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An Example of Sustainable Development (In)Action: The Case of Waste Pickers at a Buy-Back Centre in Johannesburg

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ABSTRACT

This article discusses the difficulty in achieving sustainable development for South African waste pickers (informal collectors and sellers of recyclable materials) through an empirical case study. Waste pickers recycle for their survival due to a lack of job opportunities. As this study shows, the social enterprise that waste pickers sell recyclables to also faced economic constraints that prevented the fulfilment of its unique plan to improve waste pickers' lives through technical and life skills development. Ultimately, company personnel who were in a position to translate waste management laws and policies that waste pickers needed to comply with to take advantage of opportunities to improve their low socio-economic position did not do so due to a lack of resources. This meant that the vulnerable socio-economic position of waste pickers was maintained, further illustrating how sustainable development fails through the actions of people, and contributes to the disruption of socio-economic development.

KEYWORDS: informal economy, global south, Johannesburg, sustainable development, waste law

1. INTRODUCTION

This article is concerned with how sustainable development thrives, survives and fails in the informal waste economy. This study is important because it explores how a central environmental law principle—sustainable development—has shaped a particular waste management regime, and how this has influenced the type of economic and legal decisions made by relevant actors within the set waste regime and the consequences of these in terms of continued dire economic and social conditions for waste pickers. It specifically pays attention to the work of waste pickers, who provide waste management and recycling services in developed countries where municipalities struggle to do so. In this regard, waste pickers act as environmental agents

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but their work, and significance in the waste economy, is underexplored in environmental law scholarship.

The study further zooms in on a case study set in Johannesburg, South Africa. This jurisdiction was picked for three main reasons. Firstly, the literature on waste pickers in South Africa is vast, which provided a solid foundation for understanding the intricacies of their activity before fieldwork was undertaken.[1] The work of waste pickers, who collect 80–90% of all recycled materials in South Africa, contributes to a waste economy worth approximately £765,000,000.[2] What is more, waste pickers directly contribute to a reduction in the use of raw materials used in everyday manufacturing, whilst saving municipalities approximately £13–£32 million a year through the conservation of landfill airspace.[3] It is estimated that ninety thousand people in South Africa work under harsh environmental conditions to make a living from waste-picking and thereby reduce reliance on South Africa's modest benefits system.[4] The vast majority work informally as individuals, with less than 10% organised into cooperatives.[5]

Secondly, formal private sector and policymaker respondents in this study were conversant during interviews of the importance of sustainable development to the waste management economy.[6] WasteBuy, the company to which waste pickers sold recyclables in this case study, wished to create a 'sustainable income' for waste pickers and teach them 'life skills and technical skills'[7]—concepts associated with the social and economic pillars of sustainable development.[8] Thirdly, South Africa has codified the principle of sustainable development as a constitutional right in line with its formulation in international law.[9] This makes the country useful study material in terms of inquiring whether this constitutional codification has enabled waste pickers to enjoy any benefits therefrom.

The study is divided into five main parts. The first part, Section 2, sets out the interdisciplinary methodology relied on in this article, drawing on concepts and methods from economics, sociology and law to undertake a holistic analysis of sustainable development and the informal waste economy in South Africa. The second part, Section 3, discusses the importance of sustainable development as the aim and objective of the numerous laws which comprise the econo-legal[10] regime—that is, the economic and legal ideas and technologies that are mutually constitutive of regimes—that governs South African waste management. The investigation then shifts focus to how the actions of people make sustainable development survive, thrive or fail. The third part, Section 4, explores WasteBuy—a social enterprise that prioritises a sustainable income for waste pickers—and street-based waste picker motivations to enter waste management. The

1 See the following for further details: Linda Godfrey and Suzan Oelofse, 'Historical Review of Waste Management and Recycling in South Africa' (2017) 6 Resources 1; Melanie Samson, 'The Social Uses of the Law at a Soweto Garbage Dump: Reclaiming the Law and the State in the Informal Economy' (2017) 65 Current Sociology 222; Melanie Samson, 'Whose Frontier Is It Anyway? Reclaimer "Integration" and the Battle Over Johannesburg's Waste-Based Commodity Frontier' (2020) 31 Capitalism Nature Socialism 60; Derek Yu, Derek Blaauw and Rinie Schenck, 'Waste Pickers in Informal Self-employment: Over-worked and on the Breadline' (2020) 37 Development Southern Africa 971.

2 Department of Science and Technology (DST), 'A Waste Research, Development and Innovation Roadmap for South Africa (2015-2025)'. Towards a secondary resources economy (2014) Department of Science and Technology Summary report. <https://wasteroadmap.co.za/wp-content/uploads/2020/03/waste_rdi_roadmap_summary.pdf> accessed 10 February 2025; Linda Godfrey, Wilma F Strydom and R Phukubye, 'Integrating the Informal Sector into the South African and Recycling Economy in the Context of Extended Producer Responsibility' (2016) Council for Scientific and Industrial Research Briefing Note, available at: <https://www.csir.co.za/documents/policy-briefinformal-sectorcsir-finalpdf> accessed 10 February 2025.

3 Godfrey et al (n 2) 4–5; Ngcobo estimates this as higher than £32 million per year. Nonhlanhla Ngcobo, 'Waste Pickers and the Informal Economy: A South African Constitutional Law Perspective' (2022) 36 Speculum Juris 17.

4 Godfrey et al (n 2) 2; Catherina J Schenck et al, 'The Management of South Africa's Landfills and Waste Pickers on Them: Impacting Lives and Livelihoods' (2019) 36 Development Southern Africa 80, 81; Interview with WP4.

5 Godfrey et al (n 2) 3.

6 Fieldwork Notes and Interviews 2016 and 2017.

7 WasteBuy website.

8 John Dryzek, *The Politics of the Earth: Environmental Fiscourses* (4th edn, OUP 2022) 150.

9 Constitution of the Republic of South Africa of 1996 (Act 108 of 1996) (The Constitution), s 24(b)(iii).

10 Amanda Perry-Kessaris, 'Approaching the Econo-Socio-Legal' (2015) 11 ARLSS 57, 63.

fourth part, Section 5, follows with a discussion of how WasteBuy and waste picker capital affect their ability to comply with, and translate South Africa's sustainable-development-infused laws and policies. The struggle for the economic survival of these economic actors prevents waste pickers and WasteBuy from realising sustainable development. More precisely, WasteBuy is initially motivated to achieve social justice, whereas waste pickers, unaware of their right to improved social and economic conditions, as promised under the sustainable development provision of the South African Constitution, are motivated by survival. The fifth part, Section 6, considers how the constraints faced by WasteBuy can be mitigated. Finally, in Section 7, the article concludes with a reflection on how the legal and economic forces that govern the actions of WasteBuy and waste pickers negatively affect their ability to achieve sustainable development with WasteBuy failing and waste pickers continuing their struggle to survive.

This tale disrupts the promise, as found in the South African constitution, of improved conditions for waste pickers in Johannesburg. The implications are that sustainable development is difficult to achieve for vulnerable waste management actors without the concerted effort of a multitude of waste management actors working towards this goal. The environmental benefits of the work of waste pickers are well documented, but there is no guarantee that their work will result in their improved economic and social conditions. This can happen with structural change in the waste management economy that results in the use of capital and profits to improve waste pickers' material conditions.

2. A METHODOLOGY FOR WASTE PICKER–WASTEBUY INTERACTIONS

The methodology in this study is ethnographically inspired, but differs from ethnography in three key respects. To start with, like ethnography, the aim of the inquiry was to understand waste management actors' lived experience through the use of behavioural observation, interviewing, field note-keeping and the collection of artefacts.[11] Ethnography, however, is generally understood to involve living and participating in research participant community activities for a year or more.[12] In contrast, my role was limited to observing the behaviour of my research participants within the WasteBuy operations over several days over a period of 5 months—actual participation in the daily activities of street-based waste pickers ran the risk of being too dangerous.[13] What is more, in these contexts, behavioural observation, a method in its own right that involves observing the behaviour of research participants, tends to be more common than participant observation for a researcher who is 'ecologically and economically oriented'.[14] In contrast, participant observation involves active participation in the activities of the research participants, which 'provides the researcher with a subjective dimension that can profoundly change the way they understand the social action they observe' and eventually record.[15] Whereas, behavioural observation involves simply observing the general behaviour or specific

11 Eve Darian-Smith and Philip C McCarty, *The Global Turn: Theories, Research Designs and Methods for Global Studies* (University of California Press 2017) 134, 136–8; Martyn Hammersley and Paul Atkinson, *Ethnography: Principles in Practice* (4th edn, Routledge 2019) 19–20; Richard Swedberg, 'The Case for an Economic Sociology of Law' (2003) 32 Theory and Society 1, 1–2.

