



Workers in Informal Employment and Access to Space: Challenges and Promising Approaches

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Overview of the discussion

- **Workers in public space - stats overview**
- **Contestation around public space**
- **Punitive legal frameworks regulating access to public space**
- **International instruments and jurisprudence**
- **Examples of inclusive governance**





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Workers in Informal Employment and Access to Public Space

Secure access to space - a key concern for many workers in informal employment

- **Street reclaimers** - access to waste and space to **collect**, sort, **store** and **transport** recyclables
- **Street vendors** - secure access to public space to **sell**, **store** and **transport** goods



Size of Informal Employment Dependent on Access to Public Space - Trade

- **77% of non-agricultural employment in Africa is informal** (72% men and 83 % women) ([Bonnet, Vanek and Chen 2019](#)); street and informal market vending is **43%** of all informal non-agricultural employment and **51%** of all women's informal non-agricultural work in **Africa** (Vanek et al. 2014)
- In urban **Senegal**, Street and market trading is **44.5%** of total employment ([Koolwal 2022](#))
- In urban **Ghana**, street vendors and market traders combined constitute **29 % of total employment** ([Baah-Boateng & Vanek, 2020](#))
- In **South Africa**, 30 % of total employment is informal (48% in rural areas; 24% in 8 major cities);
 - **Street and market traders are 10%** of informal employment in 8 major cities (**235,802 workers**) ([Rogan 2019](#))

Size of Informal Employment Dependent on Access to Public Space - Reclaimers

- Hard to collect meaningful statistics on reclaimers - easy to underestimate actual size
- The 2015 Ghana Labour Force Survey counted 7,788 waste pickers in the Greater Accra Region, or 0.5% of total employment ([WIEGO Statistical Brief No. 21](#))
- The South African government estimates between 60,000–90,000 reclaimers working on streets or on landfills in South Africa - although according to other estimates there could be as many as 215,000 reclaimers earning a livelihood from waste in South Africa.
- In many countries, reclaimers supply the only form of solid waste collection at little or no cost to municipalities.
- Reclaimers perform 50-100 per cent of ongoing waste collection in most cities in developing countries (UN publication [Solid Waste Management in the World's Cities](#))

Accessing Public Space for Livelihood

Public Space – a Contested Resource

- Vendors, reclaimers and other workers need access to space for livelihood
- But - public space is a scarce, contested resource with several actors claiming access
- Interests of elites are generally privileged



Whose public space?

Exclusionary, discriminatory narratives shape public space governance:

- World class cities/modernization
- Urban space as “sanitized” space
- Public space as leisure and cultural space for enjoyment of middle/high class
- Workers in public space obstruct pedestrian and vehicular traffic
- Informal livelihoods as sign of economic “underdevelopment”, “nuisance”



Exclusionary Legal and Policy Frameworks

Content

- Legal frameworks regulating access and use of public space reflect exclusionary, punitive approach:
 - Create dichotomies - “legal”/”Illegal”; “permitted”/”prohibited”
 - “Control” rather than “regulate” access
 - Criminalize livelihood activities in public space
 - Examples: vagrancy laws, nuisance laws, and laws regulating informal trade – mostly outdated remnants of the countries’ colonial past
 - Exclusionary urban planning
 - No access to services/infrastructures
 - Deny economic function of public space
 - Privatization of waste

