

The impact of Covid-19 on migrant mineworkers' human and labour rights in South Africa



This report is published by the Southern Africa Resource Watch. Southern Africa Resource Watch (SARW) is an independent body that advocates and promotes human rights and environmental protection in resource extraction activities by monitoring corporate and state conduct in a peaceful and collaborative manner.

Published: March 2022

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Acknowledgements

Southern Africa Resource Watch wishes to acknowledge the Open Society Foundation for their support, furthermore we would like to thank all the contributors for making this report possible.

Acronyms and abbreviations

ACFTA	African Continental Free Trade Area	MMICD	Mainstreaming Migration into International Cooperation and Development
ACMS	African Centre for Migration and Society	N3	National Road 3
AMCU	Association of Mineworkers and Construction Union	NAP	National Action Plan
ANC	African National Congress	NCOP	National Council of Provinces
AU	African Union	NICD	National Institute for Communicable Diseases
AUC	African Union Commission	NIOH	National Institute for Occupational Health
BBBEE	Broad-based black economic empowerment	NIOSH	National Institute for Occupational Safety and Health
BCEA	Basic Conditions of Employment Act	NUM	National Union of Mineworkers
CBT	Cross-border trade	NUMSA	National Union of Metalworkers of South Africa
CCMA	Commission for Conciliation, Mediation and Arbitration	OECD	Organisation of Economic Co-operation and Development
CENSAD	Community of Sahel-Saharan States	OHCHR	Office of the UN High Commissioner for Human Rights
CEO	Chief executive officer	OHSA	Occupational Health and Safety Act
CIRAD	French Agricultural Research Centre for International Development (Centre de coopération internationale en recherche agronomique pour le développement)	OR Tambo	Johannesburg's international airport (named after Oliver Reginald Tambo, a former ANC president)
COIDA	Compensation for Occupational Injuries and Diseases Act	PPE	Personal protective equipment
COMESA	Common Market for Eastern and Southern Africa	QLFS	Quarterly Labour Force Survey
COP	Code of practice	RASC	Business name
COSATU	Congress of South African Trade Unions	REC	Regional Economic Community
Covid-19	Coronavirus disease of 2019	RISDP	Regional Indicative Strategic Development Plan
DMRE	Department of Mineral Resources and Energy	RMDHub	Regional Migration Data Hub for Southern Africa
DRC	Democratic Republic of Congo	SA	South Africa
EAC	East African Community	SACU	Southern African Customs Union
ECOWAS	Economic Community of West Africa States	SADC	Southern African Development Community
EEA	Employment Equity Act	SAFTU	South African Federation of Trade Unions
ENCA	eNews Channel Africa	SAMP	Southern African Migration Project
ERGO	Ergo Mining Proprietary Limited (the company has a vast footprint adjacent to Johannesburg on the central and eastern Witwatersrand)	SARW	Southern Africa Resource Watch
ESC	Economic, social and cultural rights	SDA	Skills Development Act
ESSET	Ecumenical Service for Socio-Economic Transformation	SDG	Sustainable development goal
EU	European Union	SDL	Skills Development Levy
FAO	Food and Agriculture Organisation	SDP	Special Dispensation Permit
GCC	Gulf Cooperation Council	SIDA	Swedish International Development Cooperation Agency
GDP	Gross domestic product	SIOC-CDT	Sishen Iron Ore Company-Community Development Trust
GMDAC	Global Migration Data Analysis Centre	SME	Small-medium enterprise
HIV/AIDS	Human Immunodeficiency Virus/ Acquired Immunodeficiency Syndrome	SMME	Small, medium and micro enterprise
IDMC	Internal Displacement Management Committee	STATS SA	Statistics South Africa
IFC	International Finance Corporation	SWANLA	South West African Native Labour Association
IGAD	Intergovernmental Authority on Development	SWAPO	South West Africa People's Organisation
ILO	International Labour Organisation	TARSC	Training and Research Support Centre
ILS	International Labour Standards	TB	Tuberculosis
IMF	International Monetary Fund	TEBA	The Employment Bureau of Africa
IOM	International Organisation for Migration	TRALAC	Trade Law Centre
IPC	Infection prevention and control	TV	Television
ISO 26000	International Organization for Standardisation document defining social responsibility	UBANK	Financial services operator in South Africa
JLMP	Joint Programme on Labour Migration Governance for Development and Integration	UIA	Unemployment Insurance Act
LMAP	Labour Migration Action Plan	UIF	Unemployment Insurance Fund
LRA	Labour Relations Act	UK	United Kingdom
MECS	Johannesburg-based recruitment agency	UN	United Nations
MHSA	Mine Health and Safety Act	UNCTAD	UN Conference on Trade and Development
MHSC	Mine Health and Safety Council	UNDAFs	UN Development Assistance Frameworks
MIDSA	Migration Dialogue Process for Southern Africa	UNDESA	UN Department of Economic and Social Affairs
MMD	Migration and Mobility Dialogue	UNECA	UN Economic Commission for Africa
		UNHCR	UN High Commission for Refugees
		US\$	United States Dollar
		WCA	Workmen's Compensation Act
		WESO	World Employment and Social Outlook
		WHO	World Health Organisation
		Wi-Fi	Wireless fidelity
		WNLA	Witwatersrand Native Labour Association



Some useful definitions

Internal labour migrants: People who relocated to other parts within a province, or to another province.

International labour migrants: People who cross international borders to seek work or livelihoods.

Labour force: Includes all people of working age, whether employed or not.

Living out allowance: This is an allowance given to a full-time migrant mineworker for rented accommodation outside of the mine hostels and family accommodation.

Migrant: People who move from one area where they live or work to another area to find better living or working conditions.

Migrant labour as defined by the SA mining industry: Migrant labour refers to workers who originate from the rural labour-sending areas, who live in hostels or other mine-provided accommodation, and who have no formal local dependents.

Migrant worker: People of working age born outside of the country, who relocated to seek employment in the formal or informal sectors.

Provincial migrant workers: Those from areas within the mine's host province but outside the mine community.

SADC or foreign migrant workers: Those from neighboring Southern African Development Community (SADC) states, such as Lesotho, Mozambique, Zimbabwe and Eswatini.

Settled South Africans: South Africans who have remained in the same areas for many decades, and they continue to seek work and livelihoods in the same urban areas where their parents and grandparents worked.

South African migrant workers: Those from other South African provinces, mainly from the Eastern Cape.

Transitional workers: Those who bridge the definition of local and migrant workers by falling into both categories. Generally, they are migrant workers with long service histories at a mine, who have become involved in relationships with local people and have established urban (second) families locally (Anglo American Platinum, 2015).

01 Informal settlements near a mine

(Source: Seccombe, 2018)



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1 | Executive Summary

Apartheid as a system of labour control and management collapsed in 1994, but the migrant labour system continued despite the repeal of the Group Areas Act and the end of influx control. The challenges and contradictions associated with the continuance of migrant labour in a new democratic dispensation forms an integral part of this research. These contradictions have been sharpened by the Covid-19 pandemic and have put the spotlight on human rights challenges as a consequence.

Under apartheid, the flow of labour from SADC countries was tightly controlled. Much of these controls collapsed after 1994. Documented (controlled) and undocumented (uncontrolled) labour flowed into South Africa from outside of the old border control mechanisms and the Employment Bureau of Africa (TEBA), which replaced the Witwatersrand Native Labour Agency (WNLA) (Statistics South Africa, 2011). This has resulted in very congested border situations turning customs entry points into super spreaders for Covid-19.

Open cast mining requires drivers and machine operators and is much more capital intensive than deep-level shaft mining. Shaft mining is in steep decline in South Africa due to the cost of extracting the minerals that remain. Mineral depletion and the attempts by employers to undermine the powers of trade unions in the country is also impacting on migrant labour, along with a growing dependence on sub-contracted labour. The changing nature of both agriculture and mining has seen a growth of informal settlements in farming and mining towns as surplus farm labour is shed as a result of mechanisation. While open cast mining allows for safer working conditions as far as Covid-19 is concerned, this form of mining is environmentally destructive.

In the remaining formal deep-level gold mines, the phenomenon of

parallel ghost operations involving undocumented migrants employed by syndicates with links to mine management and contractors has contributed to human rights abuses of mineworkers at Blyvoor on the West Rand, Orkney and Klerksdorp in North West Province, and Welkom in the Free State (News24.com, 2015). Informal settlements have sprung up on abandoned deep-level mine sites, especially in gold mining areas, where retrenched mineworkers often form the core of artisanal mining operations (known as Zama Zamas). Due to the overcrowded conditions in these informal settlements, they have become breeding grounds for Covid-19. Human rights abuses and conflict is common among undocumented ("Illegal") migrants in the unregulated informal mining sector (Michael Kabai, 2020).

The rapidly transforming alternative energy economy, in conjunction with the artificial intelligence revolution, sees new alliances between different factions of capital, and a steep decline in the fossil fuel industry. Coal is being replaced by platinum-group metals (PGMs) and manganese as South Africa's major mineral export, as trends between 2012 and 2016 show. The focus of mining is rapidly shifting towards alternative energy mining and the Northern Cape, with 80 per cent of the world's manganese deposits, is the new growth point for mining in South Africa. Because manganese occurs close to the surface, manganese mines are mostly open cast (Ratshomo, 2013). The railway and transport links between the manganese-producing areas of the Northern Cape and the harbours of the east coast of South Africa have contributed to a rapid increase in the spread of Covid-19 in the Northern Cape.

Large-scale industrial mines with life expectancies of between 50 and 75 years are being replaced by medium and small-scale mines with life

expectancies of 10 to 15 years, with much lower capital outlays if profits are to be realised. The more short-term operations are, the more reliant they become on labour provided by sub-contractors and labour brokers who often employ mineworkers as casual labour without union affiliation, unemployment insurance, pensions, or medical aid (B Kenny, 1999). The research shows that migrant mineworkers without unemployment insurance and medical aid have been particularly vulnerable to Covid-19 medical expenses. Covid occurs in the context of the breakup of the big labour-recruiting agencies and their rapid replacement by sub-contracting and labour-broking as the labour demand of both mining and agriculture is changing, and the breakup of the big trade union federations struggling to come to terms with the rapidly changing labour market. Non-unionised workers have little protection of their labour or human rights (Karl Cloete, 2021). In the face of the threat of Covid-19, migrant mineworkers are no longer receiving the kind of union protection as they did when the unions were still strong.

These complicated tendencies, developments and contexts further deepened the crises presented by Covid-19, especially for migrant mineworkers, and statistics demonstrated how the disease spread throughout the region with the movement of migrant mineworkers to and from labour-sending and labour-receiving areas.

The various interviews conducted in the process of producing this report demonstrate the unfolding human tragedy affecting migrant mineworkers, who are at the mercy of employers and the government under normal circumstances and become even more so under Covid-19.

This research has found that government's response to the pandemic has resulted in many problems faced by migrant mineworker and their families. It is clear that a lack of understanding exists on the part of government, which has resulted in a lack of policy to regulate migrant labour in South Africa.

The employers' response to the pandemic was to comply where possible with the guiding principles set out by the Mining Health and Safety Council (MHSC) through the Department of Mineral Resources and Energy (DMRE). Whilst the researchers acknowledge the effort put in by the mining companies, a lot more should have been done as the interviews showed that migrant mineworkers are exposed to super spreader points from entering their workplace at surface level, all the way to the underground level where they are expected to perform their duties.

What is clear from the research, is that migrant mineworkers had most to lose in the response to Covid-19, as they are heavily reliant upon both their employers and the government for protection against the pandemic. The researchers found that, whilst the worker does have the right to withdraw from an unsafe working environment, there is a sense of hopelessness and fear of losing their source of income should they decide to exercise that right.

The report makes substantial recommendations to the government, employers, labour organisations and employees.

2 | Problem Statement

Covid-19 has exposed the shortcomings in the regulatory and legislative arrangements around migrant labour in general and migrant mineworkers as a vulnerable and marginalised labour sector in particular. This has thrown up many challenges for migrant mineworkers and their labour and human rights. This report seeks to look at the shortcomings in the policy environment, the legislative and regulatory environment, and the actual labour practices within the mining industry in South Africa.



02 Informal settlements near a mine

Source: Seccombe, 2018

3 | Purpose of the Study

Covid-19 is impacting on the labour rights of migrant mineworkers because of the conditions in which they live and because of discriminatory labour practices. The study intends to record the violation of labour and human rights of migrant mineworkers who are disproportionately affected by Covid-19. The aim of the study is to propose legal reform in the labour laws to ensure that labour and human rights of migrant mineworkers are protected, and to propose redress or reparation mechanisms to prevent the ongoing violation of the rights of migrant mineworkers.

4 | Methodology

The two basic research procedures used in this report were:

- a literature review, and
- qualitative information collection methods that use open-ended electronic interviews (necessitated by Covid-19).

Normal methodology and research procedures could not always be applied in this research due to Covid-19.

The literature and internet reviews were used specifically to construct an overview of the situation of migrant labour in Southern Africa during the Covid-19 pandemic. Due to the preponderance of extractivism in the region and the dominance of the mining industry in South Africa, migrant labour as a social relation of production has dominated the labour market historically.

The literature review was also used to conceptualise and contextualise all the facets of the research. Electronic books, scientific journal articles, popular articles, newspapers, annual reports of mining companies, government reports, conference proceedings and databases were used as sources to access and review the historical, sociological, legislative, and regulatory documents. The wide-ranging literature review is incorporated into the body of the report, rather than being presented as a stand-alone section.

Qualitative approaches were used to gather experiential information. This could not happen face-to-face due to Covid-19. The qualitative approach (through electronic interviews and electronic focus group discussions) was followed because it enabled those affected to expand their points of view without being limited to fixed and predetermined answers as in a quantitative approach. The quantitative information about the continuing extent of migrant labour was sourced from government departments, labour-recruiting agencies, trade unions and employers.

The researchers tried their utmost to guide the research according to these elements during the study. Given the constraints imposed by Covid-19, most qualitative open-ended interviews were conducted electronically and transcribed as part of the formal report. Migrant workers residing in informal settlements and the few remaining hostels could

not be directly interviewed given that they often do not have access to electronic media and experience problems of data and connectivity.

Qualitative interviews were conducted with:

- Organisations such as the National Institute for Occupational Health (NIOH) and the Mine Health and Safety Council (MHSC);
- Job Mogoro, North West premier and David Van Wyk on the intersection between migrant labour and illegal mining in the North West Province ()
- The South African Federation of Trade Unions (SAFTU), the National Union of Metalworkers of South Africa (NUMSA), the National Union of Mineworkers (NUM), the Association of Mineworkers and Construction Union (AMCU) and the major labour federations.
- Migrant workers and regional organisations representing migrant workers.
- International organisations focussed on migrant labour.
- Mineworkers in various capacities who were willing to speak to the researchers.

Not all of sources were forthcoming; some did not respond to requests for interviews, and some were dismissive of the research topic (see Appendix B at the end of the report). The researchers found it particularly difficult to interview migrant mineworkers directly, as the workers fear for their jobs at a time when it seems that Covid-19 has become an excuse for retrenchments.

4.1. Data Analysis

The interviews with respondents were recorded, transcribed, translated, and summarised into precis form (verbatim copies are available on request). The content of the data was then analysed using conceptual (thematic) analysis. A preliminary thematic analysis at the end of the fieldwork period(s) provided the structure in which this report is being presented. A more theoretical (in contrast to a more practical) approach, that is, the interpretation of written sources, was used as the basic point of departure for the analysis and interpretation of the results.

4.2. Ethical Considerations

The following ethical considerations were always kept in mind while conducting the research:

- Voluntary participation: no participant will be forced to participate in the research, and they will be free to withdraw from the research at any stage.
- No harm to participants: the researchers will ensure that no physical or psychological harm is done to the participants because of the study.
- Anonymity and confidentiality: all the information gathered during the study will be dealt with confidentially, and permission obtained from the participants for all information to be shared publicly. Permission will be obtained from all individuals who were photographed to use these photographs where required.
- Not deceiving the subjects: participants will be informed concerning the aim, the purpose, and the procedures of the study, and will not be deceived in any way.

The project report will be subjected to critical review and reading processes (see Acknowledgements) towards the end of the project to enhance the scientific quality of the research. This report will also be peer reviewed by individuals associated with the Environmental Health department at the University of Johannesburg.

It is suggested that the research results will be disseminated in the following ways:

- It will be communicated to all the affected mining corporations for their comment prior to the results being made public.
- It will also be sent to the relevant government departments and Constitutional (Chapter 9) Institutions.
- It will be shared at community workshops in the researched communities and with community monitors to empower them to understand and use the research results in their engagement with mining concerns; and,
- It will be published in scientific publications, outlined in academic addresses, and made known via popular media and the internet.

4.3. Limitations of the Research

The most important limitation to research in South Africa is that of language barriers. In a situation where research is conducted through surveys, questionnaires, and interviews in English in communities where English is a second or third language and education levels of the person being interviewed is not very high. This could have an impact due to the interviewee not clearly understanding the question, or not clearly articulating the answer in English.

The research team considers this initial investigation as a first step in highlighting an area of work that would require further detailed investigation followed by remedial action. Resource

constraints, time constraints and the impact of Covid-19 have all been constraining factors.

The migrant labour system in South Africa has been and continues to be mired in controversy. This controversy has heightened during the Covid-19 pandemic for reasons that will be spelt out in this paper. Needless to say, Covid-19 has impacted on the ability of the research team to do field work research. The literature review therefore becomes critically important. Fieldwork interviews had to be conducted electronically using Microsoft Teams and Zoom. While this works well for institutional interviews with government departments, mining companies, trade union head offices, international agencies (such as the International Labour Organization), and civil society organisations, it works less well with individual migrant workers who might not have access to information technology, the internet, or data.

Challenges faced by the research team during the research timeframe of December 2020 to February 2021 included:

- the Covid-19 pandemic¹:
 - *First wave*: June to August 2020
 - *Second wave*: November 2020 to February 2021
- National lockdowns due to the Covid-19 pandemic and the spread of the virus.
- The research team was directly affected by Covid-19; the team leader was in hospital from mid-December 2020 to mid-January 2021 and family funerals also impacted on team members.
- Lockdown regulations led to difficulty in securing interviews for the research from organisations, groups, and individuals.
- December holidays, when everyone went home (businesses only opened up properly after 15 January).
- The borders being closed.
- Load shedding (power failures) proved to be very disruptive.
- Technical difficulty with the laptop (hard drive crashing).
- Limitations of technical infrastructure across Africa, uneven

- On 13 March 2020, faced with the Covid-19 pandemic, the members of the MHSC agreed on a joint approach to be taken to protect workers - in mines and minimise the risk of transmission of Covid-19 in mines, and resolved to prepare and issue Guiding Principles and Guiding Note to ensure that mines took steps to protect mineworkers.
- The Chief Inspector issued Guiding Principles on 26 March 2020 after taking comments from all the members of the MHSC, including AMCU. The Mining Occupational Health Advisory Committee (the MOHAC) a specialist advisory committee of the MHSC, met on 17 March 2020 and began work on a comprehensive Guidance Note. The

Minerals Council for its part, issued a 'ten-point' plan for the protection of mineworkers that it adopted on 18 March 2020.