12 Hammersley and Atkinson, ibid 19–20.

13 The Foreign, Commonwealth and Development Office advises that there is a higher threat of crime in CBDs of major cities in South Africa, such as Johannesburg, rendering walking around, even during the day time, unsafe, see <https://www.gov.uk/foreign-travel-advice/south-africa/safety-and-security> accessed 2 December 2024; Darian-Smith and McCarty (n 11) 136–7; Hammersley and Atkinson, ibid 19, 21.

14 Raymond Hames and Michael Paolisso, 'Behavioural Observation' in Harvey R Bernard and Clarence C Gravlee (eds), *Handbook of Methods in Cultural Anthropology* (2nd edn, Rowman & Littlefield Publishers 2014) 293.

15 Darian-Smith and McCarty (n 11) 136–7.

activity of participants, such as the process of buying and selling waste by waste pickers to get an understanding of the activities undertaken by waste pickers.[16]

Secondly, ethnography involves deep immersion in the participant community either through multiple visits or a long-term stay, as well as many informal conversations as a research method. My visits were relatively short, most contact involved the expectation that an interview would take place.[17] I rarely engaged in informal conversations and other forms of unstructured data collection in the way one would with an ethnography, so I consider my research method ethnographically inspired as it falls short of what would be expected for an ethnography.[18] Finally, ethnographic study can be open to exploring the numerous topics that may arise as a concern for participants in the field. While my research design was flexible to entertain a variety of topics that concerned waste pickers and sustainable development, the focus was very clear and not open-ended,[19] which is different from the ethnographic method.

This study focuses on a snapshot of the work of waste pickers who sell the waste they collect to one scrapyard (commonly called in South Africa, a 'buy-back centre') in Johannesburg, WasteBuy, during the period October 2016–March 2017. A buy-back centre or scrapyard is a place where recyclable waste materials are bought and sold. I identified WasteBuy, and the waste pickers who sell waste there, as a suitable case study following through a process of non-probabilistic, snowball sampling,[20] having attended and made initial contacts at the bi-annual WasteCon waste management conference held in Johannesburg in October 2016. Studying waste pickers in this context provides a portal to understanding the principle of sustainable development in operation.

The sustainable development concept is particularly relevant in the context of the waste economy for three reasons. First, it serves to guide the waste management regime.[21] More precisely, as an objective of waste management laws, sustainable development promotes environmental protection for the benefit of present and future generations,[22] and economic and social development for those who work in waste.[23] Secondly, South African waste management laws set out permitting, licensing, information gathering, compliance and enforcement rules for the operation of the waste management economy and determine the legal status of waste picker activity in South Africa. Actors with the South African waste management economy are required to comply with these laws to operate legally. Waste pickers' compliance (or lack thereof) with legal requirements either renders their activity legal or illegal.

For this study, I interviewed 20 waste pickers at WasteBuy, as well as five private sector waste managers, one private sector industry association manager and one municipal waste official over the course of 5 days. I selected these stakeholders to get an understanding of various and possibly competing perspectives within the sector. I also visited the buy-back centre on three other separate occasions in February and March 2017 to observe and discuss their working practices

16 ibid.
17 Hammersley and Atkinson (n 11) 19.
18 ibid 3.
19 ibid 4, 20.
20 Greg Guest, 'Sampling and Selecting Participants in Field Research' in Harvey R Bernard and Clarence C Gravlee (eds), *Handbook of Methods in Cultural Anthropology* (2nd edn, Rowman & Littlefield Publishers 2014) 215, 233; Regina Scheyvens (ed), *Development Fieldwork: A Practical Guide* (SAGE 2014) 45.
21 The Constitution, s 24(b)(iii); National Environment Management Act of 1998 (Act 107 of 1998), Preamble; Municipal Systems Act 2000 (Act 32 of 2000), s 1; Gauteng Provincial Government, *Gauteng Provincial Integrated Waste Management Policy 2006*, viii, 4; National Environment Management: Waste Act of 2008 (Act 59 of 2008) (Waste Act 2008), Preamble and s 2(a)(vi); Department of Environmental Affairs (DEA), *National Waste Management Strategy* (NWMS) (2011) 10; Department for Environment, Forestry and Fisheries (DEFF), *NWMS* (2020) 9; Department for Environment, Forestry and Fisheries, and Department of Science and Innovation (DEFF and DST), *Waste Picker Integration Guideline for South Africa: Building the Recycling Economy and Improving Livelihoods through Integration of the Informal Sector* (2020) 3; Waste Management By-Law 2013, s 3(i)(b); Waste Management By-Law 2021, s 3(i)(b).
22 The Constitution, s 24 (a) and (b).
23 ibid s 24 (b) (iii).

with the staff, and assess the ease of access to waste pickers as a way to determine whether to undertake more fieldwork in this location.[24] I have used pseudonyms for the names of research respondents and for WasteBuy.[25]

Post-fieldwork, I identified and interpreted themes which emanated from my interviews and observations to interrogate the dynamics that shape waste picker economic interactions. I drew on the work of economic sociologist Bourdieu on market competition,[26] and his concepts of 'capital', or the resources that one accumulates over time, 'field', or the milieu in which social and economic activity takes place, and 'habitus', or the tendency towards a particular action, to understand each actor's relative position in the economy.[27] Bourdieu's concepts helped to categorise the work of waste pickers and WasteBuy in relation to the resources they have available to carry out economic transactions with each other and how these transactions assist them in achieving the requirements of the laws aimed at achieving sustainable development that govern their activities. Halliday and Carruthers' work on global lawmaking provided a basis for analysis on the translation of sustainable development from the global to the local.[28] I considered WasteBuy and waste picker motivations for their actions through the work of sociologist Kalberg[29] and legal scholar Perry-Kessaris[30] on the relationship between rationalities and actions, as explained in Section 4.

It is significant to note that after the fieldwork period of my study (October 2016–April 2017), the national policy and the municipal by-laws governing waste management in Johannesburg became more onerous by requiring an extra layer of bureaucracy for waste pickers to become permitted, thereby serving to reinforce the fieldwork findings on the difficulty of achieving sustainable development for waste pickers. Two national policies were published in 2020: a new National Waste Management Strategy (NWMS) and the Waste Picker Integration Guideline.[31] The 2020 NWMS declared that it was aligned with the 2015 UN 'sustainable development goals' (SDGs) set out in the UN 2030 Agenda for Sustainable Development.[32] The 2020 NWMS specifically states that it is 'explicitly responsive to the SDG related to responsible consumption and production, SDG 12'.[33] This is in contrast with the 2011 NWMS which contains no such declaration as it was published before the UN 2030 Agenda for Sustainable Development.[34] The 2020 Waste Picker Integration Guideline focuses on how to integrate waste pickers into the formalised waste management system.[35] Notably, it reveals a government plan to add waste pickers to the South African occupational classification list.[36] The Guideline also promotes the registration of both documented and undocumented South African and non-South African waste pickers

24 Darian-Smith and McCarty (n 11) 137–8; Hammersmith and Atkinson (n 11) 71–72.

25 This is in line with the Socio-Legal Studies Association Statement of Principles of Ethical Research Practice 2021, Principle 8, 9–12, available at: <https://www.slsa.ac.uk/images/slsadownloads/SLSA_Board_2021/SLSA_Ethics_Statement_-_September_2021.pdf > accessed 10 February 2025.

26 I used Bourdieu's concepts related to his economic field of struggle from his work on the French Housing Economy to discuss the existing dynamics found at WasteBuy. Pierre Bourdieu, *The Social Structures of the Economy* (Polity 2005).

27 Pierre Bourdieu, *The Outline of a Theory of Practice* (CUP 1977) 164; Pierre Bourdieu, 'The Forms of Capital' in John G Richardson (ed), *Handbook of Theory and Research for the Sociology of Education* (Greenwood Press 1986) 246–7; Pierre Bourdieu, *The Logic of Practice* (Stanford UP 1995) 54.

28 Terence C Halliday and Bruce G Carruthers, *Bankrupt: Global Lawmaking and Systemic Financial Crisis* (Stanford UP 2009).

29 Stephen Kalberg, 'Max Weber's Types of Rationality: Cornerstones for the Analysis of Rationalization Processes in History' (1980) 85 AJS 1145.

30 Perry-Kessaris (n 10) 57.

31 DEA 2011 (n 21).

32 DEFF 2020 (n 21) 16, 17; United Nations (UN), *Transforming our World: The 2030 Agenda for Sustainable Development* (25 September 2015) UN Doc A/RES/70/1, 26–27 <https://sdgs.un.org/2030agenda> accessed on 19 December 2024.

