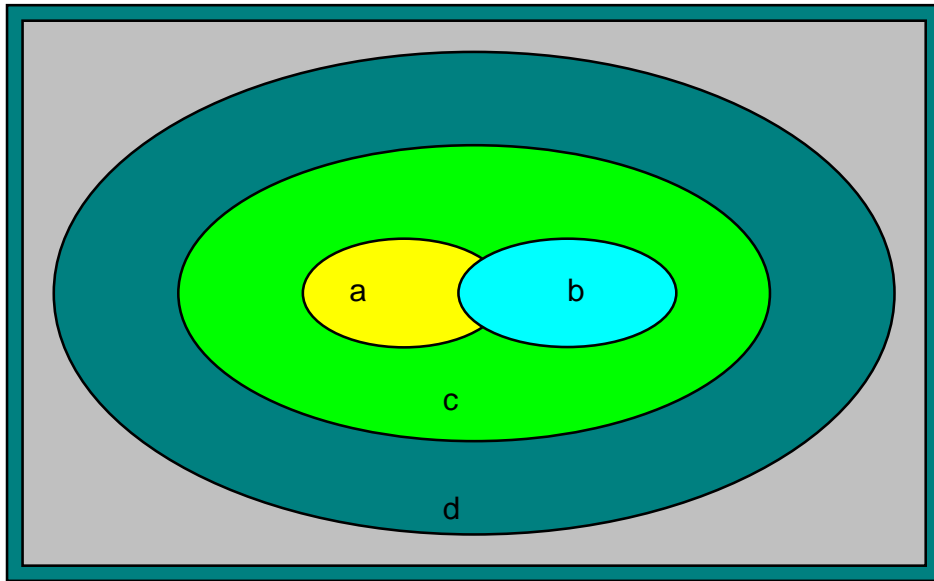


Figure 1

### 1.2.2. THE SPECIFIC AIM OF THIS RESEARCH:

(b as indicated in Figure 1)

- This research project will focus primarily on the perceptions and experiences of residents and businesses that are part of the contexts of three hiring sites in Tshwane.
- To outline the broader context I will include the viewpoints of the police, metro police and City Council of Tshwane, and two day labourer employers

### 1.2.3. THE SIGNIFICANCE OF THIS SPECIFIC RESEARCH PROJECT:

When a phenomenon is examined it cannot be done in isolation of its context. Context can include a wide range of aspects. Watzlawick, Beavin & Jackson (1967:20) states the following about context: "a phenomenon remains unexplainable as long as the range of observation is not wide enough to include the context." He further (Watzlawick et al 1967:21) asserts that the importance of including the context (as well as behaviour and reactions) shifts the focus "...from an isolated monad to the relationship between the parts of a wider system".

Context is however a very open-ended concept and the “full” context can never be described. For the purpose of this research, I will punctuate certain aspects of the wider context that will be included in this research.

The day labourer phenomenon can be punctuated as primarily a relationship between the day labourers and those who employ them. There are however other people and groups that affect and are affected by the phenomenon. This research will examine those people's and groups' perceptions of the phenomenon.

### **1.3. THEORETICAL APPROACH USED FOR THE STUDY:**

#### **1.3.1. SYSTEMIC APPROACH:**

Being aware of the fact that there are different groups of people involved and affected by this phenomenon, it was important for me to use a theory that would enable me to make the connections between these groups and their contexts, to see them as part of a whole. I have decided on the systemic approach, which enables me to do just that.

Although it is important to be aware of all the parts of the whole, I will punctuate certain parts on which I will focus during this research. This will be done according to specified systemic concepts.

When considering the systemic approach we can look at different definitions of a system:

#### **1.3.1.1. DEFINITIONS OF A SYSTEM:**

Keeney (1979:119) mentions two definitions formulated to describe a system. Firstly from an ecosystemic epistemology it can be seen as: "a cybernetic network that processes information", or secondly, Batesons' definition: " any unit containing feedback structure and therefore competent to process information."

A system can also be defined as: "... a set of interrelated elements, each of which is related directly or indirectly to every other element, and no subset of which is unrelated to any other subset" (Emery 1981:380). When reading this definition in relation to the research it connected to my assumption that although some of the subsystems may not see themselves as connected to the day labourers they are " related directly or indirectly" and although not overtly, there is a feedback structure between these subsystems.

The mere fact that some of the subsystems are physically close to a site, connects them to the phenomenon. It is this assumption that we used in drawing the boundaries for inclusion in the research.

Assuming the various subsystems and day labourers are part of a system and related to one another, directly or indirectly, means that there are "relationships". Jones (1993:2) includes this in his definition of a system. He describes a system as follows: "...a group of elements in interaction with one another over time, such that their recursive patterns of interaction form a stable context for individual and mutual functioning."

The day labourer sites are unstructured and continuously changing. The "stable context" which Jones refers to could be seen as the consistent relationship between need for work and the need for day labourers.

From discussion with colleagues and during the research it became clear that many of the respondents do not see themselves in "relationship with" the day labourers. Although there might not be direct communication, it can be said that they communicate through "not communicating". They relate by ignoring them, hiring them, fighting with them and complaining about them.

Watzlawick et al (1967:121) define a system: "Interactional systems, then, shall be two or more communicants in the process of, or at the level of, defining the nature of their relationship." The key element in this definition that I would like to focus on is the aspect of "...in the process of, or at the level of, defining the nature of their relationship". Due to the exploratory nature of the research, it would be interesting to observe the current view of the nature of the relationship between the day labourers and the subsystems as seen from the respondents' viewpoint. (Mrs H Louw's research focuses on the viewpoints of the day labourers. [p 3, 1.2.1., c]).

Adding to these definitions is the aspect of the environment. The following was said by Watzlawick et al (1967:121):"For a given system, the environment is the set of all objects of change whose attributes affect the system and also those objects whose attributes are changed by the behaviour of the system".

Watzlawick et al(1967:121-122) contemplates whether the elements that belong to environment automatically belong to the system. There will be different viewpoints, however for the purpose of this research the viewpoint adopted will be that there are elements in the environment that do have an impact on my punctuation of the systems of day labourers and the subsystems, and vice versa.

An example of one of these elements is that before 1994 people were not allowed to stand on the street corners but were removed according to a bylaw concerning loitering. Subsequent to the 1994 election and the new Constitution, people are ensured freedom of movement (1996).



### 1.3.1.2. SYSTEMIC CONCEPTS TO BE USED IN THIS STUDY:

Firstly this study is a **perceptual description within a context**.

Bateson (1979:37) makes a very interesting statement about science as a **method of perception**, saying it is "...limited in its ability to collect the outward and visible signs of whatever may be truth. Science probes; it does not prove".

Accepting this viewpoint it can be said that this study is a process of probing that will hopefully highlight more questions about the phenomenon of day labourers so that social workers can understand and ultimately assist the people involved and affected by the phenomenon.

Bateson (1979:37) refers to the concept "**the map is not the territory**". This translates into the concept that our perception of a thing, relationship, happening or experience is personal and cannot be called the ultimate truth. This then disregards the notion that there is an objective ultimate truth. We classify things or name them in order to make it easier for ourselves but the name is only a representation, not the thing itself. Vollmer (1998:310) describes "perception of reality" which he feels is determined by description: "To see something is always to see it as something. And what we see something as, is determined by the descriptive categories we have learned (chosen) to use".

In saying this it can be said that it would be impossible to obtain a final truth, but it will be possible to get an idea of the perceptions of some of the subsystems.

My starting point is to say that theoretically I see this research as my "map" or description (using the descriptive categories I have chosen), of the "map" or situation as seen through the eyes of the respondents (business, residents, police, metro police, municipality and employers). They are merely a part of a bigger whole and therefore I do not claim to portray the "territory" by any means. If the larger part of the research could be likened to a puzzle, this is merely a piece, portraying some information. Effran, Lukens & Lukens (1988:28) are of opinion that constructivists acknowledge their role in "...creating a view of the world and interpreting observations in terms of it". (The link between systemic research and constructivism is discussed on page 15)

**a. Description:**

Description is seen by Bateson (1979:93) as something that includes all the available facts of the phenomena that can be described, but it would not include an explanation or study of the possible connections. Describing it differently, Bateson (1979:94) states: "description, on the other hand, contains information but no logic and no explanation."

Looking at a phenomenon systemically it is important to acknowledge that this piece of research is only a part of a bigger whole. Bateson (1979:79-80) refers to the term **double description or binocular vision** - to look at "What is gained by comparing the data collected by one eye with the data collected by the other?" Bateson describes it as follows (Keeney, 1981:37): "It is correct (and a great improvement) to begin to think of the two parties to the interaction as two eyes, each giving a monocular view of what goes on and, together, giving a binocular view in depth. This double view is the relationship".

Keeney (1981:153) describes double description as the evidence for "...what we always perceive is 'difference' ". He also refers to Bateson's term "news of difference - a difference that makes a difference".

Looking at the data in this research the differences in the descriptions of the individual respondents, and the differences in descriptions of the three different sites, will create some informative description, which in turn can be used in conjunction with my colleagues' research to create a double description.

### **b. Context**

To add meaning to a description it is important to look at the context. Bateson (1979: 24) is of the opinion that "...without context, words and action have no meaning at all". This links with Efran et al.'s (1988:28) viewpoint, that if you take something out of context it loses its meaning, or seen differently, it can change the meaning. Watzlawick et al's (1967:20) statement: "a phenomenon remains unexplainable as long as the range of observation is not wide enough to include the context" is in accord with Bateson's statement. Watzlawick et al (1967:21) continues to explain that the importance of including the context (as well as behaviour and reactions) shifts the focus "...from an isolated monad to the relationship between the parts of a wider system."

The question then arises, who determines the context? Bateson (1979:56) states that context is created by the recipient of a message, "The letter that you do not write, the apology that you do not offer, the food that you do not put out for the cat - all these can be sufficient and effective messages because zero, in context, can be meaningful". For the purpose of this research, I, will be the " recipient of a message" - the research information, and by including contextual aspects that are mentioned by respondents, as well as aspects that I view as important will form part of the context.

My punctuation of the context is on two levels:

Firstly there is the broader context or supra-system - the South African context. This description will be limited and personal, due to the fact that I included only a few elements identified as elements which have an impact on the phenomenon.

These identified elements are:

- The influence of the political changes in South Africa after 1994 on the day labourer phenomenon
- The South African population
- The South African economy
- Employment and unemployment
- Crime

Secondly, context will be determined by the geographical boundaries drawn to limit a site. These contexts will be shown through area maps as part of the descriptions of the data collected.

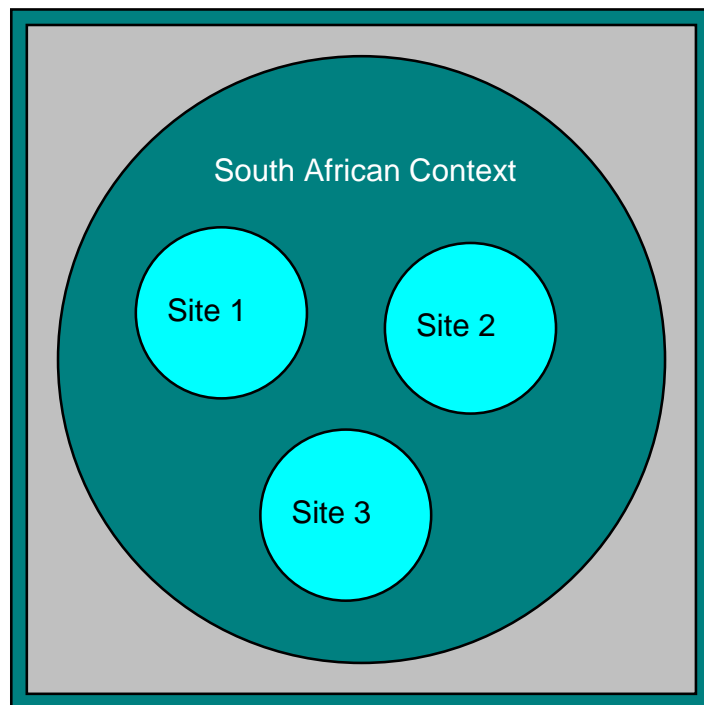


Figure 2

**c. Interactional patterns (relationships):**

When describing the perceptions of the business owners and the residents about the phenomenon of day labourers, I will use an outline of interactional patterns for some of the descriptions. These will be the punctuations created from my perceptions and descriptions.

Bateson (1979:146) is of the opinion that relationship is never an internal thing in a person. He continues by stating that there are not instances of “dependency”, “aggressiveness” or “pride”. All these concepts are founded in the relationship between two people and not an attribute inside a person. He says that there are at least 3 components in an interaction: “...stimulus, response and interaction...” (Bateson 1979:147). Once these interactions have taken place it is indicative of a relationship. Bateson (Keeney 1981:39) named two categories of interactive processes - complementary and symmetrical relationships. He defines the terms as follows:

"I applied the term **symmetric** to all those forms of interaction that could be described in terms of competition, mutual emulation and so on (for example those in which A's action of a given kind would stimulate B to action of the same kind, which, in turn, would stimulate A to further similar actions...).

In contrast, I applied the term **complementary** to interactional sequences in which the actions of A and B were different but mutually fitted each other (for example dominance - submission, exhibition - spectatorship, dependence - nurturance)".

Watzlawick et al (1967:68-69) defines these concepts as follows:

"Symmetrical interaction, then, is characterized by equality and the minimization of difference, while complementary interaction is based on the maximization of difference".

During symmetrical interaction equality is recognised, but let us look at further descriptions of complementary interaction. Complementary interaction can be seen as interaction where one party ( or group) has a "one-up" or "one-down" position. When observing complementary interaction there are two interesting aspects:

- a complementary relationship can be influenced by cultural or social context
- One party cannot create a complementary relationship, but rather "...each behaves in a manner that presupposes, while at the same time providing reasons for, the behaviour of the other: their definitions of the relationship fit" (Watzlawick et al 1967:69).

**d. Patterns that connect:**

Once interactional patterns have been described it is possible to look at patterns that connect. Bateson, having looked at our world primarily through the eyes of a biologist started to ask: what is the connection between different aspects of the universe and explain it in terms of the "...corresponding sets of relations between corresponding parts...". He also refers to the "...dance between interacting parts...". To explore this dance is a way of trying to understand how it functions...at present (Bateson 1979:18,22)

Keeney (1983:92) mentions that: "...cybernetic epistemology proposes that we embrace both sides of any distinction that an observer draws... One way of acknowledging both sides of these distinctions involves viewing them as parts of 'cybernetic complementarities'."

Keeney (1983:95) continues: "Cybernetic epistemology prescribes a way of discerning patterns that organise events....what differentiates the work of cyberneticians is they jump from the paradigm of things to the paradigm of pattern".

When the patterns that connect have been identified, and the data have been analysed according to the above mentioned concepts it will be interesting to see if there are any commonalities that emerge between the different relationship patterns observed..

#### 1.3.1.3. SUMMARY:

The research team has punctuated the study for each of the researchers as follows:

1. The descriptions of the day labourer sites in Tshwane
2. The exploration of the perceptions of the community context surrounding three day labourers sites in Tshwane
3. Study of the day labourer phenomenon in Tshwane.

The systems approach will be used as a theoretical departure point within my specific research - the community context surrounding three day labourer sites in Tshwane.

I will use the following concepts to research the perceptions of the subsystems related to the day labourer phenomenon:

- perceptual description (data recording)
- context within which the day labourer phenomenon functions (literature study and physical observations)
- interactional patterns - relationship (Data analysis)
- patterns that connect (Conclusions)

to create a description of the perceptions of the subsystems that were identified as part of / influenced by / influencing the phenomenon of the day labourers.

From an ethical perspective, the respondents were assured of their anonymity in the research report.

#### **1.4. THE USE OF SYSTEMIC CONCEPTS IN THE RESEARCH PROJECT:**

The above mentioned concepts will be used to:

- formulate a description of the experiences and perceptions of the subgroups that form part of the context of the day labourer phenomenon: namely the residents, businesses, police, metro police and municipality and employers.
- punctuate possible interactional patterns between the day labourers and the respondents and
- describe the patterns that emerge

#### **1.5. RESEARCH METHODOLOGY**

##### **1.5.1. RESEARCH EPISTEMOLOGY:**

Epistemology is a term derived from the Greek work epistêmê - that means knowledge. Krauss (2005) sees epistemology as "... the philosophy of knowledge or how we come to know". He (Krauss 2005) stipulates the relation between epistemology, ontology and methodology: "...ontology involves the philosophy of reality, epistemology addresses how we come to know that reality while methodology identifies the particular practices used to attain knowledge of it".

The systemic approach falls under the philosophical umbrella of constructivism. Atkinson and Heath (1987:12) discuss the implication of working from a constructivist frame of reference for research. They note that "Research is generally seen as one method used by scientists to persuade one another regarding the legitimacy of their theoretical constructions". One of their concerns is that the reader of the research report is never exposed to a first hand experience of the research process or raw data. This would mean that the reader is presented with the opinions (data) formulated through the research, and does not have access to the process used to draw distinctions and organise the data . They suggest the following: "... the process we are suggesting is one in which researchers



retrace the distinctions they have drawn in constructing any view of the data, so that the reader may do likewise. In a sense, the reader is taught the process of constructing a view" (Atkinson and Heath 1987:13).

In addition to the above mentioned viewpoint on research is the viewpoint of Singer. Singer (1995) studied research as seen from a Batesonian viewpoint. To summarise some of her conclusions relevant to my research, the following points are listed:

- "...enduring patterns and forms that are found and repeated".
- Bohner (Singer 1995) mentioned that Bateson used data to create "post-conceptions" - to develop a mental picture - a mind. Bateson (1979:101) described mind as: "... an aggregate of interacting parts or components".
- During the research process there are interactions between the different parts of the "mind" (systemic elements) - and this creates difference - information.
- This "mental process then includes identifying differences and creating categories which aid one in making sense of the information".
- During this search for order and meaning we generate structure, patterns and categories to aid us in the process of mapping information.

The question then arises: How does one go about presenting research in this manner? Atkinson and Heath (1987:13) propose the following:

- the reader must be exposed to the raw data and be able to study it
- the researcher then proposes a method to be used to draw distinctions that would be meaningful in organising the data.

Bateson comments on the concept of "raw data" (Singer 1995): "Always there is a transformation or recording of the raw event which intervenes between the scientist and the object. In a strict sense, therefore, no data are truly "raw" and every record has been somehow subjected to editing and transformation".. Bateson (1979:37) stated it in a different way through the concept of "...the map is not the territory and the name is not

the thing named". Bateson (1979:37) explains this concept as follows: "...in all thought or perception or communication about perception, there is a transformation, a coding, between the report and that mysterious thing reported, the *Ding an sich*. Above all, the relation between the report and that mysterious thing reported tends to have the nature of classification".

Accepting therefore that the "raw data" is seen subjectively through my eyes, I will now proceed to describe my research methodology working from the above mentioned epistemological constructs.

### **1.5.2. LINKING MY RESEARCH EPISTEMOLOGY WITH RESEARCH METHODOLOGY:**

Deciding on the research methodology to be used, the researcher's theoretical approach had to be taken into account. As stated before I will be working from a constructivist frame of reference using primarily systemic concepts to describe the data gathered.

Fuller and Petch (1995:34) distinguish between qualitative and quantitative research. According to the authors quantitative research "...often reflects a desire for large numbers to demonstrate with authority that particular patterns can be found". Qualitative research on the other hand "...have less concern about the absolute numbers; the interest is in gathering the attributes and experiences that may attach to a particular variable" (Fuller and Petch 1995:35).

Krauss (2005) mentions that qualitative research is mostly done from a "...relativistic, constructivist ontology that posits that there is no objective reality". Making it more practical, qualitative research, according to Strauss and Corbin in Colòn, Taylor and Willis (2000), is: "any research that produces findings not arrived at by means of statistical procedures or other means of quantification. It can refer to research about

people's lives, stories, and behaviour, but it also can be about organizational functioning, social movements, or interactional relationships".

Colòn et al (2000) mention that: " Qualitative research usually consists of three components: (1) data, which can come from various sources, (2) analytic or interpretive procedures that are used to arrive at findings or theories, and (3) written and verbal reports".

For the purpose of this research I followed a **qualitative approach**, describing some subsystems' views and experiences in relation to the phenomenon of day labourers. This approach links directly with the theoretical approach that I have chosen, linking with Batesons' epistemology. When examining a phenomenon Bateson suggests looking at (1979:18) "...shapes, forms and relations" not quantities.

Traditionally research is divided into two main groupings: basic research and applied research (Grobelaar, 2000:83). Basic research is divided into the following types of research: exploratory, descriptive and explanatory research (Grobelaar,2000:83). For the purpose of this research, I used both the **exploratory and descriptive research** designs.

Grobelaar (2000:93) describes **exploratory research** as follows: "...research is done in a particular field or topic in social sciences on which no research has been done or of which mention has been made, but which has not been addressed in a scientific manner". Yegidis and Weinbach (1996:92) add to the above by saying: "...there can be no hypotheses to test, only the broadest of research questions to examine".

Yegidis and Weinbach (1996:92) mention that when you do exploratory research, the selection of participants for the research is usually not a very exact process. In some instances a few case studies are identified, or a large number may be selected to learn as much as possible to build a knowledge base.

An **exploratory design** is useful in this study to explore the phenomenon of day labourers in Tshwane for the following reasons:

- Very little research has been done in this field
- Epistemologically it is clear that I do not embark on this study with a hypothesis in mind that I want to test, but rather it is a exploration to create a (hopefully useful) map of the phenomenon.

According to Dane (1990:6) **the descriptive design** "...involves examining a phenomenon to more fully define it or differentiate it from other phenomena". Rubin and Babbie (1993:108) state that the main goal of much research within the social field, is to describe: "The researcher observes and then describes what was observed".

When using the exploratory and descriptive design Rubin and Babbie (1993:215) state the following:

"Two fundamental issues in descriptive and exploratory research, then, are the generalizability of research findings and the logical validity of the causal inferences made about the findings....we need to be careful not to over-generalize exploratory findings or draw unwarranted causal inferences from them".

Looking at the above mentioned statement there are two concepts I wish to highlight:

- generalisability of research findings
- logical validity of the causal inferences

Viewing the concepts from a systemic viewpoint, they are not useful. Each situation is unique, with unique dynamics, and therefore generalisation is not something that is seen as important. Logical validity of causal inferences, implies being judgemental and viewing information from a linear cause and effect frame of reference, which in its essence is vastly different from constructivism.

### **1.5.3. THE RESEARCH PROCESS:**

#### **1.5.3.1. STEP 1: IDENTIFY THREE POSSIBLE SITES FOR THE EXPLORATORY STUDY.**

Using their discretion the research team identified three types of sites for the study. In traditional research literature it is called the judgmental sampling method. The term “judgement” is in conflict with my epistemology and therefore, I would rather use the term “punctuation sample”. According to Grobbelaar (2000:159) this kind of sampling is made according to the available information about the population. Bailey (1987:94) emphasises the researchers' punctuation (judgement) as to who are chosen as respondents, in order to meet the purpose of the study.

When discussing the process of choosing sites for the purpose of this research, the following background can be given:

- 2001-2002: The research at the Elarduspark site.
- 2003: Sites in the Tshwane metropolitan area were located and identified.
- 2004: Research teams' data were collected.

As part of my research process, I and one of my research colleagues, Lawrence Xipu, visited a few sites in Tshwane, to get a general impression of how the sites function.

Taking into consideration the nature of my research question, epistemology and the fact that this is a “dissertation of limited scope” I used the information gathered from 2001 until the commencement of my research to punctuate broad categories of sites. The distinctions I have drawn are the following:

- A site in a residential area
- A site in a business area
- A site in a residential area, but situated in a street with mostly businesses

### 1.5.3.2. STEP 2: IDENTIFYING DIFFERENT SUBSYSTEMS OF THE BROADER CONTEXT:

When reference is made to different subsystems (role players) I refer to all the different groups of people who relate to day labourers: who affect, and are affected by the day labourers?

In this step **systematic observation** was used. Yegidis and Weinbach (1996:150) describe systematic observation as a type of descriptive research that includes both qualitative and quantitative elements in order to build knowledge. They distinguish between systematic observation, structured observation methods and unstructured observation methods.

Both structured and unstructured methods were used in the research.

#### **a. Unstructured observation:**

Unstructured observations were initially made at each one of the sites. Yegidis and Weinbach (1996:154) defines the role of the observer as either a passive or a participant observer. An advantage of unstructured observation is that it does not limit the observer in any way. The observer is free to observe all behaviour and, in this case, the subsystems involved. It is important to mention here the fact that the observations are from the researchers' frame of reference and are therefore subjective perceptions.

