

Shining a spotlight on human rights violations: An appraisal of the recycling business and law enforcement in South Africa

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Abstract: Recycling is a booming business in South Africa. Both formal and informal waste recyclers contribute to the fiscus. There is more government attention on formal waste recyclers than on informal waste recyclers, as waste management legislation focuses on formal recycling and overlooks informal waste recyclers. More than 70 000 informal waste recyclers contribute to the economy by providing formal waste management companies with refuse. Informal waste recyclers often work long hours and haul heavy loads because they lack transportation. Their meagre remuneration differs as the weighing instruments of formal waste recyclers vary. This study was conducted to analyse the plight of informal waste recyclers and influence policy as well as practice. However, studies on the treatment of informal waste recyclers are limited, and so are the empirical and theoretical gaps that are underexplored. A qualitative study and purposive sampling were conducted in this research. Interviews were conducted according to an interview schedule. Informal waste recyclers must contend with human rights violations and economic injustice because South African labour laws do not adequately protect them. Unlike the employees of formal waste managers who join employer organisations, they do not have a trade union and have no formal recourse. The scales used to weigh the refuse they have collected and determine their remuneration are not standardised across the industry. The informal waste recyclers' human rights are violated. The government should enact a policy to protect them as a vulnerable section of the community

Introduction

Much has been made of the important role recycling plays in societies, such as generating income, maintaining a healthy environment (Coletto & Bisschop, 2017:266-267), and creating human sustenance out of nothing to deliver economic and social benefits (Kain et al, 2022: 1-2). The formal waste recyclers are formalised, whereas the informal waste recyclers operate in an unstructured approach, making them vulnerable to abuse. However, limited research has been conducted on the plight of informal waste recyclers, also commonly known as waste pickers, in South Africa. Through their work, they reduce poverty and reliance on handouts. They comprise both nationals and migrants from neighbouring countries. In South Africa, informal waste pickers lack a trade union that represents them and negotiates on their behalf. Consequently, they cannot participate in collective bargaining as they are not recognised as employees. As they are not officially recognised, informal waste pickers continue to fight for recognition as important stakeholders in the recycling sector.

Only a handful of organisations represent informal waste pickers in South Africa, such as the South African Waste Pickers Association (SAWPA) and the African Reclaimers Organisation (ARO). A similar situation occurs in many developing countries worldwide. In several developed countries, legislation protects waste pickers and regulates recycling (Morais, Corder, Golev, Lawson & Ali, 2022:1-2).

In South Africa, informal waste pickers collect 57.1% of post-consumer paper and packaging materials for recycling by rummaging through the contents of waste bins on the streets. These materials usually carry the brands of major businesses worldwide. Although informal waste pickers clean the environment for the benefit of all (Bulla, Rendon & Trenc, 2021:120), the Extended Producer Responsibility (EPR), a system that requires goods manufacturers to contribute towards the costs of recycling waste, does not recognise their

role in the recycling sector and fails to reward them for their efforts. The fact that they are vulnerable should not make them the target of abusers (Morais et al., 2022:2). Some of them are harassed by law enforcers when they ply their trade. The Waste Picker Integration Guideline for South Africa fails to address several issues that informal waste pickers face, including a lack of Personal Protective Equipment (PPE), harassment and victimisation by law enforcement officers, and underpayment for the waste they collect.

This paper commenced with an introduction and a literature review of the concept of waste recycling and informal waste pickers. The theoretical framework and methodological lens will be discussed next, followed by the presentation of the findings and a discussion of the results. This paper will close with recommendations and a conclusion.

