



UNIVERSITY of the
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ACJR Factsheet

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Sub-national governance and the plight of women working in public spaces in South Africa

1. Introduction

South Africa has made significant advances over the last three decades, however, the current reality in the country is riddled with several challenges including a weak healthcare system, high levels of crime, and electricity shortages commonly known as 'load shedding'. These challenges exist against a backdrop of high levels of inequality, poverty, and a 32.9% unemployment rate.¹

The lack of formal sector employment has resulted in many South Africans turning to the informal sector for survival. The informal economy, as it is commonly referred to, contributes 29% (approximately \$236 billion) of the country's Gross Domestic Product (GDP).² The unregulated nature of the informal economy results in relative flexibility in job creation, but it limits the capacity of government to provide social insurance such as pension, unemployment insurance, pension and healthcare services, such as maternity leave in the case of expecting mothers.³ Even private commercial insurers have limited interests and incentives in providing informal workers with social insurance beyond funeral services.⁴

Efforts to regulate the informal economy have been met with resistance by the formal sector, possibly due to the fact that the informal economy is typically characterised

by low profits, reduced tax revenues, poor governance, poverty and income inequality.⁵

Activities within the South African informal economy include the sale of food, fresh produce (fruits and vegetables) and other small products and items, mini-bus operation, the collection and recycling of waste products (reclaiming), and the operation of small businesses, such as barbershops, hair salons in public spaces.⁶ Previous research by the Dullah Omar Institute revealed that people working in public spaces are often confronted by diverse challenges such as onerous bureaucratic requirements for the possession of trading or market permits, strict municipal by-laws, and regulations that do not give due regard to people working in public spaces, and failure by local authorities to assure basic services and ensure minimal conditions of sanitation at demarcated trading sites.⁷

In July 2024 the Dullah Omar Institute, the Commonwealth Human Rights Initiative Africa (CHRI Africa) and the Kenyan Section of the International Commission of Jurists (ICJ-Kenya), co-hosted a two-day consultative workshop in

Johannesburg, South Africa. Women working in public spaces were invited to share their experiences. Five discussion points were considered, namely; (1) general observations of their working conditions, (2) knowledge of the law and policy-making processes, (3) engagements between public space workers and sub-national authorities (especially local government), (4) law enforcement and sanctions, and (5) recommendations for reform. This factsheet focuses on the plight of three particular groups of women working in public spaces in South Africa, namely; women traders, migrant women workers and women reclaimers. Desktop research is supplemented by the reflections stemming from the two-day workshop attended by 24 participants.

2. Women traders

Women form the majority of informal market and street traders in South Africa and this is generally because of limited educational opportunities, and high levels of inequality and poverty.⁸ Previous research has shown that women living and working in public spaces are a marginalised and vulnerable group and are often poorly treated.⁹

Working conditions

Women traders generally sell food, fruits and vegetables, flowers, and other small manufactured goods and items in public spaces including markets, taxi ranks and street corners. Their working hours are generally long and begin as early as 04:00 am in the morning until as late as 23:00 pm in the evening, exposing them to possible violence, theft and sexual harassment on the part of customers, taxi

drivers as well as law enforcement officials.¹⁰ According to workshop participants, these risks are more pronounced during weekends, especially at month end, as these are the most profitable, but also the most dangerous days to trade. Despite arduous working hours, women traders earn a minimal amount of money from their trade, forcing them to live from hand-to-mouth while also taking care of accommodation, education, food and other family-related expenses.¹¹

Striking a balance: survival and family responsibilities

Indeed, women traders are also confronted with the reality of striking a balance between their work and managing their family and childcare responsibilities.¹² Traders often cannot afford primary education and are obliged to either leave their children with extended family members or bring the children to their precarious workplaces.¹³ A workshop participant recounted how she was obliged to bring her special needs child with her to Johannesburg Park station because she could not afford to enrol her child in a special needs school. Despite the daily struggles and adverse conditions under which they work, workshop participants expressed satisfaction at their financial autonomy and ability to provide for their needs.