Yegidis and Weinbach (1996:154) mention that it is crucial that "field notes" are made. There is no specified manner in which this must be done.

Unstructured observation and field notes were used in this research as a method of developing understanding of how each site works, who are involved in the site and the dynamics present at each site.

**b. Structured observation:**

Subsequent to a period of unstructured observation a process was implemented where I visited each site with what Yegidis and Weinbach (1996:153) calls a “behavioural checklist.” This behavioural checklist was formulated according to the broader categories identified by the research team. This included a wide variety of information about the following:

- The site
- The day labourers
- The context

1.5.3.3. STEPS 3&4: EXPLORE THE CHOSEN SUBSYSTEMS’ PERCEPTIONS ABOUT AND THEIR PERCEIVED RELATIONSHIPS WITH THE DAY LABOURERS

At this stage of the research the different subsystems involved at each site have been identified as the following:

- Day labourers
- Residents and Home owners
- Businesses
- Police
- Municipality
- Metro Police
- Department of Labour
- Employers of the day labourers

I decided to focus primarily on the viewpoints of the residents and the businesses in the streets where the sites are. Further information was collected through interviews with the Police Commissioners of each area, the Municipality, and the Metro Police and two employers of day labourers.

No Non Governmental Organisation (NGO) or churches were included due to the fact that there was no direct involvement of a church or NGO at any one of the three sites. There are some sites where churches are involved in providing food to day labourers.

The method of data-collection for these subsystems included the following types of **interviews:**

- Face to face interviews
- Telephonic interviews

The interviews were semi structured, an interview schedule being used merely as a outline for both types of interviews. (See addendum A)

#### **1.5.4. THE PROCESS OF DRAWING BOUNDARIES, CONTACTING THE INTERVIEWEES AND CONDUCTING THE INTERVIEWS:**

##### 1.5.4.1. AREA MAPS OF THE SITES

A street map of each site was sourced on the Internet using Braby maps ([www.brabymaps.co.za](http://www.brabymaps.co.za)). After having done the unstructured observation I decided to limit the participants to the residents and the business owners in the same street and block/s as was the day labourer site.

##### 1.5.4.2. GATHERING CONTACT DETAILS OF POSSIBLE RESPONDENTS

The Bureau of Market Research at Unisa assisted me by allowing me to make use of the Cybertrade program ([www.cybertrade.co.za/cybertel.html](http://www.cybertrade.co.za/cybertel.html)), to obtain telephone numbers of the residents living on the relevant streets. This included residential respondents with Telkom (South Africa's telephone communication service) telephone numbers. The sampling method can be described as convenience sampling (Van Rensburg 2000:160). It was decided to do personal interviews with the business owners, due to the fact that it would be possible to see them during business hours. I assumed that they would not respond to telephonic interviews as they might be too busy, or be suspicious if the interviews were not face to face.



With the residents a different approach was decided on. I decided to have telephonic interviews with them. The reasons for choice of data collection was practical. It seemed a more time and cost effective manner of data-collection, providing the option of contacting the respondents at a time suitable for them. It would have been difficult to make individual appointments with each resident at a convenient time. It was also taken into consideration that it might not be safe for me, as a women, to enter unknown respondents' homes by myself, most likely after hours.

The interviews with the Police, Metro Police, Municipality and Employers were also done according to the availability sampling method. One or two people from each group were interviewed. The purpose of these interviews was to acknowledge the role of these subsystems in the phenomenon of the day labourers, and to gain an idea about their perceptions while acknowledging that only a particular person's perception would be reflected.

#### 1.5.4.3. DRAWING UP INTERVIEW SCHEDULES

Rubin & Babbie (1993:184) states that one of the most used methods of data collection in the social work field is asking questions. There are different ways in which questions are posed to interviewees. According to them, "...When questions are asked by an interviewer, the questionnaire may be referred to as an interview schedule".

I decided to make use of interview schedules for various reasons. Firstly, taking my epistemology into account, it would be necessary to hear every unique experience of each respondent. I also aimed to construct my questions in a non-directive manner, in order to allow the respondents to give their own, unadulterated viewpoints.

(See Addendum A for interview schedules)

### 1.5.5. DRAWING CONCLUSIONS:

After gathering the relevant data and presenting it through perceptual descriptions, I will draw distinctions. These distinctions will be made through identifying themes in the descriptions and organise the data according to the theoretical concepts I have identified earlier in this chapter. To recapitulate, the concepts I will use are the following:

Concept	Practical use of concept	Chapter
Context	A limited description of South Africa as a context and background to the research	Chapter 2
Perceptual description	The recording of the data collected	Chapter 3
Interactional patterns (relationships)	Analysing the data using the theoretical concepts related to interactional patterns	Chapter 4
Patterns that connect AND Context	Drawing conclusions using the theoretical concepts: patterns that connect and context	Chapter 5

Table 1: Research concepts

### 1.6. CONTRIBUTIONS OF THIS STUDY TO SOCIAL WORK:

#### 1.6.1. BROADER QUESTIONS THAT EMERGE:

This specific research is focused on the communities' perceptions of the day labourers. The following schematic figure outlines my perception of the phenomenon as a whole.



Figure 3

Evaluating the phenomenon from a social work perspective I would like to start with the following questions:

- Are these men seeking work to try and provide for their families?
- Where do they find shelter at night? Do they live under humane conditions?
- Are these men marginalized and in need of social assistance?
- Are measures taken to assist these men in their quest to earn a honest living?

A more comprehensive literature study is done in chapter 2, but I would like to highlight the following viewpoints at this stage:

Blaauw, Louw & Schenck mention in their article that most day labourers in Tshwane are men, and 88% of the interviewees were South Africans. They found that on average "...each day labourer supports 4 people (including himself) with the income earned..." (Blaauw et al 2006:462)

Mocke (Blaauw et al 2006:460) describes the day labourer phenomenon as men waiting for informal and mostly temporary employment. She found that these men lead a harsh life and are not employed every day.

In a local newspaper, Beeld (28 July 2001:9) there was an article about the presence of people in Pretoria referred to as "sluipslapers". These people stay in the open green areas of Pretoria. This term has a negative connotation, and highlights the fact that they hide and sleep in the fields, where they are not really allowed or wanted. This article portrayed the formal community's concerns and complaints. The problem is that these people do not really have alternative housing options. The question then needs to be asked: whose responsibility is it to see that people do not need to sleep in the open fields in our country? The Bill of Rights contained in South Africa's Constitution 1996 states in section 26. (1): "Everyone has the right to have access to adequate housing".

The Department of Social Welfare subscribes to the RDP policy developed by South Africa's post 1994 Government (Terblanche, 2006). The RDP policy is defined by the ANC (1994:1) as follows: " The RDP is an integrated, coherent social-economic policy framework. It seeks to mobilise all people and our country's resources towards the final eradication of apartheid and the building of a democratic, non-racial and non-sexist future".

Contained in the RDP are "five major policy programmes", which include the following key programs: (ANC 1994:7):

- Meeting basic needs
- Developing our human resources
- Building the economy
- Democratising the state and society
- Implementing the RDP

When the detail of the above mentioned programmes are studied it is clear that the group of people, referred to in this study as day labourers, is definitely a group that would fall within the parameters drawn up by the RDP.

Theodore and Valenzuela (2006:i) refer to their findings that the day labour market is: "...rife with violations of workers' rights. Day laborers are regularly denied payments for their work, many are subjected to demonstrably hazardous job sites, and most endure insults and abuses by employers". Edwards (2003) describes day labourers as being "...at the bottom rung of the underground economy".

The large scale unemployment in South Africa is discussed in the White Paper for Social Welfare (1997:10) :“Social welfare policies and programmes which provide for cash transfers, social relief, and enabling and developmental services ensure that people have adequate economic and social protection during times of unemployment, ill-health, and

maternity, child-rearing, widowhood, disability, old-age and so on... When such programmes are combined with capacity building, people can be released from the poverty trap”.

The areas that are highlighted in the White Paper as priority areas for Social Welfare are:

- The family: families, children, youth and aged
- Women
- People with disabilities
- Special needs and problems: Mental health, substance abuse, crime prevention through development and restorative justice, people with chronic illness and people with HIV/AIDS.

In a discussion with Ms R Terblanche (2006) , a Director of a Social Welfare Organisation it was mentioned that the systems of the Department of Social Services are not geared towards the implementation of some of the ideologies of the constitution. This creates problems for services providers, as well as those in need of the services.

Ms Terblanche (2006) also mentioned that although economic need and the needs of men are implied in the policies there is no specific provision made in policies to address these. It would be difficult for a welfare organization to obtain finances for any program catering for men, because they are not stipulated as one of the priority groups according to the "Procedure guidelines for the implementation of the policy on financial awards to service providers - November 2005"(2005:6). The broad categories included are:

- a. Services to children and families
- b. Prevention of HIV & AIDS and support to people infected and or affected by HIV & AIDS
- c. Youth Care and Development
- d. Services to Women
- e. Victim empowerment services

- f. Services to people with disabilities
- g. Social Crime Prevention
- h. Poverty Alleviation Programmes
- i. Services to older persons
- j. Prevention and support services for alcohol and substance abuse
- k. Community empowerment services and development, including life skills education and celebration of national and international days.

This group-research therefore highlights the vacuum of specific policy and responsibility for this group of people. Questions emerge regarding day labourers:

- Who needs to include them in their categories of services provided?
- What kind of policies would promote and assist this group to develop into economically contributory citizens and providers for their families?
- Where there is abuse and misuse of day labourers services, how could this be regulated?

Taking the above mentioned information into account it is clear that unemployment and capacity building to release people from the poverty trap is a general theme that does fall within the parameters of social work. It is however unfortunate that men are not a priority group identified by the White Paper for Social Work, as their needs are equally important in the process of building secure and healthy families in South Africa

#### **1.6.2. SPECIFIC CONTRIBUTIONS:**

As my research focuses on the perceptions of the subsystems around the phenomenon I would like to refer to Cleeland (1999) quotes Valenzuela who states that he hopes that "...further research, including in depth interviews with workers, employers and residents near hiring sites, will lead to innovative policy recommendations".

When the questions that emerge in 1.6.1. are taken into account, it is important to also

include the viewpoints of the communities, businesses and service delivering departments of local and national government.

There are no simplistic solution where all the relevant systems are taken into account, but in order to be sustainable the phenomenon needs to be viewed as a whole when policies are developed.

This study in particular is the first known research done regarding the perceptions of the residents, business owners and services delivering departments connected to the phenomenon of day labourers.

### **1.7. LIMITATIONS OF THIS STUDY:**

The research process, being of an exploratory nature, facilitated the unfolding of a description of the phenomenon and specifically the thoughts and emotions of residents, businesses and other subsystems that were involved in the study. The study focused primarily on the perceptions of the residents and businesses. The other subsystems that were included did not form an integral part during the data collection and therefore the information may seem superficial. The purpose of including them was merely to outline their presence in the phenomenon.

Due to the fact that this is a dissertation of limited scope the boundary was drawn to include only a few selected subsystems, and reflects only their viewpoints.

Evaluating the research in retrospect, more in depth information could have been obtained. A few restrictions were experienced:

- Method of data collection:

Many respondents were contacted telephonically for practical reasons. However these were less personal and it was difficult to really discuss the subject

thoroughly. People were not always willing to enter into discussion and could easily keep saying it is an inconvenient time, wanting to distance themselves from the phenomenon, as they were not sure how their opinions would be used.

- The fact that the research is qualitative and the analysis is done according to the systemic approach has certain implications for the information.

The interpretations are personal and can therefore not be applied generally. This is not necessarily a limitation, but needs to be kept in mind, especially if interventions are planned. Although themes were identified, the uniqueness of each site needs to be stressed.

### **1.8. SUMMARY:**

Hopefully this dissertation of limited scope will start to bring different elements together to describe a glimpse of the wholeness of the context surrounding day labourers. Taylor says the following about meaningful wholeness:

“It is of little help to gather information if you do not have the ability to use it to help others make more sense of their own situation. Here we need to develop our abilities to separate elements and then bring them back together in pictures that people can understand in new and more meaningful ways. We need to help people grasp the whole rather than baffle them with breaking everything up into smaller parts. Taylor(undated:28)”

It is envisaged that the information generated through this research, combined with that of the other members of the research team, brings new insight into the phenomenon of day labourers in Tshwane and South Africa. Hopefully it will contribute to the development of adequate policies, also taking the broader community into account.



**CHAPTER 2:**

**LITERATURE REVIEW ON THE DAY**

**LABOURER PHENOMENON**

**AND THE BROADER**

**CONTEXT**

## **2.1. INTRODUCTION:**

It is clear in the literature that there are groups and individuals who are involved with the day labourers on different levels and with different agendas. In this study I have tried to create primarily a description of how the residents and businesses perceive the day labourers. I also included the perceptions of the Police, Metro Police, Municipality and Employers of Day labourers.

To create a broader framework the following literature study is included. With this selection of literature, I aim to contextualise my descriptions and enhance the readers' picture of the phenomenon.

## **2.2. REFLECTION ON THE AVAILABLE LITERATURE REGARDING DAY LABOURERS:**

### **2.2.1. INTRODUCTION:**

"The Tortilla Curtain" (Boyle 1995) is a storybook about the phenomenon of day labourers. The book describes the fictional experience of not only day labourers, but also businesses and residents. Many challenges, issues and emotions are described as the story develops. In this story the emotional complexity of being or seeing a day labourer is portrayed.

In the literature sourced on day labourers, there were references to the feelings and perceptions of businesses and residents, but no specific research on the residents' and businesses' perceptions could be found. There are, however, bits and pieces of relevant information in research, articles and newspapers.

### **2.2.2. DESCRIPTION OF THE DAY LABOURERS:**

Firstly, it is important to look at the definition of day labourers. Schenck and Louw (2005:4) describe day labourers as "...people who gather at an informal pick-up point, for example, a street corner, to sell their labour for the day, by the hour or for a particular job".

Day labourers form part of the informal labour market in South Africa. Blaauw et al. (2006:460) includes the following under informal employment: street trading, hawking, "street services" such as shoe-repair and hairdressing, taxis, manufacturing, car guard services. They however differentiate between activities which are survivalist in nature, and those that may be more lucrative than similar work in the formal sector.

The following information was gathered regarding the day labourers in Tshwane as part of the research of fellow-team members ( Blaauw et al 2006:462):

- 97.5 % of the day labourers among the respondents were male
- 88 % were South Africans, 7% Zimbabweans, 2.9 % Mozambiqueans, 2.1% unspecified
- 61.2% of the day labourers involved in research were younger than 30 years
- 33% were married, 6.2% were living with a partner and 3.7% are separated or divorced
- 5% never attended school, 76% passed grade 11, 14% passed Grade 12
- 40.9% never had any formal skill training
- The average monthly income in a good month ranges from R1033.33 to R1116.27, and in a bad month from R395.65 to R493.79
- On average the monthly income would thus range between R642.08 and R736.15

This may vary from area to area depending on the economic level of the area.

In summary, with regard to the day labourers the following statement was made by Blaauw et al.(2006:469)" ...the day labourers involved in this study were found to be

mainly male, fairly young, generally very low skilled, experiencing no certainty in terms of income security, supporting on average four people and working under harsh conditions".

A further aspect highlighted in my preparation for the research concerned the unfair treatment of day labourers by their employers. Edwards (2003) highlights the efforts of the city of Austin authorities to protect day labourers from employers who mistreat them. The "Central Texas Immigrant Worker Right Centre" together with the Austin Police Department has assisted day labourers to recover moneys due to them. Edwards also reflects on comments made about a bill to be introduced to protect the labourers from unfair labour practices.

During this research the Department of Labour was contacted. According to an employee at the Department, there are no labour laws specifically relevant to day labourers. The Basic Conditions for Employment Act , is only applicable to people who are employed on a long term basis

([http://www.labour.gov.za/programmes/programme\\_display.jsp?programme\\_id=2664](http://www.labour.gov.za/programmes/programme_display.jsp?programme_id=2664)) .

The only organisation which does attend specifically to the issues of day labourers in South Africa is the MSR project: (Men on the side of the road). This project functions on five different levels:

- The provision of infrastructure for the men - shelters to stand under during the day, while waiting for employment
- The assistance with human rights and legal issues - e.g. when they are exploited by an employer
- A tool project - where they can have access to tools to be able to do their jobs.
- Skills development - training aiming to incorporate the men into full time employment, as they are often unskilled. This makes accessing work easier.
- creating media awareness

For further information visit the MSR website: [www.unemployment.co.za](http://www.unemployment.co.za)

### **2.2.3. DAY LABOUR SITES:**

Day labourers gather at different locations from where they are picked up by employers. Theodore and Valenzuela (2006:1) found in their study that Day Labour sites: "...tend to form near home improvement stores, at busy intersections, and in parks and other public spaces".

The nature of these sites vary. Valenzuela (2001:342) refers to three types of sites: connected, unconnected and regulated.

Connected sites are sites that are connected to an industry such as painting and building. These sites form in front of shops or complexes where there are hardware stores or shops that provide building materials. The day labourers would then approach clients to hear if they need assistance and ask if they want to employ them. It usually happens that quite a few day labourers approach a client at the same time, which can be overwhelming.

Unconnected sites are sites not close to any apparent connection point, but probably exist due to "...foot or vehicle traffic, police co-operation, or historical reasons..." (Valenzuela 2001:342). In Tshwane, these would be the sites that form at seemingly arbitrary places, for example on street corners, robots and along a residential street. In these cases, the day labourers would merely stand next to the road, with their tools in their hands, as advertisements. Many times a ladder with paint rollers hanging from it is positioned on the street corner, whilst the day labourers gather under trees close by.

The third type of site is a regulated site. These are formal sites that are supported, run, or sponsored by either municipalities, building industries, community based organisations, or privately. At the time this research was conducted as far as we were aware of there were no "regulated sites" in South Africa.

Meyer (2003) reports on a possible project in McKinney, Texas where the City Council was planning to build a plaza that would provide safety and shelter for the workers, and include facilities like restrooms, benches, bike racks and shade. The article highlighted two aspects for me: firstly the needs of the day labourers at the sites, and secondly, what government interventions can be suggested.

An interesting aspect of regulated sites is that they are permanent. During the research it was observed that some sites only exist for a period of time, or they move to the next corner, whilst others seem to be more "permanent". It seems as if the existence of a site is dependent on aspects such as job opportunities, accessibility and visibility.

One of the issues that emerged in the literature and research is the need to create formal sites in certain areas. It became clear that this is a complex and difficult issue, where the different parties have different views.

#### **2.2.4. OTHER SUB-SYSTEMS THAT ARE AFFECTED AND AFFECT THE PHENOMENON:**

Cleeland (1999) refers to studies providing information about day labourers, but not finding an "easy answer" for policy makers especially when trying to mediate between the concerns of labourers' right to seek work, the business owners and the residents of an area. Cleeland (1999:3) quotes Valenzuela where he states that he hopes that "...further research, including in depth interviews with workers, employers and residents near hiring sites, will lead to innovative policy recommendations". It is therefore clear that there are not simplistic solutions which take all the relevant systems into account.

In the Washington Post (Branigin 2003) there was an article mentioning the 5-year struggle between day labourers and neighbourhood residents and storeowners who do not want the day labourers at a particular site. The town government mentioned the difficult and complex task of finding a site for the day labourers acceptable to all parties. It was

stated that the residents have strong feelings about the fact that the site should not be too close to residential areas. Their concerns seem to include untidiness of sites, safety issues, increased traffic. The conflicting feelings of residents are also evident in an article published in the Chicago Tribune (Avila 2003). It mentioned that residents and merchants often see the day labourers as nuisances or safety threats. However, there were also residents who support the labourers in terms of their wanting to stay at a specific site, where they feel there are no residents and merchants and they can look for work without bothering anybody.

The article "Day to Day, but Making a Living" in the New York Times (Greenhouse 2003), mentions that there are feelings of ambivalence in communities about day labourers. There are those who accept them, and others who feel hostile especially towards immigrants in their communities.

In Arlington in USA a decision to build a facility in the form of a pavilion for day labourers who gather informally was influenced by complaints from residents in the area that they "...caused traffic problems and were noisy and sometimes disorderly". According to the Assistant County Manager this was done as an attempt to "... balance the interests of the community, the day laborers, and the employers..." . Complaints about the workers included that they "...urinated in public, whistled at women passing by and left trash in the area". The aim of the pavilion was to provide a place where employers could easily find workers, and the labourers would be away from residences where they were previously to be found (Rivera & Wiseman 2003)

Perez (2004) gives an indication of the different subsystems, which relate to a specific day labourer site in New Jersey in the USA. They include local officials, the day labourers, the mayor, the residents (concerned about property value and quality of life), and the business community. It is clear in the article that the different parties all had emotional and some

opposing opinions regarding legislation, which banned day labourers from their previously designated “site”. This indicates some of the intricate systemic reality surrounding the day labourer phenomenon.

As mentioned before, a local newspaper article about the presence of people in Pretoria referred to as "sluipslapers". This term has a negative connotation, and highlights the fact that they hide and sleep in the fields and green areas of Pretoria (Tshwane), where they are not really allowed or wanted (Stiehler, 2001).

In the above mentioned article, Mr. Brian Williams, Deputy Director of Security of the Pretoria Administration of the Tshwane Metro Council, referred to the “sluipslapers” as a huge problem, especially in the east of Pretoria. However they cannot be removed from the fields where they stay because they do not erect shacks and therefore do not fall under the law pertaining to squatters and according to the SA Constitution, they have the right to freedom of movement. It is clear through the article that the people the journalist spoke to would fall within our definition of day labourers.

#### **2.2.5. SUMMARISING THE LITERATURE STUDY:**

In conclusion, I would like to highlight certain themes that have been identified in the above-mentioned literature:

It is mentioned that labourers have certain perceived needs that could be met by the erection of formalised sites: These needs include:

- shelter
- safety
- bathroom facilities

Residents seem to complain about the following, concerning day labourers in their areas:

- the nuisance of having people loitering in the community



- the threat to safety
- traffic problems
- untidiness of street and no toilet facilities for day labourers

Issues that were highlighted and proposed to be addressed by Government:

- exploitation of workers
- illegal immigrants
- need for low cost housing closer to work opportunities

### **2.3. PERCEIVED CONTEXTUAL ELEMENTS OF SOUTH AFRICA THAT IMPACT ON THE DAY LABOURER PHENOMENON**

As I contemplated describing the broader context of South Africa, within which this research has been done, I realized that it would be an impossible task to capture the whole context within a few pages. It was decided therefore to briefly highlight some of elements that can be viewed as factors that have an direct impact on the phenomenon of day labourers. It is important to note that these are by NO MEANS the only elements affecting the phenomenon.

#### **2.3.1. IMPACT OF POLITICAL CHANGES AFTER 1994 ON THE DAY LABOURER PHENOMENON:**

Before 1994, people were not allowed to stand around in public or on street corners waiting for work. They were removed from the streets according to the bylaws pertaining to loitering. These bylaws fell away when they was contradictory to sections in the Bill of Rights, which form part of the new South African Constitution (1996).

Job creation in South Africa is a slow and difficult process. Many people who need to earn a living are not formally employed. As people received the right to move around freely in all areas of our country, the phenomenon that we now call "the day labourer phenomenon" evolved.

It is therefore apparent that the Day labourer phenomenon in South Africa is a recent development in our society. This could also explain why there are no labour laws, housing provisions, or any official assistance available to this group of people.

The Preamble to The Constitution of the Republic of South Africa 1996 begins as follows:

**Republic of South Africa**

1. The Republic of South Africa is one, sovereign, democratic state founded on the following values:  
Human dignity, the achievement of equality and the advancement of human rights and freedoms.  
Non-racialism and non-sexism.  
Supremacy of the constitution and the rule of law.  
Universal adult suffrage, a national common voter's roll, regular elections and a multi-party system of democratic government, to ensure accountability, responsiveness and openness.

Chapter two of the Constitution of the Republic of South Africa 1996 contains the Bill of Rights. There are several sections of the Bill of Rights that may be applicable to the phenomenon of day labourers in Tshwane, but also in South Africa:

**Freedom of movement and residence**

21. (1) Everyone has the right to freedom of movement.  
(2) Everyone has the right to leave the Republic.  
(3) Every citizen has the right to enter, to remain in and to reside anywhere in, the Republic.  
(4) Every citizen has the right to a passport.