Literature Review

Theoretical Framework

This paper draws on John Rawls' Social Justice Theory (SJT), a social and philosophical concept that explores the lived experiences of informal waste pickers. Since the way that people evaluate new information is based on their existing attitudes, the theory of Social Judgement attempts to explain why and how people react differently to the same information. The SJT is related to the concept of social justice, which focuses on fairness and equity in society, often involving issues such as power, privilege, and oppression. Deplorable living conditions demand redress (Singh, Singla & Singh, 2023:1-2). The theory advocates that people should be rewarded fairly and equitably for their contributions to a cause. It follows that informal waste pickers who sell their wares to formal waste recyclers or buy-back centres should be fairly compensated for their efforts, as they expend considerable labour to acquire their goods. Moreover, their work involves great risk as they do not use PPE in the process of collecting recyclable material (Kain et al. 2022:23). Some of these materials contain hazardous chemicals that are detrimental to the health of informal waste pickers (Bulla et al., 2021:1299-1300). Everyone should benefit from their trade as a long-term improvement of the structure and practice of informal waste recyclers. Again, informal waste pickers often face victimisation and harassment from law enforcement officers, as they are frequently stopped on the roads and prevented from reaching buy-back centres, since their mode of transport is not suitable for carrying heavy loads. There is no approved transportation for their wares, and they cannot afford vans to transport their goods to buy-back centres. Because they cannot afford decent accommodation, many of them live near landfill sites and in informal settlements. The SJT advocates for policy development to protect informal waste pickers from exploitation by buy-back centre managers and law enforcement.

Formal and Informal Recyclers

Worldwide, recycling is a profitable enterprise (Mativenga, Agwa-Ejon, Mbohwa, Sultan & Shuaib, 2017) and offers a livelihood (Coletto & Bisschop, 2017:266). In 2020 over 300 companies in South Africa recycled 42 million tons of waste. Recycling is partly attributable to greater public awareness of pollution and its impact on society (Schenck, Blaauw & Viljoen, 2016). Formal waste recyclers, who happen to be business owners, make a sizable profit from recycling. Despite their limited input compared to that of informal recyclers, formal waste management businesses generate more revenue than small-time waste recyclers, who play a crucial role not only in their businesses but also in their communities and neighbourhoods by removing waste (Kiston, Nthebi, Made, Kootbodien, Wilson, Tlotleng, Kgalamo, Mathee, & Naicker, 2020). Informal waste recyclers are in the trade for survival and seem to get the bad end of the stick (Singh et al., 2023:1-3). Sometimes, they handle dangerous chemicals and metals with their bare hands and inhale toxic gases because they don't wear protective equipment (Kiston et al., 2020). The adverse health effects of

their trade include respiratory and heart ailments, as well as cancer (Ghobakhloo, Khoshakhlagh, Mostafaii & Carlsen, 2025).

Waste recycling involves discarded paper, plastic, glass and other types of containers. In 2017, three years ahead of schedule, the South African paper recycling sector achieved its target of 70%. No less than 1.3 million tons of paper were recycled that year (Averda, 2024). Against this backdrop, there is much to be done on other fronts of recycling. For instance, Statistics South Africa indicated that in the 2022 financial year, South Africa generated 122 million tons of waste. Only 10% of that was recycled; 90% went to landfill or were dumped illegally, posing considerable environmental risks (Statistics South Africa, 2022).

Currently, informal waste pickers are not regulated because the South African government has failed to enact laws that supervise their working conditions to bring about a change in their working structure. They are often seen in large municipalities hauling heavy loads through busy streets. In view of the country's high unemployment rate, waste recycling is a way out of poverty for many (South African Waste Pickers Association, 2022). Like their peers in the rest of the world, South African waste pickers are economically disadvantaged and excluded from the formal labour market, increasing their chances of becoming victims of economic exclusion (Coletto & Bisschop, 2017:351-352).

Government often commends them for cleaning up communities and cities where they operate their informal waste collection businesses. They also clean items that are destined for recycling, which saves money and time, as recycling machines are less likely to be contaminated and are less likely to break down (Muthambi, 2022). Nonetheless, government's focus is more on formal businesses than on the informal recyclers, who face harsh working conditions and bad treatment from formal waste recyclers and law enforcement. Informal waste recyclers are often prevented from reaching buy-back centres by law enforcement officers who complain about their inappropriate mode of transport and accuse them of obstructing traffic on public roads.