Bureaucratic requirements

The issuance of trading permits is done at a local municipality at a set price which increases incrementally on an annual basis.¹⁴ The permit stipulates the area of trade and products that each trader is permitted to trade and they are not allowed to sell items not included on the permit.¹⁵ However, irregular monitoring by local

authorities often means that traders also sell other products and trade in different areas. There are typically two spaces wherein women traders operate; designated areas provided by the municipality to trade, such as markets; and undesignated areas such as sidewalks and pavements which have the potential to pose safety concerns. A workshop participant explained that she trades on a pavement in a township void of demarcations differentiating where pedestrians should walk and traders can operate. Trading at taxi-ranks usually involves an agreement between traders and taxi drivers.¹⁶ While the foot-traffic at taxi ranks is an opportunity for increased sales, women traders are targets of inappropriate remarks, verbal abuse and harassment as well as demands for cheaper prices from male customers, and on the part of taxi drivers.¹⁷

Service delivery by local governments

Local government is responsible to provide and maintain basic infrastructure, however, another major concern of women traders working in public spaces is the failure by local government to provide adequate services and infrastructure conducive for trade.¹⁸ Market stalls are generally not equipped with appropriate shelters for (overnight) storage, resulting in women traders daily transporting their wares to and from their workplace. This may result in the decreased quality of food items and fresh produce, especially with adverse weather. The absence of proper drainage, ablution facilities, waste removal, dumping sites, as well as street lighting have adverse consequences for the health and safety of women traders.¹⁹ Workshop participants noted that when

complaints are reported to customer care managers and counsellors at local municipalities issues are seldom resolved. In several cases, traders are compelled to take matters into their own hands and hire private trucks for refuse removal as unpleasant conditions repel potential customers. Moreover, interruptions in the electricity supply (particularly due to load shedding) is a challenge for women traders selling cooked food, forcing them to use open fires which poses further health and safety challenges.²⁰

Law enforcement and sanctions

The enforcement of by-laws at local government level is often harsh and abusive. Women are targeted because they are less likely to physically challenge law enforcement officials, which contributes to their vulnerability and victimisation.²¹ Workshop participants noted that traders operating in disadvantaged areas are more likely to receive harsh treatment compared to those operating in more affluent areas. Women traders also face a constant threat of harassment, discrimination, and are more likely to be solicited for sexual favours from law enforcement officials who tend to apply other laws, such as sex-related offences when arresting women traders working late at night.²² Several workshop participants affirmed that female law enforcement officials are as likely to treat women traders in a demeaning manner as male law enforcement officials. There are a variety of sanctions that are imposed on women traders, including formal penalties (e.g., fines, confiscation of goods, arrest and detention) and informal penalties (e.g., the solicitation of bribes).²³ Goods confiscated by law

enforcement officials are stored at a local government facility. However, often times, no inventory is made of confiscated goods resulting in stock loss.²⁴

Knowledge of policy-making process

It is a general observation that there is very little, if any, engagement between women traders and local governments in the policy-making process. On the one hand, workshop participants noted that they have limited knowledge of the policy-making process due to their limited educational backgrounds. On the other hand, they also expressed concerns that they are compelled to abide by policies and laws which they were not consulted on.

Good policy making promotes inclusivity and the need for consultations and feedback with those affected by policies and laws.²⁵ In reality, the law and policy making process generally overlooks public participation and does not provide reasonable timeframes and opportunities for written comments, public hearings, stakeholder engagements, and de-briefing sessions after the implementation of policies and laws.²⁶

While some women traders consider informal trading as a life-long vocation, the aspiration of others is to have a more formalised vocation. Workshop participants bemoaned the fact that while some municipalities offer limited training opportunities, they are not further empowered, neither are they considered for opportunities to cater to events and programmes organised by local government. It is recommended that local governments harness the strength of women informal traders and provide incentives and opportunities for growth.

