



2020

Policy Report

Policy Briefs on the Employment, Retention and
Promotion of Women Workers in the Public Road
Transport Industry in Kenya

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We remain very grateful to all our partners for the support they give towards actualization of our vision towards creating a safe and professional public transport industry.

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Abbreviations

CBA	Collective Bargaining Agreement
ILO	International Labor Organization
NHIF	National Hospital Insurance Fund
NSSF	National Social Security Fund
NTSA	National Transport and Safety Authority
PAYE	Pay As You Earn
PSV	Public Service Vehicle
SACCO	Savings and Credit Cooperatives



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Executive Summary

The urban public road transport in Nairobi is quite informal and privately run mostly dominated by mini-buses and vans famously known as matatus with carrying capacities of 14 to 33 passengers (Global Labour Institute Manchester 2019, 12). In 2018, estimates of the number of matatus in the city ranged from 8,000 (Wright 2018, 39) to 10,000 (Global Labour Institute Manchester 2019, 12) carrying an estimated number of passengers between 350,000 and 400,000 each day¹ (BRT line 1 feasibility study, 2018, 28).

Work in the matatu sector encompasses various roles like stage attendants, drivers and conductors, who collect fares and announce the route (Graeff n.d., 17), but also other informal roles including callers, touts and security workers (Wright 2018, 39). The sector is largely informal and therefore estimating the size of its workforce may be difficult, but it may employ around 160,000 people nationally (Wright 2018, 32).

Historically, the industry has been overwhelmingly male-dominated. According to Flone Initiative Gender Equity Assessment Report, 2018 only 10% of public road transport workers are women mostly working in the sector as conductors, drivers, stage attendants and office administration staff. As women are increasingly seeking employment in the industry they are faced with a myriad of social-economic, environmental and structural barriers to entry, retention and promotion that limit their labor rights and meaningful participation. These include precarious working arrangements, long working hours, low pay, being subjected to violence and sexual harassment, limited training and professional development and denial of labor rights among others.

In addition, women public transport workers are stereotyped and subjected to “socio-cultural assumptions and prescriptions about suitability for particular forms of work, patterns of work and hours that conflict with family responsibilities” (Wright 2018, 21). A World Bank report found that sexual harassment in job recruitment was more common for women and several had stopped looking for work because of repeated sexual harassment experiences (The World Bank Group 2012, 35). Due to unpredictable market factors matatu owners and operators are usually focused on profit at the expense of other important concerns, including occupational health and safety (Stasik and Cissokho 2018).

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A 2017 Kenya National Bureau of Statistics report indicates that some improvement has been made, but there are still disparities in employment between men and women, and women work in more informal wage employment. Even where legal and policy barriers have been eliminated and protections have been introduced, poor implementation can remain a challenge. The transport sector in Kenya continues to display major decent work gaps that exist, denying the women workers the full benefits of the ILO Decent work agenda.

Based on the foregoing and evidence from key findings of a study conducted by Flone Initiative on working conditions and policy gaps in employment, retention and promotion of women in public road transport work, the key recommendations for action include;

- i. Enforce regulations on permanent formal contracts for transport workers.

- ii. Mainstream gender needs into transport operations
- iii. Address issues affecting operations of the matatu business
- iv. Make anti-sexual harassment policies mandatory
- v. Review PSV SACCOs operation and mandate to adequately address HR issues
- vi. Strengthen unions for improved effectiveness in their mandates
- vii. Increase gender inclusion in policy and governance through affirmative action on 40% gender representation.
- viii. Address gender discrimination in hiring and promotion in public transport work through affirmative action hiring practices that would ensure at least 40 per cent female representation

Background

A 2018 Gender Equity study report by Flone Initiative revealed that PSV SACCO managers believe that women make good workers (trustworthy, professional and safe) and all of them were willing to employ women. In spite of the value they can bring to the industry, women are mostly considered in transportation policy and planning as commuters than they are as workers. A 2018 study by Flone Initiative revealed that only 10% of women form the labour force in the public road transport industry in Kenya. As a result, it is easy to overlook their specific needs and how these impact on their employment, retention and promotion in the industry.