33 DEFF 2020 ibid 16.

34 DEA 2011 (n 21); UN 2015 (n 32) 35; DEFF ibid 16, 17.

35 DEFF and DST 2020 (n 21).

36 ibid 54.

through a process designed in conjunction with waste pickers, with the aim to overcome waste picker mistrust of government authorities.[37]

A co-created registration system, given the existing mistrust between waste pickers and formalised actors, hopefully, will encourage waste pickers to apply for formal accreditation under the 2021 amendment to the city of Johannesburg Metropolitan Municipality Waste Management By-Law 2013. The current By-Law stipulates that waste picking is allowed only if a waste picker is both registered with a waste picker association and accredited by the Council, adding a further layer of complexity to the permitting process.[38] Prior to the promulgation of this amendment, the 2013 By-Law simply required waste pickers to be accredited by the Council.[39] This means that the legislative requirements for waste pickers have become more burdensome through the introduction of a two-step process to be accredited to handle and transport waste in Johannesburg in 2021, the same year that WasteBuy ceased to operate.[40] These legislative and policy changes demonstrate that the difficulty waste pickers face in achieving sustainable development has in fact become more difficult since the fieldwork period.

3. SUSTAINABLE DEVELOPMENT AND SOUTH AFRICAN WASTE GOVERNANCE

The underpinning idea of sustainable development is often seen as the three-pillar approach of environmental protection, economic development and social development, known as the integration principle.[41] As a starting point, sustainable development has been codified in the Bill of Rights of the South African Constitution, which sets out at s 24 that 'everyone has the right (b) to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that—(iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development'. The constitution holds that sustainable development, in this vague formulation, must be interpreted in view of international law.[42] This duty to interpret sustainable development in relation to international law and policy was confirmed by Justice Ngcobo in the South African case, *Fuel Retailers*.[43]

Here, it is relevant to consider the importance of the 'SDGs', a form of international sustainable development policy, within South African law.[44] In 2015, the UN General Assembly adopted Resolution 70/1 that agreed 17 SDGs aimed at achieving the economic, environmental and social pillars of sustainable development. The Resolution covers wide-ranging topics including poverty (SDG 1), gender equality (SDG 5), clean water and sanitation (SDG 6), affordable clean energy (SDG 7), industry, innovation and infrastructure (SDG 9), reduced inequalities (SDG 10), climate action (SDG 13) and peace, justice strong institutions (SDG 17).[45] Each goal has several targets for a total of 169 targets to which UNGA members must collectively strive, the success of which is measured by 248 indicators.[46]

37 ibid 115.
38 Waste Management By-Law 2021, s 37 (2).
39 ibid ss 33–43.
40 ibid s 37 (2).
41 Philippe Sands et al, *Principles of International Environmental Law* (4th edn, CUP 2018) 227.
42 ibid 227; The Constitution s 39(1)(b).
43 *Fuel Retailers Association of Southern Africa v Director-General: Environmental Management, Department of Agriculture, Conservation and Environment, Mpumpalanga 2007 Province and Others* [140] [201].
44 UN 2015 (n 32).
45 ibid 14.
46 United Nations. *Global indicator framework for the Sustainable Development Goals and targets of the 2030 Agenda for Sustainable Development* (6 July 2017) UN Doc (A/RES/71/313) < https://unstats.un.org/sdgs/indicators/Global-Indicator-Framework-after-2024-refinement-English.pdf> accessed 23 January 2025.

Within national law, the Waste Act 2008 (Waste Act 2008), reaffirms in its Preamble the constitutional formulation of the sustainable development concept and sets out the objects of the Act to include 'securing ecologically sustainable development while promoting justifiable economic and social development'.[47] The Act further sets out the institutional framework for the governance of waste management at national, provincial and municipal levels,[48] general duties in respect of waste management,[49] and how designated waste management activities are to be licenced and monitored.[50] It also sets national standards for waste classification,[51] waste service provision,[52] storage, treatment and disposal of waste,[53] waste minimisation and the waste hierarchy,[54] and extended producer responsibility.[55] The Waste Act 2008 was amended in 2014 to change certain definitions, implement a strategy for waste pricing and establish the Waste Management Bureau, that is entrusted to create and oversee industry waste management plans.[56]

The Waste Act also establishes the gazetted National Waste Management Strategy (NWMS) that sets out the country's framework for systems and procedures to manage waste nationally.[57] First published in 2011 and revised in 2020, the NWMS promotes the formalisation of waste pickers' work. The 2011 NWMS sets out Goal 3 to grow 'the contribution of the waste sector to the green economy', an objective to achieve decent work through formalising the role of waste pickers and expanding the role of SMEs and cooperatives in waste management.[58] The 2020 NWMS states an aim to create decent jobs in the waste sector in contribution to SDG 8 on decent work and economic growth as part of its wider alignment to the SDGs,[59] recognising that 'waste minimisation is accomplished by waste pickers'.[60] The 2020 NWMS further incorporates into its 'strategic approach to waste management … the commitments and the directives of the SDGs'.[61]

The Waste Picker Integration Guideline states that 'waste picker integration supports South Africa's commitments to realising the SDGs: amongst others, SDG 1 on eradicating poverty; SDG 8 on economic growth and good jobs for all; SDG 10 on reducing inequality; and SDG 11 on creating sustainable cities and communities'.[62] Of importance to the analysis, SDG goal 8, which comprises 12 targets, promotes 'sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all'. SDG target 8.3 concerns the formalisation and growth of micro, small and medium-sized enterprises, which is directly relevant to and must be interpreted as how South African waste management law formulates its prioritisation of the formalisation of waste pickers' work.[63] This prioritisation is evident in the government plan revealed in the Waste Picker Integration Guideline to add waste pickers to the South African occupational classification list.[64] A more radical intervention of the Waste Picker Integration Guideline potentially conflicts with immigration law, which prohibits the helping of illegal foreigners to get 'a licence or other authorisation to conduct any business or to carry on

47 Waste Act 2008, s 2(a) (vi).
48 ibid ss 10–11.
49 ibid s 16.
50 ibid ss 19–20.
51 ibid s 7 (1) (a).
52 ibid s 7 (1) (b).
53 ibid s 7 (1) (c).
54 ibid s 7 (2) (a).
55 ibid s 7 (2) (b).
56 National Environmental Management: Waste Amendment Act 2014 (Act 26 of 2014), Preamble.
57 Waste Act 2008, s 6.
58 DEA 2011 (n 21) 26–27.
59 DEFF 2020 (n 21) 16–17.
60 ibid 27.
61 ibid 9.
62 DEFF and DST 2020 (n 21) 3.
63 UN 2015 (n 32), 23.
64 DEFF and DST (n 21) 54.

any profession or occupation.'[65] It is the registration of both documented and undocumented South African and non-South African waste pickers through a process designed in conjunction with waste pickers to overcome waste picker mistrust of government authorities.[66]

National law expects waste pickers to apply to the local municipality for authorisation to collect waste.[67] This is pursuant to the constitutional power and function of local municipalities to cover activities including 'refuse removal, refuse dumps and solid waste disposal'.[68] The City of Johannesburg Metropolitan Municipality Waste Management By-Laws 2013 (amended in 2021) sets out the permitting system for the handling and transporting of waste in Johannesburg in 2017. Everyone wishing to handle and transport waste had to secure an accreditation permit to do so.[69] Applicants were required to fill out the requisite form and provide the documentation specified on the form accompanied by the prescribed fee.[70] The Council considered a number of factors including the environment, health and safety record of the applicant,[71] and the nature of the commercial service to be provided in the decision to grant a permit.[72] The permit would be revoked for a number of reasons, notably if the holder failed to comply with any provision of the By-laws, national or provincial law and policy regulating the collection, transport and disposal of waste,[73] or any accreditation condition set out per section 35 (4) (a) of the By-Law.

A co-created registration system, given the existing mistrust, will hopefully encourage eligible waste pickers to apply for formal accreditation under the 2021 amendment to the city of Johannesburg Metropolitan Municipality Waste Management By-Law 2013. The current By-Law stipulates that waste picking is allowed only if a waste picker is registered with a waste picker association and accredited by the Council, adding a further layer of complexity to the permitting process.[74] Prior to the promulgation of this amendment, the 2013 By-Law simply required waste pickers to be accredited by the council.[75]

Once in possession of a permit, waste pickers are required to transact only with waste management actors who are accredited.[76] Nonetheless, two groups of waste pickers are unable to enjoy sustainable development in all its forms including via formal enterprise and skills training. The first is waste pickers, who are illegally resident in South Africa and therefore not eligible for a permit, even if their activity is capable of being permitted under the regime.[77] The second is waste pickers, who are entitled to obtain a permit but who do not.[78] This places a limitation on the extent to which all waste pickers can access sustainable development as envisaged in South African law.