3. Migrant Women Workers

Migrants are groups of persons who have moved away (either voluntarily or involuntarily)²⁷ from their usual place of residence to settle in another, temporarily or permanently, for a variety of reasons including the search for better socio-economic and political conditions.²⁸ The majority of migrants entering South Africa hail from the Southern African Development Community (SADC) and in 2019 it was estimated that 44.4% of all migrants that entered the country were women.²⁹ While migrant women enter South Africa for better economic opportunities, and the informal economy is an attractive option for survival, they are confronted with intersectional barriers that contribute to their vulnerability.³⁰

Issues of documentation

Migrant women generally trade food products or small items in markets, or work as shop attendants, domestic workers, child minders or in hair and beauty salons. Their working conditions tend to be precarious, leaving them at a heightened risk of abuse, sexual violence, and forced labour.³¹ This is particularly the case for undocumented women migrants who work as domestic workers and shop attendants and are reluctant to report abuses due to the possibilities of deportation. Indeed, undocumented migrants or holders of 'temporary asylum-seeker' permits face the ever-present fear of harassment, deportation and arrest by law enforcement officials for not having appropriate documentation.³²

Even when they are in possession of appropriate documents, migrant women are treated in a discriminatory manner by law enforcement officials and are subjected to name-calling which further marginalises them. Moreover, they are constant victims of campaigns such as “Operation Street Clean-up”; which seeks to forcefully evict migrant street vendors from public spaces.³³ These challenges not only concern international migrants but also domestic migrants. A workshop participant originally from the Eastern Cape (and thus isiXhosa-speaker) who migrated to Gauteng recounted the many instances in which she was insulted by fellow women traders at taxi-ranks for not being conversant in the local *Tswana* and *Sepedi* languages.

Access to financial services

One of the most glaring challenges for undocumented women migrants trading goods in the informal market, is a lack of access to financial services (e.g. bank account and credit), reducing their opportunities to obtain capital to purchase stock for their trade.³⁴ Moreover, the lack of proper documentation also curtails access to relevant trading permits at local government offices.³⁵ This forces migrants to either operate without permits in demarcated areas or to operate in non-demarcated spaces, such as street corners and pavements. Excessive regulation of permits runs the substantial risk of encouraging extortion and corruption. This also leads to increased feelings of disgruntlement by local South African women traders who feel that it is unfair that they need to share spaces with traders who do not pay for permits.³⁶ Workshop participants also noted high levels of bribery between law

enforcement officials and migrant traders in markets and taxi ranks as it was reported that migrant women traders are seemingly always aware of planned police sweeps and avoid working on those days to avoid arrest.³⁷

Working conditions

The unpredictable future of migrant women workers in South Africa motivates them to be hard workers willing to work longer hours in exchange for income below minimum wage.³⁸ Migrants and refugees generally work in occupations with limited skill requirements, leading to potential exploitation and a lack of legal protection.³⁹ The majority of migrant women workers take up domestic work, shop attending, child minding and working in hair and beauty salons. They often experience abuse but are unaware of avenues to lodge complaints or are reluctant to do so due to the risk of deportation.⁴⁰ A workshop participant reflected on the long hours she works as a domestic worker with little pay. Another participant working in the hair and beauty industry narrated her experience as an expecting mother obliged to stand for extensive hours throughout the day while braiding clients’ hair despite health concerns. Incidentally, a workshop participant reported that South African workers in similar trades tend to become discouraged due to the perceived notion that migrants are seemingly working longer hours and earning more money than them. This results in feelings of resentment, leading to exclusion, stigmatisation and ill-treatment of migrants by locals.⁴¹

Negative perceptions

According to the Human Sciences Resource Council, South African has one of the highest negative perceptions of foreign workers in the world.⁴² The cyclical xenophobic violence against migrants in South Africa is generally due to a combination of reasons, including resource competition, poverty, accumulated frustration with the government, and feelings that migrants are stealing jobs reserved for South African citizens.⁴³ It appears that migrants from other racial groups are considered either as tourists or investors and seemingly do not experience xenophobia nor are they subjected to the same negative treatments as African migrants.⁴⁴ Nevertheless, violent actions towards migrants further marginalises them and undermines their contribution to cultural diversity, new skill-sets, and overall socio-economic development in the country. It is thus recommended that migrant challenges are considered in the law and policy making process.