- The Chief Inspector subsequently issued a further communique dated 23 April 2020 to mines in relation to start-up of operations. The first respondent (the Minister) conducted inspections at mines to see whether workers were being protected and convened several meetings with representatives of labour and business to co-ordinate an industry response. These meetings took place on 7-8 April 2020, 17 April 2020 and 22 April 2020.
- AMCU's representative on the MHSC left the meeting of 13 March 2020

early, and its representative on MOHAC did not attend the meeting of 17 March 2020. AMCU did not attend a single one of the meetings convened by the Minister.

- On 5 April 2020, AMCU indicated in correspondence that it had no intention to participate in any process of engagement with the DMRE and gave these reasons:

'Moreover, as AMCU, we have no reason to believe that this will be a genuine consultative engagement. Rather, we believe it will be another rubber-stamp and tick-box exercise by the DMRE to flout the rights of workers for the sake of profits of the mining bosses' (South African Labour Appeal Court, 2020)

1. The first two waves were succeeded by a prolonged third wave (May to September 2021), and a more acute fourth wave (November 2021 to February 2022).

availability of wi-fi and Data.

- Difficulty in gaining access to mineworkers, who feared possible loss of their jobs / security / safety.
- Difficulty in securing interviews with professionals and mining companies.
- No control over people's schedules.
- Employees working from home and calls having been diverted to a single line (generally to the security gate or reception with an instruction to only take messages and not to transfer calls).

The minerals council was not very cooperative. Most of its employees and members were "working from home" due to the Covid-9 lockdown, but continued to do so even as the lockdown measures were relaxed. This also applied to specific mining operations. While industry bosses demanded that mines be reopened completely at the end of lockdown level 5 in April 2020, the managers and supervisors did not return to their offices and it was extremely difficult to arrange any interviews with them.

In lockdown level 4, the government allowed mines to reopen with half their labour force while the industry worked out ways and means to operate while simultaneously containing the spread of the virus. However, informants indicate that many workers were simply never recalled to work even after the mines were allowed to operate at full employment. In other words, the mines used the opportunity to retrench workers illegally. Many informants were afraid of losing their jobs if they spoke to the researchers.

The credibility of the information supplied by informants was cross-checked with secondary sources such as newspaper articles and reports and also with interviews with other informants working in the same operation or at different mines.

Union head offices did not respond readily to requests for interviews, although the research team was able to speak to union members and some shaft stewards. Informants were generally unhappy about the response of the unions to the pandemic. Only AMCU took any concrete action to protect workers in the situation. Workers complained about the "silence and lack of direction from their unions". The unions and the industry did engage with each other through the agency of the Mining Health and Safety Council (MHSC), but informants complained that there was little consultation with union members.

A further limitation relates to the fact that Statistics South Africa and the Health Department do not issue statistics for health issues such as HIV/AIDS and TB, and the same applies to Covid-19. DMRE and the Minerals Council also did not issue such statistics. It is therefore impossible to supply statistics for specific towns. However, mines are not concentrated in specific towns. For example, platinum mines in North West Province stretch across the Bojanala District. This report contains detailed statistics for mining districts in North West Province, showing that these districts had double or triple the levels of infection and death compared to non-mining districts, indicating how the flow of migrant labour to and from labour-sending areas impacted on the spread of the virus.

5 | Global Conventions and Principles

Covid-19 is a global pandemic that spread very rapidly around the planet with the movement of tourists, business travelers and migrant workers. At the onset of the pandemic most countries immediately shut their borders and restricted population movements, both inside and between countries.

Migrant workers are often the most precarious in the employment market in many countries, so Covid-19 impacted harshly on their ability to generate an income and to sustain their families.

Migrant workers also are the most legally vulnerable part of global labour arrangements, and Covid-19 therefore impacted on their human rights probably more than any other group in the labour market (OECD, 2020).

5.1. The UN Guiding Principles on Business and Human Rights

In the past 40 years, global society has seen the rapid globalisation of financial flows of economic activity and of population movements. Cognizant of this fact, global institutions such as the United Nations (UN) have attempted to put in place regulatory guidelines and frameworks to ensure order in this process. Historically World War 1 (WWI) was the first major global event that concentrated large numbers of people in the European theater of war, creating the ideal conditions for a global pandemic. As that war ended in 1918, millions of soldiers (who can be compared to migrant labour) returned to their countries of origin, fresh from the filthy trenches, carrying the flu virus all over the planet, resulting in more than 50 million deaths. This explains the excessive response by the World Health Organization (WHO) and the UN to the outbreak of Covid-19 as government feared a repetition of the impact of the 1918 "Spanish flu" (Martini M et al, 2019).

All mining in South Africa should be informed by global best practice, which in turn should be guided by the UN Guiding Principles on Business and Human Rights from 2011, including the rights of migrant workers. These principles have been incorporated into a series of international frameworks and standards, among them, ISO 26000 (a leading standard for corporate social responsibility), the OECD Guidelines for Multinational Enterprises, as well as portions of the IFC Performance Standards on Environmental and Social Responsibility (OECD, 2012). These principles should be adapted to take into consideration the possibility of global pandemics such as Covid-19 and their impact on migrant labour.

The work of developing the UN Guiding Principles began in 2005 when Professor John Ruggie was appointed by then-Secretary General Kofi Annan as the Special Representative for Business and Human Rights, with a mandate to develop a set of guiding principles that corporations should follow in respect of human rights according to existing norms. In 2008, Ruggie presented the "Protect, Respect and Remedy" framework based

on three pillars: the duty of the state to protect human rights, the responsibility of companies to respect human rights, and access to remedy for those affected (Ruggie, 2008). These regulations also cover the human and labour rights of migrant workers.

The responsibility of companies in protecting human rights is a universal standard, existing over and above national laws and applicable independently of states' abilities or willingness to fulfil their own human rights obligations (Ruggie, 2008, pp. 3-8 and 13). The framework formulates the concept of "know and show", meaning that companies have a responsibility to be aware of and report how their operations, at all stages, affect human rights (United Nations, 2013). The extensive use of sub-contractors and labour brokers in the South African context makes it almost impossible for mining companies to know and show the conditions under which many migrant mineworkers live and work on South African mines. In an interview between one of the researchers, the Council of Minerals, and the National Union of Metalworkers of South Africa (NUMSA) callers raised the issue of the lack of labour and other rights of sub-contracted labour on South African mines, noting that such workers do not have union rights, pensions or medical aid. This loophole in the South African labour environment put such workers at huge risk in the time of Covid-19 (07 September interview of David on Power FM). Such loopholes need to be closed if the labour and human rights of such workers are to be protected, particularly during times of pandemics.

5.2. The International Bill of Rights

Although South Africa has ratified and signed the International Bill of Rights, this important UN declaration has not been ratified by any other SADC countries except Botswana (United Nations Treaty Collection, 1966). This lack of ratification within the SADC states is a serious omission and represents a threat to human rights in general and labour and migrant rights in particular. Given the cross-border nature of migrant labour and the impact of Covid-19 as a result of population movements, it became imperative that the International Bill of Rights be ratified by all SADC countries.

Human Rights are described in the International Bill of Human Rights, which is comprised of the UN Universal Declaration of Human Rights (United Nations Information Technology Section, 1998; United Nations, 2015). It is codified through the following instruments: The International Convention of Civil and Political Rights (Office of the High Commissioner on Human Rights, 1976) and the International Covenant on Economic, Social and Cultural Rights. These rights are universal, indivisible, and equal (Office of the High Commissioner, 1976).

Economic, Social and Cultural (ESC) rights include, among others, the right to food, water, health, housing, education, and livelihood through employment. The appalling conditions in informal settlements where migrant mineworkers reside in South Africa is in contravention of the ESC rights described here. The UN ESC Covenant is a legally binding treaty between states. Although the Covenant concerns the responsibilities of states as part of international law, companies and other

non-state actors are also responsible for following the Covenant as a part of their internationally accepted standards and as a universal norm. Over 170 countries have signed the Covenant, obliging them to work towards the realisation of all rights included in the Covenant. Seventy countries have ratified the Covenant (Office of Legal Affairs UN Publications, 1966). Companies are concerned with the ESC rights in several ways, for example through paying reasonable wages to their employees and ensuring that their operations do not limit access to food, water, or adequate housing in a negative way.

Critics argue that although the UN ESC Covenant is supposed to be legally binding, in recent years there has been a process of commodification of basic rights to housing, food, water, health and education. This has externalised the cost of housing migrant workers by mining companies to the workers themselves, thus increasing super exploitation. States, often following the advice of the World Bank and the International Monetary Fund (IMF), have resorted to the privatisation of government services (Williams, 2007, p. 108; Naomi Klein, 2014). This increased reliance on the market as a mechanism to supply rights has led to the exclusion of those unable to pay for such rights. Given that the mining industry in South Africa is a low-wage industry, migrant mineworkers are unable to realise decent housing and living conditions in the market and are therefore particularly vulnerable to Covid-19 given the crowded and unsanitary conditions in which they live.

This has also had an impact on the manner in which corporations deal with their employees in relation to food, water, health, and education. Thus, in the 1940s through to 1970, Anglo American corporation could claim that it was running a "mini-social welfare state" in South Africa (Benchmarks Foundation, 2012, p. 51). In the current context, Anglo American does not provide housing, food, water, health, and education if the costs cannot be recovered. Thus, while black Anglo-American employees had free access to medical services in the 1940s to the 1970s, all employees are currently on the company's medical aid, which

"... is a restricted Scheme. Our vision is to address the lifelong healthcare needs of our members. We will achieve this by offering high-quality products and services that are market competitive, cost-effective and customer focused. Our efforts will be supported through sound financial risk management, administrative efficiency and our members' and employers' active participation" Anglo Medical Scheme, Anglo American Website (Anglo American, na).

Anglo's healthcare scheme shifts responsibility to the employee away from the employer. A heavy reliance by mining companies on sub-contracted labour also reduces the cost of healthcare spending by the companies.

An interviewee from Eswatini (formally known as Swaziland) complained that the medical scheme migrant workers are on only applies in South Africa, and not in labour-sending countries. When lockdown level 5 occurred with the outbreak of Covid-19, migrant mineworkers rushed home, and those on chronic medication found themselves stranded as they could not access their medicine unless they were in South Africa.

5.3. UN Global Compact

The Global Compact was introduced in 1999 by the former UN Secretary General Kofi Annan, and is today, with over 6 000 corporate members from 135 countries, the largest international initiative for corporate responsibility and sustainability issues. Corporate members commit themselves to adhering to ten principles on human rights, the environment, labour conditions and anti-corruption, and to respecting these principles in the entire value chain. The Global Compact is not a legally binding framework. Companies which have voluntarily committed themselves to participating in the initiative must report on how they consider themselves adhering to the principles, and can be expelled if they do not report. The Global Compact makes broad reference to human rights and environmental responsibility, but is silent on issues of employee health, and given the impact of Covid-19 this needs to be addressed (United Nations, 2021).

5.4. OECD Guidelines for Multinational Enterprises

The OECD (Organization for Economic Cooperation and Development) Guidelines for Multinational Enterprises are recommendations to multinational corporations based on operating in one of the OECD countries. South Africa is also a member (OECD, 2011). The Guidelines include, among other areas, the relationships between business and human rights, the environment and labour. The Guidelines were revised in 2011 following the adoption of the UN Guiding Principles on Business and Human Rights. The Guidelines prescribe, for example, that companies should work in close cooperation with local communities in order to advance sustainable development in connection with their activities. In each OECD country, there is a so-called "National Contact Point" tasked with reviewing how the Guidelines are being followed. The National Contact Points only have a mandate to mediate between concerned parties and provide recommendations: The Guidelines are not legally binding (OECD, 2011).

5.5. The International Labour Organization

The International Labour Organization (ILO) strategy on labour migration in Africa is guided by its International Labour Standards (ILS) and Decent Work Agenda and implemented in close collaboration with the World of Work actors (Ministries of Labour and workers' and employers' organisations from the 54 African countries). ILO's rights-based approach takes into consideration labour market needs and covers all migrant workers irrespective of nationality, skill level and immigration status.

ILO's labour migration work contributes to the UN Global Compact for Safe, Orderly and Regular Migration adopted in December 2018 and falls in line with the commitments of the 2030 Agenda for Sustainable Development, in particular its migration-related aspects: SDG 8 to promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all (SDG target 8.8: Protect labour rights and promote safe and secure working environments for all workers, including migrant

workers, in particular women migrants, and those in precarious employment); and, SDG 10 on reducing inequality within and among countries (SDG target 10.7. Facilitate orderly, safe, regular, and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies). Work also includes support for constituents' implementation of the new Mobility-related Guidance of the United Nations Development Assistance Frameworks (UNDAFs).

ILO's work is strongly informed by Africa's Agenda 2063 (particularly Aspirations 1 and 2 and related continental and national strategies); the 2014 African Union Commission's (AUC) "Ouagadougou + 10 Declaration and Plan of Action on Employment, Poverty Eradication and Inclusive Development in Africa" (notably key priority area number 5: Labour Migration and Regional Economic Integration) and its 5-Year Priority Programme of Action; the AU Revised Migration Policy Framework for Africa and Plan of Action 2018-2030 (mainly 2.1 National labour migration policies, structures and legislation, and 2.2 Regional cooperation and harmonisation of Labour Migration Policies); as well as the AU Free Movement of Persons Protocol (particularly its labour migration and mobility-related provisions).

ILO's work includes the promotion of labour migration policies based on accurate data and a deep analysis of the supply and demand for foreign labour (existing and potential labour market needs) considered beneficial to the economy and development of both countries of origin and destination. Work should be based on social and economic long-term development objectives while leaving a certain amount of flexibility permitting response to short-term demands.

ILO's labour migration and labour mobility work is thus closely coordinated with ILO's Decent Work Technical Teams (particularly social dialogue, employment and skills, social protection, and standards specialists) and capitalises on its technical expertise on labour market governance. In such efforts, the ILO fosters achievements at the local, national, regional, regional, and inter-regional level. More particularly, ILO's work aims to achieve fair labour migration and decent work outcomes for all migrant workers.

5.6. The African Union

Since 2014, the ILO has worked closely with the African Union Commission (AUC), the UN Economic Commission for Africa (UNECA), and the International Organization for Migration (IOM) to develop a Joint Programme on Labour Migration Governance for Development and Integration (JLMP) in Africa. The JLMP represents a broad framework in which to anchor most labour migration work in the region, particularly in supporting Africa's regional economic communities (RECs). The JLMP was adopted by the African Heads of State and Governments during the 24th Ordinary Session of the AU Assembly in January 2015. The JLMP includes as one of its main objectives: achieving better governance of labour and skills mobility within Africa (in particular with the RECs). It focuses on facilitating the free movement of workers as a crucial means of advancing regional integration and development in Africa.

It is also important to mention that one of the most important complementary areas of work of the ILO is the promotion of job-rich employment policies and of decent work to combat migration root causes. The economic outlook for Africa is set to improve, with growth projected to reach 3.7 per cent in 2017, up from 2.1 per cent in 2016 (ILO 2018 WESO report).

While growth is anticipated to gradually recover and increase broadly in the region, it will still remain below the level needed to effectively tackle Africa's current social and labour market challenges, particularly lack of job creation, underemployment, and quality of work.

Youth unemployment is, and will continue to be, a major challenge that needs to be addressed. Other important migration-related push factors comprise demographic pressure, political instability, extreme poverty, wide income inequalities, military conflict, terrorism, corruption, lack of respect for the rule of law, poor governance, and environmental degradation causing droughts, deforestation, etc. Covid-19 will dramatically impact on the ability of the African economy to recover and deal with the issues that lead to labour migration.

5.7. The impact of migrant labour continentally

Expert studies and data show that migration, particularly labour migration, is an important enabler and beneficiary of regional integration and economic development in Africa. For example, the key findings of a recent ILO/ OECD study on the impacts of immigration on developing countries' economies showed the following (ILO, 2021):

- Migrants can have a positive impact on economic growth. The study's conclusions state that overall immigration is unlikely to depress gross domestic product (GDP) per capita; on the contrary, in some countries the estimated contribution of immigrants to GDP represents up to 19 per cent (in Cote d'Ivoire).
- Immigrants may also generate additional employment opportunities for native-born workers. In South Africa the study shows that recently arrived migrants actually represent a positive impact on native-born employment rates and monthly wages as well as a decrease in unemployment rates.
- At the same time, when migrant workers are employed in the formal economy, their employment can have a positive effect on public finance. In South Africa immigrants have a positive net impact on the government's fiscal balance (ILO, 2021).

However, migrants' contribution to the economy depends on their job and working conditions. Thus, specific measures are needed to counter exploitation, abuse, and discrimination in the labour market and in the workplace. The real question is not how to stop migration, but how to make it part of the national, regional and continental economic and social African development strategy. This entails strengthening labour market institutions to better govern intra-regional labour mobility, promoting fair recruitment processes, extending social protection to migrant workers and their families, addressing

root causes of migration in selected migration-prone areas affected by climate change, developing social dialogue and cooperation on the governance of labour migration, improving skills recognition and portability and risks associated with global pandemics (ILO, 2021).

Maximising the benefits of labour migration for migrant workers and their families as well as minimising its risks and social costs requires fair and effective labour migration governance. Well-governed labour migration can contribute to sustainable development for countries of origin, transit, and destination, and can provide benefits and opportunities for migrant workers and their families. It can balance labour supply and demand, help develop and transfer skills at all levels, contribute to social protection systems, foster innovation, and enrich communities both culturally and socially. On the other hand, poorly governed labour migration can bring risks and challenges, including for sustainable development and decent work, in countries of origin, transit and destination, especially for low-wage workers. These risks can include insecurity and informality, brain drain, displacement, increased risk of child labour, debt bondage, forced labour, trafficking in persons, safety and health hazards and other decent work deficits. Some of these risks may have lethal consequences. Racism, xenophobia and discrimination, misperceptions and misinformation add to the overall fragility challenges migrant workers can encounter during their labour migration experience (ILO, 2021). These risks and challenges are particularly prominent in South Africa and are accentuated by Covid-19.

Overall, making the most of labour migration entails developing a comprehensive strategy that recognises the short-term as well as the long-term labour market needs for migrant workers at all levels of skills and providing migrant workers with the necessary labour and social protection. Failure to do so, negatively affects productivity and competitiveness and can contribute to segmented labour markets.