Like waste pickers, recycling companies must be accredited before they can purchase materials from other waste management actors.[79] For recycling companies, transactions with waste pickers must take place in a setting currently capable of being authorised for this purpose, such as a buy-back centre or a materials recovery facility (MRF).[80] An unaccredited recycling company would not be permitted to purchase recycled materials from a waste picker whether or

65 South African Immigration Act 2002 (Act 13 of 2002) (Immigration Act 2002), s 42 (1).
66 DEFF and DST (n 21) 115.
67 Waste Act 2008, s 24; Waste Management By-Law 2013, ss 21(2) and 35.
68 The Constitution, s 156 and Sch 5, Part B.
69 Waste Management By-Law 2013, s 34.
70 ibid s 35 (1) (a) and (b).
71 ibid s 35 (2) (c).
72 ibid s 35 (2) (d).
73 ibid s 36 (1) (b).
74 Waste Management By-Law 2021, s 37 (2).
75 Waste Management By-Law 2013, ss 33–43.
76 ibid s 23 (1).
77 Immigration Act 2002, s 42.
78 Fieldwork notes 2016 and 2017.
79 Waste Management By-Law 2013, s 23 (1) (a).
80 Waste Act 2008, s 51; Waste Management By-Law 2013, s 23 (1) (a).

not the waste picker has a permit to do so, as the waste picker would be going against the law by transacting with an unauthorised entity.[81] Recycling companies face pressure from authorities to obtain a permit for waste management activities. However, they may not face pressure to ensure that they purchase recycled materials only from persons and entities with a permit, such as accredited waste pickers or waste picker cooperatives.[82] In this way, waste law does not operate to encourage WasteBuy to ensure that vendors such as waste pickers are compliant with laws aimed at achieving sustainable development—compliance without which waste pickers are deprived of access to enterprise and skills training to help them to improve their socioeconomic conditions.

4. THE CASE OF WASTE PICKERS IN JOHANNESBURG

This study zooms in on a particular set of economic actors: waste pickers and WasteBuy, to whom they sold their collected waste. An examination of these transactions shows that waste pickers' and WasteBuy's motivations for working in this sector have influenced each of their respective operational structures and willingness to comply with waste management law and sustainable development as envisaged by waste law. Waste pickers had low capital and were motivated by survival, and WasteBuy, although motivated by social justice, also had low capital relative to other actors within the waste management economy. Their differing motivations for being in the sector, and their differing levels of social and economic capital held by waste picker and WasteBuy combined to produce an environment in which the concept of sustainable development survives and later fails to be realised for waste pickers.

4.1 WasteBuy—Where Waste Pickers Go to Sell

WasteBuy was a South-African-owned and Johannesburg-headquartered multinational enterprise that specialised in the operation of buy-back centres. It provided income opportunities to over 500 people in 2017, the majority of whom were waste pickers.[83] The company described itself in a way that suggested it wished to achieve social and economic development for waste pickers. The company, it claimed, was[84]

> about more than just job creation, we are about giving people a sense of worth, a spirit of hope, a future to look forward to and a chance to take back ownership of their and our communities, through life skills and technical skill development.

This vision promises improved socio-economic conditions in line with sustainable development. It is also highly aspirational.[85]

The WasteBuy CEO and centre manager cited achieving social justice as the key principle that drove their presence in this waste sector.[86] My observation was that the WasteBuy social justice ethos was congruent with the social development pillar of sustainable development; that is, the idea that the essential ingredient to advance the quality of life must be balanced with

81 Waste Management By-Law 2013, s 23 (2).
82 Fieldwork notes 2017; Interviews with PSWM2 and SWMMO.
83 WasteBuy website (n 7).
84 ibid.
85 Tadashi Hirai, 'A Balancing Act between Economic Growth and Sustainable Development: Historical Trajectory through the Lens of Development Indicators' (2022) 30 Sustainable Development 1900, 1905.
86 Fieldwork Notes 2017; Pierre Bourdieu, *Theory of Practice* (n 27) 18; Kalberg (n 29) 1161; Pierre Bourdieu, *The Logic of Practice* (n 27) 54; Steven Vaughan and Emma Oakley, 'Gorilla Exceptions' and the Ethically Apathetic Corporate Lawyer' (2016) 19 Legal Ethics 50, 74.

economic development *and* environmental protection.[87] The CEO credited the company vision with a discovery made in a previous, corporate life. He shared:[88]

> Somewhere in a corporate job seven years ago, I sat looking at these people and I said, 'gheez these guys work hard,' and realising that they were actually entrepreneurs in themselves, I started to research whether they had any frameworks to sort of be able to attach themselves to or associations, or anything to make their lives any easier and ultimately, there is none, absolutely not.

At the time of the interview, and as outlined above, national, provincial and local government laws and policies were in place and governed the regulation of waste picker activity. There was also a network of organisations that provided support and advocacy for waste pickers, including the South African Waste Pickers Association (SAWPA) since 2009.[89] The WasteBuy CEO, however, was unaware of, or did not appreciate the connection or need for law to implement the social pillar of sustainable development into waste management.

Regarding WasteBuy's plans to improve waste pickers' lives, the centre manager, who left her corporate hospitality job to work for the company, explained that they initially planned to rent or purchase a flat where waste pickers could be housed while providing training to help them enter the formal job market.[90] In short, the focus was on ensuring that the waste pickers were supported and helped to develop. These plans, however, fell apart because the company had failed to appreciate that social development can only be achieved after economic development owing to the accrual of economic capital.[91] Differently put, WasteBuy could only start to focus on plans to improve economic and social conditions for waste pickers according to sustainable development once they amassed the requisite economic resources.[92]

4.2 Waste Pickers: Selling Waste for Survival

Street-based waste pickers) (see Figure 1) in this study gather end-use material from a variety of sources including households, businesses and street-located rubbish bins.[93] A waste picker may work up to twelve hours per day and earn £6 per day on average on a continuum from £2.50 to £17 per day compared with the South African minimum wage of £1 per hour.[94] Street-based waste pickers in Johannesburg enjoy few barriers to enter and exit the waste management economy because the spaces in which they work are subject to less control than a highly regulated landfill.[95] Both groups of waste pickers face a physically difficult working life and societal stigma.[96]

87 John C Dernbach and Federico Cheever, 'Sustainable Development and its Discontents' (2015) 4 TEL 247, 257; Evadné Grant and Onita Das, 'Land Grabbing, Sustainable Development and Human Rights' (2015) 4 TEL 289, 291.

88 Interview with PSWM3.

89 South African Waste Pickers Association (SAWPA) website, 'About SAWPA' <https://wastepickers.org.za/about/ > accessed 10 February 2025.

90 Interview with PSWM5.

91 ibid; Yong-Shik Lee, *Law and Development: Theory and Practice* (Routledge 2019) 90; Matheus Gobbato Leichtweis, '"Transforming Our World"? A Historical Materialist Critique of the Sustainable Development Agenda' (2023) 11 LRIL 273, 294.

92 Sam Adelman and Louis Kotzé, 'Environmental Law and the Unsustainability of Sustainable Development: A Tale of Disenchantment and Hope [2023] 34 Law and Critique 227, 230 < https://link.springer.com/article/10.1007/s10978-022-09323-4> accessed 10 February 2025.

93 Fieldwork Notes 2016 and 2017; Kotie Viljoen, Phillip Blaauw and Rinie Shenck, '"I Would Rather Have a Decent Job": Potential Barriers Preventing Street-Waste Pickers from Improving their Socio-Economic Conditions' (2016) 19 SAJEMS 175, 185.

94 Fieldwork notes 2016 and 2017; South African National Minimum Wage Act 2018, s 1, schedule 1.

95 Fieldwork notes 2016 and 2017; Schenck et al (n 3) 91.

96 Sonia Dias and Melanie Samson, *Informal Economy Monitoring Study Sector Report: Waste Pickers* (WIEGO 2016) 1, 49; Rinie Schenck and Phillip Frederick Blaauw, 'The Work and Lives of Street Waste Pickers in Pretoria—A Case Study of Recycling in South Africa's Urban Informal Economy' (2011) 22 Urban Forum 411; Françoise Carré and Martha Chen (eds), *The Informal Economy Revisited: Examining the Past, Envisioning the Future* (Routledge 2020).

The street-based waste pickers I encountered at WasteBuy came from a similar demographic to those noted by other South African studies. They worked individually; were relatively young, male and homeless; and estranged from their families.[97] They often walk up to 20 km per day on busy city streets, motorways and pedestrian walkways, carrying trolleys overladen with recycled material.[98] Waste pickers who sold to WasteBuy interacted with cleaners and security guards in shops, housing and office complexes, entertainment and other venues, householders and the purchasers of their collected goods—middlemen, buy-back centres and MRF personnel.[99] To a lesser extent they interacted with municipal, law enforcement, and other government officials, industry bodies and the public.[100]

In contrast with WasteBuy's aim to achieve sustainable development, waste pickers identified various motivations for waste picking unrelated to sustainable development. The motivations I identify are tied to three of Weber's four types: instrumentalist or means-end rational actions—focused on a practical purpose, in this case, survival; instrumentalist or means-end rational actions focused on law-abiding (adhering to a formal rationality) and affective actions, driven by feelings such as a concern for family (substantive rationality).[101] Survival is one theme cited repeatedly in studies of waste pickers and one that has been recognised by the South African courts.[102]

Figure 1: Street-based waste picker. Image by the author.