Why should development policy be concerned about employment, retention and promotion of women in the sector? Some would emphasize its importance to processes of economic growth. Others see it more broadly, as a form of social economic justice and integral to social development. Either way, the need to address this issue through public policy is now more urgent than ever. Therefore, addressing gender equity barriers will require a gender lens that will allow policy makers and practitioners to set appropriate policies, and ushering in the necessary structural changes.

Strengthening employment opportunities for women in the sector benefits the women who are able to access employment: it also improves safety for women passengers, improves working conditions for all workers, and brings different and innovative skill sets to the workforce (International Association of Public Transport and International Transport Forum 2019, 2).

This will be possible by addressing critical issues that limit women involvement in the industry such as sexual harassment and violence in the workplace, challenges of balancing between family and work, long working hours, health and safety at work, poor facilities and informal and precarious work just to mention a few.

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Methodology

The evidence of this brief is based on key findings of a study on working conditions and policy gaps in employment, retention and promotion of women in public road transport work. The study entailed review of existing policy documents and publications, survey with female workers; conductors, drivers and stage attendants as well as in-depth one-on-one interviews with PSV SACCO managers, union representatives and partner organizations. Though the transport industry is broad, this study was limited to public road transport and associated spaces.

A systematic review of available literature on gender mainstreaming and policy frameworks provided invaluable information which played a key role in identifying policy gaps and challenges women workers face in the transport sector which needed authentication during the primary data collection phase.

Analysis of primary data from respondents presented important information on working conditions and policy gaps in employment, retention and promotion of women in public road transport work.

Results and Conclusion

The findings of the study revealed challenges women workers face with regards to recruitment, retention and promotion, resulting in their low representation and participation in this industry. It emerged that the industry is male dominated and few women apply to work in the sector due to social cultural barriers that reinforce stereotypes, assumptions and prescriptions about suitability for particular forms of work as 40% face gender discrimination and 56% don't consider their SACCOs or companies as equal opportunity employers, structural barriers such as long working hours as majority work 6 days a week for over 12 hours a day and 60% being in precarious working arrangements, economic factors as 42% of women workers would quit work due to low pay (Ksh 10,000-15,000 monthly), and environmental factors such as insecurity and little consideration for occupational health and safety as 62% don't have any medical cover and are not insured in case of accidents.

It emerged that in spite of the NTSA regulations 2014 requiring PSV SACCOs to employ operators on permanent basis, (60%) women workers in the study were in temporary or casual



While transport workers unions exist for collective bargaining, they seem to be unable to penetrate the informal system and have a hard time recruiting members as only 11% of women interviewed are members of a union.

employment with limited job security. This is occasioned by factors such as high operational costs and presence of criminal gangs that illegally extort money limiting the ability of vehicle owners to earn adequate net income necessary to hire on permanent basis and allow for benefits such as paid maternity, working in shifts or sponsored medical covers.

While transport workers unions exist for collective bargaining, they seem to be unable to penetrate the informal system and have a hard time recruiting members as only 11% of women interviewed are members of a union. Further, many workers may not have time to participate in union activities or may not pay for the union subscriptions due to low and inconsistent income.

It also emerged that sexual harassment on female workers is a critical issue as findings reveal that majority of them have experienced some form of sexual harassment at work. It

was revealed that 79% had experienced some form of sexual harassment at work. However, it emerged that while it is a requirement by the Employment Act 2007, PSV SACCOs don't have documented sexual harassment policies or reporting and response mechanisms for the same. Moreover, employer's code of conduct did not have any documented clause prohibiting sexual harassment or giving clear guidelines on how it can be addressed if or when it occurs.

The findings uncover that majority of female transport workers (55%) have no additional training or certifications apart from their basic or secondary education since they may not have time for personal development or academic advancement due to long working hours in the sector. Additionally, besides wages, (66%) of women workers don't have any additional benefits including maternity leaves, promotions or paid leaves since they are casuals.