In this wide-ranging study, the researchers looked at international, continental, regional and local agreements, legislation, policies and regulations pertaining to migrant labour, noting that South Africa and its neighbors are members of the United Nations and the African Union and signatories to the ILO and other international conventions on labour in general and migrant labour in particular. The study brought information from all these sources to bear on the challenges faced by migrant labourers as a vulnerable and marginalised section of society in South Africa. After interviews with trade unions, civil society organisations, labour movements, the MHSC, and mineworkers, the study makes extensive recommendations with regard to changes and improvements that should happen in terms of global conventions and the policy frameworks of the UN, OECD, ILO, and African Union, so as to improve the management, oversight, and regulation of migrant labour in Southern Africa, with specific recommendations for policy and legislative changes in South Africa. It is also important that policies and laws don't just exist on paper, but that they are cascaded down to the front-line staff of the DMRE, the Department of Home Affairs and the South African Police Services (SAPS).

6 | Migrant Labour in SADC

Initially the indigenous African populations of Southern Africa were involved in self-sustaining agriculture and showed little interest in wage labour and working on the mines. The industry therefore resorted to the colonial state and the legislative process in order to alienate self-sustaining agriculturalists from the land and force them to work in the mines (Collen Bundy, 1988). Simultaneously, colonial settler populations concentrated in towns, including the mining towns, which were often little more than military barracks to which settlers fled in times of conflict with the indigenous populations over land and land dispossession. Towns were often replications of Europe in Africa, hence the imposition of British and European place names such as East London, Vryburg, Heidelberg, Brixton, Estcourt, Scarborough, Margate, Worcester etc. These factors gave rise to an exclusive form of racial capitalism that is still impacting on the South African reality 25 years after the first all-inclusive elections in South Africa in 1994 (Marks & Trapido, 1979).

In the context of the Southern African Development Community, labour migration has its historical roots in colonialism and industrial mining. The discovery of diamonds in the late 1860s at Kimberley and gold in 1886 in Johannesburg in the deep interior of South Africa, far from road and rail networks and the mine technology factories in Britain, meant that initial capital investment in deep-level mining would be highly labour-intensive. It set the mining industry on a cheap labour-intensive path rather than a technologically advanced capital-intensive path (Luli Callinicos, 1980).

6.1. Policy environment in which migrant labour occurs in SADC

Labour migration in Africa is largely intra-regional (80 per cent) and mainly characterised by the migration of low-skilled workers. Of great importance in the region is the consolidation of significant South-South migration corridors to neighbouring labour markets in the search for a jobs and better wages. Indeed, today there are few African countries not participating in migration flows, whether as countries of origin, transit, or destination. Demand in economic sectors such as agriculture, fishing, mining, and construction as well as services (such as domestic work, healthcare, cleaning, restaurants and hotels, and retail trade) are significant drivers of migration within the continent. African asylum seekers and forcibly displaced persons often use the same migration routes.

Growing inter-regional corridors to the Middle East and Gulf Cooperation Council (GCC) countries, as well as more traditional flows to Europe and North America, are noteworthy. An interviewed stall holder at an informal sector market in Yeoville told interviewers that “at any particular moment there is someone, somewhere in Africa thinking of coming to South Africa. Young women usually go north towards the Mediterranean as they are more easily accepted into countries such as Italy, Greece, and Spain. Men migrate to South Africa because

here it is easier to obtain false passports and identity documents which could be used to get into Europe” (Cronje F et al, 2010).

The Regional Indicative Strategic Development Plan (RISDP) (2020-2030) seeks to harness the opportunities brought about by migration, while addressing the evolving challenges in a sustainable manner. It is underscored in that both countries of origin and destination stand to benefit from well-managed migration as migrants can be a source of critically needed skills as workers and entrepreneurs, while at the same time contributing to socio-economic development in their home countries through remittances, among other means (SADC, 2021). However, these results are not automatic as poorly managed migration processes can result in “resentment, discrimination, human rights violations, illicit criminal activity, exploitation and social unrest” (SADC, 2020). The Covid-19 pandemic and its far-reaching impacts, including lockdowns, restrictions on general movement and international travel in particular, added to the complexity of migration management, thus putting a greater demand on member states to enhance migration management in line with sustainable development goals. These goals seek to facilitate orderly, safe, regular, and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies (SADC, 2020). Such policies should now take into account lessons learned from Covid-19 in preparation for any potential future outbreak of pandemics.

The total number of migrant workers in SADC is estimated at 3 per cent of the region’s population (around 8 million people).

Available data also shows that intra-SADC migration accounts for about 45 per cent of the total migrant population, with South Africa hosting about 58 per cent of migrants from the region although emerging patterns suggest increasingly diverse flows involving more countries.



Map 01 South-South Migration

There is also evidence to suggest that labour migrants are increasingly becoming involved in other sectors and higher skilled occupations beyond the traditional mining and agricultural sectors. It is also notable that according to 2019 UNDESA data, South Africa is host to the highest number of international migrants in Africa (more than 4 million) (United Nations Department of Economic and Social Affairs, 2019).

Given the above, SADC is implementing a number of measures to strengthen migration management and to remove obstacles to the free movement of capital and labour, and that of the people, in line with SADC Treaty objectives. A lot has been achieved on the policy front, including the adoption of the Protocol on Facilitation of Movement of Persons (2005), which has recently received additional ratifications towards entry into force. In the specific area of labour, the member states adopted the SADC Labour Migration Action Plan (2020-2025) and SADC Guidelines on Portability of Social Security Benefits in March 2020 (Southern Africa Development Community, 2021). To add further impetus, the member states have embarked on the development of a regional migration policy framework to enhance coordination across relevant sectors. Cooperation in the field of health and pandemics is now also essential.

6.2. SADC Labour Migration Action Plan (2020-2025)

The SADC Labour Migration Action Plan (LMAP) (2020-2025) is a new initiative by member states to promote safe and regular movement of workers in the region as an integral component towards realisation of SADC Vision 2050, the SADC Industrialisation Strategy and Roadmap (2015-2063), as well as the medium-term RISDP (2020-2030). SADC ministers of employment and labour and social partners adopted the action plan at their meeting of 2-6 March 2020 in Dar es Salaam, Tanzania. The SADC Guidelines on Portability of Social Security Benefits were also adopted at the same meeting. The research shows that there is a huge problem with the portability of social security and health benefits between SADC countries.

The LMAP is amplified in RISDP (2020-2030) as one of the explicit key intervention areas to enhance labour mobility within the framework of Social and Human Capital Development (Pillar 3), under the strategic objective on decent work opportunities for full and productive employment. More specifically, the action plan reaffirms that well-managed labour migration is mutually beneficial and can facilitate greater development and economic stability for all countries. The action plan highlights the need for interventions to protect and safeguard the rights and welfare of migrant workers, and thus give them better opportunities to contribute to countries of origin and destination. These interventions remain important in the Covid-19 context as member states seek to address the welfare needs of migrant workers and members of their families. Covid-19 has demonstrated shortcomings in the implementation of the above action plan.

The following are the three strategic objectives to be implemented, through an inclusive and gender-responsive approach:

- a. to strengthen labour migration policies and regulatory systems for better labour migration governance;
- b. to protect migrant workers' rights and improve advocacy and awareness of their contribution to development and regional integration; and
- c. to enhance the participation of migrant workers in socio-economic development processes in countries of origin and destination.

There are still significant challenges to be overcome, such as:

- a. Resource constraints for implementation at member states level and coordination at regional level;
- b. multiplicity of planned outcomes and interventions;
- c. weak inter-sectoral coordination.

The new action plan seeks to overcome these challenges through improved capacity building, focused activities, and better coordination, in the context of an all-of government/society approach. A dedicated technical committee of labour migration experts from the member states and social partners has been mandated to enhance implementation and coordination (Southern Africa Development Community, 2021).

Migration to and from countries in Southern Africa is driven largely by the pursuit of economic opportunities, political instability, and (increasingly) environmental hazards. In a region with an estimated population of 353.9 million people and 7.9 million international migrants at mid-year 2019 (UNDESA, 2019), a few countries serve as the economic pillars of the region. Industrial developments, the mining sectors in South Africa, Botswana and Zambia, and the oil wealth of Angola have been magnets for both skilled and unskilled labour migrants from within the region and elsewhere. At mid-year 2019, an estimated 4.2 million migrants resided in South Africa (*ibid.*), the most industrialised economy in the region and a particularly attractive destination for those in search of education, health services and better opportunities.

In the eastern part of the region, Comoros, Madagascar, Malawi, Mozambique, and other countries are frequently affected by natural hazards such as cyclones, flooding and pandemics (IDMC, 2019). Slow-onset disasters such as drought impact the lives and the migration patterns of millions in Botswana, Eswatini, Lesotho, Namibia, and Zambia (SADC, 2019). Fluid, circular migration patterns and maintenance of socioeconomic networks between rural places of origin and urban centres have become increasingly common strategies for resilience in this diverse region (FAO and CIRAD, 2017).

In the Southern African region, the complexity of migration dynamics, together with legacies of the colonial migrant labour systems, have hampered initiatives aimed at regional integration and free movement. No free movement of persons within SADC is yet in force, although discussions to

this end formally began in the early 1990s. South Africa has negotiated preferential bilateral agreements on migrant labour and trade with five states in the region (Changwe Nshimbi and Fioramonti, 2013). The complexities in the integration processes among SADC migrants has led to reforms such as the Special Dispensation Permit (SDP) issued among South Africa, Zimbabwe, and Mozambique migrants to be able to secure jobs in any of these countries. It would be beneficial to assess through data the progress of this initiative, including the share of migrants issued this permit in relation to the total number of migrants, how this approach influences the likelihood of job security among immigrants from these three countries within SADC, and to measure differences vis-a-vis other countries within the region who do not sign up to this framework. Economic, and political instability in some parts of the region have made many member states reticent to opening their borders freely to neighboring states. A brief overview of the historical elements leading up to the present-day ad hoc regional systems is presented below.

In 1995, SADC drafted a Protocol on Free Movement of Persons. This protocol laid out a ten-year plan for incremental steps towards regional integration and fully free movement of persons within SADC. However, this was redrafted to accommodate the concerns expressed by South Africa, Botswana, and Namibia. The 2005 version was approved by all governments but has only been ratified by six of the 16 SADC members (Botswana, Lesotho, Mozambique, South Africa, eSwatini and Zambia). In effect, there is still no regional migration protocol, and labour movements continue to be dictated by ad hoc amnesties, bilateral agreements, and national labour laws (Changwe Nshimbi and Fioramonti, 2014).

In 2000, SADC and the International Organisation for Migration (IOM) established the Migration Dialogue Process for Southern Africa (MIDSA), a non-binding regional consultative process on migration which allows member states to establish a regular critical dialogue to enhance inter-state cooperation in an effort to improve migration governance (MIDSA, n.d.). Concurrently, South Africa – concerned about the influx of refugees and irregular migrants fleeing countries affected by economic crisis and political instability – has proceeded to establish preferential bilateral trade and labour migrant agreements with Angola, Botswana, Lesotho and eSwatini, all fellow members of the Southern African Customs Union (SACU). In contrast, in its cooperation agreements with Malawi, Mozambique, Zimbabwe and Namibia, South Africa specifies no migration-related arrangements or objectives.

In the past decade, SADC has gained some traction developing a Facilitated Movement of Persons Protocol, which has yet to come into force. The Common Market for Eastern and Southern Africa (COMESA) has a Visa Protocol in place, but a Free Movement of Persons Protocol has also not yet come into force. In 2009, a Policy Framework for Population Mobility and Communicable Diseases in the region was drafted.

The policy framework is, as of April 2020, in revision and awaiting the findings of a regional needs' assessment. In 2012,

member states established a tripartite agreement between COMESA, the East African Community (EAC) and SADC, to fast-track the facilitation of free movement of goods and persons between the three regional economic commissions (RECs), which together cover almost the entirety of the eastern half and southern sphere of the continent (SADC, 2011; Changwe Nshimbi and Fioramonti, 2014). In 2013, SADC agreed its first Labour Migration Action Plan (2013-2015).

In 2014, SADC laid out a Labour Migration Policy Framework, and in 2016, outlined a second Labour Migration Action Plan (2016-2019). Moreover, five member states (Mauritius, Namibia, South Africa, eSwatini, and Zimbabwe) have ratified the African Continental Free Trade Area (ACFTA). It remains to be seen whether a regional migration protocol will be ratified in the coming years.

Xenophobic attacks on migrants in 2008, 2015 and 2019 caused displacement among the migrant populations in South Africa (Burke, 2019). More recently during Covid-19 there has been an escalation of attacks against foreign truck drivers on the Beitbridge-Durban route. In response to this trend, South Africa approved the South Africa National Action Plan (NAP) to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance in March 2019. In practice, however, policies to combat xenophobia and discrimination do not cascade down to frontline officials in the Department of Home Affairs and border posts, and migrant workers and their families are often subjected to inhumane treatment and to administrative injustice at these points, in contravention of the South African Constitution, Bill of Rights, Chapter 2, section 33, which declares that "everyone has the right to administrative action that is lawful, reasonable and procedurally fair" (South African Government, 1996).

The ministerial recommendations of MIDSA dialogues in 2017 and 2019 speak directly to the mandate for migration data. The 2017 recommendations encourage SADC member states "to build capacities to collect, analyze migration-related data to develop policies based on evidence and data to improve migration governance at the national and regional level" (MIDSA, n.d.).

The 2019 recommendations included three key mandates: 1) The establishment of national coordination mechanisms on migration to engage national data suppliers, producers, users as well as national research institutions to ensure the effective collection, analysis and use of migration data at the national level; 2) Strengthen regional cooperation on migration data to ensure standardised and comparable migration surveys in all Southern African countries. Migration data collection methodologies and national surveillance mechanisms, inclusive of censuses, should be capitalised on, ensuring that a maximum number of migration-related indicators are included; and 3) IOM is to work closely with governments in the Southern African region to support the development or updating of country-specific migration profiles that are compatible across the region and can be used to inform evidence-based migration policies (Regional Office Pretoria, 2019). It is hoped that the region will take

to heart lessons learned from the Covid-19 pandemic and develop the necessary policies to address the needs that arose from it.

As part of IOM's response to requests by SADC member states to enhance governments' capacities to generate accurate and reliable data to better inform policy development, the Regional Migration Data Hub for Southern Africa (RMDHub) was launched by IOM. The RMDHub is to serve as a central repository of migration data and information gathered through studies, research, and operational activities in the SADC region.

7 | Migrant Labour in South Africa

7.1. The Legislative and Regulatory Environment for migrant labour in SA

The Constitution of the Republic of South Africa, 1996, was adopted on 10 May 1996 and came into effect on 4 February 1997. The Constitution is the supreme law of the land, binding on all organs of state at all levels of government. South Africa is a state founded on the principles of a constitutional democracy (Bhoola, 2002).

The Constitution contains a Bill of Rights (Chapter Two), which enshrines the rights of all people in South Africa, including migrant workers, not just South African citizens. The following labour rights are enshrined in the Constitution:

- Section 18: Freedom of Association.
- Section 23: Labour Relations.
- Everyone has the right to fair labour practices.
- Every worker has the right to form and join a trade union and to participate in the union's activities.
- Every worker has the right to strike.
- Every employer has the right to form and join an employers' organisation and to participate in the activities of the organisation.
- Every trade union, employers' organisation and employer have the right to engage in collective bargaining (Bhoola, 2002).

Besides these labour rights, every person in South Africa (not just citizens) has wide-ranging human rights, including:

- The right to housing (Section 26).
- The right to a clean, safe, and healthy environment (Section 24).
- The right to education (Section 29).
- The right to healthcare, food, water, and social security (Section 27) and appropriate social measures by the state should a person be unable to provide for themselves.
- The right to freedom and security of the person (Section 12).
- The right to administrative justice (Section 33).

The Bill of Rights enshrines the rights of all people in the country including migrant workers and affirms the democratic values of human dignity, equality, and freedom, and obliges the state to respect, protect, promote, and fulfil the rights in the Bill of Rights (Bhoola, 2002). The research has found that

government officials and employers do not always apply these rights as contained in the constitution, and this has become more prevalent during Covid-19.

Flowing from the constitution, labour laws have been promulgated to realise the labour rights contained in the Bill of Rights. The table below gives the definition of an employee as defined by the various acts that regulate employment in South Africa. These definitions should include migrant mineworkers, but this is not always the case, as shown in the findings and analysis section of this report where mine management often completely disregards the basic employment rights of migrant workers.

This report will show that there is a gap in the South African legislation in that migrant labour is never explicitly referred to in the acts, which indicates that no special protection exists for the migrant worker. The process that ultimately unfolds in the context of the mining industry can be labeled as the legal gaze between the employer, the employee, and the government. Based on the concept of the "Medical gaze" developed by Michel Foucault, which is defined as "an act of selecting what we consider to be the relevant elements of the total data stream available to our senses", it becomes important to note that without a clearly defined policy that is inclusive of migrant workers, it is easy for employers and the government to make decisions affecting migrant workers based on the information they assume to be valid. (Balcioglu Z, 07/2001)

Definition of *employee*

► Labour Relations Act | No 66 of 1995

- a. any person, excluding an independent contractor, who works for another person or for the State and who receives, or is entitled to receive, any remuneration; and
- b. any other person who in any manner assists in carrying on or conducting the business of an employer, and 'employed' and 'employment' have meanings corresponding to that of 'employee'.

► Basic Conditions of Employment Act | No 75 of 1997

- (a) any person, excluding an independent contractor, who works for another person or for the State and who receives, or is entitled to receive, any remuneration; and
- (b) any other person who in any manner assists in carrying on or conducting the business of an employer

► Employment Equity Act | No 55 of 1998

- means any person, other than an independent contractor who -
- (a) works for another person or for the State and who receives, or is entitled to receive, any remuneration: and
 - (b) in any manner assists in carrying on or conducting the business of an employer,

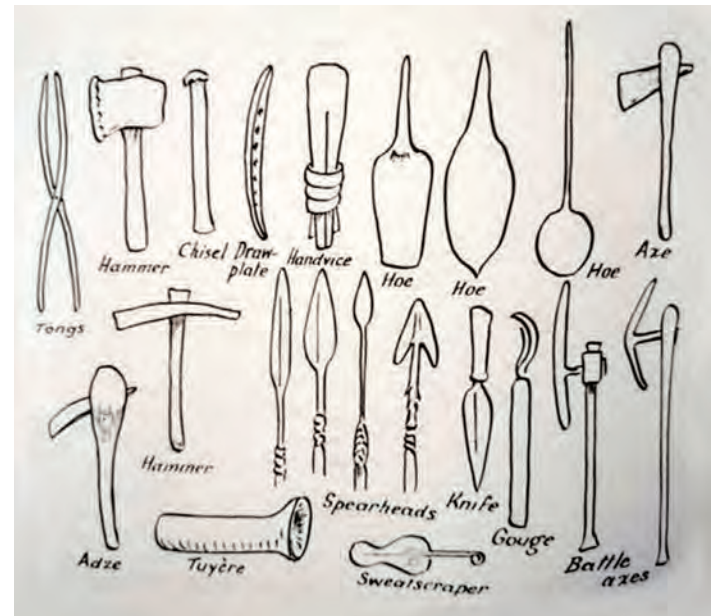
► Skills Development Act | No. 97 of 1998

- (a) any person, excluding an independent contractor, who works for another person or for the State and who receives, or is entitled to receive, any remuneration: or

7.2. History of migrant labour in South Africa

The legislative and regulatory environment of South Africa evolved from the history of labour in general and migrant labour in particular. Mining in what is now the Republic of South Africa predates colonialism. In a commemorative publication, celebrating 25 years of Iscor, published in 1954, the now privatised state iron and steel producer claimed that modern industrial iron mining operations occurred exactly on those spots identified as places where precolonial mining took place (Iscor, 1954). The indigenous peoples of South Africa were therefore not unfamiliar with the processes of mining, extracting minerals (such as gold, iron and copper), and trading the products produced from the process.