The South African Legislative Framework on Recycling

The Constitution is the cornerstone of the country's democratic aspirations. Everyone in South Africa is protected by the Constitution. For instance, section 10 of the Constitution guarantees human dignity, section 12 ensures freedom and security of the person, and section 9 provides that everyone is equal before the law and has the right to the enjoyment of their rights. The informal waste recyclers enjoy the above rights unhindered. Section 22 of the Constitution provides for the freedom of trade, occupation and profession. This includes the right to choose one's trade and ply it unhindered. Section 23 of the Constitution makes provision for the right to labour relations, which encompasses the right to fair labour practices. However, the informal waste recyclers do not enjoy protection from the labour laws, as they are not regarded as employees. The right to the environment and the promotion of conservation are protected by section 24 of the Constitution. These rights encompass the prevention of pollution and ecological degradation, as well as promoting ecologically sustainable development and social progress.

The National Waste Management Strategy (NWMS) was developed in accordance with section 6 of the National Environmental Management: Waste Act (NEMWA) 59 of 2008. It advocates for zero waste to go to landfill. The Act encourages South Africans to live in clean communities where waste is well managed, and waste management is financially sustainable (National Environmental Management: Waste Act (NEMWA) 59 of 2008). However, the Act does not acknowledge the role played by informal waste recyclers. There is no mention in the Act on how waste would be collected from public areas to the landfill sites.

Another piece of legislation linked to the Constitution is the Promotion of Equality and Protection of Unfair Discrimination Act 4 of 2000 (PEPUDA), which prohibits unfair discrimination in all spheres of life. Tangent to the above legislation is the Protection from

Harassment Act 17 of 2011. Section 1 of the Act punishes conduct that causes harm or inspires a reasonable belief that harm may be caused. Informal waste recyclers are often victimized by formal waste recyclers, law enforcement and some community members for collecting their wares from dustbins in front of the houses.

Waste pickers' burdensome working conditions and long working hours are in contravention of the labour laws that regulate working conditions in South Africa (Basic Conditions of Employment Act 75 of 1997, sec 78).

Methodology

To understand the intricacies of recycling and its impact on informal recyclers, a qualitative exploratory approach was adopted as the primary research method. The emphasis was on the lived experiences of informal waste pickers in selected municipalities in South Africa. The study was conducted between 2020 and 2024 and was limited to informal waste pickers, excluding waste recyclers working at landfills managed by municipalities. A phenomenological approach focusing on the lived experiences of informal waste pickers was adopted. The pertinent data were derived from qualitative semi-structured key informant interviews coupled with an intensive review of the literature. Ethical considerations were respected throughout the study.

Subsequently, the study employed data source triangulation through multiple data collection methods and perspectives such as interviews, literature and theories, which enhanced the credibility and reliability of the findings (Denscombe, 2014). Interviews were conducted on a one-on-one basis. Data were collected through an interview schedule tailored to gather information regarding human rights violations, victimisation and harassment, as well as labour law protection.

Research Design

A research design is the process to collect and analyse data in a manner that aims to be relevant to the research objectives (Dubey & Kothari, 2022). It is a roadmap that directs the research process by mapping out the study's objectives (Abutabenjeh & Jaradat, 2018). The empirical nature and exploratory design of the study helped to record the lived experiences of informal waste pickers.

Sampling Method

A sampling method involves selecting the best representatives of a population according to an established plan (Dubey & Kothari, 2022). In this study, a purposive sampling technique enabled the researcher to draw on experience, prior research in the field, and stakeholders in the sector who could provide pertinent information to meet the research objectives. The landfill sites were visited, and the researcher identified informal waste recyclers with long service in the municipalities to facilitate the participants' interviews. Confirmation of long service of more than 10 years was made by landfill supervisors at the sites. No fewer than ten key informants were sourced from large municipalities in Johannesburg (n3), eThekweni (n2), Cape Town (n2), Mbombela (n1), Mangaung (n1) and Polokwane (n1). The participants all agreed to one-on-one interviews. A consent form was completed and signed before the interviews. The interview schedule questions enabled the researcher to collect information on the lived experiences of informal waste pickers, including human rights violations, victimisation and harassment, low remuneration, unbearable working conditions, unreliable weighing of collected waste material, and victimisation and harassment by law enforcement officers.