**Freedom of trade, occupation and profession**

22. Every citizen has the right to choose his or her trade, occupation or profession freely. The practice of a trade, occupation or profession may be regulated by law

**Labour relations**

23. (1) Everyone has the right to fair labour practices.  
(2) Every worker has the right -  
to form and join a trade union;  
to participate in the activities and programmes of a trade union; and  
to strike.  
(3) Every employer has the right -  
to form and join an employers' organisation; and  
to participate in the activities and programmes of an employers' organisation.  
(4) Every trade union and every employers' organisation has the right -  
to determine its own administration, programmes and activities;  
to organise; and  
to form and join a federation.  
(5) Every trade union, employers' organisation and employer has the right to engage in collective bargaining. National legislation may be enacted to regulate collective bargaining. To the extent that the legislation may limit a right in this Chapter, the limitation must comply with section 36(1).

**Environment**

24. Everyone has the right -  
to an environment that is not harmful to their health or well-being; and  
to have the environment protected, for the benefit of present and future  
generations, through reasonable legislative and other measures that -  
prevent pollution and ecological degradation;  
promote conservation; and  
secure ecologically sustainable development and use of natural resources while promoting justifiable economic  
and social development.

**Housing**

26.(1) Everyone has the right to have access to adequate housing.  
(2) The state must take reasonable legislative and other measures, within its available resources, to achieve  
the progressive realisation of this right.  
(3) No one may be evicted from their home, or have their home demolished, without an order of court made  
after considering all the relevant circumstances. No legislation may permit arbitrary evictions”.

The Bill of Rights is a standard against which we can measure a phenomenon. It is there  
to assist the Government, but also the citizens of South Africa, to build a healthy  
democratic society. Sadly, there are many aspects of societal life in South Africa that do  
not honour these rights so the need for growth and development is still great.

I will make use of the Bill of Rights as representative of the voice of Government when  
drawing my conclusions in Chapter 5.

**2.3.2. SOUTH AFRICAN POPULATION:**

According to the Central intelligence Agency (CIA) Factbook on South Africa  
(<http://www.cia.gov/cia/publications/factbook/index.html>) the following estimates were  
made of the population in South Africa in :

South Africa has a population of 43,997,828 people. The age structure can be divided as  
follows:

0-14 years: 29.1% (6, 447,623 male, 6,370,909 female)

15-64 years: 65,5% (14,040,210 male, 14,761,179 female)

65 and older: 5.4% (917,227 male, 1,460,680 female) (2007 est.)

This indicates that by far the majority of the South African population are people who would be seen as part of the age group that would need / seek employment.

### **2.3.3. ECONOMY:**

The CIA Factbook (<http://www.cia.gov/cia/publications/factbook/index.html>) describes SA as a "...middle-income, emerging market with an abundant supply of natural resources; well-developed financial, legal, communications, energy, and transport sectors; a stock exchange that ranks among the 10 largest in the world; and a modern infrastructure supporting an efficient distribution of goods to major urban centres throughout the region". It goes on to say that there is not enough economic growth to address the high unemployment rate, resulting in poverty and a need for economic empowerment in the previously disadvantaged groups.

### **2.3.4. EMPLOYMENT - UNEMPLOYMENT:**

In 2005 the labour force was estimated to be 15.23 million economically active people, with 26.6% of the population unemployed. In 2000, it was estimated that 50% of the population lives below the poverty line (<http://www.cia.gov/cia/publications/factbook/index.html>).

South Africa Statistics (2005:ii) defines employed and unemployed people as follows:

**Employed:** Persons aged 15 - 65 who did any work or who did not work but had a job or business in the seven days prior to the survey interview.

**Unemployed:** Persons aged 15 - 65 who did not have a job or business in the seven days prior to the survey interview but had looked for work or taken steps to start a business in the four weeks prior to the interview and were able to take up work within two weeks of the interview.

Blaauw et al. (2005:458) noted that the official unemployment rate in September 2005 was 26.7% .

The distinction is made between employment in the formal sector and employment in the informal sector. The following definitions were obtained:

(<http://www.unlockingthearchives.rgs.org/glossary/?word=Formal%20employment>)

**Formal employment** is the percentage of the working population in an area who are employed within the formal economy. These people often have access to workers rights and are protected by government laws.

**Informal employment** is the percentage of the working population in a geographical area who work for an unregistered business. Those who work in informal employment are often self-employed. There is a high percentage of informal employment in many third world countries.

Blaauw et al. (2005:459) define informal sector employment as "...unregistered business, run from homes, street pavements or other informal arrangements". Blaauw et al. (2005:458) acknowledges that many people do not find work in the formal sector, and are unemployed for long periods and therefore venture into the informal sector.

Hooper-Box (2002) noted that a large number of jobs were lost since 1994: estimates 500 000 lost in the formal sector and 700 000 in the informal sector. Statistics SA's September 2000 figures showed that 6.5 million people were unemployed. (Statistics SA 2005)

Mohamed (2004) mentions five aspects underlying poverty in South Africa:

- historic asset depletion
- post 1970s economic restructuring
- rural poverty

- high income inequalities
- the effect of HIV and Aids

### 2.3.5. CRIME IN SOUTH AFRICA:

Crime in South Africa is a concern to most citizens. It is not uncommon for most people in any meeting / gathering to have been victims of some sort of crime.

The Crime Information Analysis Centre of the South African Police released a report ([http://www.saps.gov.za/statistics/reports/crimestats2005\\_pdf/areaa\\_total.pdf.pdf](http://www.saps.gov.za/statistics/reports/crimestats2005_pdf/areaa_total.pdf.pdf)) in September 2006 providing the number of victims for various categories of crime in South Africa. The following were amongst the categories:

	2001/2002	2002/2003	2003/2004	2004/2005
Robbery with aggravating circumstances	116,736	126,905	133,658	126,789
House Robbery (sub category of Robbery Aggravating)	-	9,063	9,351	9,391
Business Robbery (sub category of Robbery Aggravating)	-	5,498	3,677	3,320
Malicious damage to property	145,451	157,070	158,247	150,785
Burglary at residential premises	302,657	319,984	299,290	276,164
Burglary at business premises	87,114	73,975	64,629	56,048
Theft of motor vehicle and motorcycle	96,859	93,133	88,144	83,857
Illegal possession of firearms and ammunition	15,494	15,839	16,839	15,497

Table 2: Crime statistics

The Pretoria News (29 September 2006:1) stated that the latest statistics on crime noted that the highest recorded number of house breakings were in the following areas in Tshwane: Garsfontein, Brooklyn, Atteridgeville, Lyttleton and Wierdabrug. There had been a 42% increase in armed robberies in the Garsfontein area in the past financial year, as well as an increase in robberies from 1273 to 1951. Brooklyn had the next highest increase in house burglaries - from 1490 to 1767.

It is clear that crime is a real concern for all citizens of South Africa. It is my opinion that it affects not only the way South Africans live, but also their attitude towards strangers and the day labourers in their streets.

When we look at the complementary concept to a crime-ridden society, one would possibly define it as a safe and secure society. I would like to highlight some sections from the Bill of Rights written as part of the Constitution of the Republic of South Africa 1996:

**Human dignity**

10. Everyone has inherent dignity and the right to have his or her dignity respected and protected.

**Life**

11. Everyone has the right to life.

**Freedom and security of the person**

12. (1) Everyone has the right to freedom and security of the person, which includes the right - not to be deprived of freedom arbitrarily or without just cause;

not to be detained without trial;

to be free from all forms of violence from either public or private sources;

not to be tortured in any way; and

not to be treated or punished in a cruel, inhuman or degrading way.

(2) Everyone has the right to bodily and psychological integrity, which includes the right - to make decisions concerning reproduction;

to security in and control over their body; and

not to be subjected to medical or scientific experiments without their informed consent.

**2.4. SUMMARY:**

The day labourer phenomenon is a complex and multi-faceted phenomenon, which lends itself to various and controversial viewpoints. Initially one can view the phenomenon as a labour issue, but as it is examined and dissected, various layers of information unfold, creating many questions and concerns.

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**CHAPTER 3:**

**A DESCRIPTION OF THE**

**RESEARCH DATA**



### **3.1. INTRODUCTION:**

#### **3.1.1. EXPLORATION PHASE - UNSTRUCTURED OBSERVATION:**

While the team was identifying the different day labour sites in Tshwane, Lawrence Xipo a co-researcher and I did some unstructured observations in four different areas of Tshwane: Centurion (south), Pretoria East, Gezina (central) and Pretoria North.

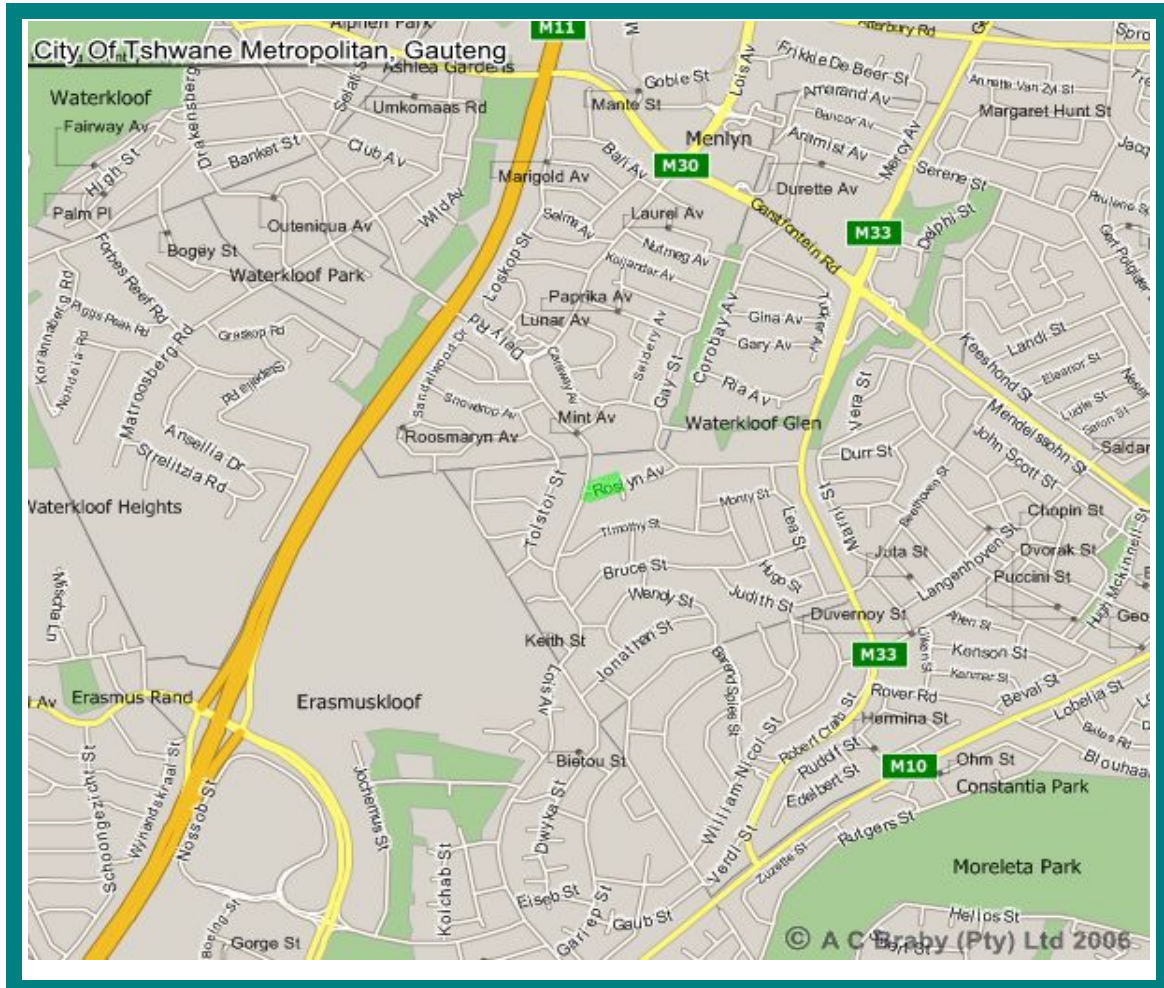
During these excursions we drove around the areas and located different sites where we observed what was happening and spoke informally to some day labourers and other available people.

It became evident that each site is different, and the reason for the existence of each site is different. Most sites are close to a business selling building supplies (connected sites - Valenzuela 2001:342); however, there are many sites that are just on a street corner (unconnected sites Valenzuela 2001:342). It seems as if a definite commonality is that the streets where sites have emerged are mostly fairly busy streets with a fair amount of potential employers passing by, who could easily pick up labourers. These sites are formed due to their accessibility.

I made use of punctuation (judgment) sampling and decided on sites in Newlands, Gezina and Pretoria North. I decided to compare the findings of these three sites with each other. Although these sites are all connected sites (close to a building supplies shop), they are very different in other respects. One of the perceived differences between the sites was that they were situated in different income-group areas.

Each site was visited at least 3 times, first during the initial exploration phase, secondly for unstructured observations at specific sites and thirdly to do face to face interviews with residents, businesses and other subsystems. Information was mostly gathered telephonically, but staff of businesses were interviewed in person.

### 3.2. NEWLANDS SITE



Map 1: Newlands

Newlands is located in the East of Pretoria and is one of the more affluent neighbourhoods of Pretoria. The site identified was in Roslyn street and it was within this boundary that I interviewed as many of the people living and working here. The reasoning behind this was that the people living and working on the same street as where day labourers stand are those directly aware of and influenced by their presence.

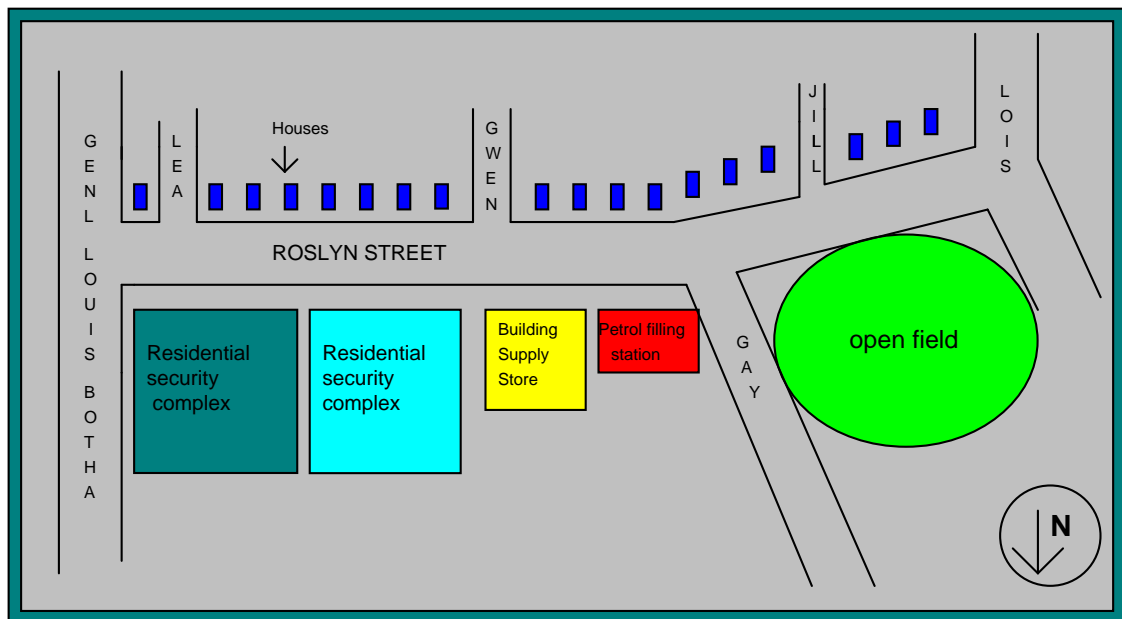


Figure 4

### 3.2.1. UNSTRUCTURED OBSERVATION

Slowly in the (then cool) morning, day labourers start appearing in the street. At seven o'clock in the morning there are approximately 15 day labourers waiting, the number increased as time went by. Some go and buy coffee and bread at the garage shop. Some stand and talk while others keep to themselves, waiting for someone who is wanting to hire a labourer for the day. They gather all along Roslyn Street, but the majority gather opposite the entrance of the building supplies store.

At this site, there are definite attempts by the different day labourers to advertise the kind of services they offer. They do so by holding up the tools of their trade, for instance a paint roller, or tiling equipment.

James (a day labourer) does building work and asks between R90 and R120 per day. He does not have problems with employers but the police do sometimes come and chase them away. He works 3 or 4 days a week. He buys coffee and half a loaf of bread at the petrol filling station.

There are quite a number of cars travelling the street as residents from the area go to work and take children to school. Some stop at the petrol filling station for fuel or to buy something at the shop. A security guard walks up and down in front of the building supplies store.

Contractors start arriving at the building supplies store. As they park their vehicles a group of day labourers run to negotiate with the contractor. Sometimes there is a lot of interaction, and sometimes the labourers merely climb into the vehicles (presumably due to prior arrangements). When the contractor leaves, the day labourers left behind settle on the side of the road again, waiting for the next possible employer.

As the day passes by the number of day labourers diminishes, as some are picked up and others leave. There are a few who stay until the end of the day: Waiting!

### **3.2.2. STRUCTURED OBSERVATION:**

#### **3.2.2.1. THE SITE:**

The day labourer site is situated all along Roslyn street, but most of the labourers gather opposite the building supplies store, in front of the houses on the southern side of the street, waiting for customers to come.

#### **3.2.2.2. THE DAY LABOURERS:**

A group of approximately 60 day labourers (all black males) gathers at the site every morning from Monday to Sunday. There are many in the early morning but the numbers diminish during the day as presumably some find work and others retreat or go home.

#### **3.2.2.3. THE CONTEXT:**

As mentioned before, Newlands is located in the more affluent part of Pretoria. On the southern side of Roslyn street are 17 residential houses, while on the northern side there

are two residential townhouse complexes and two businesses, one a building supplies store and a petrol filling station. There is also a big open field with a small stream which flows in wet seasons. One side of the field is just an open grass area, while another section is full of trees. People sleep in the field at night; presumably many of them are day labourers.

#### 3.2.2.4. THE INTERVIEWEES:

Two businesses and sixteen residents were interviewed at this site. I also spoke to the Superintendent of the Garsfontein Police station.

### **3.2.3. THE RESPONDENTS' PERCEPTIONS OF THE PRESENCE OF THE DAY LABOURERS:**

#### 3.2.3.1. THE PERCEPTIONS OF THE RESPONDENTS OF DAY LABOURERS IN THE AREA

The interviewees of both **businesses** in the area have negative perceptions of day labourers. One feels that the day labourers are a nuisance and he does not want them around; the other owner was more diplomatic saying that the problem is not the people but the issues that flow from having day labourers in the area - crime, break-ins and loitering.

The **residents'** perceptions can be summarised according to the following themes:

- Without exception all the residents involved in the study feel that the only reason the day labourers gathered at this site is due to the presence of the building supply store
- The presence of day labourers is problematic due to safety issues, referring both to the increase of crime in the area and a feeling of being watched the whole time. Some did mention that it is not necessarily the labourers who are the criminals, but they do mask the presence of criminals.
- The presence of the day labourers are also problematic due to health reasons - no ablution facilities available, people litter and urinate on the side walks
- Due to the constant presence of and observation by day labourers residents'

freedom of movement is restricted.

- There is negative impact on property value in the area

Interesting individual comments:

- The resident feel contractors are trying to avoid the law on Basic Conditions of Employment by employing people on a day-to-day basis

([http://www.labour.gov.za/programmes/programme\\_display.jsp?programme\\_id=2664](http://www.labour.gov.za/programmes/programme_display.jsp?programme_id=2664))

- Not all people are looking for a once -off job, some are picked up on a regular basis - probably due to employers finding labour law too restrictive
- People sit here to look for work; the impact on our lives is minimal

In an interview with a police commander, he mentioned that he perceives the communities to have a dual perception of day labourers. They see them as accessible cheap labour (thus useful or else the site would cease to exist), but on the other hand they are seen as a threatening invasion of their private space.

The perception of the head of the police station in the area is that not all day labourers are honest workers. Some use their work opportunities to familiarise themselves with the premises and take down key numbers to be able to enter the premises again. They also observe the family's movements. It is however very difficult to discern who the honest day labourers are and who are there to "scout". It was also mentioned that the Roslyn street site is not one of the area's "hot spots" - an area with high crime incidences.

### 3.2.3.2. THE PERCEIVED INTERACTION BETWEEN RESPONDENTS AND DAY LABOURERS

The **businesses** in the area are both trying to distance themselves from the day labourers. One business employee mentioned that the men ask for water and to use the toilet facilities, but the police have been asked to remove them from the premises on grounds of trespassing. Another business employee mentioned that they try to avoid all contact with

the day labourers and phone the police 3 times a week to deal with them. The police would try to keep the day labourers off the business property, checking for illegal immigrants and stolen goods.

According to the **police** there is no legislation pertaining to day labourers, According to the South African Constitution there is freedom of movement. The day labourers are therefore allowed to stand next to the road, as long as they do not commit a crime. What the police can do is to search the men for drugs (dagga), illegal items, check their documentation and remove illegal immigrants.

The police also have informants amongst the day labourers but they are not willing to talk in front of others for fear of being victimised. The police therefore have to meet the informants off site to obtain information and to keep the informants' identity a secret.

The majority of **residents** have no direct interaction with the day labourers for various reasons mostly centering around the theme of fear and being uncomfortable with their presence. The isolated individuals who do speak to them do not have in depth conversations with them. These contacts might include a greeting while passing to go to the petrol filling station shop, asking them to pick up litter.

It was, however, mentioned that one of the residents has threatened day labourers with a gun. The full details of the incident were not known, but this clearly indicated the intensity of the emotions of the particular resident.

#### 3.2.3.3. THE PERCEIVED IMPACT OF THE DAY LABOURERS ON THE BUSINESSES AND RESIDENTIAL AREA:

Both of the interviewees from the **businesses** felt that the presence of the day labourers in the area has a negative effect on their businesses. One business employee felt that the residents believe they support the presence of day labourers by allowing them to use water

and toilet facilities, and therefore the residents do not support the business, despite the fact

that they do not allow them to use their facilities. The other business employee perceived the presence of day labourers as discouraging women clients to shop with them as the presence of day labourers is intimidating.

All the **residents** involved in the study felt that the presence of day labourers has a negative impact on the area. Their reasons can be thematised as follows (in no order of priority):

- increased crime- not safe
- constant observation of the movements of all the residents
- constant presence on side walk, where they sit, eat
- health hazard - no ablution facilities available
- restrict residents' and children's movement in area
- eyesore and negative influence on property prices
- increase in traffic when employers come to pick up day labourers

The **police** are of the opinion that the impact of day labourers is both positive and negative. It is negative because the presence of criminals is masked, positive in the sense that the day labourers are people who come to the community to assist the community in doing work. At a general meeting the police mentioned that the community employs and gives food to day labourers and therefore contributes to the fact that day labourers come to the area.

#### 3.2.3.4. PERCEPTIONS ABOUT WHO EMPLOYS THE DAY LABOURERS

Both **business** employees felt that it is both contractors and individuals who make use of day labourers. The majority of the **residents** were of the opinion that it is mostly contractors who make use of day labourers. There were two other groupings - one felt it was customers at the building supplies store who draw day labourers to the area, while the other believed both contractors and individuals create the demand.



To the question regarding whether the residents would ever make use of day labourers their answers were mostly "no" with the exception of three residents. The reasons for not wanting to make use of their services included the following:

- the residents will feel more exposed
- it would encourage the day labourers to come to the area
- some residents feel they are too close to the site - the day labourers would know exactly what their property looks like, and pose a security threat.
- residents would rather use workers who have a reference
- "no - I am a woman on my own - for own safety, will not encourage this type of work creation"

#### 3.2.3.5. THE PERCEPTIONS ABOUT WHERE THE DAY LABOURERS STAY AT NIGHT

The **business** employees were of the opinion that day labourers live in the field close by, although one employee mentioned that some probably go home, or stay with domestic workers in the area.

The **residents'** perceptions were:

- the majority believed that day labourers mostly stayed in the open field nearby.
- a minority mentioned that some go to townships at night and some stay in the field
- one resident mentioned that some go back to the townships, and some stay with domestic workers in the area

It was mentioned that some of the residents are angry that the municipality removes the refuse for the people staying in the field, which indicates that the municipality acknowledges the "settlement" in the open field.

The **police's** perception about where the day labourers sleep is the following:

- some go back home
- some have friendships with domestic workers, and stay with them
- some sleep in the field, which is not against the law, as long as they do not commit a crime.

#### 3.2.3.6. SUGGESTIONS

The **businesses** employees felt that the day labourers should be removed, although one said this would not be a permanent solution as the people need jobs and this is their way of earning money. They felt that Government should spend more money on job creation.

