



Commission for Gender Equality
A society free from gender oppression and inequality

United Nations Special Rapporteur on toxics and human rights' call for comments on access to justice and remedies in the context of toxics

Commission for Gender Equality Comments
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1. Introduction

The Commission for Gender Equality ('CGE') is an independent statutory body created in terms of Chapter 9 of the Constitution of the Republic of South Africa, 1996 ('the Constitution'). It is mandated to promote and protect gender equality in government, civil society, and the private sector. The Commission for Gender Equality Act 39 of 1996, ('the CGE Act'), gives the CGE the power to:

- Monitor and evaluate policies and practices of organs of State at any level.
- Monitor and evaluate statutory bodies and functionaries.
- Monitor public bodies and authorities and private businesses, enterprises, and institutions to promote gender equality.
- Make any recommendations that the CGE deems necessary.

The CGE welcomes the opportunity to make inputs into the issue regarding access to justice in the context of toxic substances.

2. Gender-specific vulnerabilities to toxic exposure

Toxic exposure in South Africa has a disproportionate impact on vulnerable groups such as women and other key populations who face systemic barriers in accessing justice and effective remedies. Socio-economic disparities and historical inequalities exacerbate the risks posed by hazardous substances to marginalized communities. Women in low-income and rural settings are particularly vulnerable, facing



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exposure to toxic substances in workplaces, informal sectors, and domestic environments including subsistence farming. The intersection of gender and environmental justice necessitates targeted interventions to dismantle institutional barriers and ensure equitable access to remedies.

According to the Center for Disease Control and Prevention (CDC), pesticide exposure in agricultural work is linked to reproductive health issues, including hormonal changes, reduced fertility, miscarriages and birth defects. In mining communities, exposure to hazardous chemicals has severe consequences for female workers and residents living near industrial sites (Bench Marks Foundation, 2021). Weak enforcement of workplace safety regulations further exacerbates these risks, leaving women in informal and precarious employment at greater risk.

Key populations, including gender-diverse individuals, sex workers, and migrant communities, experience compounded discrimination that limits their ability to access safe work and living environments. Environmental injustices disproportionately impact those in informal settlements, where industrial pollution and waste dumping are common. Indigenous and rural women in South Africa rely on natural resources for subsistence, making them particularly vulnerable to land, air, and water contamination. Exposure to industrial pollutants, including those from manufacturing and mining operations, affects their health, food security, and traditional livelihoods. Limited access to legal recourse and financial constraints prevents these women from seeking justice for



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environmental damage and toxic exposure (ActionAid South Africa, 2019).

Subsistence farmers in rural areas heavily depend on pesticides to maintain crop yields and protect their livelihoods. However, this reliance comes with significant risks, as many small-scale farmers have limited knowledge of safe pesticide use and inadequate access to protective equipment. Exposure to harmful chemicals through direct application, contaminated water sources, and pesticide drift affects not only the farmers but also their families and surrounding communities. Women in these communities, often responsible for food preparation and water collection, face secondary exposure, compounding their vulnerability to toxic substances. Without adequate regulatory oversight and training on safe agricultural practices, the health risks associated with pesticide use among subsistence farmers remain a critical concern.

3. **Barriers to justice for gendered environmental harm**

Women and key populations face significant legal and institutional barriers in seeking justice for environmental harm. Restrictive procedural laws often limit direct legal access in environmental cases, while high legal costs and complex litigation processes deter marginalized groups from pursuing legal remedies. Furthermore, even when court rulings are obtained in environmental violation cases, enforcement remains weak, leaving victims without effective redress (Centre for Environmental Rights, 2020).

Gender-responsive environmental policies remain underdeveloped in South Africa, with regulations failing to incorporate gender-sensitive



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approaches to toxic exposure and justice. The absence of gender-disaggregated data on environmental harm limits the development of effective policies. Women and key populations are also underrepresented in decision-making processes on environmental justice, further entrenching disparities in access to justice (Women's Legal Centre, 2021).

Illiteracy and a lack of accessible information further exacerbate barriers to justice. Women in rural and informal settings often struggle to obtain data on toxic exposure risks, and structural discrimination, which include illiteracy, preventing some of the key populations from engaging in environmental governance processes. Additionally, victims of toxic exposure require scientific and technical support to prove causality, but such resources are often unavailable to marginalized communities or come at a high cost.

4. Strengthening environmental protections

Addressing these barriers requires strengthening legal protections, regulatory enforcement, and public participation. Expanding legal access for women, key populations, and marginalized communities in environmental litigation is essential to ensure broader access to justice. Reducing the financial burden of legal proceedings by extending the scope of existing legal aid programmes to include environmental rights litigation may also enhance access to remedies.



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Regulatory and institutional responses must also be enhanced. Stronger enforcement of environmental laws, particularly in sectors with high exposure risks for women and marginalized groups, is critical. This must include proper and informed rezoning of sectors which produce mass toxics in their business. Gender-responsive environmental policies should be developed to incorporate the specific needs of affected communities, and sex and gender-disaggregated data collection on toxic exposure must be mandated. Workplace safety standards and monitoring in high-risk industries such as agriculture, mining, and manufacturing must also be improved (Human Rights Watch, 2021).

Improving public participation and awareness is equally important. Ensuring accessible information on environmental risks and legal rights for affected communities will enhance their ability to seek justice (Greenpeace Africa, 2021). Women and key populations must be actively included in environmental decision-making bodies and consultations. Capacity-building initiatives for marginalized communities to engage in environmental justice advocacy should be promoted, and partnerships between government agencies, civil society organizations, and academic institutions should be fostered to enhance research and monitoring of environmental hazards (African Centre for Biodiversity, 2021).

5. **Conclusion**

A gendered approach to access to justice in the context of toxics is essential for ensuring that vulnerable communities in South Africa



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receive effective remedies. Women, key populations, and other marginalized groups face distinct challenges in securing environmental justice, requiring targeted interventions to dismantle legal and institutional barriers.

The implementation of gender-responsive environmental policies, stronger enforcement mechanisms, and increased public participation will contribute to a more equitable and effective system of environmental justice in South Africa.

REFERENCES

1. ActionAid South Africa, 2019. *Toxic Injustice: Women's Rights and Environmental Justice in South Africa*.
2. African Centre for Biodiversity, 2021. *Environmental Risks and Justice for Marginalized Communities*.
3. Amnesty International, 2021. *Environmental Harm and Human Rights in South Africa*.
4. Bench Marks Foundation, 2021. *Mining and Gendered Environmental Injustices*.
5. Centre for Environmental Rights, 2020, 2022. *Advancing Environmental Rights in South Africa*.
6. Greenpeace Africa, 2021. *Public Awareness and Environmental Justice*.



7. Human Rights Watch. (2021). *“World Report 2021: Events of 2020.”*

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8. Women's Legal Centre, 2021. *Gender and Environmental Governance in South Africa.*