4. Women Reclaimers

Reclaimers, also referred to as waste pickers, recyclers or waste salvagers, search through garbage for recyclable products to sell to the formal sector.⁴⁵ They provide an income for themselves, thus alleviating poverty, contributing to the reduction in greenhouse gas emissions, and keeping cities and towns clean.⁴⁶ Despite their significant contribution to public health, sanitation, and the environment, they are not legally recognized as workers.⁴⁷ Reclaimers are socially disadvantaged and often face stigma and discrimination because they often appear soiled and unkept due to the nature of their work.⁴⁸

Working conditions

While some reclaimers are homeless, others travel long distances with trolleys weighing up to 200 kgs to landfills, and others stay in open parks to remain close to recyclable products.⁴⁹ Women reclaimers in South Africa face a myriad of socio-economic hardships and are exposed to poor working conditions.⁵⁰ In addition to starting their days as early as 04:00 in the morning, reclaimers do not have access to water and ablution facilities at landfills, and in some parks. In suburban areas, very few residents and businesses allow reclaimers to use their toilets. As a result, women reclaimers rely on plastic bags to relieve themselves and often get dressed in public which negatively affects their dignity.⁵¹

It is dangerous for women reclaimers to live alone in public spaces, such as parks and landfills or travel between various locations at early hours, and thus for safety purposes, they prefer to move around with their male counterparts.⁵² However, women reclaimers also experience harassment and discrimination from the same male counterparts who use their physical strength to overpower and prevent them from accessing valuable recyclable materials.⁵³ A workshop participant reported that fellow South African women reclaimers also subject migrant women reclaimers to similar discriminatory treatment. A previous report highlights that at one landfill in Johannesburg, women reclaimers are divided into two shifts based on nationality.⁵⁴ The longer and earlier shifts are reserved for South Africans, while the shorter and later shifts are reserved for migrants. As a result, the South African women reclaimers earned much more than

their migrant counterparts as more valuable recyclable products are available earlier in the day compared to later in the afternoon.⁵⁵

Law enforcement and sanctions

Reclaimers are often harassed, arrested or penalised under local or municipal by-laws for engaging in waste collection activities.⁵⁶ It was observed in the workshop that women reclaimers are often innocent victims of crimes within neighbourhoods and even if they report crimes to the police, they are not taken seriously because of their appearance. Instead, they are suspected of committing crimes in suburban areas by residents that do not want to see reclaimers in their neighbourhoods.⁵⁷ Law enforcement officials generally use coercion when dealing with reclaimers, resulting in fines, arrests and even evictions which predisposes them to homelessness.

In 2022, over 100 reclaimers were evicted from an undeveloped vacant property wherein they had lived for five years in Midrand, Johannesburg.⁵⁸ The reclaimers contested the eviction at the Johannesburg High Court, noting that eviction without the provision of alternative accommodation would render them homeless and without the ability to earn a decent living.⁵⁹ The High Court ordered the City of Johannesburg to provide the reclaimers with temporary emergency accommodation, allowing them to live and sort their reclaimed waste.⁶⁰ In accordance with the court order, the City made provision for alternative accommodation for the reclaimers, but on condition that they not be allowed to sort and store their reclaimed goods at the said accommodation.⁶¹ The reclaimers argued that prohibiting them from sorting their

reclaimed goods on the premises would effectively deprive them of their livelihood.⁶² The matter was heard at the Supreme Court of Appeal in August 2024 and is awaiting judgement.

Health risks

The unregulated nature of reclaiming results in limited healthcare protections. Women reclaimers who are sick or pregnant cannot be away from their work because they have no alternative sources of income. A workshop participant provided anecdotal evidence of her return to work, merely days after giving birth because she could not afford to be without an income for an extensive period of time.