The **residents'** suggestions included the following:

- The Department of Labour should establish a labour office managing day labourers that includes services from, for example, health professionals.
- The building supplies shop should register day labourers according to skills and monitor them
- The municipality should create a work bureau with benches and toilet facilities
- The building supplies business should move out of the residential area which is not zoned for wholesale activities as this is a residential area
- An individual could start a company with a list of the workers and their skills and negotiate work for them
- The state should manage illegal immigrants better then there would be more jobs for local people

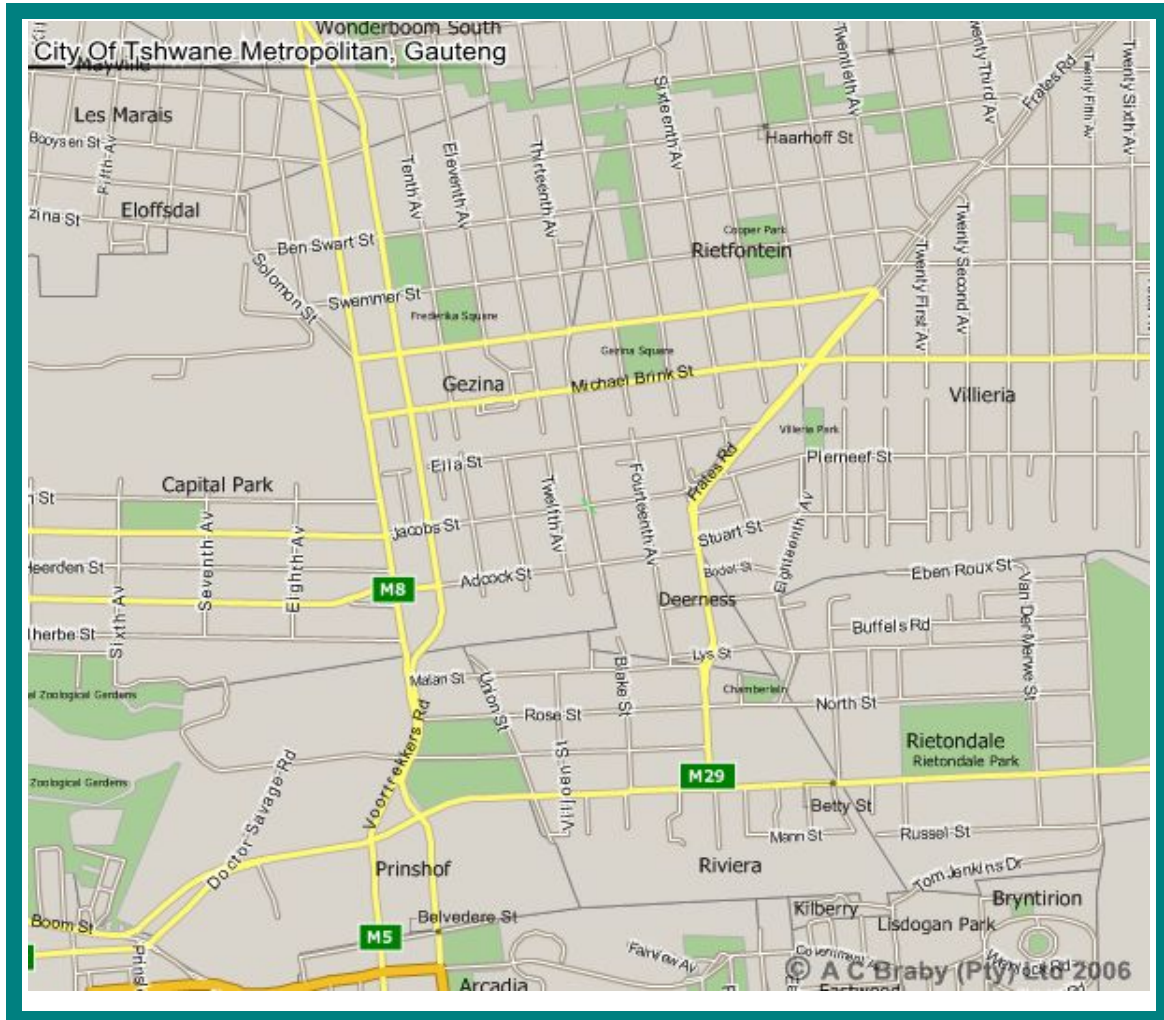
The **police's** recommendations:

- Day labourers can be of great help in providing information on criminal activities observed by them or of which they are aware. Informants are financially rewarded.

**3.2.4. CHANGES / DEVELOPMENTS AT THE SITE FROM 2004 TO 2006:**

Since the information for this research was gathered in 2004 there have been significant changes to the Newlands site. The open field indicated on the site map has been fenced in, and there is a building project underway. This has certain implications for the people (possibly some day labourers) who used to sleep in this field. It is not possible for them to use this field as a place to sleep any more . The consequence is that some people are now literally sleeping on the sidewalk, between the road and the fence.

### 3.3. GEZINA SITE



Map 2: Gezina

The site that I refer to as Gezina is located in the central part of Pretoria. The boundaries that I drew in my research with this site, was to interview as many of the people living and working in Jacobs Street (between Voortrekker and HF Verwoerd Street), and in HF Verwoerd Street (between Jacobs Street and Adcock Street).

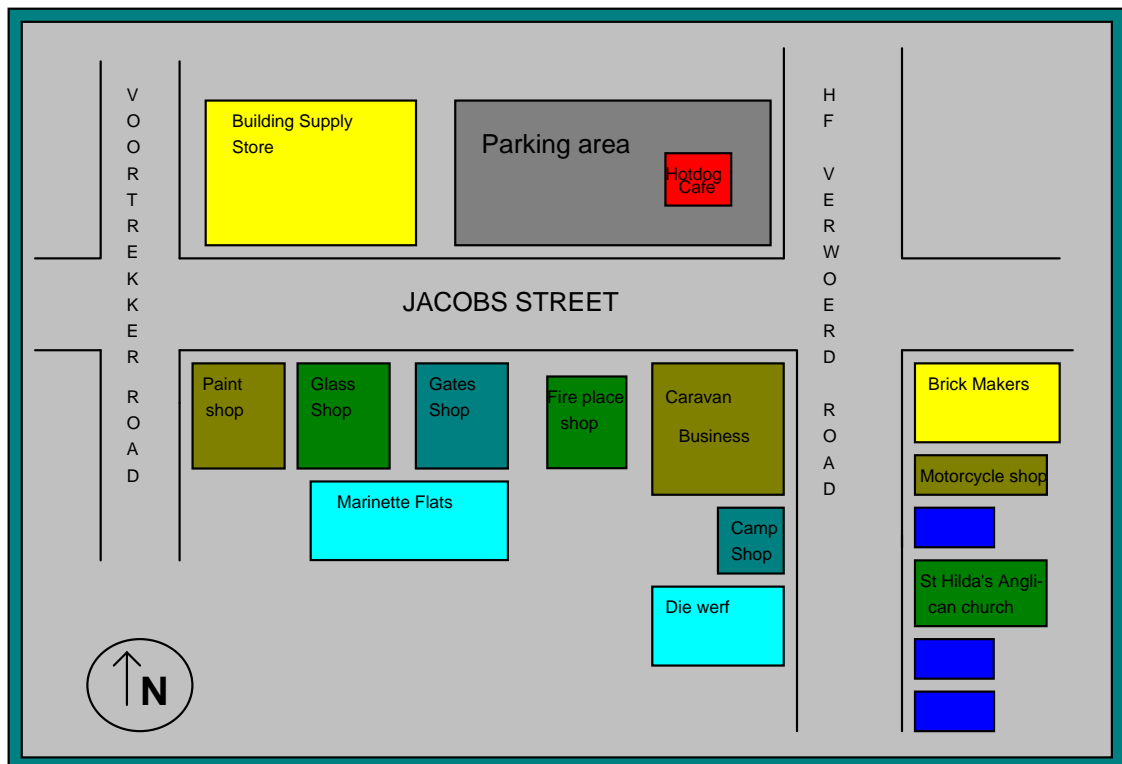


Figure 5

### 3.3.1. UNSTRUCTURED OBSERVATION:

This site is situated in an area with several businesses selling building materials in a retail area. It is a large site and there are over 200 day labourers at this site. They tend to stand mostly on the southern side (opposite Builder's Warehouse) of the street. They also advertise, but to a lesser extent than appears to be done at the Newlands site.

A woman from Kwandebele sets up a stall at the site to provide food for the day labourers. Her stall is a very informal one at the entrance to a business selling used caravans. She sells snacks (peanuts) and food ("pap": mealie meal porridge and "vetkoeke": savoury doughnut) to the day labourers.

Between seven and eight o'clock day labourers start arriving on the site. Everybody arrives in "work clothes" and the tool/s they have to sell their services: paintbrushes, rollers ... One man pulls a big dustbin, and parks it next to the lady selling food and

searches for his tools amongst his belongings in his “suitcase”. Some of the day labourers buy themselves a cup of hot coffee at the café around the corner.

As I observe all this, they observe me... and come rushing over. As I explain that I am a researcher from Unisa, they want to give me their names and what they can do, on the off chance I will be able to provide work for them.

As the businesses open and the clients start to arrive, the competition for work begins. As cars stop, groups of day labourers rush to the car to offer their expertise or just their labour. Contractors negotiate for groups of men, and you can see the interest waning as the vehicle fills up and the contractor climbs in his car. This "boat has sailed", and the day labourers return to their groups or separate standing places along the road. Some of them talk while there are others standing alone, focused in order not to miss the next opportunity.

In front of one set of shops there is a security guard with a big dog...watching. In the parking area of the building supplies shop there is a strict regulation that no day labourers may enter and when they do, they are asked to leave by a security guard.

### **3.3.2. STRUCTURED OBSERVATION:**

#### **3.3.2.1. THE SITE:**

This is a large site situated along Jacobs Street, which continues around the corner into HF Verwoerd Street. There are also other pockets of day labourers further down Jacob Street constituting smaller sites in the area, but these are not included in the boundaries of this site.

### 3.3.2.2. THE DAY LABOURERS

Over 200 people gather to look for work at this site.

### 3.3.2.3. THE CONTEXT:

There are five businesses on the southern side of Jacob Street, four of which can be linked to home improvements or renovation. The other business sells used caravans. There is also a small block of flats situated at the back of these shops.

On the northern side of the street there is a big building supplies' shop, and its parking area. The presence of businesses selling building materials is the reason this site can be seen as a "connected site".

### 3.3.2.4. THE INTERVIEWEES:

At this site eight business employees and one resident were interviewed. I also interviewed a police officer at the Moot Police Station, which services the area.

## **3.3.3. THE RESPONDENTS' PERCEPTIONS OF THE PRESENCE OF THE DAY LABOURERS:**

### 3.3.3.1. PERCEPTIONS OF THE RESPONDENTS OF DAY LABOURERS IN THE AREA

The perceptions of the interviewees varied and included the following:

- compassion for those who really want work - the desperation for work was mentioned
- acknowledgement that they are honest people looking for work
- problematic because their presence "chases" clients away
- a nuisance
- people who want to work and get angry when people do not want to employ them

It is a perception that day labourers gather at this site mainly due to the presence of one big building supply shop.

Other reasons included:

- possibility of work
- traffic that increases the day labourers' chances of being employed
- building and paint shops, attracting clients who might employ the day labourers
- contractors come here to fetch workers; easy place to arrange for pickups.

The **police** in the area were initially concerned about the group of people gathering at this site. The police and the building supply shop had meetings, and the decision was taken that the day labourers may stand on the sidewalk. Currently they are not perceived by the police as a problem to the businesses or people doing their shopping at the businesses. The day labourers are perceived to know each other and when newcomers come to seek work they are "interviewed" by the present day labourers. They do not want criminals or illegal immigrants, who are willing to work for less at the site. There was an incident in the past where a man who robbed a client was caught and arrested by day labourers.

#### 3.3.3.2. THE PERCEIVED INTERACTION BETWEEN THE RESPONDENTS AND THE DAY LABOURERS.

The interviewees (business managers / owners / employees) were asked what interaction they have with the day labourers. The following answers were given:

- most interviewees said they have no interaction with the day labourers
- not much contact with them; it is more likely possible employers who have contact with them
- keep them out of parking area
- passing interaction - e.g. greeting
- when they ask for water



Although the majority felt that they do not really have interaction with the day labourers, when asked if they make use of their facilities the answers were:

- ask for water to drink
- use water and bathroom facilities
- do not really ask
- use garden to urinate, take water, and when it rains they take shelter under roof

The **police** mentioned that they have informants amongst the group of day labourers and they respond to calls and information given to them. The police periodically do fingerprint checks on the day labourers with a machine called the "morpho-touch". This machine immediately tells the police if a person has a criminal record or a case number, in which case they immediately arrest that person.

#### 3.3.3.3. THE PERCEIVED IMPACT OF THE DAY LABOURERS ON THE BUSINESSES AND RESIDENTIAL AREA:

The perceived impact of the presence of day labourers mentioned by respondents can be outlined as follows:

- the presence of day labourers chases clients away
- some day labourers beg from clients, which chases them away
- the presence of the day labourers do not have much of an impact,
- the presence of the day labourers have a negative impact - women feel unsafe and men get angry - their personal space is being invaded.
- the presence of the day labourers can be both negative and positive - makes shop look busy
- the impact of the day labourers is negative - restricts other people's movements and makes the area look bad

The police in this area feel that the day labourers contribute positively to the community as they offer protection and arrest criminals.

#### 3.3.3.4. PERCEPTIONS ABOUT WHO EMPLOYS DAY LABOURERS

The perceptions of who uses day labourers are that mostly private people and clients buying building supplies use them. A few interviewees believe that it is mostly building contractors who make use of day labourers.

A woman from Gezina contacted Unisa and informed them that she used the day labourers to build her whole house.

#### 3.3.3.5. THE PERCEPTION ABOUT WHERE THE DAY LABOURERS STAY AT NIGHT

Almost half of the interviewees said they do not know where the day labourers sleep at night, while the other half believe that they go back to their homes in the townships.

Only one interviewee said that most do go home but that some probably stay under a bush somewhere. However because there is no obvious open space close to the site, as in Newlands, this is not so obvious.

The police were of opinion the day labourers mostly go back to their homes in the different townships, as they are mostly family men. There are isolated cases of people who stay in the bushes, and then there might be problems with their being under the influence of alcohol.

The differences between the Gezina and Newlands site are:

- there is no green area or open field close to the Gezina site
- the business employees interviewed are not present in the area after hours to observe if any day labourers actually do sleep in the area
- this site is close to a train station that possibly makes commuting to the black townships where many stay or have family easier.

According to information gathered by one of my fellow research team members, the day labourers interviewed at this site indicated that they sleep either at home, in a hostel or in a backyard room in the area.

#### 3.3.3.6. SUGGESTIONS

- An organised site should be created, with an office where the day labourers register, receive training and have facilities
- Government should create jobs as promised
- Government should make a list of day labourers' names and let big contractors make use of them
- Employment laws which cost people more to have permanent staff do not encourage businesses. These laws should be reconsidered.

#### 3.3.3.7. ADDITIONAL INFORMATION

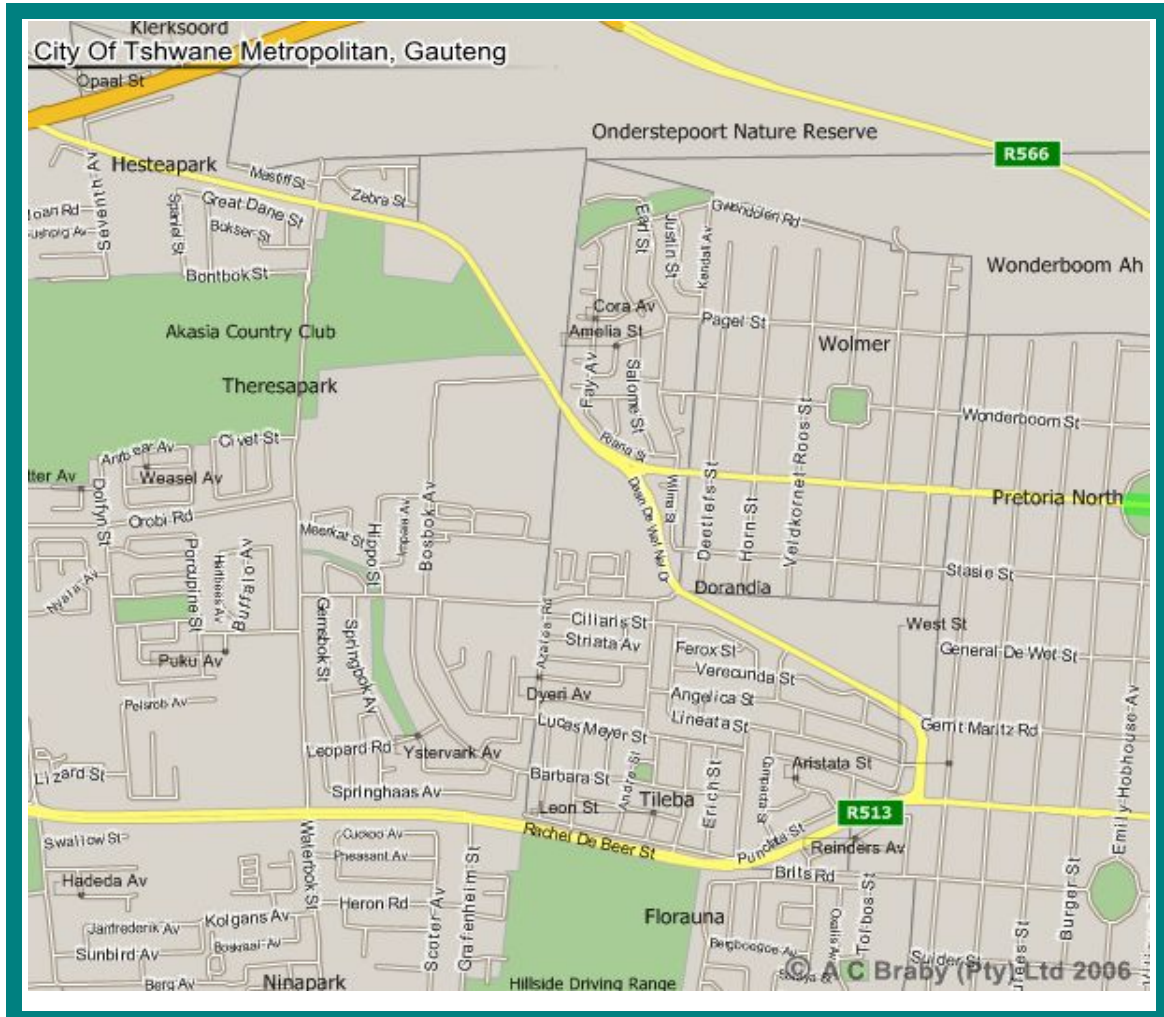
Additional information mentioned by the respondents includes:

- Day labourers are not thieves, they are people trying to get an honest job
- On one side of the street the shop owners employed a guard with a dog to guard property and keep an eye on the activities on the sidewalk.

#### **3.3.4. CHANGES / DEVELOPMENTS AT THE SITE FROM 2004 TO 2006:**

It seems as if the site has grown over the past two years. Three new businesses have been established, of which two are related to the building industry. This could explain the fact that the site not only has grown in the number of day labourers standing there, but the fact that the site no also covers a bigger area.

### 3.4. PRETORIA NORTH SITE



Map 3: Pretoria North

The site that I refer to as Pretoria North is the site in President Steyn Street between Earl and Deetlefs Street.

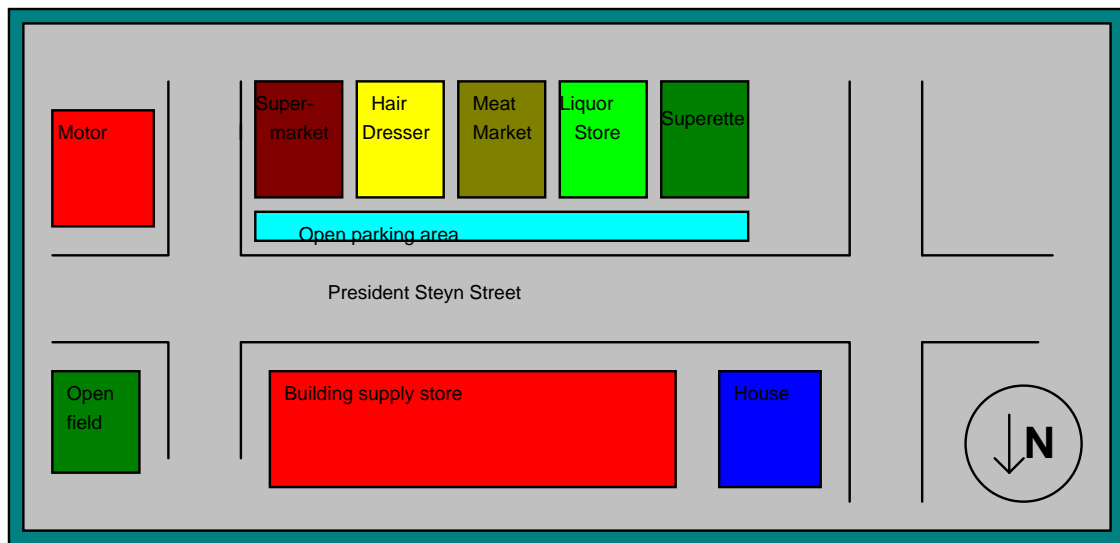


Figure 6

### 3.4.1. UNSTRUCTURED OBSERVATION:

On reaching the site at Pretoria North we find the day labourers already there. There are very few but we arrive at 7h30 and it is a very cold morning. I am immediately struck by the difference to the other sites where groups of labourers stand around talking while waiting. Here the men seem to keep more to themselves. Some are sitting next to the road.

All the day labourers are standing on the northern side of the road, although there is only a small sidewalk against a fence for them to occupy. It is a fairly busy street, with lots of traffic. However, according to one of the shop owners across the street it is mostly contractors who pick up the day labourers. In contrast to the other sites if nobody has picked them up by 11 o'clock they leave.

### 3.4.2. STRUCTURED OBSERVATION:

#### 3.4.2.1. THE SITE:

The site is next to a long wide street in Pretoria North. This street allows for traffic to flow easily from the western suburbs towards the "town" area of Pretoria North. This increases the possibility of employers passing by.

#### 3.4.2.2. THE DAY LABOURERS:

This is a fairly small site with approximately 16 people there at 7h30 in the morning.

#### 3.4.2.3. THE CONTEXT

On the Northern side of the road, there is a house, and an open piece of property that is fenced where there is a small office selling basic building materials and sand. On the eastern side of the road there are five businesses: a supermarket, liquor store, butchery, a hairdresser and a chicken wholesaler. This site is situated in a more middleclass residential area, whereas Newlands is located in an upper-middle class area.

#### 3.4.2.4. THE INTERVIEWEES:

At this site I interviewed six business owners and the Superintendent of the Pretoria North police station.

### **3.4.3. THE RESPONDENTS' PERCEPTIONS OF THE PRESENCE OF THE DAY LABOURERS:**

#### 3.4.3.1. THE PERCEPTIONS OF THE RESPONDENTS OF DAY LABOURERS IN THE AREA

Mostly the business owners at this site feel uneasy with the daily presence of day labourers in the area. There are distrust towards them, and in most business owners' minds they are linked to break-ins. There are exceptions who feel that they are "normal people looking for work" .

All the interviewees felt that the day labourers gather at this site because it is a very busy street. Only one interviewee mentioned that it could be because one of the businesses sells building materials.

The police feel that it is difficult to distinguish between honest, work seeking day labourers and workers who use their work opportunities to gather information. There

have been housebreakings in Pretoria North where there was no indication of forced entry. The perception is that criminals who pretend to be day labourers familiarise themselves with a house and make note of the key numbers. They then obtain entrance after having worked at premises by using information gathered there earlier.

The experience of the police was that the residents in the North do not really complain about the de-valuation of their property, as occurs in the east. There are not the same kind of exclusive expensive houses and complexes here. The community's fears are more of being victimised or robbed.

#### 3.4.3.2. THE PERCEIVED INTERACTION BETWEEN THE RESPONDENTS AND THE DAY LABOURERS

There are incidences of interaction between the business owners and the day labourers but it is seen mostly as negative. At times the building business does use some of them to help unload sand but even this is not seen as positive interaction as far as the business employee is concerned.

One business owner had to install a security system inside and outside his shop. He feels it is due to the presence of the day labourers that he has a problem with security.