However, the commencement of large-scale industrial mining of diamonds in Kimberly in 1868 and of gold on the Rand after 1886 dramatically changed the social relations of power and production in the country (Luli Callinicos, 1980). The numerous small customary states that existed became subject to a colonial state designed to ensure a steady supply of cheap labour from the southern and the central African hinterland as far north and west as Zambia, Angola, Namibia, Malawi and including Lesotho, Swaziland, Mozambique, and Botswana. To effect this steady stream of cheap labour into the mines, the colonial and later apartheid states manipulated customary law and social relations to ensure that the mines would never



03 Iron implements made by native iron makers

(Source: (Iscor, 1954))

(b) any other person who in any manner assists in carrying on or conducting the business of an employer,

Unemployment Insurance Act | No 63 of 2001

means any natural person who receives remuneration or to whom remuneration accrues in respect of services rendered or to be rendered by that person, but excludes any independent contractor

Mine Health and Safety Act | No. 29 of 1996

means any person who is employed or working at a mine

Occupational Health and Safety Act | No 85 of 1993

means, subject to the provisions of subsection (2), any person who is employed by or works for an employer and who receives or is entitled to receive any remuneration or who works under the direction or supervision of an employer or any other person;

Compensation for Occupational Injuries and Diseases Act | No 130 of 1993

means a person who has entered into or works under a contract of service or of apprenticeship or learnership, with an employer, whether the contract is express or implied, oral or in writing, and whether the remuneration is calculated by time or by work done, or is in cash or in kind, and includes:

- (a) a casual employee employed for the purpose of the employer's business;
- (b) a director or member of a body corporate who has

entered into a contract of service or of apprenticeship or learnership with the body corporate, in so far as he acts within the scope of his employment in terms of such contract;

- (c) a person provided by a labour broker against payment to a client for the rendering of a service or the performance of work, and for which service or work such person is paid by the labour broker;
- (d) in the case of a deceased employee, his dependants, and in the case of an employee who is a person under disability, a curator acting on behalf of that employee; but does not include-
 - (i) a person, including a person in the employ of the State, performing military service or undergoing training referred to in the Defence Act, 1957 (Act No. 44 of 1957), and who is not a member of the Permanent Force of the South African Defence Force;
 - (ii) a member of the Permanent Force of the South African Defence Force while on "service in defence of the Republic" as defined in section 1 of the Defence Act, 1957;
 - (iii) a member of the South African Police Force while employed in terms of section 7 of the Police Act, 1958 (Act No. 7 of 1958), on "service in defence of the Republic" as defined in section 1 of the Defence Act, 1957;
 - (iv) a person who contracts for the carrying out of work and himself engages other persons to perform such work;
 - (v) a domestic employee employed as such in a private household;



04 Iron age tools found on a farm near Marikana
(Credit: D Van Wyk)



05 Zulu Blacksmiths at work in 1840
(Source: (Isacor, 1954))

be faced with a shortage of workers (Luli Callinicos, 1980; Callinicos, 1987). This turned the African majorities in South Africa and its hinterland into subjects of both the colonial state and the mining industry.

The subjugation of the African majority was achieved with a slew of legislation shaped by the unholy alliance of the state, the mining industry, and commercial agriculture which had to feed the armies of labour deployed on the mines. This was ensured by realising a system of minority rule based on race to effectively disempower the majority and to establish the minority as preferred supervisors of labour and beneficiaries of colour bar legislation that protected skilled work for people of European descent (S. Marks, 1979). The Glen Grey Act was followed by various pieces of tax legislation, the 1913 Native Land Act, and the Group Areas Act that delineated separate territories for Africans and whites and further divided black Southern Africans into separate tribal Bantustans in often remote and arid parts of the country. Whatever land blacks were forcibly removed from, was land that trapped the African majority in colonially distorted tribal identities under

manipulated customary laws without security of tenure. Thus, cheap labour supply was not only guaranteed, but the cost of supply was also externalised to self-regulating Bantustans. The fact that the 1913 Native Land Act initially restricted the African majority, 90 percent of the population, to 13 per cent of the land meant that African people in South Africa would no longer be able to sustain themselves with agriculture but would be forced to sell their labour in “white” towns and on the mines.

To further ensure that African mineworkers would not have the freedom to choose between mining operations that offered better wages and working conditions and those that did not, the industry formed a boss’s union in the form of the South African Chamber of Mines which ensured uniformly poor wages and conditions across the industry and removed the market freedom of choice by workers of who to work for (Ian R. Phimister, 1978). African labour was excluded from skilled high-paying jobs (by Colour Bar legislation), from freedom of movement (by the Group Areas Act), and from choosing who they wanted to work for (by the creation of the Chamber of Mines). The Chamber exerted undue influence over both the colonial government, the apartheid state, and the legislative and regulatory processes from 1886 onwards.

This relationship between the state and industry also blurred the lines of separation between the state and the judiciary, the state as regulator and the industry, and the state and the financial system that evolved essentially out of the mining industry, with the local currency being manipulated to ensure super profits for the industry on a continuous basis.

Today, the labour-sending areas of the Eastern Cape and the SADC countries referred to previously remain under-developed and poverty-stricken. This is especially true for the Eastern Cape (formally Ciskei and Transkei), Lesotho and eSwatini, where many families continue to depend on the wages of men (and more recently women) employed in the gold-mining provinces of South Africa: Free State, Gauteng, Limpopo, Mpumalanga, and North West (Myer, 1980).

7.2.1. The recruitment of labour in labour-sending areas

The percentage of the labour force born outside South Africa is approximately 4 per cent of people of working age (15 years to 64 years) across the whole of South Africa (Stats SA). Like internal (South African) migrants, many foreign-born people of working age are drawn to South Africa’s towns and cities, so there are slightly higher percentages (more than 4 per cent) of foreign-born workers in some parts of SA and similarly lower percentages in other parts of the country. South Africa

is a preferred destination (especially for men) as a stepping stone to Europe, because false IDs and passports are more easily obtained in South Africa, and this makes passage to Europe easier (Cronje F et al, 2010). However, men have to work in order to pay for the illicit documents, and foreign-born migrants have a higher rate of employment than South African migrants. However, foreign-born migrants are also more likely to be employed in precarious work – or in the informal sector – than South Africans. This is because many employers exploit foreign-born migrants' willingness to accept more precarious work. Foreign-born workers also often hope to use precarious jobs as stepping-stones to jobs in the formal labour market. Sometimes this works, but often it does not as they find themselves stuck in precarious jobs.

The South West African Native Labour Association (SWANLA) was a labour-recruitment organisation which recruited primarily Ovambo people from Ovamboland in northern Namibia to work in the diamond mines in Namibia's southern Karas Region. It was infamous for its use of contract labour and human rights abuses among those employed in the mines. It was established in 1943 during World War II to accommodate a rising demand for labour. SWANLA was a driving force in the creation of opposition political movements, including future liberation movement and current ruling party of Namibia, the South West Africa People's Organisation (SWAPO) (Voipio, 1981). In Caprivi, now Zambezia, the Witwatersrand Native Labour Association recruited Angolan and Namibian labour for the South African gold mines at the town of Katima Mulilo (Shipanga & Armstrong, 1989, p. 27). Anglo American Corporation had a monopoly over most mining in Namibia (Green & Kiljunen, 1981). Many of the people of Zambezia are now struggling to get the pensions and other payments from the time their relatives worked on the mines.

Between 1974 and 1992, Malawian migrant mineworkers were repatriated from South Africa. The repatriation followed a plane crash killing Malawian migrant workers (New York Times, 1974) and accusations that HIV/AIDS was imported into South Africa by Malawian migrant mineworkers (New York Times, 1974). The official reason given was that in the previous two years some 200 of them had tested HIV-positive (CHIRWA, January 1998). The South African Chamber of Mines requested the Malawi government to screen all prospective migrant workers from the country for HIV/AIDS before leaving for employment in South Africa. The Malawi government refused, and the Chamber stopped recruiting labour from the country following a government ban on the employment of foreigners with HIV/AIDS. Strong-arm tactics were employed in the repatriation of the Malawian workers, causing heated debates between the Chamber and the Malawi government, and the latter and its repatriated citizens. Within South Africa itself, opinion was divided. The Chamber wanted to keep its Malawian workers for their skills, work discipline and lack of militancy (CHIRWA, January 1998). Some white conservative elements in the government demanded the repatriation. They based their arguments on issues of public health, emphasising the risks that foreign workers posed to the local (and especially the urban) communities.

A critical analysis of the issues involved, and the way the Malawians were repatriated, suggests that HIV/AIDS was used as a smokescreen. The South African mining industry was going through a period of crisis which necessitated massive retrenchment of workers, and especially foreigners. Desultory migrants were being replaced by career miners as part of the labour stabilisation process. There was also a shift towards the recruitment of local workers. Thus, in an interview conducted with Mr Siphon Shongwe, a founder member of the South African National Union of Mineworkers and a former employee at Anglo American's ERGO operations, he indicated that ERGO on the East Rand recruited only local labour. Malawi was no longer an important source of labour for the industry (CHIRWA, January 1998). This has created a number of challenges for former mineworkers and their families in Malawi with regards to (a) the silicosis court settlement and payments due to former Malawian mineworkers who contracted silicosis on South African, and (b) the payment of outstanding pensions and other occupational health and injury compensation payments due to these workers. Covid-19 has effectively brought engagements around these issues to a halt.

In exchange for spending most of their adult working lives in the deep underground in exceptionally hot conditions, migrant mineworkers are paid around R5 000 per month. Half goes directly to the worker, and the other half is sent home via the recruitment agency as part of the deferred pay system of remittances, a legislated process put in place by the Lesotho government in 1974 to make sure that at least some of the miners' wages is repatriated, rather than getting spent on the Reef and further impoverishing Lesotho. Similar remittance arrangements used to exist with Botswana, Mozambique, and Namibia (CHIRWA, January 1998).

The South African mining industry has been, and continues to be, reliant on migrant labour from rural areas of South Africa and neighbouring Southern African countries. Between 1973 and 2012, 1.64 million miners, mostly internal or foreign migrants, were recruited through the primary regional recruitment agency, TEBA Ltd. ("TEBA"). Of these, 27 per cent were from countries outside South Africa.

Given that many miners leave the industry for reasons of ill-health and that ex-miners generally lose their access to company medical services, excess mortality would be expected among ex-miners relative to both working miners and the general population (Bloch, Johnson, Nkosi, & Rodney, 2018).

Apartheid and colonial-era labour migration played a fundamental role in South Africa's industrial development. Companies could hire unlimited numbers of foreign workers. Male contract migration, particularly in mining and agriculture, was a regional fixture (MBIYOZO, 2015, p. 35).

Migrant labour into South Africa has dramatically changed since 1994. When post-apartheid South Africa opened its borders and economy, migration expanded and became more complex. South Africa became part of the Southern

African Development Community (SADC) and reconnected with the global economy. Migration of all kinds expanded. Legal migration increased significantly for informal trading, shopping, medical treatment, visiting, formal business and tourism (MBIYOZO, 2015, p. 36).

Total women migrants	Women migrants as % of total population	Women migrants as % of total migrants	Year
446 656	2.3%	38.4%	1990
392 724	1.8%	39.1%	1995
401 793	1.7%	40.1%	2000
498 717	2%	41.2%	2005
880 757	3.4%	42%	2010
1 694 596	6%	44.4%	2015
1 792 275	6.2%	44.4%	2017

Table 01 Women migrants in South Africa

Labour migration in recent decades has shifted substantially from company-sponsored to mixed. The proportion of (male) foreign nationals in the mining workforce was estimated at 40 per cent in the 1980s and rose as high as 60 per cent in 2009. Increased restrictions and weakened mining and industrial sectors have caused male contract migration to fall substantially to 23 per cent in 2013. Declining regular options have resulted in increased mixed and clandestine migration. Migrants using irregular and unregulated methods have increased, and more women, youth and families migrate (MBIYOZO, 2015, p. 36).

7.2.2. The Problem of labour brokers and sub-contractors

The workers provided by labour brokers and sub-contractors are generally not unionised and are often employed as casual labour, without written contracts. They are paid through eWallet in many instances, which means that there is actually no record of their employment, and they cannot claim Unemployment Insurance Funds (UIF), workman's compensation if injured or ill from the mines, and have no pension provision. This may be considered as the degradation of work in the 21st century, and was exacerbated by the outbreak of Covid-19 in March 2020 and the closure of the mines in lockdown level 5. During this time precarious workers employed by sub-contractors and labour brokers

did not qualify for UIF payment, could not seek workmen's compensation, and in many instances did not qualify for food parcels because they are foreigners.

In the case of the Aquarius Platinum mine (see text box below) in close proximity to the Ikemeleng informal settlement near Rustenburg, the owners sold the mine to Sibanye and migrant mineworkers found themselves abandoned. They received no UIF or pension payout and were left destitute. The change of mine ownership happened in April 2016, and by the time that Covid-19 broke out the situation had become intolerable. As the workers in the hostel were not only starving but became infected by Covid-19 and died, their families were unable to raise the funds to have their bodies returned to the labour-sending areas. The Benchmarks Foundation had to intervene with the management of Sibanye to bring relief to these mineworkers and their families. Aquarius Platinum when they were still in operation often boasted in annual reports that as much as 90 per cent of its labour was sub-contracted and could therefore be easily dismissed if workers became involved in unions or strike action (Benchmarks Foundation, 2012).

This is similar to the situation of workers who migrate for work in the rest of the world, where they will often accept jobs with poor working conditions and very low wages. In that kind of work labour laws are not followed by employers (for example, no or little paid leave; long hours; no notice periods; no UIF contributions paid, etc.). Workers in these types of jobs either have no contract or a very basic form of contract which doesn't have the minimum legal benefits. The jobs do not offer stable employment and frequently are very short-term or only for some months of the year. The percentage of foreign-born migrants working in the informal sector is almost twice as high as the percentage of South Africans working there. Jobs in the informal sector –like other precarious jobs –have lower than average wages. There are several possible reasons why there is a higher percentage of foreign-born migrants in the informal sector. One is that it is not expensive to get a job in the informal sector (for example, low overheads, no fees have to be paid to agencies, or uniforms don't have to be bought out of one's own pocket). Another is that the majority of foreign-born migrants come from African countries with large informal sectors, while South Africa has a relatively small informal sector. They may, therefore, be doing informal sector activities which are very common in their countries of origin.

There are also women who come to South Africa not to work, but to trade in basket ware, cloth, clothes, arts, and crafts. They cross the border and sell their wares, then buy manufactured household goods to take back to their country of origin, usually Zimbabwe, to sell there. Such trade also occurred in precolonial Southern Africa (De Noon, 2003) see also (Bhila, 2003).

People also cross the borders to visit relatives. This is because the borders drawn at the Berlin Conference of 1884 paid no attention to the unity of language groups, kinship, or "tribal" affiliation (Uzoigwe, 1990). The disregard for the borders of precolonial African kingdoms and states continued with the formation of the Union of South Africa in 1910 (Parsons, 1994).

CASE STUDY

Sibanye's Acquisition of Aquarius

In January 2016, Sibanye's shareholders overwhelmingly approved the takeover of Aquarius in Rustenburg (Sibanye Stillwater, 2016). However, from the fallout of this takeover was the matter of subcontracted Murray & Roberts workers fired after a strike at Aquarius a decade before. The workers still occupied a hostel now belonging to Sibanye and about to be evicted. Their defiant occupation of the hostel was in an attempt to secure their pensions and what was due to them. Their experience highlights the plight and the precarious status of migrant mineworkers in South Africa.

When Aquarius Platinum began mining platinum at Kroondal in the 1990s, it outsourced its labour to Murray & Roberts Cementation. The Kroondal Hostel was built to house some of those workers.

In 2009, the workers, earning as little as R1,800.00 a month at the time, embarked on a strike demanding monthly wages of R5,000.00. When their union, the National Union of Mineworkers (NUM), finalised negotiations with Murray & Roberts, however, it agreed to a 10 per cent increase in wages instead. Frustrated,

the 3621 workers refused to return to work until their demands were met. They were dismissed (Webster, 2019).

Aquarius promptly attempted to evict the dismissed workers from the Kroondal Hostel, allegedly because there were plans to tear down and redevelop the hostel. In November 2009, the Land Claims Court ruled that the workers had occupation rights at the hostel in terms of the Extension of Security of Tenure Act. In taking over Aquarius' Kroondal operations, Sibanye, took over the hostel's lease as well as the continued efforts to evict the workers (Supreme Court of Appeal, 2020).

The hostel accommodated 400 workers who lived at the Kroondal Hostel, only about 150 remained when the Bench Marks Foundation intervened to mediate between the workers and Sibanye Stillwater. More than 200 have died over the last decade, mostly as a result of tuberculosis and other respiratory diseases they contracted while working underground, and from hunger. Many suffered a decade of malnutrition, and the outbreak of Covid-19 did not spare the occupants of these hostels. Workers were dying

and their families could not afford to repatriate them to the labour sending areas they came from, among others, Mozambique (Webster, 2019).

It is part of the reason that all of the men living in the hostel have learned how to build coffins to send to their deceased comrade's home, the bodies are wrapped in blankets and placed in self-made coffins. Many were buried in paupers' graves in the graveyard in the nearby Waterkloof township. One side of the graveyard is dominated by former Kroondal workers.

The workers stayed on at the hostel in spite of the alarming death rate, primarily because of the pension funds they claim Murray & Roberts owed them. In some cases, workers were underground at Kroondal for decades and are owed up to R150,000. The Bench Marks Foundation team intervened to negotiate a settlement with Sibanye around these issues.

Even though the Tswana, Sotho and Swazi people got British Protectorate status for their countries, this was achieved at the cost of a massive loss of land to the Union of South Africa. Thus, there are more Tswana speakers in South Africa than there are in Botswana, more Sotho speakers in South Africa than there are in Lesotho, and more Swazi people in South Africa than there are in eSwatini (Parsons, 1994). This was followed by many years of male migrant mineworkers who sometimes raised two families simultaneously, one in the labour-sending area and the other in South Africa, leaving complex cross-border family associations.