97 Fieldwork Notes and Interviews 2017; Danny Mulala Simatele, Smangele Dlamini and Nzalalemba Serge Kubanza, 'From Informality to Formality: Perspectives on the Challenges of Integrating Solid Waste Management into the Urban Development and Planning Policy in Johannesburg, South Africa' (2017) 63 Habitat International 122, 125; Viljoen et al (n 93) 180–2.

98 Fieldwork Notes 2016 and 2017.

99 Fieldwork Notes and Interviews 2017.

100 ibid.

101 Kalberg (n 29) 1161; Perry-Kessaris (n 10) 59–60.

102 *Pikitup Johannesburg (Pty) Ltd and City of Johannesburg v Motale, M. and 138 others*, ZAGPHC 4 November 2003, Case No 14615/02 unreported; Simatele et al (n 97) 122; Viljoen et al (n 93) 183.

Regarding survival, Mickey said that waste-picking, 'means a lot because you know, without it I can't survive…I don't have even a place to sleep… that's why I'm doing this but this is not what I like to do'.[103] Jason started waste-picking after moving to a new city: 'I don't know no one. I'm on my own. If it's raining I can afford to stay in the shelters. I have my three meals a day. [Everything] I would like to have, I can afford to have'.[104]

Informal recycling also helped to supplement an income or provide one when a precarious job was lost, revealing an instrumentalist motivation to meet needs such as food, clothing, a bed in a shelter when it was raining, or some entertainment.[105] For instance, Kidogo shared that cleaning 'windows is not an every day job and sometimes you don't work the whole day so at least you collect this, the little bit that you get you can…' earn a living… 'just to survive'.[106] Hastings, who sold to WasteBuy twice a month to supplement his income because it does not generate enough to make a living, shared, '[M]y job is cleaning the site…I come here… [to have} something to survive, to put food on the table'.[107]

Consistent with other studies, waste pickers cited a concern for family (affective) burdened by low economic capital as their substantive reason for entering the trade:[108] One waste picker, Vuyelwa, said that he was driven to look after his extended family in a disclosure that revealed that he was also motivated by survival since he did not earn enough to meet his basic needs.[109] Kidogo's grandmother's position as the sole provider put pressure on him to earn. He said:[110]

> [S]he's taking care of my siblings at home and she earns a grant and the money she earns is small money, so she cannot afford to take care of all of us. It's one of the reasons I came here. So [that] she doesn't have to worry about me.

Other waste pickers cited the desire to avoid earning a livelihood through criminal activity,[111] which makes their actions value-rational for valuing law-abiding, but also means-end rational for what they perceive as adherence to the law.[112] Thandiso explained that waste-picking became viable because, 'It's the only way to earn a little bit of money to avoid…things like crime'.[113] Zwele mentioned, 'Hey, this thing that makes me to go to jail, I do not want to do [it] because…. I take [] people's stuffs, after they are crying…. So, I, maybe like recycling…'[114]

Waste pickers do not expect to be arrested or jailed, despite being perceived as criminals by the Police and the public, and the real possibility of being 'guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period' if they fail to comply with municipal waste management law.[115] The law is understood to intervene in their activities in no stronger terms than occasional harassment from police.[116] For instance, Simon shared:[117]

103 Interview with WP14.
104 Interview with WP15.
105 Interviews with WP2, WP9, WP11, WP15 ibid, and WP16.
106 Interview with WP4.
107 Interview with WP2.
108 Bourdieu, *The Forms of Capital* (n 27) 246–7; Kalberg (n 29) 1161–62; Perry-Kessaris (n 10) 60; Schenck et al (n 3) 87; Simatele et al (n 97) 126.
109 Interview with WP19.
110 Interview with WP4.
111 Interviews with WP3 and WP5; Kalberg (n 29) 1151; Maria Clara Dias and Luis Eslava, 'Horizons of Inclusion: Life Between Laws and Developments in Rio de Janeiro' (2013) 44 University of Miami Inter-American Law Review 177; Samson (n 1) 60; Schenck et al (n 3) 91; Marta Chen, 'WIEGO Research on Informal Employment: Key Methods, Variables and Findings' in Marta Chen and Françoise Carré (eds), *The Informal Economy Revisited: Examining the Past, Envisioning the Future* (Routledge 2020) 67, 73.
112 Interviews with WP3 and WP5; Kalberg (n 29) 1151.
113 Interview with WP5.
114 Interview with WP3.
115 Waste Management By-Law 2013, s 58; Schenck et al (n 3) 91; Simatele et al (n 97) 129.
116 Fieldwork Notes and Interviews 2017; Simatele et al (n 97) 128.
117 Interview with WP6.

> [the] Metro Police…they… normally chase us away from the street…they…burn our blankets and they…beat us or they…pour us with some water…just imagine someone has poured water in your blanket. You cannot sleep without a blanket because it's wet.

My personal observations and interviews with waste pickers, WasteBuy and the municipality imply that survival is at the base of waste pickers' motivation to engage in recycling. Waste pickers articulate this motivation as one of three things: supplementing their income, supporting their family and abiding by the law. These motivations stand in contrast with a desire to achieve sustainable development, which is near impossible for them because they generally do not know what sustainable development is, and if they did, they would need a greater level of resources than they have to achieve it. In comparison, WasteBuy said that they were motivated to achieve social justice, but were unable to because they did not have enough economic resources to do so.

5. (UN)SUSTAINABLE CAPITAL

The behaviour of WasteBuy in relation to its motivation for being in the waste management economy is helpfully understood via Bourdieu's concepts of 'capital' and 'habitus'. Capital is understood as resources that 'take[s] time to accumulate, and which, as a potential capacity to produce profits and to reproduce itself in identical or expanded form, contains a tendency to persist in its being'.[118] The three main forms of capital identified by Bourdieu are: social—derived from membership of social networks; cultural—whether embodied as 'habitus', objectified in

Figure 2: Waste-Buy operations.. Image by the author.

118 Bourdieu, *The Forms of Capital* (n 27) 241.

cultural goods, or institutionalised as qualifications and economic—assets readily convertible into money and vice versa, from which social and cultural capital are derived.[119] Habitus is a 'system of dispositions' or a tendency towards a 'perception, conception and action' that maintains a particular structure.[120]

As evidenced above, waste pickers who eke out a meagre living from waste collection, generally have low social, cultural and economic capital. Waste picker low capital made it very difficult for them to comply with applicable waste management laws and policies in the absence of help from external actors such as WasteBuy. At the time, applying for accreditation was strongly resisted by and uncommon among waste pickers.[121] The WasteBuy CEO viewed the requirement to 'understand legalese' and to formalise their operations as unreasonable for waste pickers because they have 'barely got out of high school'.[122] The legal framework that is aimed at achieving sustainable development assumes its adherents possess a level of social and cultural capital uncommon among waste pickers.

The City of Johannesburg municipal waste management official I interviewed showed sensitivity to waste picker capital and capacity to comply with the law.[123] She shared that the municipality encouraged the formalisation of waste pickers' activities through a programme of legislation-compliant permit registration, and the provision of training on safe waste management practices and city by-laws.[124] This approach has since expanded and been subsumed into the 2020 Waste Picker Integration Guideline.[125]

There was no suggestion that waste pickers faced any penalty from the municipality for non-compliance beyond being unable to join training programmes. In contrast, formal companies may face fines or find the municipality cancelling their permits for non-compliance with waste management by-laws except for where they contracted with unaccredited waste pickers.[126] This created an environment for waste picker non-compliance with by-laws to be accepted across the sector. However, the consequence of this practice is that waste pickers were not supported to register with the council and achieve formalisation as envisaged by the Johannesburg waste municipal By-Law, which since 2021, requires them to register with a waste picker organisation and with the council. This leaves the goal of formalisation in international sustainable development policy in the form of SDG target 8.3 related to the formalisation, and as required by national law, unrealised.[127]

5.1 Capital for Social Justice

From the period of January to April 2017, WasteBuy Johannesburg buy-back centre employed a centre manager, an office assistant, a security guard, one full-time handyman and one part-time handyman.[128] The centre manager was responsible for the running of operations at the site (see Figure 2 for a photo of WasteBuy operations), selling recycled materials bought from waste pickers to larger recycling companies, and generating new clients. The office assistant kept records of volumes of recyclable materials weighed, and handled transactions with waste

119 Bourdieu, *Theory of Practice* (n 27) 46–47, 51, 54.
120 Bourdieu, 'Habitus' in Jean Hillier and Emma Rooksby (eds) *Habitus: A Sense of Place* (Routledge 2005) 43, 43–44; Vaughan and Oakley (n 86) 74.
121 Godfrey et al (n 2) 3.
122 Ngcobo (n 3) 24; Interview with PSWM3.
123 Interview with SWMMO; Bourdieu, *The Forms of Capital* (n 27) 246–7.
124 Interview with SWMMO; Waste Management By-Law 2013, ss 21(2) and 34.
125 DEFF and DST (n 13).
126 Fieldwork Notes 2016 and 2017.
127 The Constitution, s 39(1)(b); Waste Management By-Law 2013, s 34; UN 2015 (n 32) 23; Waste Management By-Law 2021, s 37 (2).
128 Fieldwork Notes 2017.

pickers. The handymen checked the recycled materials being bought to ensure that the materials purchased were of good quality.