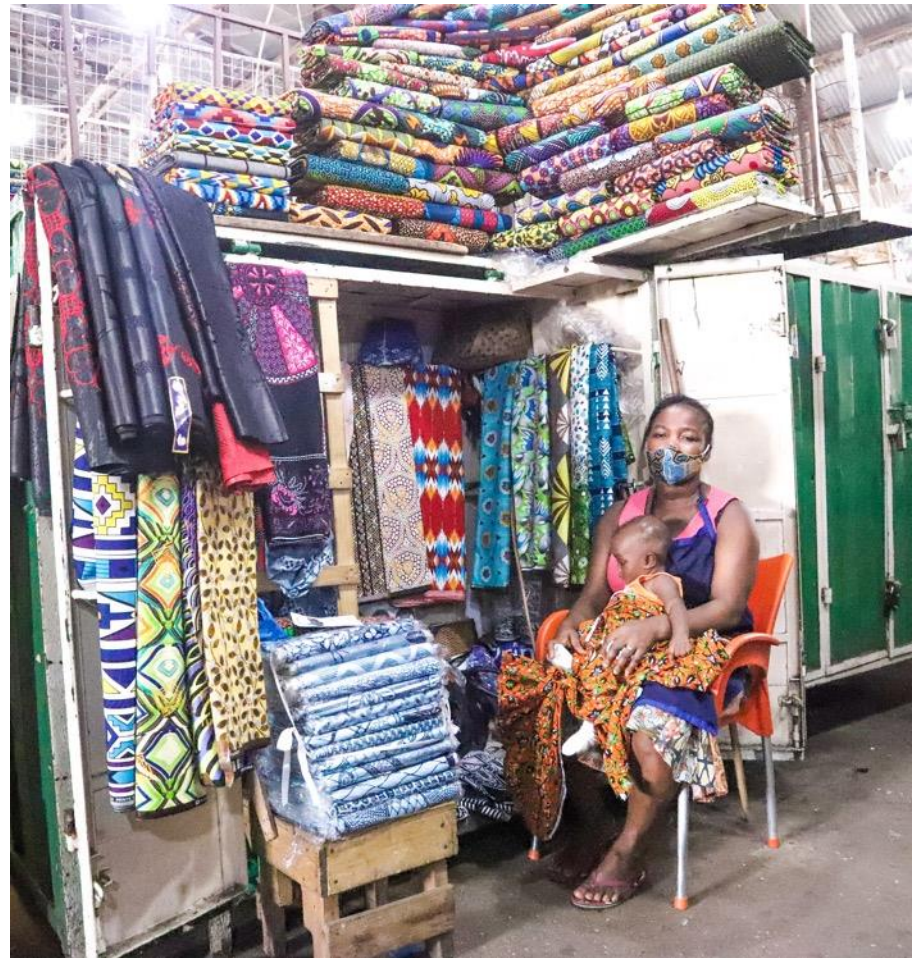
Process

- Lack of participatory spaces

Inclusive Access to Public Space

African Human Rights Framework

- **Right to work ACHPR art. 15** - Pretoria Declaration on Economic, Social and Cultural Rights in Africa: **State's obligations** to create “enabling conditions that promote the rights and opportunities of those in the informal sector”
- **Maputo protocol, Art. 23 (e):** States parties shall “[c]reate conditions to **promote** and support the occupations and **economic activities of women, in particular, within the informal sector**”



...and a Landmark Court Decision

Advisory Opinion African Court of Human and people's Rights (December 2020)

- **Vagrancy laws criminalize the status – of a person and violate the African Charter of Human and People's rights: non- discrimination, equality, dignity, liberty, due process, freedom of movement**
- All signatories to the African Charter have an **obligation to review and amend their laws** to align them with the African Human Rights instruments



ILO & UN Principles & Instruments

- **ILO Decent Work Agenda** rights at work; employment opportunities; social protection; participation and social dialogue **for all workers, including those in informal employment**
- **ILO Recommendation 204 on the Transition from the Informal to the Formal Economy:** protection of livelihoods, use of public space for livelihoods, participation in law/policy making and social dialogue
- **The New Urban Agenda on Economic Function of Public Space**
 - “**all inhabitants**” have the right to “inhabit and produce just, safe, healthy, accessible, affordable, resilient and sustainable cities and human settlements”
 - art. 100: States commit to adopt “measures that allow for the best possible commercial use of street-level floors, **fostering both formal and informal local markets and commerce**”

Promising Trends in Jurisprudence

- **High Court of Malawi - 2015 – Mayeso Gwanda v. The State:**
The court deemed the arrest of a street vendor based on vagrancy provision of the penal code in violation of the vendor’s rights to dignity, equal protection under the law and freedom from ill-treatment
- **South African Constitutional Court - 2013 – South African Traders Forum and Others v. City of Johannesburg and Others:**
The Court deemed “Operation Clean Sweep” unconstitutional because in violation of the constitutional rights to dignity
- **High Court of South Africa - 2015– Makwickana v. eThekweni Municipality and Others:**
laws allowing public officials to seize and destroy vendors’ good violate constitutional rights to access courts, property; work; non-discrimination
- **High Court of Lesotho - 2005 – Baitsokele and another v. Maseru City Council:**
scrutinized evictions of street vendors in terms of the right to livelihood
- **Supreme Court of India - 1986 – Olga Tellis v. Bombay Municipal Corporation**
Declared the right to life to include the right to livelihood, and – for street traders – the right to be provided with access to trading space
- **Colombia’s Constitutional Court (starting 2003) -** Recognizes reclaimers as service providers

Inclusive Law and Policy Making - Lima, Peru

Ordinance 1787 of 2014 of Municipality of Lima, Peru:

- Large Scale consultations
- Institutionalized dialogue with representatives of trader organizations
- Sets up Technical Tripartite Committees
- Addresses needs of most vulnerable groups (women heads of households)
- Extended validity of licenses
- Vending regulations within Lima (local municipalities) to be consistent with ordinance