The police's interaction with day labourers is during operations when the day labourers are searched for dagga, illegal items, documentation and approached as possible informants.

### 3.4.3.3. THE PERCEIVED IMPACT OF THE DAY LABOURERS ON THE BUSINESS AND RESIDENTIAL AREA

All the business owners feel that the presence of day labourers has a negative effect on their businesses. The negative effects mentioned were:

- day labourers stand in parking area where clients are supposed to park; this is perceived to intimidate and make it unsafe for prospective customers
- perception that the presence of the day labourers scare clients away
- perceived connection between the presence of the day labourers and the increase in crime in the area
- increased cost of security
- perceived threat to safety of personnel at shops

All shop owners do not allow day labourers to make use of their facilities for the following reasons:

- they do not ask
- they could use toilet facilities until they broke some of the basins

One business owner does allow them to use the tap for drinking water.

The police were of opinion that the impact of day labourers on the community is twofold:

- Negative because it creates an opportunity for crime. An example was given of day labourers who do not find work for the day wandering around and for instance, seeing a lawnmower standing around and stealing it. This can be called "opportunity" crime as the person did not set out with the idea of committing a crime.
- Positive: because day labourers assist the community by working for them.



#### 3.4.3.4. PERCEPTIONS ABOUT WHO EMPLOYS DAY LABOURERS.

The perceptions of the business owners were divided into two groups:

- One group believed that mostly individual residents in the area use them for gardening and building,
- The other group believed that mostly building contractors make use of them and sometimes individuals do so.

#### 3.4.3.5. PERCEPTIONS ABOUT WHERE THE DAY LABOURERS STAY AT NIGHT

The perception is mostly that day labourers go back home to the townships at night, with the exception of one business employee who had no idea where they stay. It was however also mentioned that some might stay with domestic workers in the back yards of residences in the area.

The police mentioned that to their knowledge some workers go back home, some rent rooms in houses, and some sleep in an open factory building in the area. The factory is a problem, because it is private property and people are not allowed to occupy it. The police also receive complaints about the houses where two or three people will share a room. The complaints are usually about loud music and drinking.

According to information gathered by one of the fellow research team members from the day labourers interviewed at this site, one indicated that he sleeps in the field, while the others indicated that they sleep at home, in backyard rooms, or in a hostel.

#### 3.4.3.6. SUGGESTIONS

At this site the interviewees mostly had no suggestions, and those that did were of the opinion that the day labourers should not be here and that they must be taken off the street.

One interviewee however felt that there needed to be a central point where the day labourers can gather and where they have access to toilet facilities.

When asked if they feel that government, businesses and churches should address the problem the following views emerged:

- government should look into job creation - for instance using them on the housing projects.
- government should erect central gathering points
- government should educate and train people in business skills

The police were of opinion that if hostels were erected it would minimise the number of people sleeping in open areas, and make the identification of possible criminals easier.

#### **3.4.4. CHANGES / DEVELOPMENTS AT THE SITE FROM 2004 TO 2006:**

There were no changes reported to this site.

#### **3.5. VIEWPOINT OF COMMUNITY MEMBERS OF THE ENTIRE TSHWANE AREA AS STATED AT A GENERAL MEETING CHAIRED BY THE MUNICIPALITY OF TSHWANE** (16 August 2006 at Hatfield Christian Church, Tshwane)

This meeting was initiated by councillors and individuals who felt that residents in the suburbs need a forum where they can raise their concerns about the day labourer phenomenon in Tshwane.

##### **3.5.1. THEMES IDENTIFIED WHICH NEED TO BE ADDRESSED:**

- Day labourers' contribution / involvement with crime
- Housing issues
  - lots of people sleeping in open areas in city

- people allowed freedom of movement as long as not involved in crime
- people allowed to sleep in open areas as long as they do not erect structures
- Role of Employers roles:
  - suggestion of new law that builders have to accommodate employees on a building project on site.
  - fines for employers who employ illegal immigrants
- Discussion about whether food should be handed out by community members. The general consensus was that food does not attract additional people.
- Erection of employment centres, training centres

Possible solutions mentioned during the meeting:

- Accommodation - shelters
- Formalised hiring sites
- Registration of day labourers - avoid abuse, provide accountability
- Involvement of employers
- Affordable public transport
- Skills training for day labourers
- Identifying of criminal elements

At the close of the meeting the following points were identified for the Municipality of Tshwane to include in planning to address the issue of day labourers in the Tshwane metropole:

- Accommodation
  - employment centres
  - identification of land
  - management of land
- Formalised Hiring sites
- Developers to accommodate employees during building projects

- Registration of day labourers:
  - accountability
  - recourse if there were incidences of abuse by employers
- Municipality must manage hiring sites and hostels
- Publication / marketing initiative.

### **3.6. ADDITIONAL GENERAL INTERVIEWS:**

These interviews were conducted with available individuals in order to create a bigger picture of the relevant subsystems of the phenomenon. The viewpoints are those of the individuals interviewed and should be seen as such. The purpose of these interviews was to outline the involvement of various subsystems in this phenomenon. The involvement of each in the day labourer phenomenon could justify a full study on its own.

#### **3.6.1. THE VIEWPOINT OF A BUILDING CONTRACTOR:**

The building industry fluctuates in terms of the amount of work available. The contractor I interviewed has a set number of permanent employees, but when there is a big job that needs to be done in a day, some extra hands might be needed and day labourers are employed.

The building contractor's experience of day labourers as workers is twofold. On the one hand there are unskilled people who do not really want to work. Many are illegal immigrants and do not understand the languages spoken amongst the workers. If a worker cannot do the work for which he was employed, he is taken back to the pick-up site immediately. On the other hand there are skilled workers interested in the job and they do good work. The contractor has built relationships with these workers over time, and prefers to use them when extra hands are needed. He experiences most of them as reliable workers. He prefers to go back to the same site, where he knows the workers although this site is not necessarily close to the building sites.

According to the contractor there are no specific advantages to using day labourers as they are paid the basic rate according to their level of skill. The basic payment ranges from R60 to R80 , but they mostly earn R75 and get lunch. Painters usually negotiate for R100 per day.

As for where day labourers sleep at night, the building contractor was of opinion that most sleep in the open fields in the city, close to the areas where they seek work. He therefore takes his labourers back to the point where he picked them up. Logistically, the option of going back to the building site and breaking in to steal would then be difficult. The building contractor therefore does not have to take responsibility for bringing "foreigners" into the area.

### **3.6.2. THE VIEWPOINT OF AN INDIVIDUAL EMPLOYER:**

This employer is a resident in the Tshwane area who on occasion made use of a day labourer when he had building work which needed to be done at his home. When asked about his perception of day labourers he said that most are "useless" mainly because he feels he cannot rely on them as they often desert the job.

He has one day labourer that he knows now and when he needs work done he uses him.

The main reason why he makes use of the day labourers are that they are cheaper to employ than regular contractors. The interviewee knows that the man he employs stays in a room in town or alternatively goes back to his home in the township outside Pretoria.

### **3.6.3. THE VIEWPOINT OF AN EMPLOYEE OF THE MUNICIPALITY OF TSHWANE:**

In an interview with an employee of the municipality it was mentioned that the possible solutions mentioned in paragraph 3.5.1. on page 74 are not the viewpoints of the municipality but of the community members who attended the meeting.

According to the employee at the Municipality of Tshwane day labourers are people looking for work and the city is not able to provide work opportunities. The day labourers' solution is to go to development (building) sites and look for work there. This, however, leaves them vulnerable and homeless.

The interviewee sees this as a problem centred around unemployment and is developing strategies to address this. These strategies include involving business to do skills development and job-creation.

The interviewee feels that the presence of the day labourers in the city cannot be seen as positive or negative, but only as a phenomenon that Government has to deal with. The Government has delegated the Municipality to address the issue.

As regards to people sleeping in the open areas in the city this it is seen as part of the unemployment issue and the strategies that the Municipality is putting in place will have a ripple effect and will include housing.

#### **3.6.4. THE VIEWPOINT OF EMPLOYEES OF THE METRO POLICE OF TSHWANE:**

The Metro Police function within the parameters of the bylaws of the metropolitan area. In telephonic discussions with employees of the Metro Police the following information was gathered:

No bylaws have been formulated regarding the phenomenon of day labourers. Previously there were laws pertaining to loitering, but these are no longer relevant. The SA constitution provides every person with the right to freedom of movement and the right to look for employment.

There are three bylaws, which can be mentioned:

([http://www.tshwane.gov.za/bylaws\\_p.cfm](http://www.tshwane.gov.za/bylaws_p.cfm))

1. Public amenities

(You are not allowed to live or bath in open fields)

2. Fire Brigade

(No open fires are allowed in public places, unless there are facilities for the fires)

3. Control of outdoor advertising

(This has to do with signs and posters for advertising and does not really apply to the way day labourers advertise their services.)

If the above-mentioned bylaws are not adhered to the following options are available:

- written warnings
- fines

Examples of fines are: washing clothes in a river- R1500; bathing in a river - R300. These fines are payable at the municipal court of the district in which the fine was issued.

- arrests

Mostly people are arrested if they have broken a bylaw and cannot provide identification. They are then arrested and taken to the police for fingerprinting.

To enforce the above-mentioned bylaws the Metro Police do patrols. Firstly they do proactive patrols, during which they have to catch people in the act of breaking the bylaw before they can issue fines. Secondly they react to complaints from the public and carry out an investigation.

With regards to some of the day labourers sleeping in open fields the following process applies: Should someone sleep in an open area, the owner of the property (most of the open areas in Pretoria are either owned by private owners, the City Council or the State) needs to formally ask people living on the property to leave. This is followed by a sworn

testimony at the police station that the people on the property do not want to leave the property. If prosecution follows, the owner has to testify in court. The removal of people from these areas is done by the South African Police and not the Metro Police.

The role of the Metro Police Department for Crime Policing regarding environmental design of open areas in the city is: they see to it that the Municipality keeps its properties neat by cutting the grass. Privately owned property is also under an obligation to be kept neat. If private owners do not keep their properties neat, the Waste Management Department of the Council informs the owners of the need to cut the grass. If they do not do so it is cut by the Municipality and an account forwarded to the owners.

### **3.7. SUMMARY:**

This chapter is a reflection of the data gathered from different respondents during the research process. It gives an indication of the perceptions and feelings that people have regarding the presence of day labourers in the community.



**CHAPTER 4:**

**THEORETICAL ANALYSIS OF DATA:**

#### **4.1. PURPOSE OF THIS CHAPTER:**

The purpose of this chapter is to interpret the data gathered during this research. I will do this according to systemic theory, as mentioned and described in chapter one. Specifically I will interpret the data by describing possible (my perception) relational patterns between the different subsystems included in the research.

It is important to mention once again that these relational patterns are not fact but merely personal observation formulated about the collected data. Different interviewees provided different data and therefore different observations.

The descriptions of the possible relational patterns will hopefully be useful in stimulating thought and debate about this phenomenon and the impact it has on all the involved subsystems.

#### **4.2. INTRODUCTION:**

Informal day labourer sites are visible in different places throughout Tshwane . During my research the respondents indicated that it is their perception that the specific sites close to them originated due to **businesses selling building materials**.

There seem to be complementary relationships mutually fitted by the need for work by day labourers (employee) and supply of employment by the community (employer). Taking into account that the official unemployment rate in September 2005 was 26.7% (Blaauw et al. 2005:458), it is not surprising to see more and more sites emerging around the city.

In their study Blaauw et al. (2005:462) found that the day labourers' average income per month ranges from R642.08 to R736.15, The fact that there are so many sites and people do earn money (however little), indicates that there are work opportunities for day labourers.

No relationship is as simplistic as "demand and supply" because there are always other sub-systems involved. Although the day labourer phenomenon can be seen as primarily a relationship between the day labourers and their employers, there are other systems involved in the wider context. I believe that it is important to take note of these other subsystems and their perceptions, especially in searching for possible ways of addressing the different needs which emerge due to the phenomenon.

There are many possible sub-systems, of which I included the following in my research:

- Primarily I explored the perceptions and perceived impact of the phenomenon on residents and business owners.
- In addition I spoke to employees at :
  - ⇒ The South African Police,
  - ⇒ The Tshwane Metro-police, and
  - ⇒ City council of Tshwane.
- To confirm the “core context” (day labourers, building contractors and individual employers) I spoke to one building contractor and one individual who employs day labourers on an ad hoc basis. The day labourers were interviewed in a study completed by Mrs Huma Louw.

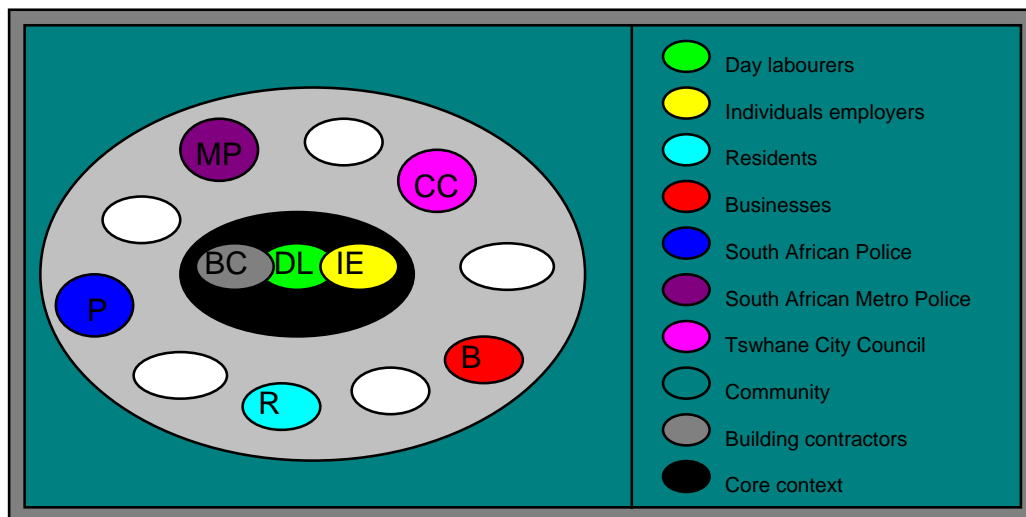


Figure 7

The perceptions gathered in the research will form the basis of my description of the perceived relationships between the day labourers and the respondents. Despite the differences in the areas, physical layout and nature of each site, common themes emerged. I will focus primarily on these themes.

In Chapter 1 the following was referred to: Bateson in Keeney (1981:39) named two categories of interactive processes - complementary and symmetrical relationships. He defines the terms as follow:

"I applied the term **symmetric** to all those forms of interaction that could be described in terms of competition, mutual emulation, equality, etc. (i.e., those in which A's action of a given kind would stimulate B to action of the same kind, which, in turn, would stimulate A to further similar actions...).

In contrast, I applied the term **complementary** to interactional sequences in which the actions of A and B were different but mutually fitted each other (e.g., dominance - submission, exhibition - spectatorship, dependence - nurturance)".

Complementary relationships will be illustrated through diagrams where the system with the most perceived power (one-up) will be drawn above the other system (one-down). This includes relationships that are mutually fitted (e.g. demand and supply). In these relationships there is usually a maximization of differences.

Symmetrical relationships will be illustrated through diagrams where the systems are next to each other to illustrate the equality / competition between the different systems. In these relationships there are minimizations of differences.

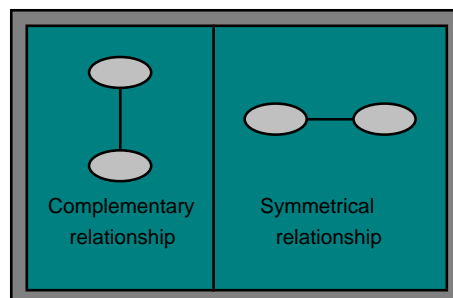


Figure 8

### **4.3. PERCEPTIONS OF RESPONDENTS OF THE DAY LABOURERS**

#### **4.3.1. PERCEPTIONS OF THE BUSINESSES OF DAY LABOURERS:**

##### **4.3.1.1. THEMES IDENTIFIED:**

The perceptions of all business employees interviewed mostly centred on

- day labourers being a nuisance
- they contribute towards crime
- businesses felt that the presence of the day labourers chases clients away

##### **4.3.1.2. RELATIONAL INTERPRETATION:**

- a. A symmetrical relationship where there is underlying rivalry in terms of whose community it is perceived to be.
- b. A complementary relationship (victim / victimiser) where day labourers are perceived as a threat to the business owners.

In the symmetrical relationship the perceptions of business owners in Gezina were slightly different to those at the other sites in that they perceived the day labourers as a nuisance, but their perceptions were coupled with statements of compassion. In Pretoria North the same theme emerged, in that the people who really needed work were distinguished from those who caused trouble.

- c. I interpret the compassion as indicative of a perception of dependence of day labourers on the community, which can be described as a perceived complementary relationship.

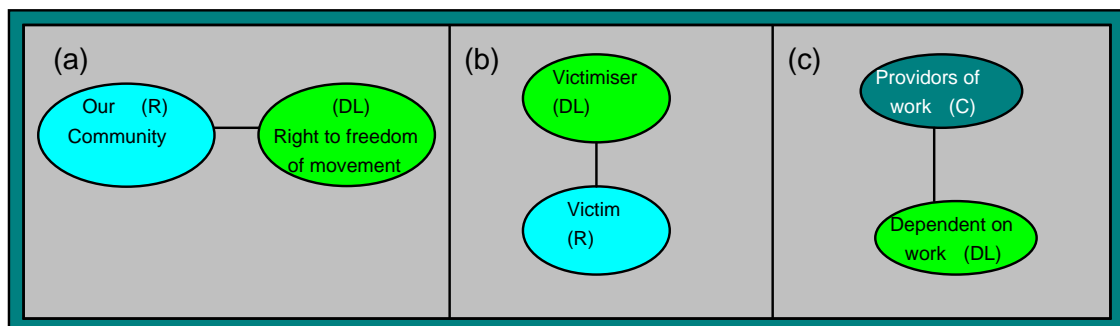


Figure 9

### 4.3.2. PERCEPTIONS OF THE RESIDENTS OF DAY LABOURERS:

#### 4.3.2.1. THEMES IDENTIFIED

The perceptions of the residents interviewed were also mostly negative towards day labourers. They used the following terms as descriptions: nuisances, being watched, makes neighbourhood unsafe, increased crime, masking criminals, litter the area, devalue property and restrict freedom of movement. It is my perception, therefore, that they clearly do not want the day labourers in their communities.

#### 4.3.2.2. RELATIONAL INTERPRETATION:

- a. There is firstly a symmetrical relationship which indicates the resistance of the community to accommodate the presence of day labourers. The South African Constitution makes provision for freedom of movement for all citizens. This implies that day labourers are free to move through the city and seek work
- b. Secondly a complementary relationship is evident, where the residents see themselves increasingly as victims of crime, pollution and intrusion due to the presence of day labourer.

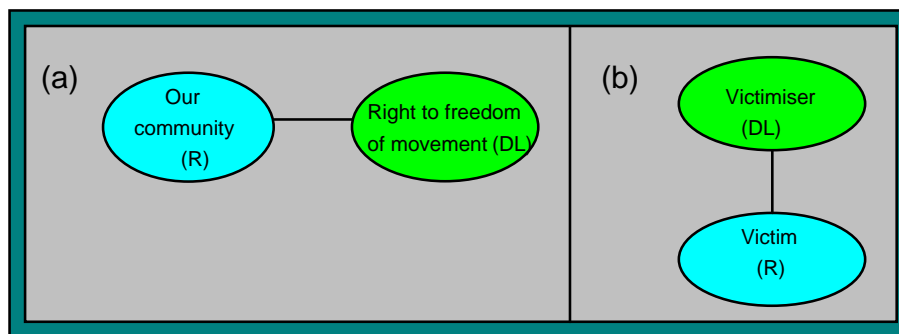


Figure 10

### 4.3.3. PERCEPTIONS OF INDIVIDUAL POLICEMEN OF DAY LABOURERS:

#### 4.3.3.1. THEMES IDENTIFIED:

From discussions with the police the following themes emerged:

- Some honest, work seeking day labourers
- Some criminals amongst day labourers use their work opportunities to scout premises

- Some honest day labourers are informants for the police

A difficulty the police experience is differentiating between the groups mentioned above.

#### 4.3.3.2. RELATIONAL INTERPRETATION:

The perceived relationship between day labourers and the police can be described firstly as:

- A symmetrical relationship where there is equality in the fact that both systems are working and serving the community.
- A complementary relationship where criminals are masked by the day labourers, making it difficult for the police to differentiate.
- A symmetrical relationship, where the day labourers serve as informants for the police, assisting the police to arrest criminals

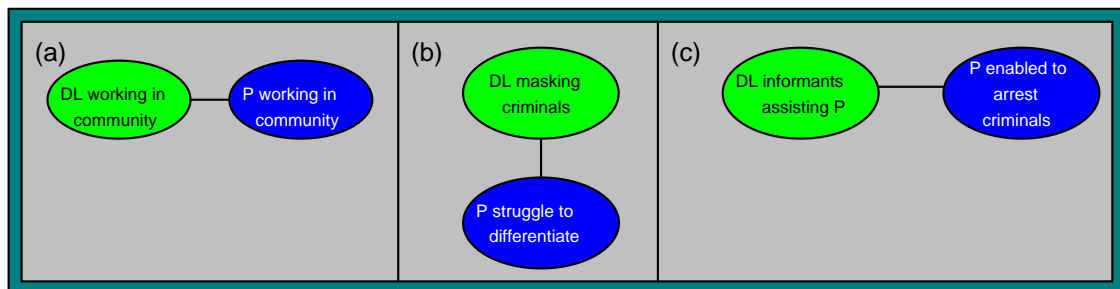


Figure 11

#### **4.3.4. PERCEPTIONS OF THE INDIVIDUAL METRO POLICEMEN OF DAY LABOURERS:**

##### 4.3.4.1. THEMES IDENTIFIED:

Previously people could be removed from the street for loitering but this is not applicable any more and according to the South African constitution day labourers have the right to be there. Thus, from the point of view of the metro police they have a right to be there.

#### 4.3.4.2. RELATIONAL INTERPRETATION:

This indicates a symmetrical relationship, which acknowledges equal rights of day labourers to be in the communities and seek work.

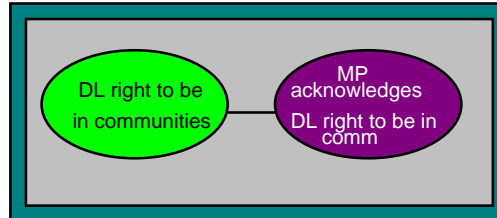


Figure 12

#### **4.3.5. PERCEPTIONS OF THE INDIVIDUAL MUNICIPAL EMPLOYEE OF DAY LABOURERS:**

##### 4.3.5.1. THEMES IDENTIFIED:

The perception mentioned was that of people looking for work which the city cannot provide. The day labourers then go to development sites, which leaves them vulnerable as homeless people.

##### 4.3.5.2. RELATIONAL INTERPRETATION:

I see the above-mentioned comment as an indication of a symmetrical relationship, which reflects the same feeling in both parties of bleak possibilities.

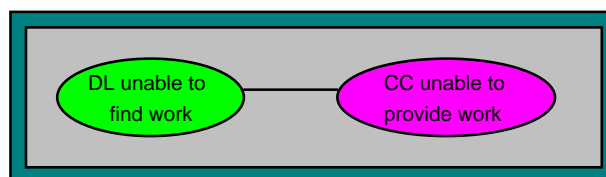


Figure 13

#### **4.3.6. PERCEPTIONS OF EMPLOYERS (BUILDING CONTRACTOR AND INDIVIDUAL EMPLOYER) OF DAY LABOURERS:**

##### 4.3.6.1. THEMES IDENTIFIED:

The building contractor's perceptions of day labourers were twofold: on the one hand he experienced some as good workers and interested in the work on the other hand were



those who do not work properly and were not really interested in doing the work. Their main concern was money for food (he used the term "useless").

The individual employer had a similar perception of day labourers, namely that some are useless but others are reliable and skilled people amongst the day labourers.

#### 4.3.6.2. RELATIONAL INTERPRETATION:

Understanding that the main objective of the employers (building contractor and individual employer) is to get a job done, their perceptions centred on the quality of work. Whatever

their perceptions were, it indicated a perceived complementary relationship of that between an employer and employee.