A WasteBuy worker in Johannesburg on 1st March 2017 stated that the company bought materials from roughly one hundred and fifty (150) people daily, and that in December 2016 they had over three hundred (300) but many had stopped coming once the holidays were over.[129] On 2nd March 2017, the same official and I viewed their accounts book, which showed that in February 2017, anywhere from forty (40) to fifty (50) people, mainly waste pickers, sold daily at WasteBuy in Johannesburg.[130] WasteBuy purchased 1.5 tonnes per day, rising to two (2) tonnes per day at month-end, indicating a fluctuating number of sellers.[131]

As a formal company, WasteBuy had the necessary cultural and social capital to navigate and translate econo-legal regulations for waste pickers so that they might have a chance to achieve sustainable development.[132] The officials I met at the WasteBuy buy-back centre spoke fluent English and several native South African languages, which permitted them to translate technical, legal and everyday information from one language to another.[133] WasteBuy officials had the power to choose which legal ideas and in what form they would translate for waste pickers based on an aim such as reducing complexity in their interactions.[134] Their fluency in English and native tongues granted them credibility both among waste pickers who needed to navigate the rules in order to carry out economic transactions and among government actors who create and enforce the rules.

Observations I made on one visit to WasteBuy demonstrate how the social and cultural capital held by the company's personnel helped them to successfully navigate municipal processes for compliance with waste management law. There I noted that the volume of materials handled by WasteBuy placed the company firmly below the 30 tonne of waste per day threshold required to apply for a waste management licence, a fact confirmed in my interview with the CEO.[135] The company was solely required to apply for accreditation from municipal authorities to perform recycling activities, and to confirm to them that the volumes they handle were below the waste management licence application threshold.[136] The application process required WasteBuy to be in contact with city accreditation officials, an arrangement that the CEO said worked well.[137] The CEO also characterised their relationship with the municipality as 'good', suggesting that they had little or no conflict with the municipality as landlord and as regulator.[138] In comparison, the position of the municipality on WasteBuy was unclear as the waste management official working for the municipality that I interviewed avoided discussing specifics about companies with which the municipality engages.[139] However, the municipal official said that all providers of waste management services, including waste pickers, were expected to apply for accreditation from the municipality.[140]

The level of compliance achieved by WasteBuy, which could be described as a success, helped them to escape any scrutiny about / was parallel to the lack of scrutiny they enjoyed in their engagement in economic transactions with waste pickers who were not compliant with the law. This says a few things. The configuration of sustainable development puts more attention on

129 ibid.
130 ibid.
131 ibid.
132 Bourdieu, *The Forms of Capital* (n 27) 241–3.
133 Halliday and Carruthers (n 28) 27.
134 ibid.
135 Interview with PSWM3; Waste Act 2008, s 1, schedule 1, category A.
136 Waste Management By-Law 2013, s 21(2) and s 34.
137 Interview with PSWM3.
138 ibid.
139 Interview with SWMMO.
140 ibid.

actors who are better able to comply with the law. This attention renders those who need help to be compliant somewhat invisible and anonymous. This invisibility and anonymity is met with programmes to mitigate this such as municipal permit registration programmes and WasteBuy's failed attempt at training waste pickers. Outside of these, the sustainable-development waste management econo-legal regime appears inflexible to accommodate waste picker compliance in a way that would not slow down economic transactions.

WasteBuy had low economic capital due to its position as a non-dominant firm in what Bourdieu would call an economic field, or 'a socially constructed field of action'. In this field, 'agents equipped with different resources confront each other in order to gain access to exchange and to preserve or transform the currently prevailing relation of force'.[141] In Bourdieu's parlance, firms operating within the same economic field are caught in struggle and competition with each other.[142] Prices are seen as both 'stakes and weapons' because they create an element of risk and can be used as a strategic tool to promote certain values and interests.[143] A dominant firm has the power to set the rules of play within the market including initiating price changes, distribution pathways and new products.[144] It can choose to work to improve the position of the field as a whole, or only their market share or position in the field as a company, thereby reinforcing and perpetuating competitive practices.[145] Their actions as a dominant firm constrain the actions of non-dominant firms such as WasteBuy, whose high social and cultural capital was complicated by their low economic capital, with consequences for waste pickers, its relationship with other waste management companies and for itself.

5.2 Low Economic Capital as a Barrier to Sustainable Waste Management

WasteBuy's low economic capital influenced their interactions with waste pickers in a way that led to non-compliance by both actors with waste management law and with the aims of sustainable development. The non-compliance resulted from WasteBuy's avoidance of translating crucial legal provisions because to do so would necessitate ensuring that waste pickers complied with the law before transacting with them. The consequence would be a slowing down of waste management transactions while waste pickers gained the necessary skills to attain accreditation, a process that would lead to WasteBuy making less profit.

WasteBuy's strategy was facilitated by several factors. The first was the company's desire to maintain easy economic relations. The second was the permissive attitude of the municipality to not enforce legal compliance rules against waste pickers. The third was a perception by WasteBuy that they did not act in defiance of the law.[146] The omission, which was widespread based on waste pickers' accounts of their economic interactions with other buy-back centres, had a practical purpose.[147] The situation exposes the paradox of WasteBuy's operations: the company wanted to help the very people from whom it wished to profit.[148]

WasteBuy was able to do this because the legal requirements for reporting in 2017 did not require them to identify the waste pickers from whom they purchased. This acted to insulate waste pickers from the scrutiny that would reveal whether they had a permit to operate even if this strictly speaking went against their own legal interests.[149] This explains why none of the waste

141 Bourdieu, *The Social Structures of the Economy* (n 26) 199; Richard Jenkins, *Pierre Bourdieu* (Routledge 2022) 84–85.
142 ibid.
143 ibid 200.
144 Jenkins (n 141) 86.
145 Bourdieu, *The Social Structures of the Economy* (n 26) 201–02.
146 Patricia Ewick and Susan S Silbey, *The Common Place of Law: Stories from Everyday Life* (University of Chicago Press 1998) 38, 48–49.
147 Kalberg (n 29) 1161–62.
148 Fieldwork Notes 2017; Bourdieu, *The Social Structures of the Economy* (n 26) 199.
149 Fieldwork Notes 2017; Interview with PSWM3.

pickers I interviewed at WasteBuy had a good understanding of the econo-legal regime that governed their recycling activities including how this regime could be harnessed to improve their social and economic conditions.[150] The economic and legal regime did not create an incubator to allow for waste pickers to improve any form of capital that would facilitate their compliance with the permitting requirements of waste management law and enjoy the associated benefits.

Even if one is motivated, as WasteBuy was, to achieve social justice for waste pickers, the levels of economic capital one has is a more decisive factor than high social and cultural capital in determining whether social justice can be realised. Waste pickers were encouraged to formalise, but not doing so did not act as a barrier to them being active in the sector in spite of the possibility of being penalised for non-compliance.

6. SUSTAINABLE DEVELOPMENT, WASTE MANAGEMENT AND ECONOMIC PROFIT

The ensuing analysis of the three mitigations available to WasteBuy shows that sustainable development does not transform the rationalities that underpin the economies in which it operates.[151] A non-dominant firm caught in Bourdieu's field of struggles, WasteBuy tried to address the structural problems that prevented the company from realising its plans to achieve social justice for waste pickers. However, the consequences of its position as a non-dominant firm reflect how extant economic and social relations are not easily dislodged by the legislative aim to achieve sustainable development.[152] Ultimately, WasteBuy suffered the effects of the enduring inequalities that result from economic power imbalances between dominant and non-dominant firms within the economic field in which it operates: the market for recyclables in Johannesburg, leading to a failure of sustainable development.[153]

WasteBuy needed to improve its economic position in order to achieve sustainable development. As a second or lower-tier firm, it could do so through one or more of the following adjustments: technological innovation; varying its prices and filling a gap not met by other firms.[154] WasteBuy identified its business model as an effective gap-filler, which leaves the other two measures: a technological one in the form of a baler, and a variation of prices, to be pursued with little success.