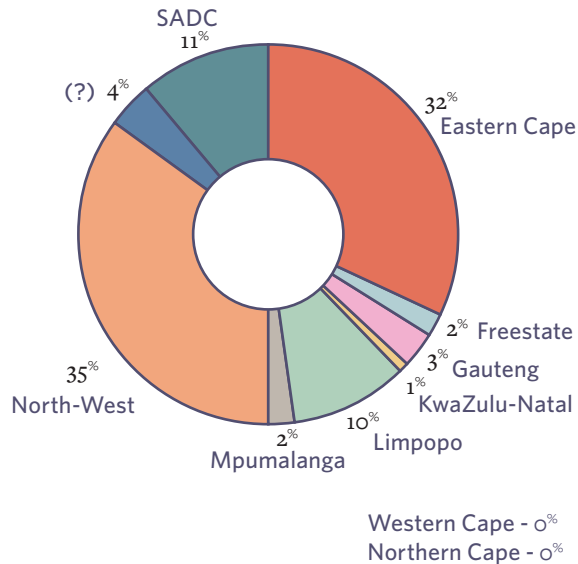
The information in this overview is based on two studies which analysed the data in Statistics South Africa's Quarterly Labour Force Survey (QLFS) undertaken in the 3rd quarter of 2012. That QLFS included specific questions about workers and unemployed people who had moved province or country in the previous five years. The reports on the research can be found at www.miworc.org.za. The information is similar to what was found about foreign-born migrants in Census 2011.

7.3. The Mining sector

In mining, South Africa has had more than 130 years of migrant labour starting in 1868 with the discovery of diamonds in Kimberley. This involves black labourers who the mines have been recruiting from across Southern Africa. In South Africa, the mines pick up much of the cheap, unskilled, often illiterate labour from within South Africa, including from the apartheid-era bantustans.

Migrant mineworkers are currently sourced by the labour recruitment agency TEBA (formerly the Witwatersrand Native Labour Association or WNLA), sub-contractors and labour brokers from neighbouring states like Botswana, Lesotho, Mozambique eSwatini, and Zimbabwe. Namibia and Angola also once supplied labour to the mines. Namibians came to the mines until 1975 when the South African government decided to shut down the mining recruitment centre at Katima Mulilo so as to force the men there into the proxy South West Africa Territorial Force to fight against the South West African liberation movement (SWAPO).

If we look at the Social and Labour Plan for Amandelbult Section mine of Anglo Platinum, the contradictions of the migrant labour system in South Africa become apparent.



Graph 01 The provincial distribution of the Amandelbult mine workforce

Only 10 per cent of the workforce of Amandelbult is drawn from Limpopo, the host province; 11 per cent are from SADC, 35 per cent are from the North West Province, and 32 per cent are from the Eastern Cape (Anglo American Platinum, 2015). Many of these labourers are employed through sub-contractors and labour brokers, and quite a number of the 35 per cent derived from North West Province are registered with labour brokers and sub-contractors in the North West Province but might actually be from the Eastern Cape or SADC. The Eastern Cape is the poorest province in the country and lacks economic development, but it exports a large percentage of its economically active population to the North West Province, Limpopo, and Mpumalanga. These labour-receiving provinces suffer high levels of unemployment of the local population where the mines are situated.

The situation in Phokeng is no better despite the claim that the mines belong to the Bafokeng nation. According to Royal Bafokeng Holdings the current unemployment rate is 52.5 per cent. It steadily increased from 26.4 percent in 2011 (Stats SA) to 42 per cent in 2016 (Royal Bafokeng Holdings, 2016) and then 52 per cent (Royal Bafokeng Holdings, 2019).

8 | The Impact of Covid-19 on Migrant Mine Labour in South Africa

8.1. Entry and spread of Covid-19 in South Africa

Covid-19 entered South Africa courtesy of the globetrotting classes. The first recorded Covid-19 case was that of a 38-year-old man in KwaZulu Natal who had just returned from a tourist holiday in Italy along with ten others (ENCA, 2020). The initial hotspots were the leafy suburbs of Johannesburg North and Cape Town, with the entry points being OR Tambo airport and Cape Town International airport. However, the dependence of the residents of these suburbs on domestic labour made the spread of the disease into nearby labour-sending townships such as Alexandra inevitable. In Africa, the virus initially spread rather slowly except for South Africa.

“What was happening was in Lesotho, we actually had very low levels of the pandemic, to say to the fact that our testing was not as efficient as it was in South Africa. But looking at people on the ground, we had very low levels. As you know that the borders are very porous between Lesotho and South Africa. I’m sure some of you may have seen pictures of people crossing the rivers” Excerpt from interview with a representative of the Migrant Labourers Forum in Lesotho.

South Africa, being a labour-receiving area for migrant labour, and as continental business travel acted as a gateway for the virus, the country soon reported the majority of cases on the continent (Zindoga Mukandavire, et al., 2020).

“Yeah, so during the festive season, a lot of people crossed from South Africa into the country. Because the government of Lesotho and the government of South Africa, relaxed the regulations, you will not need to produce a passport when you get to the border when you from South Africa come into Lesotho. So, there was that influx of people who came into Lesotho, the levels of the pandemic rose sharply” Excerpt from interview with a representative of the Migrant Labourers Forum in Lesotho.

Measures to contain the epidemic culminated in the declaration of the state of disaster leading to a national lockdown on 26 March 2020 with Gauteng, Western Cape, KwaZulu-Natal and Free State provinces reporting most of the Covid-19 cases (G. Nicolson, 2020). The lockdown itself was announced on 23 March 2020 to be effective from the 26th (CapeTownEtc, 2020). Over the next three days, prior to interprovincial travel restrictions, hundreds of thousands of migrant workers got onto buses, taxis, bakkies and whatever transport was available and headed back to labour-sending areas, most notably the Eastern Cape, Lesotho, Mozambique, eSwatini, and Zimbabwe. Most had to travel through Gauteng and Johannesburg, which was the epicenter of the disease, resulting in massive overcrowding at taxi ranks, bus stops, train stations, toll gates and border posts. The virus hitched a ride back to the labour-sending areas.

*Travelers try to make it home before lockdown
The Wanderers Taxi Rank was booming, as hundreds of people were*

leaving the city to spend the next 21 days with their families. Taxi marshals were directing travelers heading to provinces including KwaZulu-Natal, the Eastern, the Northern Cape and Mpumalanga.

Traffic volumes on the N3 between Johannesburg and KwaZulu-Natal were also increasing. The N3 Toll Concession's Con Roux said they were beginning to see heavy traffic on the highway.

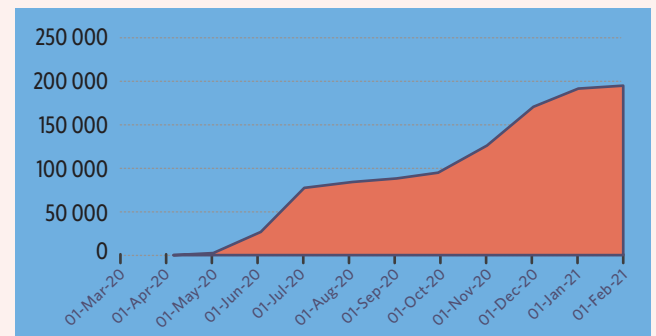
"We are expecting traffic to pick up a little during the course of the day. Just yesterday the number of vehicles picked at over 1 000 vehicles per hour. My expectation is that traffic will be higher today," he said (Chothia, 2020).

The map below shows the distribution of confirmed Covid-19 cases in South Africa before the government imposed a lockdown in late March 2020. Gauteng province appeared to be the "epicenter" of Covid-19 in South Africa for a number of reasons:

- The province has the largest population density, and the urban population is poor with 20 per cent of its population being food insecure (STATS SA, 2020).
- Gauteng province has two international airports including OR Tambo International Airport handling over 21 million passengers annually (Wikipedia, 2020).
- The volume of people who use minibus taxis, busses and trains runs into millions daily, creating social networks and patterns that are key in accelerating the spread of the disease (Zindoga Mukandavire, et al., 2020).
- The province is the country's economic hub, and many people (including international visitors) travel in and out of the province daily, the majority of confirmed cases early in the outbreak having been linked to international travel (National Institute for Communicable Diseases, 2020).
- It is a major labour-receiving point for migrant labour and a transport crossroads.

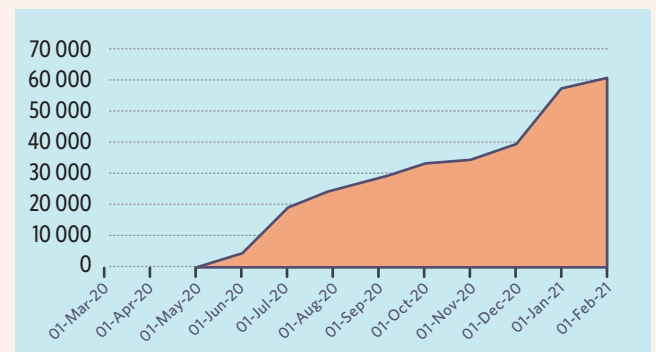
Migrant labourers from mines in Limpopo, North West, and Free State all returned to the Eastern Cape. Migrants working as domestic workers and farmworkers in the Western Cape also returned to this labour-sending area. The virus spread rapidly throughout the Eastern Cape Province in the weeks that

followed, and it soon became the third-highest Covid hotspot in the country after Gauteng and the Western Cape.

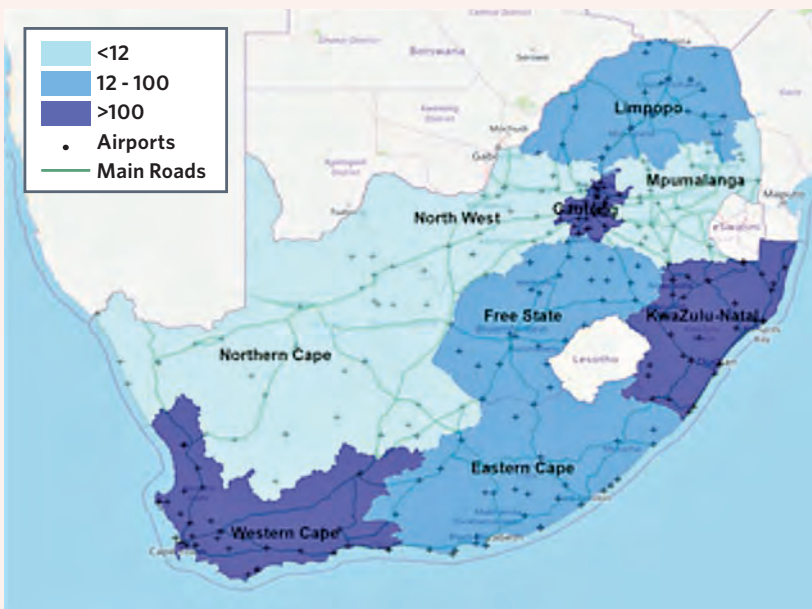


Graph 02 Spread of Covid-19 through the Eastern Cape.

At the end of April 2020, the level 5 lockdown was lifted, and mines were allowed to reopen to 50 percent of production in Level 4 lockdown. Migrant mineworkers from the Eastern Cape, Lesotho, Mozambique eSwatini, and Zimbabwe streamed back to the mining provinces of North West, Free State, Limpopo, and Mpumalanga, most again passing through Gauteng. Infections in the Eastern Cape eased off between July and October 2020, while in the mining districts of the North West, Free State, Mpumalanga, and Limpopo they rapidly escalated.



Graph 03 Spread of Covid-19 in the North West Province.



Map 02 Covid-19 cases distribution in South Africa by 27 March 2020.

Source: (Zindoga Mukandavire, et al., 2020).

Looking at the North West Province, we note that those districts with the most mines (and therefore the highest concentrations of migrant labour) saw the most rapid increases in the spread of Covid-19, as can be seen in the maps below.

Between 11 June and 2 July 2020, infections in Bojanala District, the major platinum group metal producing area in North West Province, increased seven-fold, while in the gold-producing district of Kenneth Kaunda it increased more than five-fold. Common to both areas is the dependence on cheap migrant labour, mostly from the Eastern Cape but also from Lesotho, Mozambique, eSwatini, and Zimbabwe.

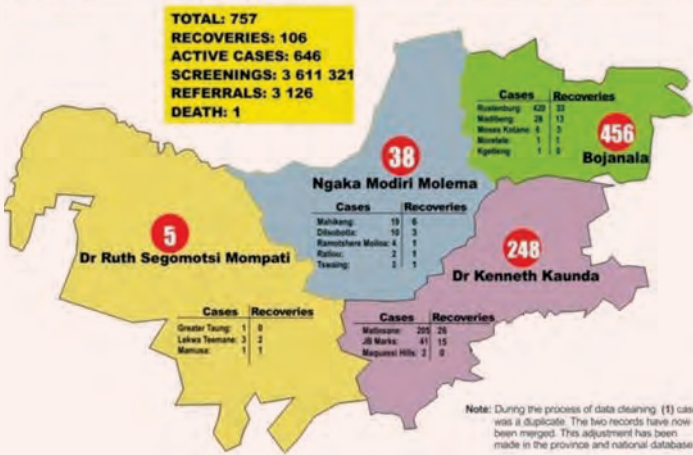
Taking the Eastern Cape and the North West Province, why did Covid-19 hit the migrant labour-sending and receiving areas so hard? Some possible answers:

- In the days just before lockdown level 5, migrant mineworkers from five mining provinces all streamed back to one province, Eastern Cape, most passing through the epicenter of Covid infection, Gauteng.
- Most travelers used overcrowded minibus taxis, busses and bakkies in which social distancing was impossible. Mining corporations and government do not provide decent transport for mineworkers.
- Most migrant mineworkers reside in poorly ventilated shacks in overcrowded informal settlements around mines when they are at work, and in the poverty-stricken rural areas when they are at home.
- Access to water in informal settlements is extremely rudimentary, often with a single tap serving multiple households, with overcrowding around taps, and water shortages being a common problem.
- Sanitation is likewise rudimentary in informal settlements and rural areas.
- TB and silicosis are rife among migrant mineworkers, and “South Africa has unique circumstances, for example, it has the highest numbers of people living with HIV, with a significant proportion not on treatment, and one of the largest tuberculosis (TB) burdens in the world. Moreover, underlying disease conditions such as diabetes, hypertension and chronic obstructive pulmonary disease are prevalent in South Africans and these are known to be risk factors for Covid-19 infection and mortality” (Zindoga Mukandavire, et al., 2020).
- Migrant mineworkers are generally malnourished and are exposed daily to unhealthy and unsafe working and living conditions (Hodgskiss, Letsoalo, April, & Schutte, 2015).

As a result of Covid-19, most countries in the region had to close borders and implement travel restrictions, with few exceptions such as border openings for the return of foreign citizens and repatriation of their own nationals. The restrictions included the withdrawal of exemptions for nationalities previously visa-exempted and the invalidation of visas for nationalities under Covid-19 hotspots. At the same time, several countries automatically extended visa and permit extension to those already regularly in the country before the pandemic, showing some leniency for stranded migrants and visa overstayers (IOM, 2020a). As of 20 April 2020, at least 148 and 144 restrictive measures that affected travel to and from Southern African countries respectively had been implemented (IOM, 2020b). The impact of Covid-19 on human mobility is expected to have far-reaching socioeconomic consequences, including on remittance flows to the region.

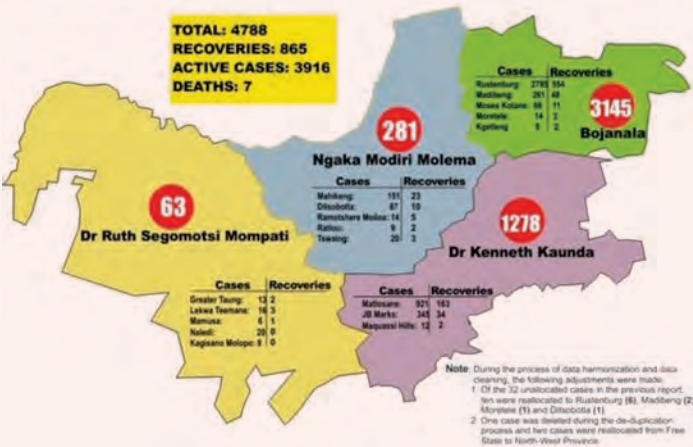
Thursday 11 June 2020 | 21:00

District	Cases	New Cases	Active Cases	Recoveries	Deaths
Bojanala	456	62	405	50	1
Dr Kenneth Kaunda	248	29	204	41	3
Ngaka Modiri Molema	38	7	25	12	1
Dr Ruth Segomotsi Mompoti	5	0	2	3	0
Unallocated	10	3	10	0	0
TOTAL	757	101	646	106	5

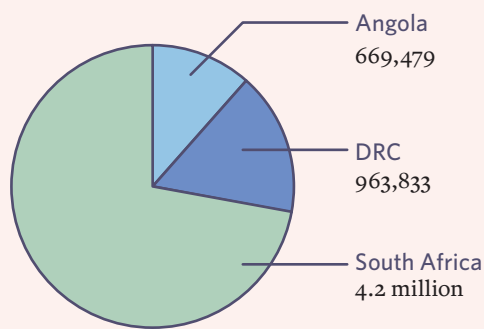


Thursday 02 July 2020 | 21:00

District	Cases	New Cases	Active Cases	Recoveries	Deaths
Bojanala	3145	273	2527	617	1
Dr Kenneth Kaunda	1278	87	1074	199	5
Ngaka Modiri Molema	281	19	237	43	1
Dr Ruth Segomotsi Mompoti	63	16	57	6	0
Unallocated	21	11	21	0	0
TOTAL	4788	406	3916	865	7



Map 03 Covid-19 statistics by the North West Provincial Department of Health.



Graph 04 Comparison of the number of migrants in SA, DRC, and Angola

- **Host countries:** South Africa (4.2 million), the Democratic Republic of the Congo (963,833) and Angola (669,479) were estimated to be the three countries hosting the highest number of international migrants in the region at mid-year 2019 (UNDESA, 2019).
- **Destination countries:** In absolute numbers, most migrants from Southern Africa move to other countries within Africa. With the exception of migrants from Madagascar, Mauritius, South Africa and Zambia, the top destination countries for migrants from the other twelve countries in the region are in Africa (ibid.).
- **Labour migration:** The opportunities available for semi-skilled labour including in sectors such as construction, mining and services are major migration drivers throughout the region. Tanzania and South Africa also attract high-skilled labour in financial services. Upskilling trends are on the rise among semi-skilled migrants to South Africa, while commercial agriculture absorbs the large majority of low-skilled migrant labour to the country (AU, 2017; UNCTAD, 2018: 81-85).
- **Remittances:** Countries in Southern Africa received an estimated 7 billion US\$ in remittances in 2019 (World Bank, 2020a). Remittances sent by migrants are a significant source of capital in most Southern African countries (Truen et al., 2016: 9), but the costs of receiving remittances continue to be among the highest globally (GMDAC analysis based on World Bank, 2020b). In 2019, the Democratic Republic of the Congo DRC received the highest number of remittances in the region in absolute terms. As a percentage of GDP, Lesotho was the highest recipient of remittances in the region in 2019 (World Bank, 2020a). Aggregated projections for Southern Africa are currently not available, but remittances to sub-Saharan Africa are projected to decline by 23 per cent in 2020 due to Covid-19 (World Bank, 2020c). In Namibia, where 98 per cent of urban residents maintain rural ties, migrants in urban areas send cash remittances to their relatives in rural areas in exchange for agricultural produce (Pendleton et al., 2014: 195-201).
- **Cross-border trade (CBT):** Revenue obtained through CBT is often the primary source of income for small-scale traders in the region, notably for women and young people. Although accurate data on the volume of (informal) CBT trade are limited, estimates range between 50 and 60 per cent of total intra-Africa trade (TRALAC, 2018).