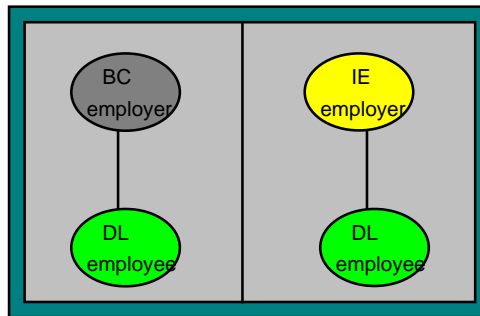


Figure 14

### 4.4. PERCEIVED INTERACTION OF RESPONDENTS WITH DAY LABOURERS:

#### **4.4.1. PERCEIVED INTERACTION OF THE BUSINESSES WITH DAY LABOURERS:**

##### 4.4.1.1. THEMES IDENTIFIED:

The first response from most businesses was that they have NO interaction with the day labourers, mostly distancing themselves from them. Later they mentioned that sometimes day labourers come and ask for water or to make use of the toilet facilities, to which some businesses agree and others do not.

The general impression of the interaction is that there is as little as possible, and if there is a perceived problem they ask the day labourers to leave their premises and sometimes the police are called to deal with them.

#### 4.4.1.2. RELATIONAL INTERPRETATION:

I interpret the relationship process described above as follows:

- a. The businesses distancing themselves from the day labourers can be seen as illustrating either:

- (a-i) a complementary relationship where day labourers seek contact and the businesses avoid contact.

OR

- (a-ii) a symmetrical relationship where both parties try to have as little interaction as possible.

- b. The day labourers approaching the businesses for basic amenities, during which they are either:

- (b-i) allowed or refused, which can be interpreted as a complementary relationship of demand and supply / supply refused

OR

- (b-ii) asked to leave the property and police contacted, which is also indicative of a complementary relationship, where the businesses feel invaded and the police are used to restore the status quo - (a).

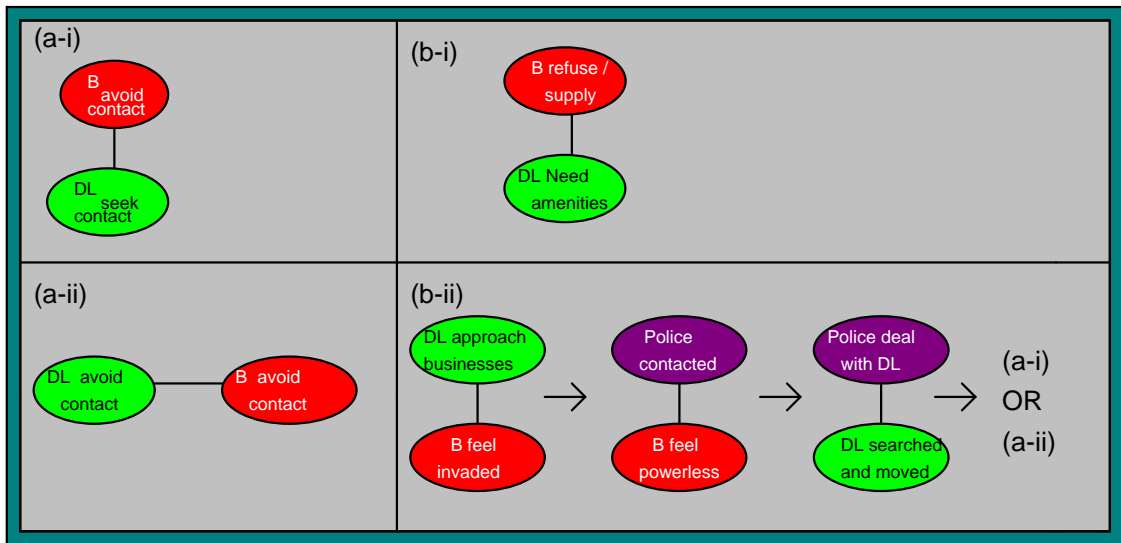


Figure 15

**4.4.2. PERCEIVED INTERACTION OF THE RESIDENTS WITH DAY LABOURERS:**

4.4.2.1. THEMES IDENTIFIED:

The residents' interactions can also be summarised as "as little as possible interaction", with the exceptional short, impersonal contacts. The main motivation for the limited interaction seems to be fear.

4.4.2.2. RELATIONAL INTERPRETATION:

I interpret this information as a complementary relationship of avoidance, where the residents experience the presence of the day labourers as a safety threat (confrontation) to their community.

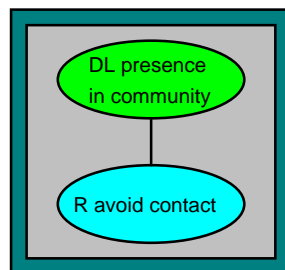


Figure 16

### **4.4.3. PERCEIVED INTERACTION OF THE POLICE WITH THE DAY LABOURERS:**

#### 4.4.3.1. THEMES IDENTIFIED:

The police seem mainly to have two types of interaction with the day labourers:

a. During clean-up operations:

The operations include searching the day labourers for the following: drugs, illegal items, valid documentation, identification of illegal immigrants and checking for people with criminal records (awaiting trial).

b. When informants contact the police:

When informants contact the police they may be financially rewarded if the information enables the police to make an arrest.

#### 4.4.3.2. RELATIONAL INTERPRETATION:

a. The relationship emerging from the interaction during operations indicates a complementary relationship, where the police are law-enforcers, and the day labourers are subject to the law.

b. The relationship however changes when a day labourer acts as an informant:

(b-i) One way of interpreting this is that the day labourer becomes a co-worker with the police in enforcing the law (symmetrical relationship).

(b-ii) Another way to interpret the relationship is to view it as a complementary relationship of supplying information (at a price) to the police who need it information in order to enforce the law.

(b-iii) Alternatively the relationship can be viewed as a complementary relationship where the day labourers need money and are willing to sell anything, even information about "friends", to survive.

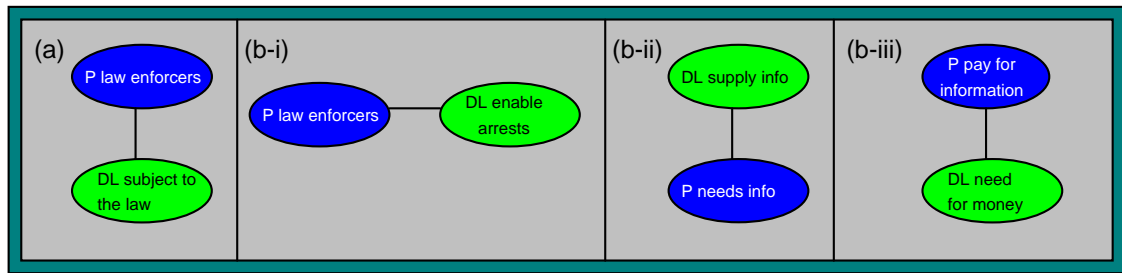


Figure 17

#### 4.4.4. PERCEIVED INTERACTION OF THE METRO POLICE WITH DAY LABOURERS:

##### 4.4.4.1. THEMES IDENTIFIED:

It seems as if the Metro Police do not have any contact with day labourers while they stand next to the road waiting for work, but could have contact with them if:

- They start a fire in a public place
- They bath or wash their clothes in a river

The interaction in this case would be with an officer of the metro police acting in his capacity to deal with the offence at hand.

##### 4.4.4.2. RELATIONAL INTERPRETATION:

I interpret this as a complementary relationship where there are mutually fitted roles of law-enforcer and law-breaker.

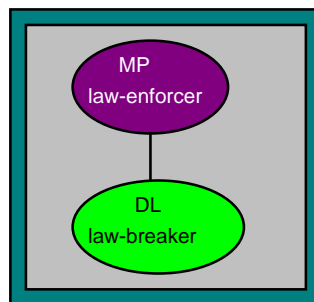


Figure 18

#### **4.4.5. PERCEIVED INTERACTION OF THE MUNICIPALITY WITH THE DAY LABOURERS:**

##### 4.4.5.1. THEMES IDENTIFIED:

The municipality has no direct interaction with day labourers, although an employee mentioned that it is putting strategies in place to address the phenomenon and trying to engage businesses in skills development and job creation.

##### 4.4.5.2. RELATIONAL INTERPRETATION:

I interpret this comment as indicating a complementary relationship where there is a one-up relationship between the municipality and the day labourers, in that the municipality is developing "strategies" for the day labourers, without consulting them about their needs.

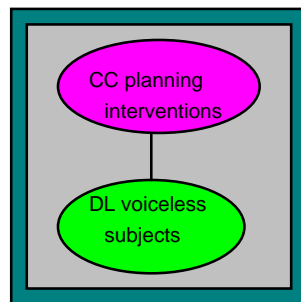


Figure 19

#### **4.4.6. PERCEIVED INTERACTION OF THE EMPLOYERS (BUILDING CONTRACTOR AND INDIVIDUAL EMPLOYER) WITH DAY LABOURERS:**

##### 4.4.6.1. THEMES IDENTIFIED:

The interaction the employers (building contractor and individual employer) have with day labourers centres mostly around the theme of "employee needed - employment needed". The employer reserves the right to choose whom he employs. It seems the employer decides on the rate to be paid for the labour. The building contractor mentioned that some workers do negotiate the rate for which they are willing to work and if the employer is not willing to pay they do not accept the offer of the work.

#### 4.4.6.2.RELATIONAL INTERPRETATION:

The interaction between employers and day labourers seems to be of a complementary nature. The employer provides the opportunity and the day labourer accepts the offer of work. In instances where there are negotiations around the rate of payment, the relationship becomes symmetrical, where neither party is (seemingly) reliant on the other and the contract needs to make economic sense for both parties. It can be assumed that those who are better skilled will be more likely have a more symmetrical relationship with possible employers than those who are less skilled.

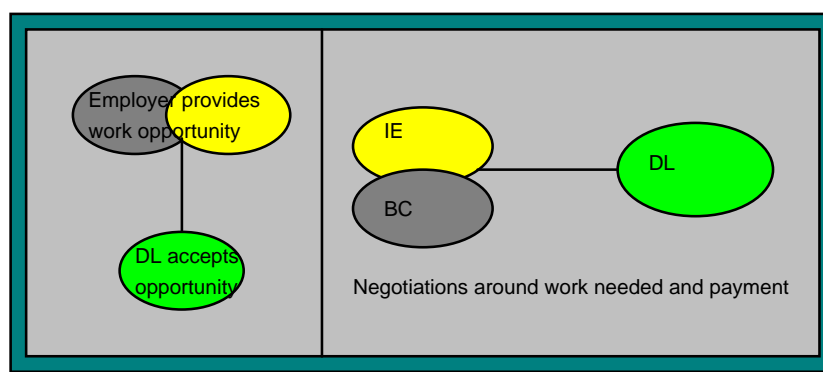


Figure 20

### 4.5. THE PERCEIVED IMPACT OF THE PRESENCE OF THE DAY LABOURERS ON THE COMMUNITY:

#### **4.5.1. BUSINESSES' PERCEPTIONS OF THE IMPACT OF DAY LABOURERS ON THE COMMUNITY:**

##### 4.5.1.1. THEMES IDENTIFIED:

The main perceived impact of the presence of day labourers is negative. The following themes were present at all three sites:

- the business owners felt that that their presence scares (female) clients away.
- the presence of the day labourers restricts the movement of other community members
- the presence of the day labourers “looks bad”

The only positive impact mentioned was by one business owner at Gezina who said that the presence of day labourers makes shops look busy.

At the Newlands and the Gezina sites the businesses have employed security guards who stand in front of the premises. They are there to provide safety and to keep the day labourers off the premises.

#### 4.5.1.2. RELATIONAL INTERPRETATION:

The perception of the businesses of the impact of day labourers is negative. They stated their concerns in such a manner that I interpreted them as a message of competition for territory. The competition is around the question of why / or why not the day labourers should be / not be in the community. This is, therefore, indicative of a symmetrical relationship where both groups share the community as a place from which to generate income.

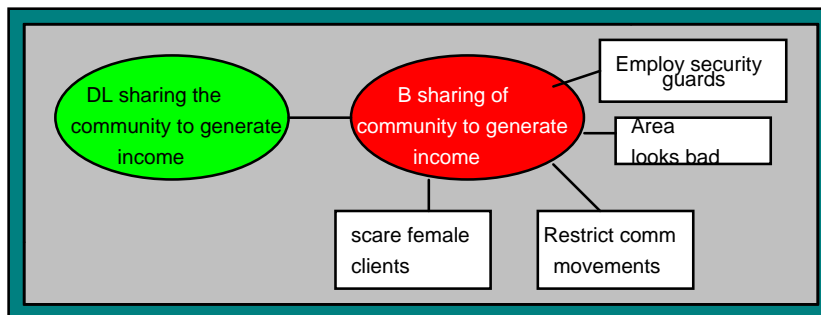


Figure 21

### **4.5.2. RESIDENTS' PERCEPTIONS OF THE IMPACT OF DAY LABOURERS ON THE COMMUNITY:**

#### 4.5.2.1. THEMES IDENTIFIED:

The residents had concerns about the impact of day labourers on the area. These concerns included:

- increased crime
- health hazard - no ablution facilities
- restriction of movement
- Litter and groups of people standing around all day are an eyesore



#### 4.5.2.2. RELATIONAL INTERPRETATION:

When the perceptions of the residents are combined into themes, they also indicate a negative perception of the impact of the day labourers on the community. Similar to that of business employees it can be interpreted as competition for the community. Thus a symmetrical relationship could be used to describe the relationship.

It is interesting that both the residents' and the business's perceptions reflect a symmetrical relationship. Due to laws changes after 1994 all the parties have legal rights to their presence and activities in the community, and the "complaints" are on a socio-emotional level.

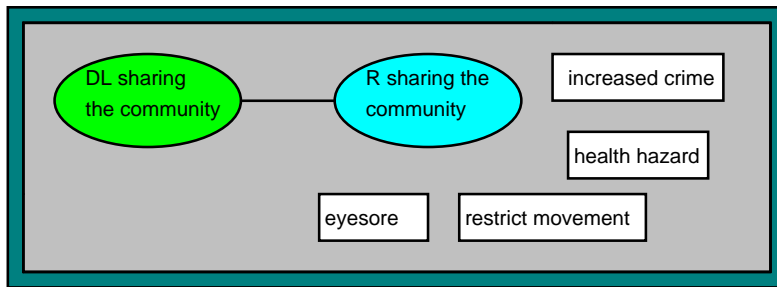


Figure 22

#### **4.5.3. PERCEPTIONS OF THE POLICE OF THE IMPACT OF DAY LABOURERS ON THE COMMUNITY:**

##### 4.5.3.1. THEMES IDENTIFIED:

The impact of day labourers on the communities as seen by the police is twofold: Firstly, positive because they provide the communities with labour. Secondly, negative because they mask the presence of criminals who enter the communities.

##### 4.5.3.2. RELATIONAL INTERPRETATION:

- a. When the day labourers are seen as providing the community with services, they are in a complementary relationship with the community as they supply labour when there is a demand for it. (seen as a positive contribution)
- b. The perception that their presence in communities masks criminals also indicates

a complementary relationship, which leaves communities vulnerable. (seen as a negative outflow)

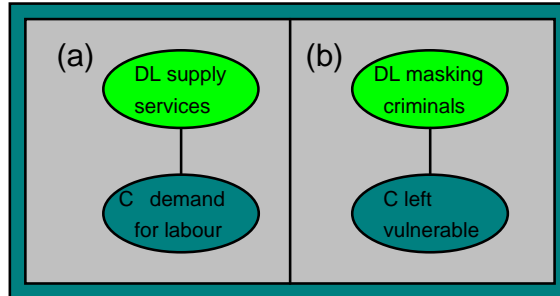


Figure 23

#### **4.5.4. PERCEPTIONS OF THE MUNICIPALITY OF THE IMPACT OF DAY LABOURERS ON THE COMMUNITY:**

##### 4.5.4.1. THEMES IDENTIFIED:

The comment by a municipal employee was that the impact of day labourers is both positive and negative, but that the government has to deal with the day labourers.

##### 4.5.4.2. RELATIONAL INTERPRETATION:

This is a vague comment, which indicates the disconnectedness of the municipality from day labourers. In relational terms it could probably be seen as a complementary relationship of disconnectedness between the needs and resources.

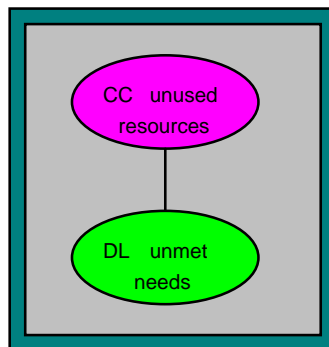


Figure 24

#### **4.6. PERCEPTIONS ABOUT WHO EMPLOYS DAY LABOURERS:**

##### **4.6.1. BUSINESS EMPLOYEES' PERCEPTIONS OF WHO EMPLOYS DAY LABOURERS:**

###### **4.6.1.1. THEMES IDENTIFIED:**

The business employees were all of the opinion that it is individuals and building contractors who make use of the services of day labourers.

###### **4.6.1.2. RELATIONAL INTERPRETATION:**

- a. The business employees perceive a complementary relationship between day labourers (supply labour) and individuals in the community and building contractors (make use of services).

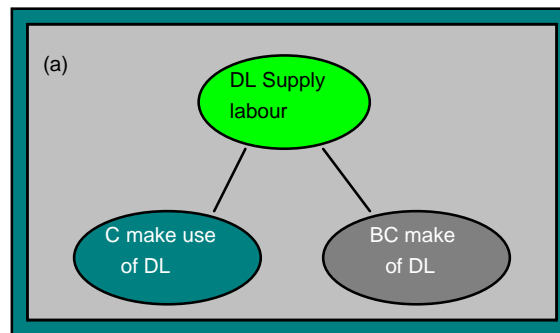


Figure 25

- b. Depending on one's frame of reference, the complementary relationship can also be viewed as one where the individuals in the community and building contractors provide work opportunities which are accepted by the day labourers.

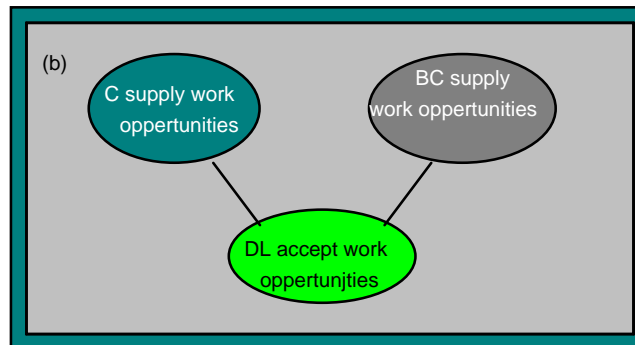


Figure 26

#### **4.6.2. RESIDENTS' PERCEPTIONS OF WHO EMPLOYS DAY LABOURERS:**

##### 4.6.2.1. THEMES IDENTIFIED:

Residents mentioned that it is mainly building contractors and individuals who are customers of shops selling building materials who employ day labourers. However they mostly indicated that they would not make use of day labourers. The reasons included:

- would expose them
- live too close to the site
- encourage day labourers to come to their area
- have no reference for day labourers
- would jeopardise their safety

##### 4.6.2.2. RELATIONAL INTERPRETATION:

The relational interpretation of the residents' apparent perceptions is similar to that of the businesses, mentioned above (4.1. a & b). An interesting dimension was added when I explored whether they would include themselves in the group of individuals in the community who would make use of day labourers. The majority indicated they would not, the reasons indicated being there is a feeling of vulnerability and possible victimization. This indicates a perceived complementary relationship of possible offender and possible victim. This perceived threat is neutralised by avoiding / not making use of the day labourers.

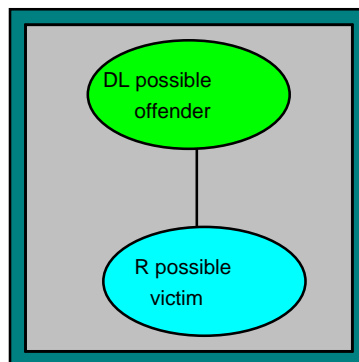


Figure 27

### **4.6.3. EMPLOYERS' VIEWPOINTS REGARDING WHY THEY EMPLOY DAY LABOURERS:**

#### **4.6.3.1. THEMES IDENTIFIED:**

The building contractor indicated that he has a set number of permanent employees, but when he has a more extensive job (like a ditch that needs to be dug) and needs extra hands for a day, he would make use of day labourers.

The individual employer indicated that he makes use of day labourers for ad hoc projects around the house and due to the fact that their labour is cheap.

#### **4.6.3.2. RELATIONAL INTERPRETATION:**

Both of the above-mentioned employers make use of day labourers due to the fact that they need help, but not on a permanent basis. This indicates a perceived complementary relationship of ad hoc employer and employee.

One employer mentioned the advantage for him is the fact that day labourers provide cheap labour. This could be indicative of possible complementary relationships where day labourers are very desperate and will therefore settle for an unfair daily wage.

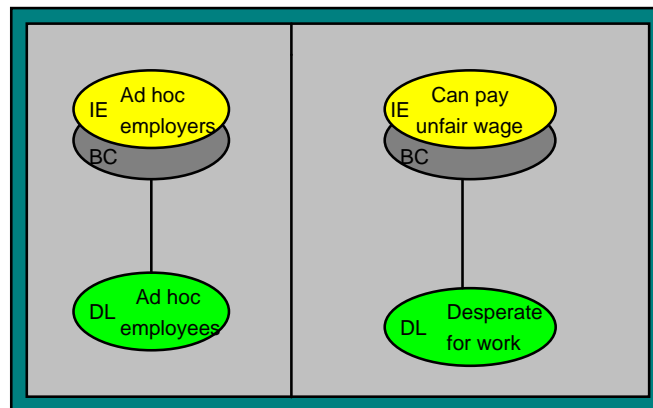


Figure 28

### **4.7. PERCEPTION OF WHERE THE DAY LABOURERS SLEEP AT NIGHT:**

The answer to this question showed distinct differences connected to the physical differences of each site. At the Newlands site there is an open field, which is not the case

at the other two sites.

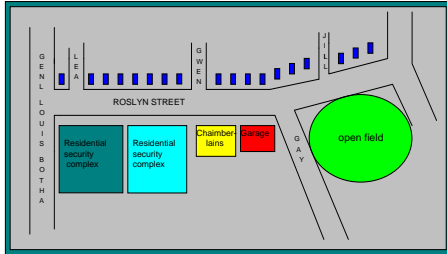


Figure 29

Newands

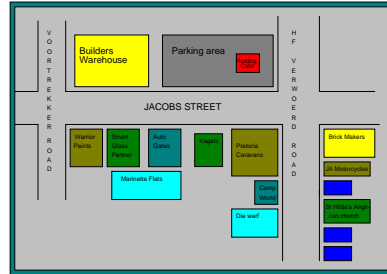


Figure 30

Gezina

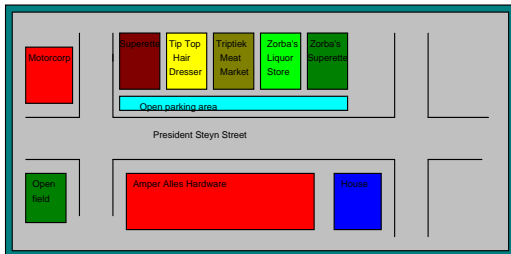


Figure 31

Pretoria North

#### 4.7.1. PERCEPTIONS OF THE BUSINESSES AND RESIDENTS OF WHERE DAY LABOURERS SLEEP AT NIGHT:

##### 4.7.1.1. THEMES IDENTIFIED:

- a. The Newlands site has an open field, with a small river flowing through it. This field was occupied by people at night. The main perception of the businesses employees and the residents at this site were that the day labourers mostly sleep in this field. Some residents added that some day labourers might sleep in the rooms of friends in the area who are domestic workers, or go home to the township. But these were seen to be the minority. The fact that the community perceives the day labourers as sleeping in the field, increased their perceived negativity towards the day labourers.
- b. At the Gezina site, which is mostly within a business area, the main perceptions were that day labourers probably go back home. It was mentioned that some might sleep in open areas somewhere in the city. This did not seem to be an important point of discussion during interviews.

- c. The Pretoria North site is also mostly a business site, situated within a residential area. This site is located much closer to the surrounding black townships than the other sites. At the Pretoria North site, the perceptions were mostly that day labourers go back home to the black townships. It was, however, also mentioned that some might stay with domestic workers in the area.

#### 4.7.1.2. RELATIONAL INTERPRETATION:

- a. At the Newlands site the residents' perceived perceptions of the invasion of their community was highlighted once again through this question. The residents felt powerless to address the issue due to the perception that the people staying in the field could not be forced to leave. This could be described as a symmetrical relationship, where there is competition for the right to a community or a complementary relationship where the residents perceived themselves as being invaded by the day labourers and feel powerless to change the circumstances.
- b. & c. At the Gezina and Pretoria North site the main themes indicated that the perception was that the day labourers mostly move to and from the site, similar to the business owners. This can be described as a symmetrical relationship of fellow workers / commuters.