Moreover, the health risks associated with reclaiming often go unnoticed despite them consistently being exposed to hazardous products, making them prone to develop diseases such as tuberculosis, malaria and cholera.⁶³ The two leading reclaimer organisations in South Africa advocating and promoting the rights of reclaimers include the South African Waste Pickers Association (SAWPA) and the African Reclaimers Organisation (ARO).⁶⁴ Both organisations provide reclaimers with the appropriate personal protection equipment required to undertake their work. Reclaimers are also majorly impacted by seasonal changes. Workshop participants reported that during winter, there are less plastics bottles available to recycle compared to the warmer seasons when people consume beverages in cans and bottles. Fewer recyclable products reduce the income of reclaimers whose wages are affected by fluctuating

prices set by private companies that possess the necessary recycling machinery.⁶⁵

Engagement with local governments

While there exist processes to transition reclaimers, to the formal economy by strengthening their collective voice and addressing some of the challenges they face,⁶⁶ this is not progressing at the requisite pace as there is limited engagement between reclaimers and local government authorities. Considering the significant contribution reclaimers make to the environment, it is recommended that inclusive waste management policies integrate reclaimers into formal recycling chains to promote recycling and also the creation of decent work, poverty reduction, and social inclusion.⁶⁷ By so doing, local government authorities will improve their working conditions, secure livelihoods, improve social security and contribute to keeping cities and towns clean.⁶⁸

5. Recommendations and Conclusion

The high unemployment rate in South Africa forces many, including women, to the informal economy for survival. Despite its unregulated nature and the unpredictability of profits, marginalised groups such as women traders, migrant workers and reclaimers have limited choices, but to rely on it for survival.

Four key observations and recommendations are offered within the context of the plight of women working in public spaces in South Africa. Firstly, it is a general observation that **women informal workers are often discriminated against because of their poverty and perceived status by the general public and law**

enforcement officials. While they are not employed by local governments, informal economy workers should be considered as workers with rights as they significantly contribute to alleviating poverty, providing employment (albeit informal), food security, and in the case of reclaimers, offering recycling and sanitation services to local governments. Incentives beyond short courses and training should be offered to acknowledge their contribution to local economic development.

Secondly, it is unfortunately the case that **local governments do not always provide necessary services and facilities conducive for work in the informal economy.** There is a need to effectively balance the maintenance of “clean” and “safe” cities while simultaneously upholding the rights of women informal workers. The lack of adequate ablution facilities, refuse removal, storage facilities, and street lighting not only renders work in public spaces difficult, but also heightens security risks, especially for women traders working late in the evening. It is recommended that local governments prioritise efficient service delivery, especially to the most vulnerable in society.

Thirdly, it is observed that although organisations exist to promote and advocate for the interests of women traders and women reclaimers, there still exist **gaps in the policy-making process in terms of engagement between local governments and relevant stakeholders.** The interests of women working in public spaces are generally not considered in the formulation of laws and policies, yet they are the mostly impacted by them.⁶⁹

In the South African context, an emphasis should be placed on inclusive public consultations and opportunities for feedback to share concerns to local governments.⁷⁰

Finally, there is a general observation on the **over-reliance of the criminal justice system to address the socio-economic challenges facing women working in public spaces.**⁷¹ Rather than resorting to criminalisation, local governments should offer constructive solutions by building compliance with the law through risk prevention, public education and awareness. Ultimately, the objective is not to criminalise women working in public spaces but to allow them to make a living in a dignified manner.

Author: Janelle Mangwanda.

This Factsheet is the first in a three-part series of factsheets on the plight of women working in public spaces. The other two factsheets focus on the plight of women working in public spaces in Ghana and Kenya. They can be found here:

[Fact sheet: Kenya | ICJ-Kenya](#)

[Fact sheet: Ghana | CHRI – Africa](#)

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