Research Instrument

An interview schedule was used to guide the interviews and gather information from key informants, who are informal waste pickers operating in the following municipalities:

Johannesburg Metropolitan (n3), Ethekwini Metropolitan (n2), Cape Town Metropolitan (n2), Mbombela (n1), Mangaung (n1) and Polokwane (n1). The proper framing of the interview schedule questions enabled the inclusion of relevant questions aligned with the study's objectives (Leedy & Ormrod, 2019).

Data Collection

In this paper, a literature study, theories and key informant interviews were conducted. A literature study involves examining secondary research related to the topic under investigation. It helps researchers formulate their own research questions and situate their work within the context of related efforts and findings (Woodwell, 2014). Kobus (2010) defines an interview as a communication between two people during which the interviewer collects information about a specific topic from the interviewee.

Data Analysis

To analyse the data, the researcher adopted the spiral analysis method as outlined by Mezmir (2020:15-27):

- Data preparation: the researcher prepares the data obtained from the key informants, transcribes and purifies it to identify inconsistencies.
- Themes and sub-themes identification: the researcher identifies common issues in the data and divides them into recurrent themes and sub-themes. Word repetition and frequencies are noted by reading the text. The words the participants used frequently are written down.
- Data coding: the researcher organises the collected data for examination and analysis.
- Data presentation: the researcher presents and reports all relevant findings.
- Validation of data: The researcher verifies and validates the data to ensure their accuracy and clarity. This ensures the integrity of the data used in the research study and guarantees the legitimacy of the study's conclusions.

The researcher believes that both the thematic and content analyses were relevant modes of analysis for this study.

Findings And Discussion

Social Justice Theory

Informal waste pickers are often victimised and harassed by law enforcement in various municipalities. They are often evicted from sites where they sort goods for selling. Sometimes, their goods are confiscated and destroyed on the site by setting them on fire. As a result, their effort to collect, sort and store the goods are in vain. Such action contradicts the principles of Social Justice Theory, which holds that people should be rewarded for their efforts, as they have expended energy and skills in doing so. In addition, formal waste recycling companies do not pay informal waste pickers a fair price as their weighing scales are not standardised.

Formal and Informal Recyclers

Urbanisation brings people together in large numbers and has the spin-off of economic and industrial development. It also generates a significant amount of waste as more people with purchasing power become waste producers. Waste can become a problem if no proper waste management strategy is in place (Nyika, Onyari, Mishra & Dinka, 2019). The world over, there is growing dissatisfaction with international human rights laws that are supposed to promote investment and protect the communities who are the custodians of investments. In 2022, about 4 million people worldwide were formally employed in the waste management and recycling sector. Another 20 million people working in this sector were not formally

employed and therefore not protected by law (International Labour Organisation, 2022). This indicates the need to respond to the gap that continues to appear in international human rights law in a globalised market. The tenets of the United Nations Guiding Principles on Business and Human Rights (UNGPs) are based on accountability, prevention and mitigation of negative social and environmental impacts of business (Universal Declaration of Human Rights, Article 26). Especially in South Africa, where the unemployment rate exceeds 42%, many unemployed individuals are youths (Nyika et al., 2019). The country has a youth dividend, but most unemployed youth engage in various activities to earn an income, despite the potential harm that it may cause them later in life. This is true of many poorly paid informal waste recyclers who work long hours in an unregulated environment that poses hazards to their lives and the lives of those close to them (Convention 182 and remuneration 190 prohibition and elimination of the worst forms of child labour). This problem is not unique to South Africa; many countries worldwide face similar challenges. This fact does not justify the status quo. The problem can be addressed by integrating informal waste pickers into the formal economy and creating green job opportunities, as seen in some parts of Chile (International Labour Organisation, 2022).