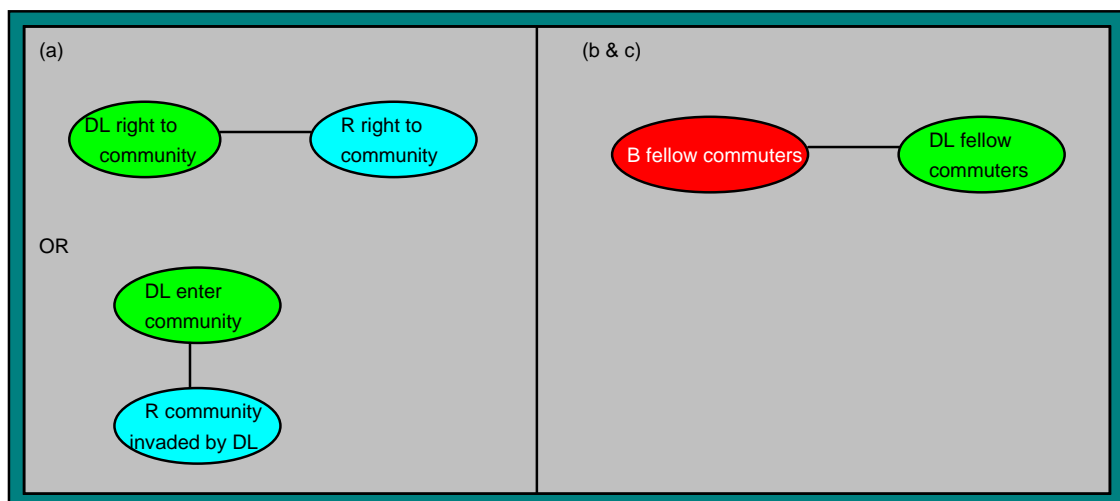


Figure 32

## **4.7.2. PERCEPTIONS OF THE POLICE OF WHERE THE DAY LABOURERS SLEEP AT NIGHT:**

### 4.7.2.1. THEMES IDENTIFIED:

At the Gezina and Pretoria North site the general impressions were that the day labourers go back home or stay with domestic workers in the areas.

A unique comment at the Pretoria North site was that there are day labourers in the area who:

- go back home
- rent a room in a commune house in the area
- stay in an open factory in the area

At the Newlands site the main impression was that most day labourers stay in the open field close to the site, although it was acknowledged that some probably went home, or stayed with domestic workers in the area.

The police mentioned that if there were overnight accommodation for the day labourers who cannot go home, it would be easier for them to distinguish between people who are really here to work and those who are illegal or have ulterior motives. Currently the presence of criminals is easily masked by the day labourer community.

### 4.7.2.2. RELATIONAL INTERPRETATION:

- a. The relationship between the police and the day labourers who commute, or alternatively sleep at accommodation in town, can be seen as symmetrical. Both day labourers and the police work and live in or outside of the particular communities. The relationship however changes to a complementary relationship in the instances where day labourers sleep / stay illegally on private or public property:
- b. On the one hand it is a complementary relationship where the police have the authority to do “clean-up operations” (identifying illegal immigrants, possession of



illegal substances or stolen goods)

- c. On the other hand there is a complementary relationship where the police have no right to remove people from open areas, although they get pressured by the communities to do so.

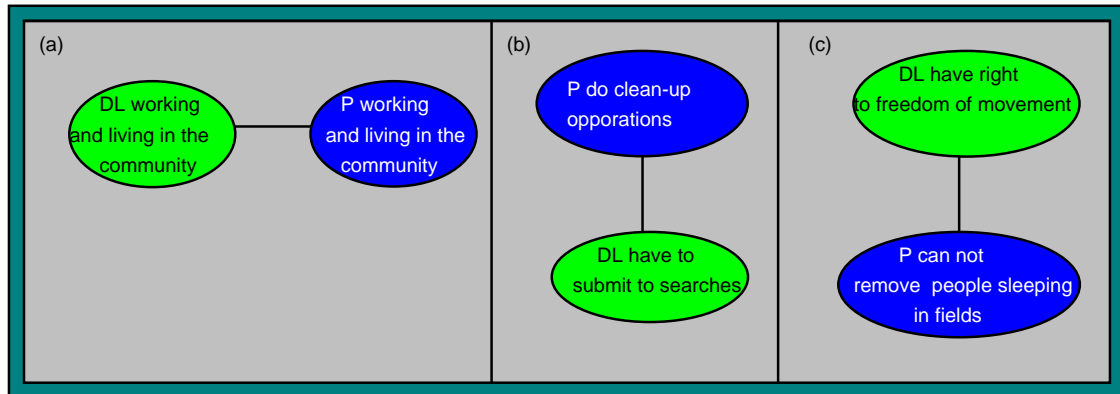


Figure 33

#### **4.8. SUMMARISING THE RELATIONAL PATTERNS:**

I have often wondered how different the world would be if we could truly see the world through someone else's eyes. Would I be able to walk a mile in someone else's shoes? Would that make a difference in the way we interact with people, judge people, and make laws to assist people?

The relational patterns described are merely personal perceptions in an attempt to move around a phenomenon and view it from different angles. In the last chapter this information will be evaluated according to the ideological standard set by the Bill of Rights in the South African Constitution of 1996.

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**CHAPTER 5:**

**CONCLUSIONS**

**5.1. INTRODUCTION:**

“I maintain that any position, perspective,  
conceptual frame of reference or idea is a  
partial embodiment of a whole we can never  
completely grasp.

The truth may snare us at times,  
but we can never snare the truth”

(Keeney 1983:3)

I understand that I see in part, and therefore the conclusions that I draw are limited to what I see. I do not wish to create truth, but hope that what I saw may be useful in the creating the picture you see. I believe that we live, act, make, or do not make decisions according to the information / level of revelation we have available.

In all societal phenomena, people are involved and, as mentioned before, this always implies relationships. I have started the exploration of some of the relationships in the day labourer phenomenon in Tshwane. Keeney (1983:37) highlighted the need to see relationship as a double description because the alternative, to dissect relationships implies localized aspects in each party - which creates “dormant principles”. He continues to say (Keeney 1983:38) "...In general, all descriptions of personality characteristics consist of extracted halves of a larger relationship pattern". I have used symmetrical and complementary relationships as the framework to describe the relationships I have observed.

The patterns that connect these descriptions will now be explored. Let us look at the "...corresponding sets of relations between corresponding parts..." (Bateson, 1979:18). Is there a pattern that connects all the subgroups that were involved in the research? In addition, if so, what are they?

**5.2. THE RELATIONSHIPS DESCRIBED IN CHAPTER 4 AND THE THEMES IDENTIFIED:**

The following descriptions of the perceptions about the relationships between the day labourers and other subsystems were formulated in the previous chapter. I have mentioned all the relationship patterns, but also the themes contained in them.

**SUMMARY OF THE RELATIONAL PATTERNS IN ORDER TO IDENTIFY THEMES:**

<b>Relational patterns</b>		<b>Identified Themes</b>
<b>1 Perceived relationship patterns between the community and the day labourers:</b>		
<u>Complementary relationship patterns:</u>		
Community: providers of work	The day labourers: dependent on work	Employment
Day labourers: supply services	Community: need for labour	Employment
Day labourers: mask criminals	Community: left vulnerable	Law and order
<b>2 Perceived relationship patterns between the businesses and the day labourers:</b>		
<u>Complementary relationship patterns:</u>		
Businesses: possible employers	Day labourers: employees	Employment
Businesses: avoiding contact	Day labourers: seeking contact	Contact between subsystems
Day labourers: approach businesses	Businesses: feel invaded	Contact between subsystems
Businesses: refusing use of amenities	Day labourers: in need of amenities	Resources
<u>Symmetrical relationship patterns:</u>		
Businesses: avoid contact	Day labourers: avoid contact with businesses	Contact between subsystems
Businesses: generating income from community members	Day labourers: generating income from community members	Employment
Some business employees: commute	Some day labourers: commute	Employment

Relational patterns		Identified Themes
<b>3 Perceived relationship patterns between the residents and the day labourers:</b>		
<u>Complementary relationship patterns:</u>		
Day labourers: presence in community	Residents: avoid contact with day labourers-	Contact between subsystems
Day labourers: enter community	Residents: feel invaded	Sharing the environment / community
Day labourers: possible victimisers	Residents: possible victims	Law and order
<u>Symmetrical relationship patterns:</u>		
Residents: perceived ownership of community	Day labourers: right of freedom of movement	Sharing the environment / community
Residents: live in community	Day labourers live in community	Sharing the environment / community
<b>4 Perceived relationship patterns between the police and the day labourers:</b>		
<u>Complementary relationship patterns:</u>		
Police: law enforcers	Day labourers: subject to the law	Law and order
Day labourers: masking presence of criminals	Police: struggle to differentiate	Law and order
Day labourers: informants	Police: need information	Law and order
<u>Symmetrical relationship patterns:</u>		
Police: working in community	Day labourers: working in the community	Sharing the environment / community
Police: enabled to arrest masked criminals	Some day labourers acting as informants	Law and order

Relational patterns		Identified Themes
<b>5 Perceived relationship patterns between the metro police and the day labourers:</b>		
<u>Complementary relationship patterns:</u>		
Metro police: law enforcers	Day labourers: subject to the law	Law and order
<u>Symmetrical relationship patterns:</u>		
Metro police: acknowledge day labourers right to be in the community	Day labourers: right to freedom of movement	Sharing the environment / community
<b>6 Perceived relationship patterns between the city council and the day labourers:</b>		
<u>Complementary relationship patterns:</u>		
City council: available resources	Day labourers: voiceless subjects	Resources
<u>Symmetrical relationship patterns:</u>		
City council: unable to provide work	Day labourers: unable to find work	Employment

Relational patterns		Identified Themes
<b>7 Perceived relationship patterns between the employers and the day labourers:</b>		
<u>Complementary relationship patterns:</u>		
Employers: can pay unfair daily wage	Day labourers: desperate for work	Employment
<u>Symmetrical relationship patterns:</u>		
Employers: negotiate wages	Day labourers: negotiate wages	Employment
<b>8 Perceived relationship patterns between the subsystems and the day labourers:</b>		
<u>Complementary relationship patterns:</u>		
Day labourers: freedom of movement - sleep in community	Subsystems: powerless to act	Sharing the environment / community law and order
Table 3: Identified themes		



The patterns that connect in the relationship patterns between the day labourers and the subsystems involved in this study are:

- Employment
- Law and order
- Contact between subsystems
- Sharing the environment / community
- Resources

I will now briefly look at each of these themes and view them in the light of the standard set by the Bill of Rights in the South African Constitution of 1996 (SA. Constitutional Assembly:1996)

### **5.3. THE PATTERNS THAT CONNECT:**

#### **5.3.1. EMPLOYMENT:**

Various complementary as well symmetrical relationship patterns were identified which form part of a theme around employment. In the complementary relationship patterns the "one up" position was mostly filled by a subsystem and the "one down" relationship by the day labourers. The following complementary patterns were described:

- Providers of work                      - dependent on work
- Possible employers                      - employees
- Can pay unfair wage                      - desperate for work

As mentioned in chapter 2 there is no specific labour legislation in South Africa which makes provision for regulating the use of day labourers, their treatment or remuneration. This creates a context where there is a possibility for a complementary relationship between the subsystems which make use of day labourers and the day labourers to escalate to a point where there is an unfair balance of power. For example the employers may pay a

very low wage which does not allow the day labourers to live above the poverty line.

To work for an unreasonably low income hampers other areas of a person's life, for example, he may be subjected to: harsh living conditions, insufficient nutrition, health-issues, unaffordability of transport, inability to provide for family needs. The ramifications of these aspects are vast. It is also these ramifications that influence the broader community, for example, people sleeping in open fields has the impact I have described earlier.

There were, however, instances where there were symmetrical relationship patterns. These relationships centred around the following themes:

- Generating income from the community members
- Commuting in and out of community - to and from work
- Negotiating daily wages

These processes are similar for some of the subsystems and the day labourers, namely:

- Both day labourers and the businesses are dependent on the community for their income.
- Employees of businesses commute to and from work.
- Building contractors can enter a process of negotiation with possible employees (day labourers).

The realities of the above-mentioned processes are however very different.

Businesses generate an income from the community members by providing goods or services needed. There are mostly fixed prices for these goods or services and laws stipulating the context within which the transactions between the businesses and the community members are done. The employees of these businesses live off monthly or weekly salaries that they are certain they will receive. This means that they can budget to accommodate their monthly expenses.

There are no labour laws regarding day labourers. They have no assurances of their income - how much or how often they will receive, they cannot budget for monthly or even weekly expenses. It is a life lived from hand to mouth. To a certain extent they can negotiate their wages but I am sure they see working for less is better than not working at all.

In section 23 of the Bill of Rights (SA. Constitutional Assembly 1996) the issue of labour relations is addressed. It begins with mentioning the right to fair labour practices, and continues to describe what the specific implications are for both workers (employees) and employers.

The above-mentioned rights are however not obtainable by the groups involved in the day labourer phenomenon, due to the fact that there are no labour laws governing the relationships between day labourers and those who make use of them. The result is that there are no guidelines for acceptable or unacceptable conduct. Thus it is an unregulated phenomenon.

The questions that emerge are:

- Does government have an obligation to regulate the phenomenon of day labour in South Africa by means of labour laws, to ensure the basic rights of all the parties involved?
- Will laws be sufficient to ensure these rights, or is there a need for infrastructure to facilitate the process? ( for example the erection of regulated sites and legal advice centres)

### **5.3.2. LAW AND ORDER:**

A second pattern identified was: law and order. In this theme, I included all the references made to crime, fear of being potential victims, and the role of the law enforcers.

Crime in South Africa is a prevalent issue. When one examines the numbers of reported victims of crime over recent years, quoted in Chapter 2, a picture of the level of crime and its effects on the lives of South Africans emerges.

The following relationship patterns form part of this theme:

Complementary relationships were described where day labourers are in a perceived “one-up” position:

Day labourers mask the presence of criminals	-	Community left vulnerable
Day labourers possible victimizers	-	Residents possible victims
Day labourers masking criminals	-	Police struggle to differentiate
Day labourers : informants	-	Police : in need of information

The complementary relationships described where some of the other subsystems are in a perceived “one-up” position are:

Police: law enforcers	-	Day labourers: subject to the law
Metro police: law enforcers	-	Day labourers: subject to the law

When I reflect on the complementary relationships mentioned above, where day labourers have the perceived “one-up” position, it indicates two things to me:

- Day labourers are not trusted within the communities
- The fact that informants provide information to the police indicates that the masking of the presence of criminals does happen
- The community, especially residents, feels powerless

In the complementary relationships, where the police and the metro police have the “one-up” position, they are described as the law enforcers. Although the police and metro police are seen by society as those having the power to maintain law and order, it was not

my perception when exploring the phenomenon of the day labourers. I state my simplified perceptions formulated during the research:

The South Africa Police and Metro Police have very limited power (no laws, un-implementable laws, ineffective laws) to address issues or concerns that the community has about day labourers. These issues include:

- Living (sleeping, making fires, urinating) on sidewalks and in open fields which are not humane living conditions, are unhygienic and mask the presence of criminals.
- Masking of the presence of criminals, observing homeowners coming and going, enabling housebreakings to be planned.
- Loitering in the community contributing to "opportunity crime".

There is one instance where there was a description of a symmetrical relationship that would be part of the law and order theme:

Police: enabled to arrest criminals	-	Some day labourers acting as
whose presence was masked		informants

In the symmetrical relationship mentioned above, day labourers act as informants regarding criminal activity of which they are aware. These informants assist the police and enable them to arrest criminals whose presence is masked by day labourers. If information assists the police to make an arrest there is a financial reward involved. Depending on the motive for assisting the police it could also be described as a complementary relationship where information is used to obtain money for basic needs.

As far as crime is concerned, it infringes on many basic human rights of individuals, for example: (references to sections in the Bill of Rights)

- their right to human dignity (sec 10) when attacked
- their right to life (sec 11) when raped, or killed

- their right to freedom of movement (sec21) and a safe environment (sec 24a) when a neighbourhood is not safe any more

There is no easy, once-off solution to crime in South Africa. The question that emerges is:

- How can the phenomenon of day labourers be regulated to lessen masking of the presence of criminals?

### **5.3.3. CONTACT BETWEEN SUBSYSTEMS:**

There is always contact between all subsystems of a system, even if the process of contact contains a policy of no contact! Looking at the relational patterns that were described, the following could be included in the theme of contact between subsystems. The mentioned patterns are however not the only patterns where there is contact between the subsystems, and must not be seen as such!

The following perceived contacts between the subsystems were highlighted in the relationship patterns. The perceived complementary relationship patterns of contact were the following:

Businesses: avoiding contact	-	Day labourers: seeking contact
Day labourers: approach businesses	-	Businesses: feel invaded
Day labourers: presence in community	-	Residents: avoiding contact with day labourers

The only instance of symmetrical contacts that was patterned was the following:

Businesses: avoid contact with day labourers	-	Day labourers: avoid contact with businesses
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Looking at the above-mentioned relationship patterns it is clear that there are no relational verbal interactions or “contact” between day labourers, businesses and residents. Perceptions about each other are probably formed around circumstantial interaction and

each person's own frame of reference. As described here it seems as if there is a mutual distancing from each other between the subsystems.

I think the main question regarding this theme would be:

- Will facilitated contact or interaction between the subgroups evolve into meaningful changes for all concerned?

#### **5.3.4. SHARING THE ENVIRONMENT / COMMUNITY:**

The perceived "right to a community" is an interesting, subjective and complex concept.

To define the concept "community" is a very difficult. Swanepoel (1996:11) states that community "...is an elusive concept that defies definition...can have different meanings in different circumstances". He continues to describe a community as follows: "A community does not exist *in vacua*. It is part of a living vibrant environment in which it plays a role. This environment manifests itself on a natural, political, social, economic, cultural and psychological level" (Swanepoel 1996:25).

This research did not focus on the environment, or the dynamics of a specific community per se. It is, however, evident that the sense of community (or threat to community) experienced by some of the people interviewed is an important component that could be explored in greater depth.

In the patterned relationships of the research, the following instances relate to this theme:

Complementary relationships:

Day labourers: enter community - Residents: feel invaded

Symmetrical relationships:

Residents: perceived ownership of the community - Day labourers: right of freedom of movement

Residents: live in community - Day labourers: live in community

Police: working in the community	-	Day labourers: working in the community
Metro police: acknowledge day labourers right to be in the community	-	Day labourers: right to freedom of movement

I have a clear understanding of the need of day labourers to enter an established community to find work. It is, however, not necessarily a positive process for the day labourers. They do not have affordable transport, housing and other facilities available to them. As mentioned before, they mostly live under very harsh conditions.

The Bill of Rights (Constitution of the Republic of South Africa 1996) mentions several rights, which I view as relevant to the theme of environment / community:

- the right to freedom of movement and residence (sec 21) - sharing of communities
- the right to environment (sec 24) that is not harmful - people living on the street in unhealthy circumstances and preservation of green areas are in conflict
- the right to housing (sec 26) - adequate housing

These rights apply to all the subsystems involved in the phenomenon of day labourers. I can imagine that living under harsh conditions is equally unacceptable to the people sleeping in the fields as it is for the residents and the broader community. The fact remains that there is at present no other alternative.

As for the community, what is their experience? Here I would like to ask the following questions which might broaden perceptions around this issue:

- How is the entry of day labourers into the community different from that of other workers? (for example business employees, gardeners and domestic workers)
- What are the broader implications for the community when day labourers enter a community?



- What rights of those people already living in the community are affected by day labourers' freedom of movement?
- If there was alternative affordable accommodation available for day labourers, would they regard it as a viable alternative to sleeping in open fields?

### **5.3.5. RESOURCES/ FACILITIES**

The concept of resources / facilities for the purpose of this research refers to any infrastructure that would address the basic needs of day labourers, for instance basics amenities like water, toilets and shelter. It could also be extended to needs such as affordable housing, affordable transport, and access to health services.

There are two instances of complementary relationship patterns that were described that would fit under this theme:

Businesses: refusing use of amenities-	Day labourers in need of amenities
City council: available resources	- Day labourers in need of amenities

In these relationships day labourers are in the “one-down” position. It is their needs that are not addressed. The rights I view as relevant to this issue and not being respected are:

- human dignity (sec 10) as they do not have basic amenities
- environment (sec 24) that cannot be kept healthy and clean due to lack of resources
- no affordable housing (sec 26) available, leaving people very little option other than to sleep in fields
- no healthcare, food water and social security (sec 27)

If the concept of resources and facilities are addressed many concerns of the other subsystems could be addressed. With this, I refer to:

- asking / taking water from businesses or private homes
- urinating in, and littering of streets
- sleeping in the fields.

The following questions need to be asked and researched:

- What facilities are needed for day labourers?
- What are the needs and concerns of ALL the relevant subsystems when looking at providing day labourers with facilities?
- Who is responsible for providing the infrastructure for day labourers?
- Where will the necessary facilities be erected?

### **5.5. CONCLUSION:**

It is clear to me that the phenomenon of day labourers in Tshwane, in South Africa, and in the world is a complex phenomenon with many facets and feelings attached. There is great diversity in the subsystems involved in this phenomenon and many different viewpoints are held.

I believe that it is important to respect and acknowledge each subsystem when observing the phenomenon, otherwise it is a one-dimensional description that denies the fuller reality.

The themes identified form a picture that mirrors the perceptions of life in the communities in Tshwane.

The community as a whole shares the **environment**, as well as the **resources** in the community, which includes access to **employment**. It is unfortunate that there is very little "positive" interaction between the different subsystems that form part

of the day labourer phenomenon (**contact between subsystems**). Although the patterns of interaction include the theme of employment, it includes many interactions that form part of the **law and order** theme. The theme of law and order proved to be a significant concern as there is insufficient or no specific legislation, to govern the phenomenon in a constructive manner for all concerned.

In the research it emerged that the perceptions regarding day labourers are mostly formed according to assumptions and observations about day labourers, and not according to direct experiences with them.

It seems as if the guidelines of HOW the community areas are to be shared are not clear and do not respect the basic human rights of most subsystems affecting and affected by the day labourer phenomenon.

#### **5.6. RECOMMENATIONS:**

- Government needs to specifically allocate the concerns and needs of the day labourers to a Department. Other Departments who could assist the responsible Department needs to be informed to align their service delivery to include the needs identified around the phenomenon of day labourers.
- Government needs to then work with the identified Department to develop laws to protect and regulate the phenomenon of day labour.
- More in depth research is needed on the following:
  - the specific nature of the housing need amongst the day labourers
  - the specific issues relevant to the regulation of the use, payment and treatment of day labourers
  - the most sensible areas to erect infrastructures in Tshwane

**5.7. A PERSONAL CONCLUSION:**

Keeney (1983:3) mentioned: "...The truth may snare us at times, but we can never snare the truth..." I live on the "sunny side" of a beautiful mountain in Tshwane. In the mornings I hear the birds sing and enjoy the view of a carpet of green leaves all the way up the mountain. As the December rain pours outside and the thunder roars, warning me to unplug all my luxury electrical goods, I wonder, but can never understand, what it is like on the other side of the fence. Apparently, literally hundreds of people *also* call this mountain their home...

In search of small items that could be sold for money, an intruder held up a 14-year-old girl who is my neighbour with scissors and eventually locked her in the bathroom. We thank God she was not raped... She cannot sleep when she hears the people in the mountain talking around their fires at night.

God forbid if I were ever assigned the task to make a plan, solve the issues that surround the phenomenon of day labourers in Tshwane. I would but pray for the same kind of wisdom God gave Solomon.

And God gave Solomon exceeding great wisdom and understanding,  
and largeness of heart,  
even as the sand that *is* on the seashore.