Institutionalizing Co-governance of Public Space - India

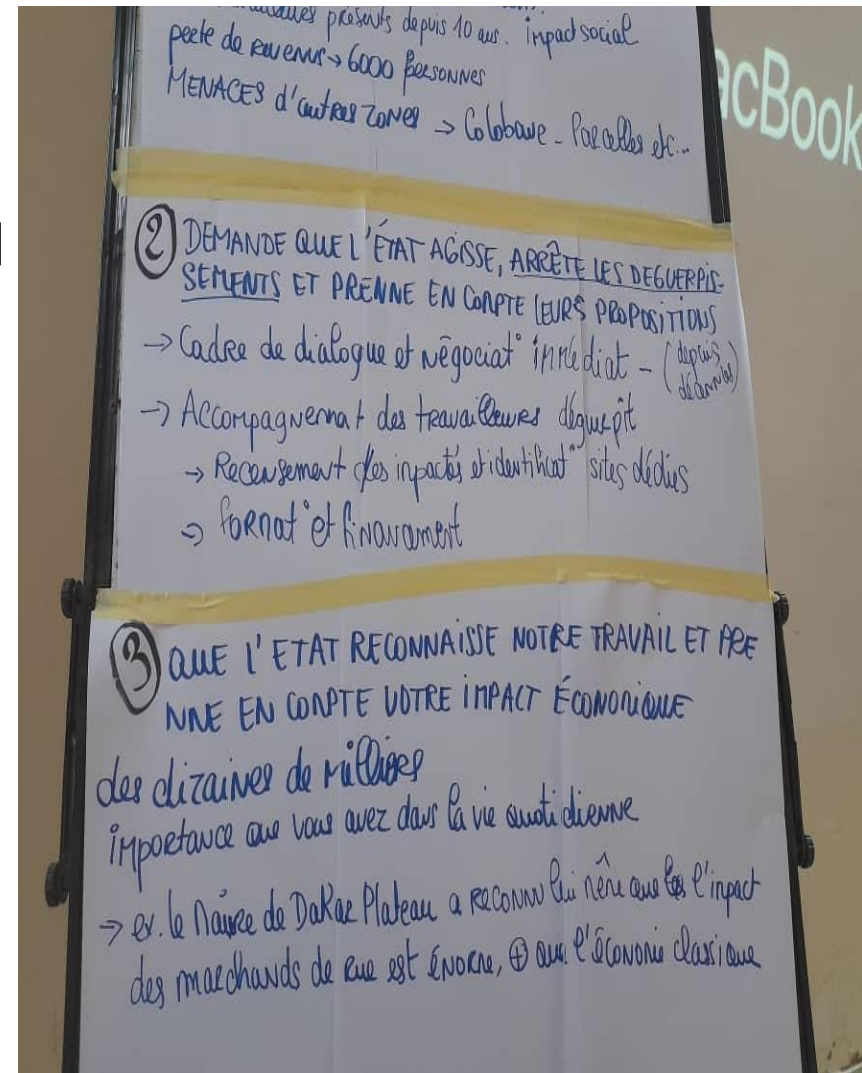
Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014

- Mandates set up of “town vending committees,” consisting of government officials, sellers, and others
- Committees tasked with making decisions about trading locations and monitor evictions and relocations.



Enabling Local Governance - Dakar, Senegal and Johannesburg, South Africa

- Between 2009 and 2011, the Dakar municipality started an effective dialogue with informal traders to plan and implement relocation to off street markets
- In Johannesburg, the municipality started a programme for the registration of street recyclers and issues ID card for workers



Bargaining with Local Authorities - Zimbabwe

- The Zimbabwe Chamber of Informal Economy Associations (ZCIEA) entered Memoranda of Understanding (MoUs) with several municipalities in Zimbabwe
- ZCIEA used R204 call on governments to promote social dialogue to bring local authorities to the table
- MoUs include:
 - ZCIEA/municipalities to form partnership/bipartite social dialogues to address concerns of informal traders
 - Municipalities to provide stalls for traders, toilets, bins at workplace, user-friendly payment system, disability friendly structures
 - ZCIEA to conduct workers' education on cleanliness, hygiene; encourage members' compliance with regulations; build municipality-approved structures; engage municipal councils on formalization in line with R204



Concluding Thoughts



- African Human Rights system, ILO and UN instruments and recent jurisprudence offer a **strong framework to realize the fundamental rights of workers in the public space**
- **Two essential pillars:**
 - Recognition of street vendors, reclaimers and other workers in the public space as right holders & legitimate economic actors who conduct a legitimate economic activity
 - Recognition of the economic function of public space and its nature as a fundamental right for those whose livelihood depends on it

Resources:

Statistics on workers in public space:

On Africa: Bonnet, Florence, Joann Vanek, and Martha Alter Chen. [Women and Men in the Informal Economy: A Statistical Brief](#). WIEGO and ILO

On Senegal: Gayatri Koolwal. 2022. Informal Workers in Senegal: A Statistical Profile. [WIEGO Statistical Brief No.31](#)

On Ghana: William Baah-Boateng & Joann Vanek. 2020. Informal Workers in Ghana: A Statistical Snapshot. [WIEGO Statistical Brief No. 21](#)

On South Africa: Rogan, Mike. 2019. Informal Workers in Urban South Africa: A Statistical Snapshot. [WIEGO Statistical Brief No. 19](#)

Resources:

On India's Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014: Madhav, Roopa. 2022. [India's Street Vendor Protection Act: Good on Paper But Is It Working?](#) WIEGO Blog.

On Lima's Ordinance 1787: Abizaid, Olga and Ana Carolina Ogando (2022). [Urban development and participatory governance: Learnings from the co-creation of street vending ordinance 1787 in Lima](#) – Case-Based Contribution to Chapter 9: Democratizing GOLD VI Report on Pathways to urban and territorial equality. United Cities and Local Governments (UCLG), KNOW, and WIEGO.

On Dakar's inclusive relocation plans (2009-2011): Kamara Oscar, "[Case Study on: Informal Traders](#)" (2012), StreetNet International

Thank You

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