6.1 A Gap-Filling Business Model

The WasteBuy CEO acknowledged the position of the company as a non-dominant firm, confident in its business model to mitigate the attendant consequences:[155]

> From all the really successful guys, what you learn is that it is better to have 10,000 small units producing at a 75 – 95 per cent efficiency ratio than to be having 20 massive assets that are more than a liability and only functioning at like 70 per cent efficiency… the bigger you are, the more susceptible you are to economic influences … like petrol prices, diesel prices, labour prices. The more you empower people, the smaller, more dense … arrangement you have … your market penetration goes through the roof because you service a very small area …. So, we

150 Fieldwork Notes 2017.

151 Leichtweis (n 91) 274.

152 ibid 289.

153 Adelman and Kotzé (n 85) 236; Bourdieu, *The Social Structures of the Economy* (n 26) 195; Katja Freistein and Bettina Mahlert, 'The Potential for Tackling Inequality in the Sustainable Development Goals' (2016) 37 Third World Quarterly 2139, 2141; Leichtweis (n 91) 292.

154 Bourdieu, ibid 202–03; Mariana Mazzucato, *Mission Economy* (Penguin 2020) 66; Mariana Mazzucato, Rainer Kattel and Josh Ryan-Collins, 'Challenge-Driven Innovation Policy: Towards a New Policy Toolkit' [2020] 20 JICT 421, 422.

155 Interview with PSWM3.

> managed to create high density, high market penetration businesses that were utterly viable on their two feet and those are the kind of projects that we do.

However, the WasteBuy centre manager suggests this business model may not be working in her reflection on the prices paid for recyclable materials:[156]

> I make 20 cents profit per kilo … so you see how bad that is. 20 cents profit per kilo. So, to have to make a business a viable business it means you have to push the volumes big time. So yeah, I think [on] the prices … something really needs to be done as far as I'm concerned.

Bourdieu would agree that a small firm such as WasteBuy would realise higher profits 'by specialising to devote themselves to a limited market segment'.[157] This is analogous to the market penetration approach described by the CEO above. However, the CEO's confidence to achieve this did not translate into adequate profits as alluded to by the centre manager's account, so WasteBuy did not overcome the consequences of being a non-dominant firm through its decision to pursue a high market penetration strategy. The collective actions pursued by the firm's personnel did little to help WasteBuy, or its promise of sustainable development to thrive.

6.2 Technological Mitigation Measures

One substantial measure that WasteBuy could have taken was the introduction of a technological innovation that would increase WasteBuy's capacity to add more value to the product they sell, such as a baler.[158] There is ample evidence that technological innovations can contribute to sustainable development.[159] If adopted as part of a wider industrial policy for buy-back centres, the baler could also be seen as a form of ecological modernisation—an environmental protection measure that would cut out the emissions involved in selling to a middleman and that facilitates the smooth running of the market.[160] On a smaller scale, a measure of this genus would green WasteBuy's operations and make it more competitive against other firms in the market as buy-back centres in South Africa were not required by law or policy to have a baler.[161]

WasteBuy could not afford a baler, which meant that it was forced to sell the recyclables they bought from waste pickers to buy-back centres at which waste pickers could also sell.[162] This translated to a low income for WasteBuy because they could not offer waste pickers the same rates per kilo as other buy-back centres. Waste Buy's low income became a source of risk because it was lower than WasteBuy would get if they were able to sell to a recycler or resin producer. The purchase of a baler outright would have allowed WasteBuy more flexibility on where it could sell baled materials. However, the loan or donation of a baler to WasteBuy may have had conditions attached to its use.[163] WasteBuy may have found themselves restricted to selling only to the company that gave them the baler, and being set prices that are lower than if they had their own baler and could sell on the open market. WasteBuy could also have found that baling materials, regardless of the source of the baler, did not result in an increase in prices received. This example shows that though sustainable development may require hard-to-procure technical capital such as a baler, it always prioritises the economic logic of the market in the process of price making and taking.[164]

156 Interview with PSWM5.
157 Bourdieu, *The Social Structures of the Economy* (n 26) 203.
158 ibid; Mariana Mazzucato et al (n 154) 422.
159 Neil Carter, *The Politics of the Environment: Ideas, Activism, Policy* (3rd edn, CUP 2018) 232; Mazzucato (n 154) 109.
160 Dryzek (n 8) 171–3.
161 Carter (n 159) 232; Mazzucato (n 154) 109.
162 Interview with PSWM5.
163 ibid.
164 Adelman and Kotzé (n 85) 231; Hirai (n 85) 1902; Leichtweis (n 91) 284.

The lack of a baler, like the company's overarching business model, prevented WasteBuy from earning the higher profits it needed to gather the economic / financial capital required to pay for waste pickers' entrepreneurial skills training—a reward of formalisation under waste management law. As a technological innovation, the baler could be seen as an environmental protection measure that would successfully maintain the shape of extant economic relations.[165] But, as this was an option not available to WasteBuy, the potential for a variation of prices as a measure that would help the company to increase its profits needs to be evaluated. Without adequate profits, WasteBuy would not be able to provide skills development opportunities to help improve waste pickers socio-economic conditions.

6.3 A Failed Pricing Strategy for a Non-dominant Firm

WasteBuy's pricing strategy to increase its profitability was a failure, much like its other possibilities for mitigation, technological innovation and a gap-filling strategy. Waste pickers demonstrated an acute awareness of the rationale behind WasteBuy's pricing strategy, whereas WasteBuy's centre manager expressed a sense of frustration at not being able to carry out the company's plan to achieve social justice for waste pickers. The failure of the pricing strategy was linked to how limited the company was to use price variations to increase profitability due to is precarious position as a non-dominant firm.

Waste pickers perceived that WasteBuy's prices were low. For George, the price issue was sector-wide, 'Most of the time I would say that the prices are too low'.[166] Gabriel, whose bachelor's degree in risk management afforded him the cultural capital to speculate at length about the reasons for WasteBuy's low prices, said:[167]

> Here is a nice place to go. Just that the prices are a little bit down…yes. I wish the prices were high…I think they are selling to the wrong people…I think they have stuck with what they have started with. You know. They didn't want to grow… they are selling to the guy that we can also go and sell to…you see…that's why I'm saying they don't have really good connections. That's why they're selling at a low price.

One important decision taken by WasteBuy to mitigate its position is how it calibrated what it paid waste pickers. WasteBuy was unable to offer higher prices than it received without running a loss and had to offer lower prices than many of its competitors because it was the only way to make the paltry profit identified by the centre manager. The prices that WasteBuy paid waste pickers were a source of strategic deployment because they allowed them to pay slightly lower than its competitors, but not so low that waste pickers would sell to nearby buy-back centres.

The strategy was enhanced by the company's practice of paying waste pickers for every gram of material sold instead of rounding it down to the nearest kilo, and offering the same price per kilo regardless of the amount they purchased.[168] This measure did not move WasteBuy any closer to the profits needed to start offering waste pickers housing and skills training, which put a limitation on the effectiveness of this strategy. The company traded between 1.5 and 2 tonne a day, far below the 30-tonne-a-day threshold that would require a licence and that is more common to larger waste management companies.[169]

Nkosi explained his view on the firm paying for all the recyclables it weighed, which was supported by fellow waste pickers Thabi and Thandiso:[170]

165 Dryzek (n 8) 171–3.
166 Interview with WP7.
167 Interview with WP9.
168 Fieldwork Notes and Interviews 2017.
169 Interview with PSWM3; Waste Act 2008, s 1, schedule 1, Category A.
170 Interview with WP5, WP16 and WP13.

> Here they are paying right … there's the big scraps that … are paying more money … here they are paying each and every point that you scale. On other scrap you can scale 0.5 [kilo] or 0.4 [kilo] they can't pay you 0.4 [kilo] … they pay you money by 0.5 [kilo] and it depends on what you are scaling. On those things those plastic bottles, tins. They don't pay half (kilo) price. Now here, every point you scaling you get paid.

Another waste picker, Jason, expressed approval of the constant price offered by WasteBuy regardless of the number of kilos they bought:[171]

> [At] other places, if you don't have 20 kilos, they gonna charge you a different price … some places if you have less than 20 it's R1 a kilo. Here if you come with 5 kilos, you're still gonna get the same price.

WasteBuy had the option to reduce the prices it offered to waste pickers to try to increase the margin between its sales and purchase prices and improve its market position.[172] Whether waste pickers would have been willing to accept an even lower price from WasteBuy remained to be seen given that the majority were homeless and lived in basic conditions. They would have each made a calculation, according to their habitus, about the point at which they were no longer able to accept lower prices from WasteBuy in exchange for amenities such as showers, withdrawing cash from WasteBuy only when needed, and a cup of tea in the morning.[173]

At the time this study was undertaken, the prices were set at a level that encouraged waste pickers to keep coming to WasteBuy. In respect of the prices, Tito said:[174]

> They suit me, because they are not the same prices, neh, from other scrap yards. From what I told you, that they don't treat us the same. That's why I come here. The prices are not the same. Other scrap yards, their prices are up.