- **Female migrants:** 70 per cent of informal CBT is undertaken by female migrants, and accounts for as much as 30 to 40 per cent of SADC trade (UNCTAD, 2018: 85). In Namibia, independence from the more male-dominated rural social systems is an important driver for female rural-to-urban migration (Pendleton et al., 2014: 195).
- **Internal migration:** Non-disaster-related internal migration trends in the region are largely rural-to-urban in nature with education and employment being key motivating factors. Rural migrants tend to come from more educated families, and most migrants within the region fall between the ages of 30 and 40. (FAO and CIRAD, 2017).
- **Refugees:** As of December 2018, 720 300 refugees originated from the Democratic Republic of the Congo (DRC), making it the country of origin of the highest number of refugees in the region and the seventh highest globally. 94 per cent of these refugees were hosted in sub-Saharan African countries (UNHCR, 2019). As a percentage of the international migrant stock residing in their countries, Tanzania (69 per cent) and DRC (59 per cent) continue to host the highest numbers of refugees in the region (UN DESA, 2019).
- **Internal displacement:** Protracted internal conflicts in the DRC newly displaced 1.7 million people in 2019 (IDMC, 2020). A total of more than 5.5 million people lived in internal displacement due to conflict in the DRC by the end of 2019, making it the country with the third highest number of people displaced by conflict globally (ibid.). In 2019 alone, nearly 1 million people were newly displaced by disaster in the region (ibid.).

While the Constitution of South Africa guarantees work, a healthy and safe environment, housing, access to health, and water, for migrant mineworkers residing in informal settlements around mines, these rights are not de facto rights; they simply do not exist in everyday experience. Covid-19 starkly exposed the poor living conditions faced by migrant workers. The spread of the disease in mining districts in different provinces and in labour-sending areas accentuated this fact.

Covid-19 also exposed the poor labour relations on the mines and the bureaucratic ineptitude of government and mine management when it comes to workers' income as the Mainstreaming Migration into International Cooperation and Development (MMICD) Project points out: "Despite the wealth of potential benefits of safe and regular labour migration for migrants and employers, migrant workers continue to face vulnerabilities in the workplace.

For many migrant mineworkers, the vulnerabilities faced are not only associated with the challenging working environment; they also face wider systemic challenges.

Mineworkers often live in cramped 'hostels' with their co-workers, with limited airflow. They live apart from their families for months or years. Living and working conditions

leave mineworkers vulnerable to diseases like tuberculosis, silicosis, and HIV. Compounding this, many are unable to access earned social benefits and programmes, including pensions, access to compensation and essential reintegration support” (MMICD, 2020).

8.2. Parliamentary oversight and regulatory bodies

The Mine Health and Safety Council (MHSC) considers the government and parliament as a customer of the mining industry, as indicated in its report to the National Council of Provinces (NCOP) committee on land reform, environment, mineral resources and energy on 28 July 2020. These introductory remarks are hugely problematic as government, the NCOP and parliament are not customers of the MHSC; instead they are there to provide oversight and regulate the mining industry.

From this engagement by the NCOP with the MHSC, the elevation of the Department of Mineral Resources and Energy (DMRE) to a super department above all other departments is once again demonstrated. All other departments are subject to the Departments of Health, Environment, Labour, and only the DMRE has the privilege of managing its own labour issues outside of the Department of Labour, its own environmental issues outside of the Department of Environment, and its own health issues outside of the National Institute of Occupational Health (NIOH) and the Department of Health. This became clear when researchers approached the NIOH looking for the guidelines² for Covid-19 in the mining industry, only to be informed that it falls outside of the ambit of the NIOH. The NCOP did raise concerns about the failure of the MHSC to provide detailed information about the Covid-19 situation on the mines. The NCOP demanded information on the number of tests and screenings done on each mine and in each province in comparison with the tests and screenings conducted by the Department of Health. To our knowledge this information has not been made public. (Parliamentary Monitoring Group, Covid-19 compliance at mines. NCOP Land Reform, Environment, Mineral Resources and Energy, 28 July 2020).

8.2.1. The NIOH

The researchers telephonically engaged with senior officials at the National Institute for Occupational Health (NIOH). The NIOH monitors and reports on occupational health issues in all industries in the country, except for mining it turns out. When asked about the safety regulations pertaining to Covid-19, researchers were bluntly informed that “sorry we cannot assist you there as health and safety on the mines do not fall under the Department of Health. In accordance with the Mine

Health and Safety Act, the Department of Mineral Resources and Energy, through the Mine Health and Safety Council is responsible for health and safety in that industry.”

8.2.2. The Mine Health and Safety Council

The Mine Health and Safety Council (MHSC) manager for Occupational Health Programmes for all the mines falling under the Minerals Council, painted a very rosy picture about the effective (in her opinion) response of the industry to Covid-19.

“Industry does not even contribute to 3 percent of the national Covid rate, which is great for an industry like the mining, there is quite a lot of positives, mining is an industry that is entrenched in health and safety, health and safety is second nature, it was easy, when Covid hit, the industry just needed to put in place additional measures on top of the processes that are already in place, it was not very alien for the industry”.

On 20 July 2020, the MHSC reported to the NCOP about the Covid-19 situation on the mines. The NCOP “expressed concern over the lack of detail on specific issues highlighted in the presentation, such as the potential job losses in the mining sector as a result of the pandemic. They stressed that the MHSC, together with the DMRE, needed to look into the re-skilling, capacitating and training of mineworkers. They also requested further information on the number of tests and screenings at each mine in each province, in comparison with the tests and screenings conducted by the Department of Health.”

8.2.3. The Minerals Council

At that time statistics provided by the Minerals Council indicated that the latest statistics relating to Covid-19 in the mining industry revealed that out of 385 reporting mines, which accounted for 428 154 employees, the total number of employees that had been screened was 315 134. The number of employees tested was 33 580, while the total number of positive cases recorded was 7 953. The number of active cases was 3 731. The total number of deaths was 73, while the number of recovered cases was 4 149 (Parliamentary Monitoring Group, Committees and meetings: Covid-19 compliance at mines, 2020).

This was followed up by a Minerals Council Report to the NCOP on 20 October 2020. Here the minerals council reported as follows on the question of job losses: “On job losses, Committee Members were told that from 2020 (January to June), the sector has shed 2 260 jobs. This period coincides with the start of the virus and the subsequent economic lockdown. There are Section189

2. Main Covid-19 protocols as gazetted by the government as guidelines for the mining industry. The government decided, under pressure from the mining council to reopen the mines to 50 per cent capacity at the start of level 4 lockdown, based on the Covid-19 protocols as agreed with mining council and gazetted on 18 May 2020 (DMRE, 2020).

The following key elements below must be addressed in the employers’ Code of Practice (COP):

- Risk assessment and review
- Start-up and on-going procedure for mines
- COVID-19 Management Programme
- Monitoring and reporting
- Compensation for occupationally acquired novel corona virus (COVID-19) compliance at mines

processes still underway and therefore not included in the numbers presented to the Committee today and more job losses were expected. Given the Section 189 applications received the Committee needed updated reports from which mines as it would have an impact on the number of job losses in the mining sector. Also on the provision, purchase and expenditure of PPE, the Committee would want a comprehensive list." The problem here is that the council is reporting on pre-Covid-19 retrenchments. In interviews with trade unionists, the representatives of workers claim that the mines are using the gazetted Covid-19 suggested safety requirements to shed jobs without having to go through Section 189 legal requirements for job shedding. Workers in labour-sending areas having been sent home during the lockdown have simply not been recalled.

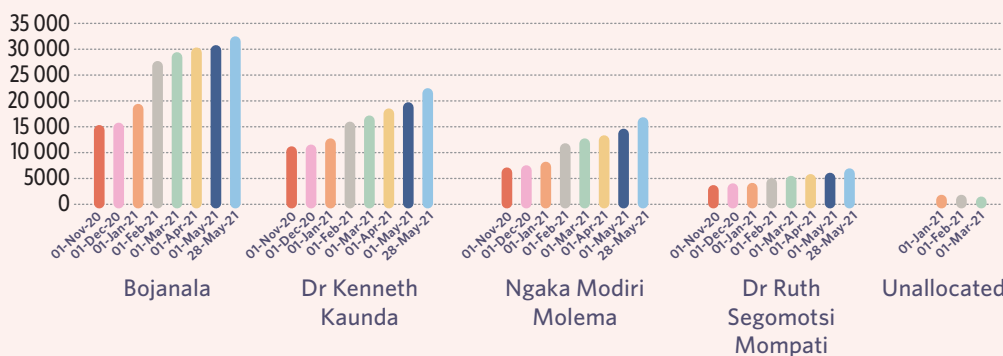
"Yah, in some sort, it is true, they... in as much as their labour force has gone down, but they did not follow the normal, traditional, normal way of labour reduction, which, you would then say the normal way of doing things would then be via a section 189 in terms of the retrenchment procedure, because the last time they follow that process, I believe that it was prior the Covid-19 situation, I think the last time that they retrenched was late in 2019, so what transpired during the... when the Covid-19 lockdown and all the regulations started, remember that there was a first lockdown that was announced early last year, so most of...in fact...close to 99 per cent of the mineworkers were not expected to return to work, so what transpired was that the only people who were working by that time, were people who were considered to be under essential services, so the production employees, they left. However upon the return, the regulations were eased and the mines were then re-opened, most of...there is a large number of people whom were never recalled back, for one, it is mostly people from the labour-sending areas within South Africa and outside of the borders, so the majority of people who were not called back, were mostly people from the Eastern Cape, because that is the largest labour-sending area in the republic, so most the...there is a large number of workers were not recalled back and then you further had a large number of employees who were never recalled back outside of the borders... Lesotho, Swaziland and Mozambique, they were never recalled back, uhm... so, yah... quite a substantial number of employees are without employment now as we speak due to the Covid-19 situation" Extract from an interview with former underground mineworker and representative of AMCU.

"Now, the major issue which affected us with the workers... some employers decided to bring workers back... the mining industry was one that was calling back workers, but if the borders are closed, you can't come back. Some employers in other industries refuse workers to come back. Ultimately, then they started restructuring, they used Covid-19 as an opportunity to find out how many people they need, how many people they can replace, whether they can reorganise the workplace, work with lesser workers. And you find that in terms of health and safety... my view is that the labour department was a better shop steward than the unions" Extract from an interview with a representative for the National Union of Metal Workers of South Africa (NUMSA).

The Minerals Council further reported that, "the mining industry has established community interventions such as delivering R101 million worth of supplies to local hospitals, the donation of medical equipment and supplies by Assmang, Kathu Solar Park, Kudumane, Kumba, SIOC-CDT, and South32 in Kuruman amongst others. The Committee was informed that given the high level of preparedness of the mining sector, the industry was doing more screening and testing than any other of the other sectors." However, there is a complete failure to report on the actual measures taken regarding worker accommodation (a large number of mineworkers reside in zinc shacks in overcrowded informal settlements around the mines as a consequence of the failure of mines to provide adequate housing for employees; the arrangements and measures to make transport Covid-19 safe between worker accommodation and the mines; the measures taken to reduce congestion at the entry or clock in points; the replacement of oral breathalysers with facial recognition devices; the congestion in change rooms and lamp rooms; the congestion in the cages; the congestion in the stopes and cross cuts; the lack of access to clean water; the incredibly high underground temperatures and the impossibility of wearing masks.

The complete failure of interventions by the government, the Minerals Council and the MHSC is demonstrated by the stark differences between mining and non-mining districts in North West Province, illustrated in the graph below.

The mining industry is hugely influential with the media in South Africa and can dictate the narrative about what is happening with regards to Covid-19, but this is clearly an exercise in impression management rather than in providing factual information.



Graph 05 Comparing the Covid-19 statistics across the districts of the North West province

CASE STUDY

Former Mozambican mineworker (permanent resident)

A former migrant mineworker, employed by the mine, was retrenched in 2019 due to loss of hearing. He has successfully acquired his permanent residency, yet this still has not afforded him any comfort in trying to access his UIF monies. With his hearing loss he has been sent from pillar to post complying with all the requests and yet he has been informed that even though the company deducted UIF every month as per his payslip, his profile is non-existent at the Department of Labour. Covid-19 lockdown regulations delayed the process even further. This is just one of many lived experiences of migrant mineworkers residing in the country.

According to the National Institute for Occupational Safety and Health (NIOSH), the recommended level of occupational noise exposure during an eight-hour period is 85 decibels (dbs), but mineworkers are exposed to over 100 times more (See below image of retrenchment documents) than the recommended levels while working underground. Having worked for the industry and being exposed for over six years still does not qualify him for humane treatment by either the government or mining industry .

9 | Analysis of Findings from the Research

Moving from the general situation to the experience of migrant mineworkers of Covid-19, the following issues became apparent.

Testimony from Mozambique Migrant Mineworker

- Currently employed by Sibane Mine in Marikana
- On a 10 year contract through a labour broker (who was active in the mine but has not seen him since the lockdown) and had to pay an amount of R3000 to secure employment.
- On a work permit that expired and would like to know how he could get a South African ID.
- He has a passport along with his family.
- Registered with NUM.
- Registered under the Sisonke Medical aid and not able to use the medical aid outside of the province, let alone the country because he can only visit specific doctors.
- ontributed to UIF and only received payment for 2 months during the pandemic.
- Stayed in South Africa with wife and kids.
- It was difficult to pay rent during lockdown. Rents a backroom from a South African.
- Did not qualify for the R350.
- Did not receive food parcels during lockdown.
- During lockdown, leave was considered unpaid.
- He was vaccinated at clinic for free.
- Social distancing was strict in the beginning of Covid-19 but not strict any more.
- No social distancing in the community at all.
- Sends money home (to Mozambique) via Mukuru for his siblings.
- His children suffer from discrimination at the school by the teachers and children.

06 Payslip showing UIF deduction of Mozambican former migrant mineworker

DECLARATION BY EMPLOYER OR AUTHORIZED PERSON

I hereby declare that the particulars shown in items 1 to 22 of this report of an alleged employment business conducted by the employer, are to the best of my knowledge and belief true and accurate.

Signed on this 09 day of November 21 Signature [Signature]

EMPLOYER

- Registered name with the Compensation Commissioner
- Registered number of this business with the Compensation Commissioner
- Contact person
- Street address: Barnardsvlei-Portion 52
- Postal code: 0325
- Postal address: Buffelsvlei Plot 80 Postal code: 0325
- Tax no. [Redacted]
- 8.7. E-mail address
- E-mail address/location of business/office
- Name of business, trade or industry: Mining

EMPLOYEE

- Surname: [Redacted]
- First names: [Redacted]
- ID no. [Redacted]
- Date of birth: 1969-10-125
- Sex: [Male] Female
- Marital status: Married Single
- Origin of Mozambique
- Personnel no. [Redacted]
- Occupation: Team Leader
- Street address: Willemia phille
- Postal code: 0325
- Period in year employ (years/months): 6 years 5 months
- Is the injured employee a working director, working member of a CC, owner of or a partner in the business? NO

EMPLOYEE FULL NAMES: [Redacted]			
SURNAME: [Redacted]		BARNARDSVLEI - PORTION 52	
DATE ENGAGED: 30-Nov-12		BUFFELSHOEK - PLOT A30	
OCCUPATION: Team Leader		MOOINOOI	
PAYROLL NUMBER: [Redacted]		0325	
EMPLOYEE NUMBER: [Redacted]			
ID NUMBER: [Redacted]	DATE: 31-Jul-19		
SHIFT ALLOCATED: Career 3 Shift			
TOTAL INCOME			
DESCRIPTION	SHIFTS	RATE	AMOUNT
NOTICE PERIOD (MONTH)	8	R 291,33	R 2 330,64
2 WEEKS P/YEAR WORKED	24	R 291,33	R 6 991,92
ADDITIONAL PAYMENT	1	R 666,67	R 666,67
NOTICE PERIOD - 24 SHIFTS DEVIDED BY 3 MONTHS - 8 SHIFTS PER MONTH			
2 WEEKS PER YEAR OF ENGAGEMENT - 72 SHIFTS DEVIDED BY 3 MONTHS - 24 SHIFTS PER MONTH			
ADDITIONAL PAYMENT OF R2,000.00 AGREED UPON - DEVIDED BY 3 MONTHS - R666.67			
GROSS SALARY:			R 9 989,23
TOTAL DEDUCTIONS			
DESCRIPTION	RATE	ADDITION	
UIF			R 99,89
UNEMPLOYMENT			R 99,89
PAYE			R 613,06
TOTAL DEDUCTIONS:			R 812,84
LEAVE DAYS DUE	0,00	NETT SALARY:	R 9 176,39

The findings and analysis are structured according to (1) Government response, (2) Employer's response, and (3) Employee.

9.1. The Government's response to Covid-19

The management of cross-border movement of migrant workers, tourists and business travelers is the responsibility of the state through Customs and Excise, the South African police, and the South African National Defense Force. Migrant workers moving on the national roads, using buses, taxis, and other forms of public transport, run a gauntlet of harassment and human rights abuses by the South African police and authorities. The closure of borders resulted in restrictions on movement between South Africa and its neighboring countries which negatively impacted on migrant mineworkers and their families.

OTHER PARTICULARS OF EMPLOYEE

32. Earnings of employee at the time of the diagnosis of the disease:

	R/Week	R/Month
Gross cash earnings: (including average payments for overtime and/or commission of a constant character)		R699,92
Allowances of a recurrent nature: a) Bonuses (i.e. 13th cheque)		R2500,00
b) Other allowances (specify nature): <u>Living Out.</u>		R1587,54
Cash value of food:		
Cash value of free quarters:		

33. Will the employee during temporary total disablement continue to receive from you:
 Free Food? YES
 Free quarters? YES

34. Are you prepared to make cash payments during temporary disablement that lasts longer than three months?
 YES

35. If you have already paid cash to the employee, state the total amount R. 2000-00 (Retrenchment)

36. For what period were such payments made? From 2019,05,31 to 2019,07,31

37. Date on which the employee ceased work: 31 July 2019.

38. Date on which the employee resumed work: Retrenched.
(If employee has not yet resumed work, a Resumption Report (W.C.I. 6) must be submitted as soon as he resumes duty.)