Women are generally not represented in decision-making roles due to the fact that most don't own a vehicle which is a requirement for membership in the SACCO and eventual participation in elective positions. In terms of the roles mostly taken by women in the matatu sector, it is worth highlighting that they are more likely to work as conductors or in stage (matatu/bus stop) roles, which are more precarious and less well-paid than driving or on-board roles (Global Labour Institute Manchester 2018, 9).

Policy Options and Recommendations

A policy environment that recognizes and values an efficient public transport system as an important driver economic development has to respect the rights and needs of workers. While concrete policy options may be context specific, a number of policy priorities and recommendation can be proposed:

- **Enforce regulations on permanent formal contracts:** currently, transport companies, PSV SACCOs or individual PSV owners do not abide by labor laws since they have not entered into formal contractual arrangements with workers as stipulated in the Employment Act 2007. NTSA should thus further enforce formal contracting of employees in the public transport sector as per its regulations of 2014. PSV SACCOs and transport companies should also adopt HR practices particularly those laid out in the International Labor Organization (ILO) Operations/Human Resource Manual for Matatu SACCOs/Companies under the Law Growth Nexus



project. The government should integrate female transport workers in government led projects like BRT which will provide formal working arrangements. All these efforts will go a long way in ensuring that women transport workers are assured of consistent wages and work place benefits like maternity leave, reasonable pay, occupational health and safety, career development and promotion among others. Women workers will also be able to meaningfully participate in collective bargaining activities through unions.

- **Mainstream gender needs into transport operations:** this could entail mainstreaming gender issues in Collective Bargaining Agreements (CBAs) where employers should commit to cater for pre-natal engagements; allow for breastfeeding and childcare breaks or facilities where applicable; promote gender equality in the work place; prohibit gender discrimination and promote equal opportunities in employment as well as safeguard pregnant and nursing women from undertaking risky jobs. Adopting ILO Recommendation 161 of 1979 on “Hours of work and Rest” to promote work life balance for female transport workers. CBAs should put a cap on the maximum overtime hours.
- **Address issues affecting operations of the matatu business:** as the matatu industry in Kenya remains an important driver of economic development it is important to make it function efficiently by appreciating the role it plays. Policy makers should consider the dynamics of informal sector since it is easily and adversely affected by economic shocks such as the current COVID-19 pandemic. They should improve the business environment by subsidizing on spare part or reducing import duty cost on parts. They should also eliminate cartels and criminal elements that extort investors. They should likewise include realistic regulations and allow time for the informal market to adapt. A conducive business environment will go a long way in enabling PSV owners and companies to afford the labor cost associated with permanent contractual terms.
- **Make anti-sexual harassment policies mandatory:** the Employment Act 2007 obliges employers of more than twenty employees to implement a sexual harassment policy (Government of Kenya 2007, sec. 6). Sexual harassment policies or statements must be made mandatory at registration of transport companies and SACCOS or clearly highlighted in the codes of conduct. The National Transport and Safety Authority should develop a uniform sexual harassment policy for all PSV SACCOS and companies operating matatus. This policy should stand against sexual harassment in all its forms and have clear, actionable and reliable systems to address harassment when reported. The law does not establish civil remedies for sexual harassment, which is an important enforcement mechanism for victims. The Sexual Offences Act of 2006, which also prohibits sexual harassment, fails to identify specific forms of sexual harassment and only addresses sexual harassment in certain circumstances but it does not, however, prohibit sexual harassment in public places such as in transportation systems.
- **Review PSV SACCOS operation and mandate to adequately address human resource issues:** matatus are operated either under PSV SACCO arrangement or registered companies. It is worth noting that while they bring together Passenger Service Vehicle (PSV) owners most of them operate as franchises with little control of the profits earned by individual vehicles registered under them. The subscriptions they receive from members cannot suffice the cost of hiring workers on permanent basis, catering for workers benefits and associated cost of labor. It would be important to require owners to finance SACCOS towards workers professional

development or welfare e.g. Ksh 15 per kilometer covered under each vehicle registered goes towards the human resource development kitty. NTSA regulations on the mandate of PSV SACCOs could be reviewed to operationalize this and also ensure that SACCO officials present regular reports to NTSA on human resource issues.