These measures, appreciated by waste pickers, could be seen as a form of 'greenwashing'—measures to draw attention away from the deficiencies of WasteBuy's core activities by the addition of small measures which benefit waste pickers.[175] The term greenwashing is appropriate because offering waste pickers tea and a shower is a highly visible, cost-effective measure that creates the veneer of social justice, in contrast to the real gains that waste pickers can enjoy through the offering of higher prices.[176]

As a price-taking, non-dominant firm, the price fluctuations experienced by WasteBuy were a direct result of price fluctuations within commodity markets and within more dominant firms.[177] WasteBuy was constrained because dominant firms with a higher percentage market share, would, according to Bourdieu, still guide the shape of the market and thereby dictate the limits of the strategic decisions that WasteBuy could take.[178] The company faced fluctuations in consumer commodity prices affecting public consumption and the availability of recyclables—a good example of how the actions of people within the market can help or hinder the realisation of sustainable development. According to the centre manager, 'If the prices hike, then people are not going to spend as much buying like, cold drinks which is PET.[179] Then [PET

171 Interview with WP12.
172 Bourdieu, *The Social Structures of the Economy* (n 26) 201.
173 Interviews with WP3, WP13, WP14 and WP20; Bourdieu, *The Forms of Capital* (n 27) 246–7.
174 Interview with WP1.
175 Dryzek (n 8) 13.
176 Dernbach and Cheever (n 87) 249.
177 Bourdieu, *The Social Structures of the Economy* (n 26) 201.
178 Fieldwork Notes 2017; ibid 201–02.
179 PET, or polyethylene terephthalate, is a form of plastic commonly used in the manufacture of plastic bottle drinks.

is] … going to be scarce out there'.[180] Changing consumer commodity prices compounded with world market commodity prices to affect prices paid to WasteBuy for recyclables—phenomena acknowledged by the CEO but dismissed by the centre manager.[181] These price fluctuations also affected waste pickers' decision on if and when to sell to WasteBuy.[182]

This forced WasteBuy to make another strategic calculation. The centre manager admitted that the company resorted to selling to one company that was 'a little out of town' and 'offer[ed] the best prices', which would preserve some hope of WasteBuy maintaining its economic position with a view to improving it to the point where it can afford to think about achieving its social justice plans.[183] The location meant that it would be difficult for waste pickers based in the central business district (CBD) to reach there, which offered WasteBuy some protection in terms of their waste picker clientele leaving them for the other company. At the same time, WasteBuy felt it needed to offer waste pickers a price that was close enough to that of their competitors located within the CBD or waste pickers would stop coming. A small gap between their buying and selling price translated into low profit margins and low overall profitability, which created a delicate economic balance for WasteBuy.

This delicate economic balance mirrors the fragility of sustainable development for an actor such as WasteBuy with high levels of social and cultural capital and low levels of economic capital, and upon which waste pickers depend. WasteBuy suffered the effects of the enduring inequalities that result from economic power imbalances between dominant and non-dominant firms within the economic field in which it operates—the market for recyclables in Johannesburg.[184] An improvement in the economic capital of WasteBuy and the overall conditions of waste pickers would require a change in market dynamics.[185] Since this does not happen, waste pickers suffer and sustainable development fails.

Waste management professionals across different contexts in South Africa, including the centre manager, expressed the view that a direct government subsidy was required to make waste management operations, including buy-back centres, profitable.[186] The use of subsidies has been associated with the achievement of sustainable development.[187] One interviewee shared, 'Buy-back centres are not financially viable … [or] economically viable. They need a subsidy for them to be viable. If commodity prices go down and the rand crashes these entities are very susceptible'.[188] The centre manager did not say how a subsidy would be used by WasteBuy for the benefit of waste pickers. Instead, she spoke of the 'hype' around getting more people to recycle within society, and lamented that, 'on our own it's very difficult for us to keep our heads above water. We need assistance from the government and unless it is rendered, then I think it will definitely fail'.[189] Omitted from these pronouncements was any view on whether the subsidy would be absorbed only by the formal waste management company given that it was struggling financially, or whether it would be used for the benefit of waste pickers. The incorrect application of a sustainable-development-focused government policy at a firm level, such as a subsidy, could lead to the failure of the policy, further putting sustainable development in jeopardy.

180 Interview with PSWM5.
181 Fieldwork Notes 2017; Interview with PSWM3.
182 Interview with PSWM3.
183 ibid.
184 Bourdieu, *The Social Structures of the Economy* (n 26) 195; Freistein and Mahlert (n 153) 2141; Leichtweis (n 91) 292.
185 Freistein and Mahlert (n 153) 2141, 2149.
186 Fieldwork Notes 2016 and 2017; Interviews with PSWM1, PSWM5 and PWMIAO.
187 United Nations Conference on Trade and Development, 'Promoting Investment for Sustainable Development in Cities' [2019] Issue 7 The IPA Observer, Investment Promotion and Facilitation Monitor. UN Doc UNCTAD/DIAE/PCG/INF/2019/1, 4 <https://unctad.org/system/files/official-document/diaepcbinf2019d1_en.pdf> accessed 10 February 2025.
188 Interview with PSWM1.
189 Interview with PSWM5.

7. CONCLUSION

This article presents a story about waste recycling from the Global South, focusing on waste pickers and WasteBuy, the company to which collected waste was sold. This story shows how sustainable development is given meaning by people who operate in the waste market both formally and informally. The concept of sustainable development is articulated in the South African Constitution and insists on social, economic and environmental integration. Many waste laws and policies centre the achievement of sustainable development as an aim and objective but numerous factors prevent sustainable development—where socio-economic benefits to waste pickers are provided—to materialise.

As a start, the laws and policies designed for waste pickers to achieve sustainable development required them to have a certain level of social and cultural capital in the form of skills and knowledge, which was lacking. What is more, waste pickers had no chance to improve their social and economic conditions by complying with the laws and policies aimed at achieving sustainable development until the company to which they sold their waste, WasteBuy, improved its own profitability. Waste pickers who sold to WasteBuy were stuck in a cycle of survival—struggling to survive through earnings made by selling to a company that was also struggling to survive. This meant that the actions of people at both WasteBuy and the waste pickers who sold to it could only, at the most, contribute to the continued struggle to achieve sustainable development. When WasteBuy failed to earn enough profits, the promise of sustainable development also failed to be realised, but waste pickers continued to survive as they were forced to sell at other buy-back centres. As a result, the promised benefits of sustainable development: accreditation, skills and entrepreneurial training for waste pickers fail.

I advance two main reasons for my findings. First, laws that govern of how sustainable development should be operationalised encourage street-based waste pickers to formalise, but waste pickers do not know this. WasteBuy, the buy-back centre in the CBD of Johannesburg to which waste pickers in this study sold until 2021, initially had the motivation to achieve social justice for waste pickers by providing them with housing and training that would assist them in entering the formal economy, corresponding with the social development pillar of sustainable development. However, WasteBuy did not amass enough economic capital from the profits of its operations to be able to afford to provide the necessary housing and training, instead settling for offering waste pickers the occasional cup of tea and a shower when needed. They therefore had no incentive to tell the waste pickers what documents they needed to present and fill out to formalise their activities in line with waste management laws aimed at achieving sustainable development. Engaging in the process of formalising waste pickers would have entailed the slowing down of the economic transactions at WasteBuy.

Second, WasteBuy's own fight for economic survival due to its low profit-making in what the World Bank calls the world's most unequal country means that it was unable to afford its own plans to offer waste pickers housing and skills training. Through its actions, WasteBuy facilitated the survival of the sustainable development narrative until the company itself failed during the pandemic. This survival resulted from the constraints that WasteBuy faced as a non-dominant firm in the waste management economy, with few options to ameliorate its own economic position. WasteBuy had no chance of achieving the economic or the social pillar of sustainable development for itself, much less for the waste pickers. Instead, the aim of South African waste management law to achieve sustainable development collapsed into a struggle for survival, and eventual failure of WasteBuy. The result is a departure of the sustainable development promise of justifiable economic and social development for all including waste pickers as set out in the South African Constitution, national waste management law, provincial and local by-laws.

Sustainable development in its three-pillar formulation requires economic development to be accompanied by social development and environmental protection. It can only be achieved

through the actions and interactions of people working to achieve it. In this case, the promises of sustainable development go unfulfilled due to the structure of motivations, capital and the position of the actors in this section of South Africa's waste management economy. Like informal waste workers around the world who produce benefits for the environment, society and the economy for little in return, the waste pickers in this case study fall victim to the lowest common denominator in the form of low economic capital. Without high economic capital, growth and development, sustainable development is rendered a sterile hope for both formal and informal actors on the streets of Johannesburg.

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