FURTHER PARTICULARS

39. If the employee did to your knowledge receive compensation previously for the same disease or another disease or in respect of an accident, give particulars: _____

40. Was the disease caused by the employee's -
 (a) Deliberate non-compliance of directions: YES
 (a) Deliberate disregard of the terms of any law or statutory regulation designed to ensure the safety or health of employees or the prevention of disease: YES

(N.B.: If any reply is in affirmative, the employee must furnish an explanatory statement which must then be attached hereto together with your comments thereon.)

2.4 The frequency of exposure (once per week for an hour or 8 hours every day)
8 hours daily

2.5 Provide any objective measurements or exposure where applicable (supply details if possible (eg. noise or safety data sheets, risk assessments or results of environmental hygiene assessments))
Exposure to excessive noise daily 780dB

3. SMOKING HISTORY
None Smoker

4. NON OCCUPATIONAL ENVIRONMENTAL OR LEISURE TIME EXPOSURES
N/A

07 The above images show the sub-standard treatment of migrant mineworkers in South Africa

"Firstly, I would speak in the context of Covid and outside the context of Covid. I think the restriction of movement is what is a problem and when we talk about the cross-border trading." Extract from an interview with the representative for Ecumenical Services for Socio Economic Transformation (ESSET).

"Where they allow, government had to arrange public transport, private buses go and pick them. And they are still being picked until now. In actual fact, the Covid that has now I know, like in Malawi, it is due to those people that are moving in those buses coming from South Africa to Malawi because South Africa could not contain with the numbers of Malawians that were working in somewhere or that they are working in South Africa. There is quite a huge number. And they are coming in large, large numbers back, but none is going back to South Africa or Zimbabwe. So, these ones are the ones that are gearing up to say no, I would love to go back to my country. And they're getting in these buses back to Malawi." Extract from an interview with the Malawian Mineworkers Association.

9.1.1. Direct financial impacts on migrants as a consequence of border closures

The researchers found that closing of the borders had a negative financial impact on migrant mineworkers and their families, which resulted in them not being able to send money home to buy food. People are vulnerable to roadblocks when sending money and parcels home as shown in the extracts below.

"What is actually happening is that when you close the borders because of the Covid, movement does not occur, that means even when ordinarily you were able to send money to your children, it doesn't happen as easy as it is. Because the way they send money, they do not use the banks, they would send money with someone who actually leaves the mine to go back at home. So, they send money by using their friends, so when that movement does not happen anymore. It really causes a problem, so the long and short of the response is that yes, it is actually the Covid restrictions." Extract from an interview with the Migrant Labourers Forum in Lesotho.

"Yes, sometimes you got roadblocks at Standerton, Newcastle, Dundee, they say you must come out with your bags at a road block, when you came out with your bags, they just look under the seat, there is no bag left, if there is no bag left, they say open your bags, just take out your clothes like this, they don't tell us why they are searching, if there is money, you must make sure you keep your money to your pocket, but now at least you just put money on the cards, in the bank, you leave the small money, if you got cash they take it, and when they are done, they say put back your clothes." Extract from interview with artisanal miner.

9.1.2. Direct health impacts on migrants as a consequence of border closures

The researchers found that closing of the borders had a negative impact on the health of migrant mineworkers and their families, which resulted in limited access to healthcare services, medication and Covid screening as shown in the following extracts.

"The first thing that they were looking at were the issue of

medication, you will recall that it was just halted immediately. And people were sent home. And then they did not actually know how long they will be home; lockdown takes in such a way that they did not bring with themselves enough medications... The first one was the issue around TB treatment. And the second one was also about those that were taking other chronic medication, like a sugar diabetes. And as well as the hypertension and others." Extract from an interview with the representative from the Swaziland Migrant Mineworkers Association.

"So, having said that, you know, I need to say that the facilities in Zimbabwe themselves face a number of constraints in terms of the equipment that, the intensive care unit equipment, etc., for managing cases. And this kind of like when there was a massive spike, there was definitely a stress on the system, the spike has since come down. So, I think the stress on the system has also come down. I think the next issue is going to be the vaccination issue. And I am not 100 per cent clear on how far South Africa is including migrant labour in its vaccination program. In some countries, whether you are documented or undocumented, you come for vaccination into the free services, free vaccination, but those are high-income countries that have social welfare systems, South Africa has a constraint on supply. This is something I haven't read any official information, maybe you can tell me, whether the South Africans are including migrants into the vaccination program". Extract from an interview with a representative from the Training and Research Support Centre.

"One of the reasons for the campaign the tracking and tracing campaign that we are having here in Lesotho, is that in Lesotho, there are only two occupational health centers where people can be tested, where they can be assisted, that is those that have that occupational illness, but for TB, they can be tested, they can be given medication in the health centers, but there is this challenge that you know, Lesotho is still very tricky that health services are not easily accessible, especially in the mountainous parts of the country. So, people have that tendency of not even if they know that we can go to the health center get medication, you will find that if you cannot get medication in the health center next to where you live, you now have to spend some money to leave the area where you live to go to another health centre to get your medication, people have a tendency not to bother. So as a result, they actually miss their medication a lot when they are here in Lesotho" Extract from an interview with the Migrant Labourers Forum in Lesotho.

9.1.3. Direct regulatory impacts (1) on migrants as a consequence of border closures

The researchers also found that there seemed to be a lack of coordination between government and companies to facilitate access to benefits whilst in the labour-sending areas

"...There's no one who was registered since from that time from 1985 up to now, the only registrations are only the one which we took now the one which I was talking about it was sent to South Africa. And they received it on the 12th of January, this last month. So, we did not test that receiving yet the compensation for social security. For this big, we also had a meeting for Tshiamiso

on the party, we are still waiting with the minutes for tomorrow and see how they do it. So Tshiamiso they say they are taking over from TEBA but is busy with that. So, there is no one here in Namibia who has been receiving any compensation for those people for those years, which they worked there from 1949 to 1985. And the experience when I had a meeting in the ex-miners, some are very old and some passed away long time old, when they come from the mine, they used to stay for like, one month, a person can die, coming from the mine. In our culture, so they were feeling is that it is the witchcraft. Is not the witchcraft it is for that silicosis Oh, that the inhaling all that was causing the sickness in those people?" Extract from an interview with a representative from the Association for Ex-miners from Namibia.

"Most workers worked in the mining industry, and supported the industry, but after that, they went back to their rural areas, where they will come into very difficult conditions with no benefits, unemployment benefits. In most of the other countries, even the little benefits we have like the old age grants, are not available. And most of them will seek. And this is a situation which is, but it also shows how far as the South African labour movement we have made. We have achieved most issues for workers. We have not achieved much in terms of benefits, and but most of the workers who were coming in that time, they will come in through, recruited through mining industry agencies as such in terms of the contracts with them. Although they suffer demeaning conditions, remember that in terms of the health and safety situation in the mines was not very good. And also, as unions were not very good in terms of protecting workers and ensuring that the conditions are good, such those workers suffered the same as us and they took back the diseases that they got from the industry back into in those countries and their families have to care for them." Extract from an interview with a representative from the National Union of Metalworkers of South Africa (NUMSA).

"Like I have mentioned earlier, I mentioned that we are registering the former mineworkers from Namibia, who started working in South Africa from 1949 up to 1985, when they were stopped. Because when they were stopped not to go to South Africa to work there anymore. So those are the ex-miners, who we are registering." Extract from interview with the Miners association in Namibia.

"With that in mind, it has been a thorny issue for you to penetrate and get that information. It is so difficult. And there is a lot of political oversight that have been happening. And it is not good, and we have not done we have not forged ahead at all. that is why we can't even tell I mean; I've tried, we don't even have any idea of who got money. Oh God, anything at all this?" Extract from an interview with the Malawian Mineworkers Association.

9.1.4. Direct regulatory impacts (2) on migrants as a consequence of border closures

The closing of the borders also highlighted the regulatory inconsistencies and corruption faced by migrant mineworkers as well as informal traders crossing over the borders, as shown in the extracts below.

"For them to cross the borders, the regulations are not consistent with what is in the bylaws. For instance, if they cross the border will

take if you taking for women from Swaziland, Zimbabwe, and other countries when they cross the border... the requirements for them is to have their goods, where they purchased their goods, they have receipts and all these other things there's a particular amount that is requested for them, but this does not really happen as such, what you'll find is that... the officers who are at the gate, they would, I will just make an example because the rates vary at a particular level... you would if you're required if you have it depends on the particular goal that you have. You are required to have a permit or probably a purchase order that is supposed to be stamped by the authorities for your goods to pass through. But normally the authorities don't look at that formal paperwork what they require is just bribes from them". Extract from an interview with the representative for Ecumenical Services for Socio Economic Transformation (ESSET).

"it's also frustrating for people who are trying to, you know, move on, move on, and try to get more information trying to, you know, get something going. There are a lot of frustrations are not now coming right from the government itself. People that you rely on to be honest and implemented and know exactly what is there and their intention, but they're not willing to release it or not willing to work with you". Extract from an interview with the Malawian Mineworkers Association.

"That happens that are major challenges, you know, so and, and of course, the last part that I just want to quickly highlight is the lack of engagement for in terms of the SADC in relation to the policy issues that affected informal traders on this, presentations that we made was that we made on how this can be improved, and also at that engendered perspective on how women should be treated, because mostly it's them who are trading across the borders. And even if they are male, males are able to some sort of sometimes fight for themselves. And this leaves women at a vulnerable kind of situation where they find themselves being physically attacked when they are requested for certain things or when they are trying to resist certain forms of, of corruption." Extract from an interview with the representative for Ecumenical Services for Socio Economic Transformation (ESSET).

"But we will need to rally on how to structure either departments or to work on migrant issues and also to give them, a space for them to meet and discuss so they can alert unions to issues which are facing migrant workers because they have a problem of issues of accommodation, they have problem of accessing banking facilities, they have issues that were... Sometimes employers take advantage of them and deny them certain rights which are available to South African workers. And these are the issues which are facing us." Extract from an interview with a representative for the National Union of Metalworkers of South Africa (NUMSA).

9.1.5. Direct safety and security impacts on migrants as a consequence of border closures

The researchers found that closing of the borders also highlighted the abuse of power, and women crossing over the borders are vulnerable, as shown in the extracts below.

"If they are women, sometimes when they come to cross the border, it is done while it is late in the evening. So, they will have to wait until the morning there to cross over. most of the time they think

they are in danger of one. These guys requesting sexual favors from them, a lot of sexual harassment cases have been reported at the border gates. ... ridiculous amounts that are asked from them to pay, if they could, if they have a lot of goods, for instance, if they have a lot of stock that with them. And then thirdly is the, I think the environment, the non-conducive environment in where they are the way they were treated when they cross the border." Extract from an interview with the representative for Ecumenical Services for Socio Economic Transformation (ESSET).

"So those are the first one of those things. I mean, for Covid situation, the Covid context was that remember that they were not even allowed to cross over. So obviously, there is there was not a movement, movement was not allowed for particular businesses. So some of them unfortunately, they would have to resort to due to hunger and poverty, they would have to resort to getting into trucks hiding inside the trucks, which is... endanger their lives in such and they will get into the country, get the stock and go back the same way, but sometimes they will get caught and the instead of being arrested formally and being charged, they will be required to pay bribes or probably give sexual favors as admission before". Extract from an interview with the representative for Ecumenical Services for Socio Economic Transformation (ESSET).

"And of course, the last thing is the worrying factor of the inconsistency of the bylaws and the regulations, even at the borders itself, to such an extent that even the officers at the border, they are not quite in tune with what is required. For them, all they have to do is to, they make people pass without them understanding the proper protocols of women passing the borders. So, I mean, those are, and I think the second thing is they are unable to pay it that particular bribe sometimes you do stay, because some women they try to resist, when they have all the proper documentation, they try to resist. So, they will make them stay there for three days without passing three to four days without them passing. So, this is even when Covid had not even started this used to happen." Extract from an interview with the representative for Ecumenical Services for Socio Economic Transformation (ESSET).

"So, these are the problems that this sector is facing. And I mean for the Covid environment is that of course the dire thing is that the lack of, the reduced income for them as well, did play a quite a major part, you know. And so, what also happens is that the remember that we it is not all the those who are in these sectors that are open to environments of learning, advocacy, and heightened awareness. So, there is some sort of a xenophobia that goes around with it, when some people are crossing over the experience that that violence as well, amongst the other triggers as well, unfortunately, even if they are cross-border traders, and that happens even with the broader communities." Extract from an interview with the representative for Ecumenical Services for Socio Economic Transformation (ESSET).

"But also, once also when they get to the markets where they are supposed to get the stocks, realising their nationalities as well they get overcharged, or sometimes they get a quite a bad treatment, because they're from outside. but these are the amongst other things that I'm just trying to highlight that had happened." Extract from an interview with the representative for Ecumenical Services for Socio Economic Transformation (ESSET).

9.1.6. Direct employment impacts on migrants as a consequence of border closures

The researchers found that closing of the borders also impacted on the migrant's ability to find or secure employment because of Covid documentation requirements, as shown in the extracts below.

"The second challenge is that now proper work documentation is required, and most people didn't have it. So, they are not able to go back to South Africa. I think that is okay. I must also mention that when people leave Lesotho to be recruited as farmworkers the agencies assist them to get documentation. But now, that is not the case anymore. Because of the Covid, the agencies are not working, and people are not getting assisted to go back to resume their work in South Africa. As a result, unemployment has sharply rose here in Lesotho. We have many people come into us to say, we have left our benefits in South Africa, where we are now stuck here in Lesotho, how can we access at least the benefits that we have already accrued that social security benefits, that we have already accrued? While we, we were working there in South Africa. So, in a nutshell, this is the situation that is unfolding." Extract from an interview with the Migrant Labourers Forum in Lesotho

"I think we have dealt with the situation whereby people are no longer able to go back to their farming jobs. And they are stuck here in Lesotho. Because now documentation is required. When, they leave for those jobs, they do not require documentation they cross the border. Stating reasons that we as visiting relatives, we are just coming back, we are going for shopping things like those, but at the moment, when one cannot go to South Africa without seriously stating what they are going to do there it is becoming a problem and some of them do not have documents because the borders are so porous. People used to just cross the border and work in South Africa. But now because such documents are now required. Together with the Covid test, it is really becoming difficult for most people to go back to South Africa. Other than that, we you know, this, you will hear stories of human trafficking here and there. Maybe the Covid has helped because not many people are now crossing so hopefully less and less of them are being trafficked across the border. Because that is another group that we deal with those that are being taken across the border with false pretends that they are going to be given jobs." Extract from an interview with the Migrant Labourers Forum in Lesotho.

"They will be saying are going for a month to visit relatives or we are going just for shopping, or you know all those things so that many of them do not have proper working documents that permit them to get employment in South Africa. So the challenge now with most of them is that when they go back to South Africa one challenge number, One is that they have to undergo a Covid test, if you are found to be Covid positive you are denied entry into South Africa you have to come back to Lesotho where you'll be quarantined the facilities quickly filled up here in Lesotho and people will have to self-quarantine at home where they were not even so strict about quarantining conditions." Extract from an interview with the Migrant Labourers Forum in Lesotho.

"Economic organisation is pushing people to cross borders. I mean, if our companies buy companies in Zambia and close them down

and import from South Africa, then those comrades have the right to come to South Africa to come and work and that is such a situation which is going to face us increasingly, that the workplace is not only, and we are not only going to deal with workers in South Africa, we'll have to deal with workers coming from other countries and will need to start dealing with policies, with laws... how do we protect every worker whether that worker comes from another country or not, and these are issues which we still need to work on, but also to say that, because the work within the trade unions, most of the trade unions don't have a department dealing with migrants. It is left to the international department." Extract from an interview with a representative for the National Union of Metalworkers of South Africa (NUMSA).

9.1.7. Direct employment impacts on migrants in the informal sector

Informal migrants from Lesotho, Mozambique and Zimbabwe are concentrated on old abandoned mine sites where they conduct small-scale mining known as Zama Zamas. Their situation is precarious under normal circumstances, having to cope with pressures from criminal syndicates, police corruption, harassment, torture, and xenophobia. Covid-19 dramatically added to their woes. The researchers found that migrant workers in the informal sector were also impacted by Covid-19 as shown in the extracts from an interview with a Zama Zama below.

"This Covid is affecting us very bad, people are scared to come there and work, because inside there is no one to help us, directing them what they are supposed to do, when they get down, because there is no oxygen, they just breathe that...they breathe that air out and they breathe it in again" Extract from interview with artisanal miner.

"Others social distance, others, when they came down, they fail to make social distance. Us as security, we came with sanitisers and we wear mask, others, but these guys that they use to go down, they don't wear masks, because they say, down there is hot, when they wear mask, they don't breathe, everyone come with his tools, we don't share tools, like hammer, all of those things they use down." Extract from interview with artisanal miner.

"Outside, there is no water inside, they just carry the bags, they buy water from the shops and put inside the bags and carry the bags down with water inside to drink, the water underground is not clean to drink, sometimes there is water, and we do not know where it is come from, sometimes it gets disappear, like now, the water is disappearing. Some of the people use the water to purify and wash the sand and others take the sand out, they do not need water. They go to their place and wash the sand with tap water." Extract from interview with artisanal miner.

"The young brother of mine, because I still have the paper that they wrote him, I keep it, but they say, that guy say that there is no social distancing, they just put them inside, the blankets are not clean inside the cell, because I ask him some few questions, he told me that there is lot of guys that they arrest for smoking nyaope, everything that is affecting, because the police they just, if they saw us coming out with the stuff, neh, they just come and seize our stuff,

from there they just took our stuff into their place, they just purify for themselves, now, because if they took our stuff, they don't keep in the police station, they just took it somewhere and make money with it." Extract from interview with artisanal miner.

"They just arrest us neh, from there they don't take us to the court, they just keep us in the police station, in the cells, when you suppose to go to the magistrate court, they ask you money from R5000 upward, they take you out by the back corners, I don't remember one of us found guilty to the magistrate, they just took money, there is no case, I don't remember anyone was charged." Extract from interview with artisanal miner.

9.2. The Employer's response to Covid-19

Employers were very keen for the strict controls of level 5, which restricted mining operations to care and maintenance, to be lifted as soon as possible so that mineral production could resume, despite the fact that cargo ships all over the world loaded with minerals and oil were anchored at sea unable to enter harbors due to the global lockdown as a result of Covid-19. Employers had access to mountains of surplus minerals stockpiled in countries like Switzerland, which they could have reduced instead of rushing to reopen mines and put the lives of migrant workers at risk of Covid-19 infection. Despite having access to these surpluses in places like Switzerland, mineworkers were sent home in level 5 without pay, according to those interviewed. In other words, Covid-19 was almost treated as if it was a strike by mineworkers, rather than as an international pandemic. It was also opportunistically used by employers as an opportunity to retrench workers without following the due process of law as required by labour legislation.



08 Company transportation for mineworkers



throughout all the levels of restriction operated from the safety of their homes, while they pressured government to push migrant workers back underground.

It was as a result of this pressure that mines were reopened to 50 per cent production levels as early as level 4 lockdown, and the disproportionate impact of Covid on the Eastern Cape and on Gauteng (followed more recently by the impacts on Limpopo, North West Province, Free State and Mpumalanga – all mining provinces) can be attributed to this insistence by the mining industry on profits before people.