- **Increase gender inclusion in policy and governance:** there is need to enhance gender mainstreaming into the revised national transport policy with specific targets. Female representation in technical and management roles in transport could be increased and women's participation in planning (including public consultation) and decision-making processes should be enhanced. This could be accompanied with capacity and skills development on gender and transport at national, regional, local, and community levels. Equally gender representations should also be considered in senior or board positions at PSV SACCOs and company levels.
- **Address gender discrimination in hiring and promotion in public transport work:** the government through NTSA should ensure that PSV SACCOs and transport companies adopt affirmative action hiring practices and voluntarily adopt the "two-thirds rule" and implement a plan to reach 33.3% women staff across all levels of employment. Equally gender equity should also be considered in promotion opportunities since many women are stuck into lower paying positions compared to men.
- **Strengthen unions for improved effectiveness in their mandates:** unions are essential for collective bargaining especially in the informal sector that is not well regulated under labor laws. However, our study noted dismal uptake of union membership for women transport workers. It is essential that policies are geared toward unions reinforcing the efforts of unions to effectively undertake their very essential roles of fighting for workers' rights. They should campaign on issues that disproportionately affect transport workers especially women and seek to enter into meaningful collective bargaining agreements with owners in a collaborative manner. They should work with employers in the sector in establishing and addressing broader industry issues that make it difficult for owners and the industry to meet worker's needs.

Recommendations for Specific Actors

PSV SACCOs, Transport Companies and Public Transport Operators

- i. Ensure that recruitment policies are non-discriminatory.
- ii. Collect gender-disaggregated data at each stage of hiring processes.
- iii. Advertise job opportunities in channels that are likely to reach women, for example via women's professional networks.
- iv. Voluntarily adopt the "two-thirds rule" and implement a plan to reach 33.3% women staff across all levels of employment.
- v. Ensure that women retain positions and are compensated during maternity leave or career breaks.

- vi. Provide childcare facilities and flexible working arrangements for parents.
- vii. Develop and disseminate sexual harassment policies and training and monitor the implementation of sexual harassment policies and the effectiveness of reporting mechanisms.
- viii. Develop and disseminate non-discrimination and equal opportunities policies and monitor their implementation and the effectiveness of reporting mechanism.
- ix. Implement career and personal development programmes.
- x. Ensure that risk assessments reflect the risks to women workers, and provide appropriate equipment and facilities.

Unions

- i. Recognize all transport-related jobs in their remit.
- ii. Continuously sensitise SACCOs on the NTSA Act and other relevant regulations that speak to the rights of workers.
- iii. Campaign on issues that disproportionately affect women transport workers.
- iv. Set up specific initiatives to support women workers.

NTSA

- i. Provide detailed guidance to SACCOs regarding their code of conduct for workers, including a standard sexual harassment policy for prohibition of sexual harassment.
- ii. Create a platform for women in the transport sector to exchange their experiences and opinions, and establish a network of women workers.
- iii. Enforce gender friendly regulations.
- iv. Review the mandate of SACCOs to include human resource development and require them to regularly report on human resource progress and challenges of workers in the industry.

Government Line Ministry of Transport

- i. Carry out activities that challenge stereotypes and positively promote women's role in the transport sector.
- ii. Consider introducing a gender certification for companies.
- iii. Consider legislation extending the "two-thirds rule" to include public transport operators.
- iv. Include gender equality provisions in outsourcing agreements for public transport.

- v. Consider introducing a gender certification for companies.
- vi. Consider legislation extending the “two-thirds rule” to include public transport operators.



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