(1 Kings 4:29)

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**ANNEXURE A:**

**INTERVIEW SCHEDULES**

**BUSINESS EMPLOYEE INTERVIEW SCHEDULE:**

SITE: \_\_\_\_\_

SITE ADDRESS: \_\_\_\_\_

NAME OF BUSINESS: \_\_\_\_\_

INTERVIEWEE NAME: \_\_\_\_\_

POSITION: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE NUMBER OF BUSINESS: \_\_\_\_\_

DATE OF INTERVIEW: \_\_\_\_\_

TIME OF INTERVIEW: \_\_\_\_\_

DURATION OF INTERVIEW: \_\_\_\_\_

**CONTENT OF INTERVIEW:**

1. WHAT IS YOUR PERCEPTION OF THE DAY LABOURERS IN YOU AREA?
2. WHY DO YOU THINK THEY HAVE IDENTIFIED THIS SPECIFIC AREA?
3. WHAT KIND OF CONTACT OR INTERACTION DO YOU HAVE WITH THE DAY LABOURERS?
4. WHAT DIFFERENCE DOES THE PRESENCE OF THE DAY LABOURERS HAVE ON YOUR BUSINESS?
5. DO YOU ALLOW THEM TO MAKE USE OF YOUR FACILITIES, EG TOILET / WATER / SHELTER?
6. WHO DO YOU THINK MAKE USE OF THEIR SERVICES?
7. WHERE DO YOU THINK THEY STAY AT NIGHT?
8. DO YOU HAVE ANY SUGGESTIONS REGARDING THE DAY LABOURERS?
9. WHAT DO YOU THINK CHURCHES AND THE GOVERNMENT AND BUSINESSES SHOULD DO ABOUT THE DAY LABOURERS?
10. OTHER INFORMATION:

**RESIDENT INTERVIEW SCHEDULE:**

SITE: \_\_\_\_\_  
SITE ADDRESS: \_\_\_\_\_  
ADDRESS OF INTERVIEWEE: \_\_\_\_\_  
PHONE NUMBER OF INTERVIEWEE: \_\_\_\_\_  
DATE OF INTERVIEW: \_\_\_\_\_  
TIME OF INTERVIEW: \_\_\_\_\_  
DURATION OF INTERVIEW: \_\_\_\_\_

**CONTENT OF INTERVIEW:**

1. WHAT IS YOUR PERCEPTION OF THE DAY LABOURERS IN YOUR STREET?
2. WHY DO YOU THINK THEY HAVE IDENTIFIED THIS STREET?
3. WHAT DO YOU THINK ARE THE DAY LABOURERS' PERCEPTION OF THIS STREET OR AREA?
4. WHAT KIND OF CONTACT OR INTERACTION DO YOU HAVE WITH THE DAY LABOURERS?
5. WOULD YOU MAKE USE OF THEM? IF YES, WHY? IF NO, WHY?
6. WHO ELSE DO YOU THINK MAKES USE OF THEIR SERVICES?
7. WHAT IS THE IMPACT OF THE PEOPLE'S PRESENCE?
  - 7.1. NEGATIVE  
IMPACT:.....
  - 7.2. POSITIVE  
IMPACT:.....
8. WHERE DO YOU THINK THEY STAY AT NIGHT?
9. ARE YOU AWARE OF ANYBODY WHO HELPS THE DAY LABOURERS? IF YES - WHO?
10. DO YOU HAVE ANY SUGGESTIONS REGARDING THE DAY LABOURERS?
10. OTHER INFORMATION:  
(Time of day at home?)

**MUNICIPALITY & DEPT OF LABOUR INTERVIEW SCHEDULE:**

SITE: \_\_\_\_\_  
SITE ADDRESS: \_\_\_\_\_  
ADDRESS OF INTERVIEWEE: \_\_\_\_\_  
PHONE NUMBER OF INTERVIEWEE: \_\_\_\_\_  
DATE OF INTERVIEW: \_\_\_\_\_  
TIME OF INTERVIEW: \_\_\_\_\_  
DURATION OF INTERVIEW: \_\_\_\_\_

**CONTENT OF INTERVIEW:**

1. WHAT IS YOUR PERCEPTION OF THE DAY LABOURERS IN TSWANE?
2. WHAT IS GOVERNMENT'S VIEWPOINT ON THE ISSUE OF DAY LABOURERS?
3. WHAT LEGISLATION IS RELEVANT TO THE DAY LABOURERS?
4. WHAT IS YOUR PERCEPTION OF THE COMMUNITY'S VIEWPOINT ABOUT THE DAY LABOURERS?
5. WHAT IS THE IMPACT OF THE PEOPLE'S PRESENCE IN OUR CITY?
  - 5.1. NEGATIVE  
IMPACT:.....
  - 5.2. POSITIVE  
IMPACT:.....
6. WHERE DO YOU THINK THEY STAY AT NIGHT?
7. ARE YOU AWARE OF ANYBODY WHO HELPS THE DAY LABOURERS? IF YES - WHO?
8. DO YOU HAVE ANY SUGGESTIONS REGARDING THE DAY LABOURERS?
9. OTHER INFORMATION:

**POLICE AND METRO POLICE INTERVIEW SCHEDULE:**

SITE: \_\_\_\_\_  
SITE ADDRESS: \_\_\_\_\_  
ADDRESS OF INTERVIEWEE: \_\_\_\_\_  
PHONE NUMBER OF INTERVIEWEE: \_\_\_\_\_  
DATE OF INTERVIEW: \_\_\_\_\_  
TIME OF INTERVIEW: \_\_\_\_\_  
DURATION OF INTERVIEW: \_\_\_\_\_

**CONTENT OF INTERVIEW:**

1. WHAT IS YOUR PERCEPTION OF THE DAY LABOURERS IN AT .....?
2. WHAT KIND OF CONTACT OR INTERACTION DO YOU HAVE WITH THE DAY LABOURERS?
3. WHAT LEGISLATION IS RELEVANT TO THE DAY LABOURERS?
4. WHAT IS YOUR PERCEPTION OF THE COMMUNITY'S VIEWPOINT ABOUT THE DAY LABOURERS?
5. WHAT IS THE IMPACT OF THE PEOPLE'S PRESENCE?
  - 5.1. NEGATIVE  
IMPACT:.....
  - 5.2. POSITIVE  
IMPACT:.....
6. WHERE DO YOU THINK THEY STAY AT NIGHT?
7. ARE YOU AWARE OF ANYBODY WHO HELPS THE DAY LABOURERS? IF YES - WHO?
8. DO YOU HAVE ANY SUGGESTIONS REGARDING THE DAY LABOURERS?
9. OTHER INFORMATION:



**ANNEXURE B:**

**BILL OF RIGHTS**

Constitution of the Republic of South Africa, 1996,  
Chapter 2

**Chapter 2**  
**Bill of Rights**

**Index of Sections**

**Rights**

7. (1) This Bill of Rights is a cornerstone of democracy in South Africa. It enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom.

(2) The state must respect, protect, promote and fulfil the rights in the Bill of Rights.

(3) The rights in the Bill of Rights are subject to the limitations contained or referred to in section 36, or elsewhere in the Bill.

**Application**

8. (1) The Bill of Rights applies to all law, and binds the legislature, the executive, the judiciary and all organs of state.

(2) A provision of the Bill of Rights binds a natural or a juristic person if, and to the extent that, it is applicable, taking into account the nature of the right and the nature of any duty imposed by the right.

(3) When applying a provision of the Bill of Rights to a natural or juristic person in terms of subsection (2), a court -

in order to give effect to a right in the Bill, must apply, or if necessary develop, the common law to the extent that legislation does not give effect to that right; and

may develop rules of the common law to limit the right, provided that the limitation is in accordance with section 36(1).

(4) A juristic person is entitled to the rights in the Bill of Rights to the extent required by the nature of the rights and the nature of that juristic person.

**Equality**

9. (1) Everyone is equal before the law and has the right to equal protection and benefit of the law.

(2) Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.

(3) The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

(4) No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3). National legislation must be enacted to prevent or prohibit unfair discrimination.

(5) Discrimination on one or more of the grounds listed in subsection (3) is unfair unless it is established that the discrimination is fair.

**Human dignity**

10. Everyone has inherent dignity and the right to have their dignity respected and protected.

**Life**

11. Everyone has the right to life.

**Freedom and security of the person**

12. (1) Everyone has the right to freedom and security of the person, which includes the right -

not to be deprived of freedom arbitrarily or without just cause;

not to be detained without trial;

to be free from all forms of violence from either public or private sources;

not to be tortured in any way; and

not to be treated or punished in a cruel, inhuman or degrading way.

(2) Everyone has the right to bodily and psychological integrity, which includes the right -

to make decisions concerning reproduction;

to security in and control over their body; and

not to be subjected to medical or scientific experiments without their informed consent.

**Slavery, servitude and forced labour**

13. No one may be subjected to slavery, servitude or forced labour.

**Privacy**

14. Everyone has the right to privacy, which includes the right not to have -  
 their person or home searched;  
 their property searched;  
 their possessions seized; or  
 the privacy of their communications infringed.

**Freedom of religion, belief and opinion**

15. (1) Everyone has the right to freedom of conscience, religion, thought, belief and opinion.

(2) Religious observances may be conducted at state or state-aided institutions, provided that -  
 those observances follow rules made by the appropriate public authorities;  
 they are conducted on an equitable basis; and  
 attendance at them is free and voluntary.

(3) This section does not prevent legislation recognising -  
 marriages concluded under any tradition, or a system of religious, personal or family law; or  
 systems of personal and family law under any tradition, or adhered to by persons professing a  
 particular religion.

Recognition in terms of paragraph (a) must be consistent with this section and the other provisions of  
 the Constitution.

**Freedom of expression**

16. (1) Everyone has the right to freedom of expression, which includes -  
 freedom of the press and other media;  
 freedom to receive or impart information or ideas;  
 freedom of artistic creativity; and  
 academic freedom and freedom of scientific research.

(2) The right in subsection (1) does not extend to -  
 propaganda for war;  
 incitement of imminent violence; or  
 advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to  
 cause harm.

**Assembly, demonstration, picket and petition**

17. Everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present  
 petitions.

**Freedom of association**

18. Everyone has the right to freedom of association.

**Political rights**

19. (1) Every citizen is free to make political choices, which includes the right -  
 to form a political party;  
 to participate in the activities of, or recruit members for, a political party; and  
 to campaign for a political party or cause.

(2) Every citizen has the right to free, fair and regular elections for any legislative body established in terms  
 of the Constitution.

(3) Every adult citizen has the right -  
 to vote in elections for any legislative body established in terms of the Constitution, and to do so in  
 secret; and  
 to stand for public office and, if elected, to hold office.

**Citizenship**

20. No citizen may be deprived of citizenship.

**Freedom of movement and residence**

21. (1) Everyone has the right to freedom of movement.
- (2) Everyone has the right to leave the Republic.
- (3) Every citizen has the right to enter, to remain in and to reside anywhere in, the Republic.
- (4) Every citizen has the right to a passport.

**Freedom of trade, occupation and profession**

22. Every citizen has the right to choose their trade, occupation or profession freely. The practice of a trade, occupation or profession may be regulated by law.

**Labour relations**

23. (1) Everyone has the right to fair labour practices.
- (2) Every worker has the right -
  - to form and join a trade union;
  - to participate in the activities and programmes of a trade union; and
  - to strike.
- (3) Every employer has the right -
  - to form and join an employers' organisation; and
  - to participate in the activities and programmes of an employers' organisation.
- (4) Every trade union and every employers' organisation has the right -
  - to determine its own administration, programmes and activities;
  - to organise; and
  - to form and join a federation.
- (5) Every trade union, employers' organisation and employer has the right to engage in collective bargaining. National legislation may be enacted to regulate collective bargaining. To the extent that the legislation may limit a right in this Chapter, the limitation must comply with section 36(1).
- (6) National legislation may recognise union security arrangements contained in collective agreements. To the extent that the legislation may limit a right in this Chapter, the limitation must comply with section 36(1).

**Environment**

24. Everyone has the right -
  - to an environment that is not harmful to their health or well-being; and
  - to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that -
    - prevent pollution and ecological degradation;
    - promote conservation; and
    - secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

**Property**

25. (1) No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property.
- (2) Property may be expropriated only in terms of law of general application -
  - for a public purpose or in the public interest; and
  - subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court.
- (3) The amount of the compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interests of those affected, having regard to all relevant circumstances, including -
  - the current use of the property;
  - the history of the acquisition and use of the property;
  - the market value of the property;
  - the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and
  - the purpose of the expropriation.
- (4) For the purposes of this section -

the public interest includes the nation's commitment to land reform, and to reforms to bring about equitable access to all South Africa's natural resources; and property is not limited to land.

- (5) The state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis.
- (6) A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress.
- (7) A person or community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to restitution of that property or to equitable redress.
- (8) No provision of this section may impede the state from taking legislative and other measures to achieve land, water and related reform, in order to redress the results of past racial discrimination, provided that any departure from the provisions of this section is in accordance with the provisions of section 36(1).
- (9) Parliament must enact the legislation referred to in subsection (6).

#### **Housing**

- 26. (1) Everyone has the right to have access to adequate housing.
- (2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right.
- (3) No one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions.

#### **Health care, food, water and social security**

- 27. (1) Everyone has the right to have access to -
  - health care services, including reproductive health care;
  - sufficient food and water; and
  - social security, including, if they are unable to support themselves and their dependants, appropriate social assistance.
- (2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights.
- (3) No one may be refused emergency medical treatment.

#### **Children**

- 28. (1) Every child has the right -
  - to a name and a nationality from birth;
  - to family care or parental care, or to appropriate alternative care when removed from the family environment;
  - to basic nutrition, shelter, basic health care services and social services;
  - to be protected from maltreatment, neglect, abuse or degradation;
  - to be protected from exploitative labour practices;
  - not to be required or permitted to perform work or provide services that -
    - are inappropriate for a person of that child's age; or
    - place at risk the child's well-being, education, physical or mental health or spiritual, moral or social development;
  - not to be detained except as a measure of last resort, in which case, in addition to the rights a child enjoys under sections 12 and 35, the child may be detained only for the shortest appropriate period of time, and has the right to be -
    - kept separately from detained persons over the age of 18 years; and
    - treated in a manner, and kept in conditions, that take account of the child's age;
  - to have a legal practitioner assigned to the child by the state, and at state expense, in civil proceedings affecting the child, if substantial injustice would otherwise result; and
  - not to be used directly in armed conflict, and to be protected in times of armed conflict.
- (2) A child's best interests are of paramount importance in every matter concerning the child.

(3) In this section "child" means a person under the age of 18 years.

**Education**

29. (1) Everyone has the right -  
to a basic education, including adult basic education; and  
to further education, which the state, through reasonable measures, must make progressively available and accessible.
- (2) Everyone has the right to receive education in the official language or languages of their choice in public educational institutions where that education is reasonably practicable. In order to ensure the effective access to, and implementation of, this right, the state must consider all reasonable educational alternatives, including single medium institutions, taking into account -  
equity;  
practicability; and  
the need to redress the results of past racially discriminatory laws and practices.
- (3) Everyone has the right to establish and maintain, at their own expense, independent educational institutions that -  
do not discriminate on the basis of race;  
are registered with the state; and  
maintain standards that are not inferior to standards at comparable public educational institutions.
- (4) Subsection (3) does not preclude state subsidies for independent educational institutions.

**Language and culture**

30. Everyone has the right to use the language and to participate in the cultural life of their choice, but no one exercising these rights may do so in a manner inconsistent with any provision of the Bill of Rights.

**Cultural, religious and linguistic communities**

31. (1) Persons belonging to a cultural, religious or linguistic community may not be denied the right, with other members of that community -  
to enjoy their culture, practise their religion and use their language; and  
to form, join and maintain cultural, religious and linguistic associations and other organs of civil society.
- (2) The rights in subsection (1) may not be exercised in a manner inconsistent with any provision of the Bill of Rights.

**Access to information**

32. (1) Everyone has the right of access to -  
any information held by the state; and  
any information that is held by another person and that is required for the exercise or protection of any rights.
- (2) National legislation must be enacted to give effect to this right, and may provide for reasonable measures to alleviate the administrative and financial burden on the state.

**Just administrative action**

33. (1) Everyone has the right to administrative action that is lawful, reasonable and procedurally fair.
- (2) Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons.
- (3) National legislation must be enacted to give effect to these rights, and must -  
provide for the review of administrative action by a court or, where appropriate, an independent and impartial tribunal;  
impose a duty on the state to give effect to the rights in subsections (1) and (2); and  
promote an efficient administration.

**Access to courts**

34. Everyone has the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court or, where appropriate, another independent and impartial tribunal or forum.

**Arrested, detained and accused persons**

35. (1) Everyone who is arrested for allegedly committing an offence has the right -

- to remain silent;  
to be informed promptly -  
    of the right to remain silent; and  
    of the consequences of not remaining silent;  
not to be compelled to make any confession or admission that could be used in evidence against that person;  
to be brought before a court as soon as reasonably possible, but not later than -  
    48 hours after the arrest; or  
    the end of the first court day after the expiry of the 48 hours, if the 48 hours expire outside ordinary court hours or on a day which is not an ordinary court day;  
at the first court appearance after being arrested, to be charged or to be informed of the reason for the detention to continue, or to be released; and  
to be released from detention if the interests of justice permit, subject to reasonable conditions.
- (2) Everyone who is detained, including every sentenced prisoner, has the right -  
to be informed promptly of the reason for being detained;  
to choose, and to consult with, a legal practitioner, and to be informed of this right promptly;  
to have a legal practitioner assigned to the detained person by the state and at state expense, if substantial injustice would otherwise result, and to be informed of this right promptly;  
to challenge the lawfulness of the detention in person before a court and, if the detention is unlawful, to be released;  
to conditions of detention that are consistent with human dignity, including at least exercise and the provision, at state expense, of adequate accommodation, nutrition, reading material and medical treatment; and  
to communicate with, and be visited by, that person's -  
    spouse or partner;  
    next of kin;  
    chosen religious counsellor; and  
    chosen medical practitioner.
- (3) Every accused person has a right to a fair trial, which includes the right -  
to be informed of the charge with sufficient detail to answer it;  
to have adequate time and facilities to prepare a defence;  
to a public trial before an ordinary court;  
to have their trial begin and conclude without unreasonable delay;  
to be present when being tried;  
to choose, and be represented by, a legal practitioner, and to be informed of this right promptly;  
to have a legal practitioner assigned to the accused person by the state and at state expense, if substantial injustice would otherwise result, and to be informed of this right promptly;  
to be presumed innocent, to remain silent, and not to testify during the proceedings;  
to adduce and challenge evidence;  
not to be compelled to give self-incriminating evidence;  
to be tried in a language that the accused person understands or, if that is not practicable, to have the proceedings interpreted in that language;  
not to be convicted for an act or omission that was not an offence under either national or international law at the time it was committed or omitted;  
not to be tried for an offence in respect of an act or omission for which that person has previously been either acquitted or convicted;  
to the benefit of the least severe of the prescribed punishments if the prescribed punishment for the offence has been changed between the time that the offence was committed and the time of sentencing; and  
of appeal to, or review by, a higher court.
- (4) Whenever this section requires information to be given to a person, that information must be given in a language that the person understands.

(5) Evidence obtained in a manner that violates any right in the Bill of Rights must be excluded if the admission of that evidence would render the trial unfair or otherwise be detrimental to the administration of justice.

**Limitation of rights**

36. (1) The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including -

- the nature of the right;
- the importance of the purpose of the limitation;
- the nature and extent of the limitation;
- the relation between the limitation and its purpose; and
- less restrictive means to achieve the purpose.

(2) Except as provided in subsection (1) or in any other provision of the Constitution, no law may limit any right entrenched in the Bill of Rights.

**States of emergency**

37. (1) A state of emergency may be declared only in terms of an Act of Parliament, and only when -

- the life of the nation is threatened by war, invasion, general insurrection, disorder, natural disaster or other public emergency; and
- the declaration is necessary to restore peace and order.

(2) A declaration of a state of emergency, and any legislation enacted or other action taken in consequence of that declaration, may be effective only -

- prospectively; and
- for no more than 21 days from the date of the declaration, unless the National Assembly resolves to extend the declaration. The Assembly may extend a declaration of a state of emergency for no more than three months at a time. The first extension of the state of emergency must be by a resolution adopted with a supporting vote of a majority of the members of the Assembly. Any subsequent extension must be by a resolution adopted with a supporting vote of at least 60 per cent of the members of the Assembly. A resolution in terms of this paragraph may be adopted only following a public debate in the Assembly.

(3) Any competent court may decide on the validity of -

- a declaration of a state of emergency;
- any extension of a declaration of a state of emergency; or
- any legislation enacted, or other action taken, in consequence of a declaration of a state of emergency.

(4) Any legislation enacted in consequence of a declaration of a state of emergency may derogate from the Bill of Rights only to the extent that -

- the derogation is strictly required by the emergency; and
- the legislation -
  - is consistent with the Republic's obligations under international law applicable to states of emergency;
  - conforms to subsection (5); and
  - is published in the national Government Gazette as soon as reasonably possible after being enacted.

(5) No Act of Parliament that authorises a declaration of a state of emergency, and no legislation enacted or other action taken in consequence of a declaration, may permit or authorise -

- indemnifying the state, or any person, in respect of any unlawful act;
- any derogation from this section; or
- any derogation from a section mentioned in column 1 of the Table of Non-Derogable Rights, to the extent indicated opposite that section in column 3 of the Table.



**Table of Non-Derogable Rights**

1 Section Number	2 Section Title	3 Extent to which the right is protected
9	Equality	With respect to <u>unfair discrimination solely on the grounds of race, colour, ethnic or social origin, sex religion or language</u>
10	Human Dignity	Entirely
11	Life	Entirely
12	Freedom and Security of the person	With respect to subsections (1)(d) and (e) and (2)(c).
13	Slavery, servitude and forced labour	With respect to slavery and servitude
28	Children	With respect to: <ul style="list-style-type: none"> <li>• subsection (1)(d) and (e);</li> <li>• the rights in subparagraphs (i) and (ii) of <u>subsection (1)(g); and</u></li> </ul> <u>subsection 1(i) in respect of children of 15 years and younger</u>
35	Arrested, detained and accused persons	With respect to: <ul style="list-style-type: none"> <li>• subsections (1)(a), (b) and (c) and (2)(d);</li> <li>• <u>the rights in paragraphs (a) to (o) of subsection (3), excluding paragraph (d)</u></li> <li>• <u>subsection (4); and</u></li> </ul> <u>subsection (5) with respect to the exclusion of evidence if the admission of that evidence would render the trial unfair.</u>

- (6) Whenever anyone is detained without trial in consequence of a derogation of rights resulting from a declaration of a state of emergency, the following conditions must be observed:
- An adult family member or friend of the detainee must be contacted as soon as reasonably possible, and informed that the person has been detained.
- A notice must be published in the national Government Gazette within five days of the person being detained, stating the detainee's name and place of detention and referring to the emergency measure in terms of which that person has been detained.
- The detainee must be allowed to choose, and be visited at any reasonable time by, a medical practitioner.
- The detainee must be allowed to choose, and be visited at any reasonable time by, a legal representative.
- A court must review the detention as soon as reasonably possible, but no later than 10 days after the date the person was detained, and the court must release the detainee unless it is necessary to continue the detention to restore peace and order.
- A detainee who is not released in terms of a review under paragraph (e), or who is not released in terms of a review under this paragraph, may apply to a court for a further review of the detention at any time after 10 days have passed since the previous review, and the court must release the detainee unless it is still necessary to continue the detention to restore peace and order.
- The detainee must be allowed to appear in person before any court considering the detention, to be represented by a legal practitioner at those hearings, and to make representations against continued detention.

The state must present written reasons to the court to justify the continued detention of the detainee, and must give a copy of those reasons to the detainee at least two days before the court reviews the detention.

(7) If a court releases a detainee, that person may not be detained again on the same grounds unless the state first shows a court good cause for re-detaining that person.

(8) Subsections (6) and (7) do not apply to persons who are not South African citizens and who are detained in consequence of an international armed conflict. Instead, the state must comply with the standards binding on the Republic under international humanitarian law in respect of the detention of such persons.

#### **Enforcement of rights**

38. Anyone listed in this section has the right to approach a competent court, alleging that a right in the Bill of Rights has been infringed or threatened, and the court may grant appropriate relief, including a declaration of rights. The persons who may approach a court are -

- anyone acting in their own interest;
- anyone acting on behalf of another person who cannot act in their own name;
- anyone acting as a member of, or in the interest of, a group or class of persons;
- anyone acting in the public interest; and
- an association acting in the interest of its members.

#### **Interpretation of Bill of Rights**

39. (1) When interpreting the Bill of Rights, a court, tribunal or forum -

- must promote the values that underlie an open and democratic society based on human dignity, equality and freedom;
- must consider international law; and
- may consider foreign law.

(2) When interpreting any legislation, and when developing the common law or customary law, every court, tribunal or forum must promote the spirit, purport and objects of the Bill of Rights.

(3) The Bill of Rights does not deny the existence of any other rights or freedoms that are recognised or conferred by common law, customary law or legislation, to the extent that they are consistent with the Bill.