In major South African cities, it was observed that even children under 18 years have joined the trade of informal waste recycling in violation of labour laws because underage children are prohibited from working (Ramelelle & Xweso, 2022). Since 2016, South Africa has had over 70,000 waste pickers, a figure that has skyrocketed due to the impact of the COVID-19 pandemic and the resulting reduction in economic activities (Convention on the Rights of the Child). Some of the waste recyclers are migrant workers from neighbouring countries. They are forced to enter the trade, as many of them do not receive social grants to support themselves and their children. These informal waste recyclers end up being victims of economic injustice in contravention of the laws of the country (United Nations migrant workers' Convention in Migration and Migrant workers and Members of Their Families 1990; Articles 1, 2; International Convention on the Protection of the Rights of all Migrant workers and Members of Their Families 1990 Articles 1, 2). According to international law, every person has a right to participate in a trade of their choice and exploit opportunities to earn a living (International Covenant on Economic, Social and Cultural Rights (ICESCR) Articles 6, 7; Constitution, sections 22, 23).

The South African Legislative Framework on Recycling

The Constitution protects everyone in South Africa's right to dignity and freedom of choice of trade. The right to the environment and the promotion of conservation are also protected by the Constitution. The right to a healthy environment encompasses the prevention of pollution and ecological degradation, with the goal of achieving sustainable development and promoting social development.

The primary legislation regulating recycling is the National Waste Management Strategy (NWMS), which was developed in terms of section 6 of the National Environmental Management: Waste Act (NEMWA) 59 of 2008. Regrettably, this legislation does not adequately protect informal waste pickers in South Africa and fails to address their specific needs.

People in this country are protected against unfair discrimination under the Promotion of Equality and Protection of Unfair Discrimination Act 4 of 2000 (PEPUDA), the Protection from Harassment Act 17 of 2011, and the Basic Conditions of Employment Act 75 of 1997.

Study Recommendations

Population growth has contributed to the increase in the number of unemployed people in South Africa. Most unemployed people are young and often lack social protection. As they are unable to provide for themselves, they are stigmatised and discriminated against. Out of desperation, they turn to informal waste recycling, illegal mining and other trades that are

not regarded as formal work. One informant observed that “informal waste pickers are hustlers with not much to show for themselves as they receive meagre income and live hand to mouth”.

Many informal waste pickers spend their entire income the same day and have nothing left to save for the coming days. Even worse are the children who participate in the trade and run the risk of being injured or inhaling dangerous chemicals. Moreover, they contravene the law. Because most waste recyclers do not wear PPE, they run the risk of contracting diseases. They work long hours and are underpaid. Informal waste pickers do not have trade unions and often experience financial stress due to their meagre wages. There are no sorting facilities for informal recyclers, and no basic amenities are available for them to clean themselves after work. Public-private partnerships that provide informal waste pickers with PPE are needed. Often, the loads they haul along are so high that they cannot see oncoming traffic. It can be fatal on freeways where vehicles drive at high speeds.

This paper recommends a strategic integration of informal waste pickers into the EPR system so that they are recognised as employees. Their work is related to activities to develop and promote the transfer of skills through socio-economic emancipatory programmes managed by the Department of Forestry, Fisheries and Environment. Buy-back centres across the country should be monitored. Law enforcement officers should conduct unannounced inspections of their weighing scales.

Conclusion

Informal waste recyclers face human rights violations on several fronts, including a government that fails to adequately protect them and unscrupulous formal waste recyclers who cheat them by using unregulated weighing scales. Moreover, informal waste recyclers do not belong to trade unions, and their job is unregulated. Countless informal waste recyclers are underage and work for recruiters to make a living. As neither government nor formal waste recyclers supply them with PPE, they sort waste with their bare hands. They utilise any type of trailer carriage to transport their collections. South African law does not regard them as employees, despite their huge contribution to a cleaner environment. Law enforcement officers harass and victimise them in violation of South African law. Addressing the above challenges will guarantee work tenure and provide job security for informal waste pickers.

The insights contained in this study will help policymakers develop policies that include informal waste pickers and enable them to earn a living in the waste management and recycling sector. Municipalities should provide informal waste pickers with PPE such as gloves and masks. In addition, municipalities across South Africa should standardise the rates and scales of buy-back centres. This will necessitate the harmonisation of bylaws to regulate informal waste pickers. Ultimately, further research is necessary to understand how informal waste pickers spend their income.

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