The interviews below demonstrate the hazardous conditions under which migrant mineworkers are working in relation to Covid-19. Interviews with formal migrant mineworkers seem to contradict the claims of the MHSC and the Minerals Council that everything is under control in the mines as far as Covid-19 is concerned. It is interesting to note that mine management is consistently conducted from the safety of the managers' homes, whereas mine labour is expected to be at the very dangerous condition of the rock-face. This was confirmed by the researcher when soliciting information by contacting the mines directly, and being advised by mine security that they were not able to transfer calls as everyone one was working from home and incoming calls were directed to the security office.

The following sections are divided into the conditions at surface level and those at underground level.

9.2.1. Surface working conditions

The researchers found that maintaining a distance of 1.5 meters between one worker and another seems impractical even before the worker proceeds from the surface to the underground section. It is clear that the conditions described below are potential super spreader points.

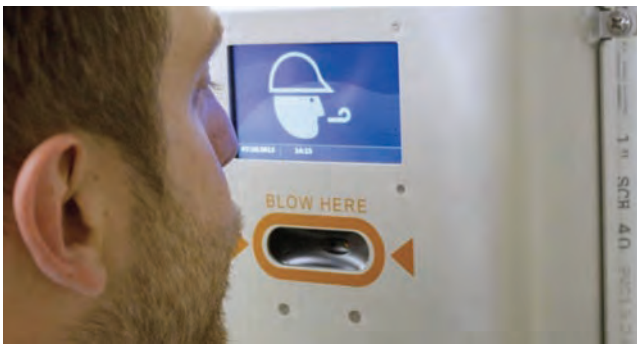
Mineworkers and Transportation

"It would be lying to the public for one, if you are going to maintain a 1.5 m distance from when an employee gets into his transport to go to work, you would have to increase the number of buses, because prior to the Covid situation, one bus takes 60-65 people depending on the capacity of the bus, and prior to the Covid, the buses were always full of workers who were reporting to work, so now since they, after Covid, they then claim to be in adherence with the regulations in terms of keeping that 1.5m distance...how have they done that? Because in order for you to at least adhere to that 1.5m distance, you would have to cut the number of people per bus by at least half, for them to keep that distance, how do you cut the number by half when you still have the same or even lesser number of buses as compared to prior to Covid? So in order for them to, for their situation, for them to be saying to be true, they would then have to show, for one, in Sibanye, they are using mega bus, they would then have to show that they went into agreement with mega bus and mega bus has increased the number of busses that are transporting workers in order for them to then maintain that 1.5m distance, it is still the same capacity that was filling busses before the Covid situation came in, nothing has changed." Extract from an interview with former underground mineworker and representative of AMCU.

"Number two, there is nothing really that they are doing that is special, because what mega bus has done at Sibanye, mega bus has just hired people on a temporary basis from the townships to just, when a worker enters into the bus, they just sanitise them and they move through, it is not really abnormal in terms of them saying that they are adhering to regulations, that I would not do maybe if I had a business, and in the mining industry, they need to be highly disciplined, they need to more than comply because of the environment ...because of the mining environment, they can't just say, look we are sanitising workers, I mean per shift you are having more than 2000 workers or at Anglo gold Ashanti in the morning shift, you are having close to 2000 workers that are reporting for morning shift, sometimes it might even be more than 2000 workers that get transported including at Sibanye, that get transported to go there, they then enter into the showers, the change house" Extract from an interview with former underground mineworker and representative of AMCU.

Mine workers and screening systems in place

"Yah, you pass through security for one, after the bus drops you off, you pass through a boom gate, you have to clock in, there is a line for you to clock in, that line, you can't keep a 1.5m distance because everybody is in a rush, remember that the shifts in the mine starts from 3:30 in the morning, so there is always a rush to get things done, after you then clock there, you then enter into the change rooms, from the change rooms, you then have to go and collect your lamp, your oxygen, you then have to be in another line as well, to then clock into work" Extract from an interview with former underground mineworker and representative of AMCU.



09 Newer version of breathalysing systems being used in the mines



10 Confined spaces within change rooms

"I believe that they have stopped to do breathalyser, there is this new method that they have done, in fact I will have to come back to you on the issue of the breathalyser, because I know about Anglo, Anglo they have introduced now, in fact it is harmony, they have introduced this, it is a facial system, some sort of a facial system, that when you enter there, there is a machine that you, where you look straight into, you put your face there and it recognises who you are and then you just blow into that machine, not your normal breathalyser that they used to work with prior to Covid, however in the other mines, I would have to, then have to confirm if they use breathalysers or not" Extract from an interview with former underground mine worker and representative of AMCU.

"You can't sanitize it, maybe you will sanitise it after everyone has finished, you must remember that these are mineworkers, they are not people whom you can say they are educated, it is not that they are stupid, no... they are not people that you can say they are educated in the formal word of things, so they, everything that is done is, it is done by force, it is how the environment has groomed those workers, you know, so everything that is done, it is done there by force, it is impossible for the mine to then say that after the worker uses the facial system and blows into it, the security guy or whoever is responsible for sanitising would then say, no... wait...let me sanitiser, wipe, next, sanitise, wipe, no, no...it can't be...it is practically impossible. So, if they claim that they sanitise those areas, yes, they do sanitise them, however after a whole lot of people have used them, not after each and every individual uses them, and they proceed" Extract from an interview with former underground mineworker and representative of AMCU.

Change houses and lamp rooms

"It can't be possible to social distance, there is no one inside the change houses that regulates movement and that regulates distance and that regulates whether you are wearing a mask or not, there is nobody there, you know I can...I wash in one shower, I get out after washing, the next person comes in, then the next person comes in, there is nothing that's really special that they have done, you to say, to make them the people that they claim to be" Extract from an interview with former underground mineworker and representative of AMCU.



11 The confined space within a mine cage transporting workers down a shaft

9.2.2. Underground working conditions

The researchers found that maintaining a distance of 1.5 meters between one worker and another seems particularly impractical once the worker proceeds from the surface to the underground section where they are assigned to perform their duties. It is also clear that the conditions described below are potential super spreader points.

“Yah, it is also the case, because... it is practically impossible for the mines to declare that they have the situation under control, if you base...if you take the regulations into account, a simple example would then be...you would at least have to keep a 1.5m distance, so how do you keep a 1.5m distance...for one...if you are in a cage, usually the cages of the gold sector they are...one cage has about 3 decks and a deck loads about 40-45 employees in a single deck, now there are three decks, so the 40-45 people, you are all squeezed in there, there is no space, it is practically impossible for you to keep a 1.5m distance, you can't even keep a 0.1m distance, because you are all squeezed onto one deck, what then transpires is that, after you reach the level that you are working on, for one, the mining environment in terms of air...I am just trying to find the correct word, in terms of oxygen, it is manufactured oxygen, it is not natural oxygen, you know... that is a deterrent for one, even prior to Covid, the environment, the mining environment itself, in terms of your health, in terms of the air, it is unsafe.” Extract from an interview with former underground mineworker and representative of AMCU.

Human congestion in stopes and cross cuts

“So, you then go into a...I am going to now take you into something called a “stoup” that is where the gold is made, that is where the core business of the mine, the core area of the mine, it is where the drilling takes place, the charging and blasting takes place, where the ore is then, after the blasting is taken to the surface above, when you enter into that particular area, because I understand that maybe you might not be used to...to make you understand, let us take a practical example, that you are on level 109, level 109 would have something...parts...that is where a whole lot of different... I am trying to explain using practical terms to say that there are different levels underground, underground levels, for one, I am making an example to say that we, let us say that we are on level 109 and on that level 109, there are things that are called cross cuts, a cross cut is where you find that...on this 109 level there is about a 1000 employees that are working morning shift, that are working there in that particular level, but it does not mean that they are working in one area around that level, they are designated into different areas and those areas are called cross cuts.” Extract from an interview with former underground mineworker and representative of AMCU.

“so in that 1000 employees, you would find that around about 50 are working in cross cut 10934, then the rest are working in 10936 and the rest are working in 10940 and so on, that is where you work, but when you get inside that cross cut, that is where the actual impracticality of compliance of the mines come in...number 1 - there is too much heat there, I mean, you are having rockdrill operators, you are having people that we refer to as mining team members, stoup team members, what they do is that of support, to support that area, while the rockdrill operators are busy drilling,

who support the surface not to collapse, you can't keep a distance there, because from the ground up until the roof of that place that you are in, it is less than 1.5m, so there is no way number one... that you can be able to stand up, all your time there, maybe...all your 5 hours you are there, you are on your knees, there are some places where you even crawl there, you see and at the same time it is impossible for you to in about...in a temperature of about 38 degrees, you know...36 to 38 degrees for you to keep your mask on, you can't do that...” Extract from an interview with former underground mineworker and representative of AMCU.

“In that uh spot, in that cross cut you would be having, in that cross cut...usually there is about three stoups, it is a phase, more like when you take a wall and you drill into a wall and then when you go into another room, it is a wall, it is another stoup, it is in the same area, in the same cross cut, it is about three, sometimes four stoups in one cross cut, then in one particular stoup, you would be having about six rockdrill operators, you would be having about uh six people that do the supporting, those are called stoup team members, then you would have about four or five people that deal with something that we call back filling, back filling is something like...when you fill a tank up with mud and when you fill it with mud, it then hits the roof, the roof of the rock for support, so in one gang, because they refer to them as gangs, in one gang you would be having close to about 20-25 people considering that there is a team leader, there is a... there are two people that we call...people that deal with charging and blasting, those people that after the holes have been drilled, they then come and load those holes with the explosives and then you then be having a miner who is a...who is there as well, so that is about 20 people per gang and then you then have other gangs in the same crossing, in the same spot but they are working in other stoups, so in a cross cut you would have about 60 - 80 people that are working in that cross cut, so that is the situation, that level has about 1000 people, it would vary on the different types of mines, for one. Anglo gold Mponeng mine which is owned by Harmony it is the deepest mine, so you would have more people in one mine as compared to, more people in one shaft as compared to the mines in Sibanye for one, because they are a bit smaller when compared to Anglo gold, so roughly 800 to 1000 people depending on how deep the mine is and how labour-intensive the mine requires for production to come out.” Extract from an interview with former underground mineworker and representative of AMCU.

Limited access to clean water

“If you want to wash your hands, you then have to get out and walk about 500m to get to the tap and you can't do that, because once you do that, it then means that, you are leaving...you are delaying production...your team leader, your miner will be on your case and you...taking into account that the temperature is somewhere between 36 and 38, you also...your own body heat...it rises... there is no mask, you can't wash your hands, there is no distance and you are dehydrated, you are in there for about 4-5 hours, you can't do that...what do they call...that elbow greeting...there is not even time for greeting...you said it correctly even the sweat...you wash it with...you wipe it off with your overall, you know so... it is just untrue when Sibanye and all of the members of the Chamber of Mines, when they say that they have got the situation under control...they can't.” Extract from an interview with former underground mineworker and representative of AMCU.

"It is a risk, in fact it is a high risk, you made an example for one about water as in where do they drink water...it is practically impossible for them to drink water, when you are dehydrated...this is what we used to do and it is still happening, because they are still using those hydraulic machines and even the taps are nowhere to be found in the stoups or even in the development area, when you are dehydrated, what normally happens is that...you don't even ask...while the rockdrill operator is busy drilling...if you are really dehydrated, you just go to that hose that they fit into the machine, you just pull out that hose and you just drink that water...the very same water that you are speaking about, that is where the cholera comes from, that is where it comes from..." Extract from an interview with former underground mineworker and representative of AMCU.

"Diarrhea is a daily occurrence; it is normal" Extract from an interview with former underground mineworker and representative of AMCU.

Lack of clean air

"Even the air, for one that water besides that it is sewerage water, it is highly acidic because it gets mixed with the ore, the rock underground is highly acidic, when you step on top of it and it gets into your booths, it obviously will affect your skin and from the drinking part to the actual contact on how you actually make contact with that water, so there is no way that you can avoid it because the mining environment historically has been built in that particular fashion, you know, so it is like that." Extract from an interview with former underground mineworker and representative of AMCU.

9.2.3. Mineworkers and medicals in general

When level 5 restrictions were lifted mineworkers streamed back to the mines from labour-sending areas and congregated in Marshalltown (in Johannesburg) to undergo medical tests

11 The medical certificate from a 39-year-old female who was retrenched after having gone through a medical test that revealed respiratory problems

and examinations, pouring out of hundreds of busses and forming long queues with very little consideration for social distancing in order to go through induction and medical examinations, so that the mines could reopen (Tau P, 2020).

While the annual medical examination is presented as a benefit to migrant workers, it actually just represents another form of labour control and externalisation of cost to employees by the mining industry. We have been informed, off the record, that mines covertly perform HIV/AIDS tests on workers and, if they are found to be positive, they are constructively retrenched and sent back home. Interviews also showed that mineworkers with respiratory problems are similarly retrenched, so as to avoid the requirements of the Mine Health and Safety Act and the Worker Compensation Act, which say that employees who contracted respiratory problems as a result of workplace conditions will be boarded with full or partial pay and benefits for the rest of their working lives.

Every person working on a mine in South Africa is required to have a so-called Red Ticket – a valid medical certificate stating

12 A medical certificate for a hearing test done on an employee working underground in the mines. Even though this employee was found fit for duty he was subsequently retrenched for mild to moderately severe hearing loss after having been exposed to noise 100 times over the acceptable noise range.

that he or she is fit to work – prior to entering a job site. This extends to short-term contract workers too.

Follow-up medicals will depend on a worker's individual risk profile but will take place at least once a year. And when a person leaves his or her position, for whatever reason, an exit medical is a legal requirement.

A mining medical generally consists of:

- full physical examination, including eye and audio tests
- blood and urine tests
- chest X-ray (lung function test)
- drug strip test
- breathalyser tests

Although breathalyser tests are not legal, mineworkers are tested daily for alcohol levels in their blood. After union complaints that breathalyser devices would spread Covid-19, a system of using disposable straws was introduced to ensure that workers are protected.

9.2.4. Migrant Mineworkers and employer vaccination programmes

The Minerals Council of South Africa (Chamber of Mines) in August 2021 reported that +100 000 Employees out of a total of 451 427 (Minerals Council, 2020) have been vaccinated for Covid-19, that is roughly 1 in 4 employees (Minerals Council, 2021).

However, those coming from the Eastern Cape have families in this labour-sending area in a province which is notorious for its poor health services (Settas, 2021). It is our concern that the old "single man employee" syndrome that affects South African mining is once more at play. The same applies to migrant workers from SADC country labour-sending areas where health services and infrastructure could also be wanting.

9.2.5. Migrant mineworkers and access to public health services

Mining companies provide basic healthcare facilities in the form of clinics and hospitals for employees only, and this does not extend to the immediate family of the mineworker. Both the clinic and hospital are merely there to cater to the mineworker should they find themselves injured while on duty. Basic healthcare services are generally provided by public clinics. Due to stock limitations and unprofessional conduct by nursing staff at public clinics, migrant mineworkers find themselves having to make arrangements with family members and friends travelling between borders to bring with them antiretrovirals (ARVs) and other medication. This results in the person not being able to keep up with a regular routine as required when taking HIV/AIDs or TB treatment.

Women married to migrant mineworkers find themselves having to endure discriminatory treatment when seeking healthcare services ranging from immunisations, family planning, antenatal and general healthcare treatment. A

number of migrant women find themselves having to go through childbirth at home because of the treatment by nursing staff, and this results in children born as South African citizens not being issued with a birth certificate. This has huge consequences in terms of access to further healthcare services and education.

9.2.6. Employee benefits and Covid-19

Today remittances – all that wage money sent back home through the mining industry's recruitment arm (which is given the job of handling these funds), or which is deposited into bank accounts in South Africa and withdrawn in Lesotho (for example), or is sent home in the many other informal ways such as in the pocket of a friend – make up a quarter of Lesotho's GDP. Many of those interviewed complained that monies deposited in South African banks are often not available in banks in the labour-sending areas, and there needs to be greater integration of financial institutions between SADC countries. This is also true for pension funds, workplace injury and illness compensation funds, and unemployment insurance funds, all of which are deducted from wages.

Lesotho is one of the most migration-dependent countries in the world, according to Professor Jonathan Crush and colleagues at the Southern African Migration Project (SAMP). "Out of a population of around two million people, over 240 000 were recently estimated to be outside the country", he writes in a 2010 report on migration, remittances, and development in Lesotho (Crush & Williams, 2005).

"Migrant remittances are the country's major source of foreign exchange, accounting for 25 per cent of GDP in 2006. Lesotho is also one of the poorest countries in the world due to high domestic unemployment, declining agricultural production, falling life expectancy, rising child mortality and half the population living below the poverty line." Most households need this repatriated migrant wage to survive. "Households without access to migrant remittances are significantly worse off than those that do have such access", according to Crush (Crush & Williams, 2005).

"But in Southern Africa, the costs of remitting money from one country to another are amongst the highest globally and remittance services are not essential services so that you get barriers to being able to send money home or to move money from one to two families, for migrant workers." Extract from an interview with a representative from the Training and Research Support Centre.

In the interviews done for this report, we found that these discrepancies, jeopardised the lives of migrant labourers, who originate from other SADC states. In South Africa these workers did not qualify for Covid relief (food parcels) and many were faced with starvation.

9.2.7. Payments during Covid-19 lockdown

Migrant mineworkers were not paid during most of the lockdown phases where they had to stay at home. They also struggled to access their monies when they were back in labour-sending areas, especially in neighboring countries.

“The other issue they also brought into our knowledge is the issue around the fall of remittances, you will know for sure that remittances actually dropped tremendously during the course of the lockdown, where some of them were not able to cushion, their household lifestyle. Because of there was no income that they were getting after April, May, and June [2020], then around July, they started to receive some sort of relief from the UIF and that amount that they received was too low to consider the rate of pay that had been getting in the mine”. Extract from an interview with the representative from the Swaziland Migrant Mineworkers Association.

“...most of the mineworkers that were on unpaid leave. Because all companies will pay based on production. If there is no production, there is no pay. So, I think that is what happened during that time. Hence, then, no one actually planned this and all of our colleagues from the mineworkers were expecting that they will get their relief from the employers.” Extract from an interview with the representative from the Swaziland Migrant Mineworkers Association.

“And then the third area was on issues of, you know for sure that most of them because they were employed. They also had some hire purchases, and as well as short term loans. So, they came to say that let us talk to the business people to say that they are aware of that they supposed to pay but cannot be able to raise the funds to pay their debts. And then that's how that's what happened during that course of the lockdown.” Extract from an interview with the representative from the Swaziland Migrant Mineworkers Association.

“But most of workers, migrant workers were locked in their countries. And in those countries, some of them were not able to access unemployment insurance scheme to safeguard them from the effects of being unemployed, and some of them were not able to come back, some were able to come back and work. Remember, in some of the companies, people are told that they would only come back to work when the vaccine has been discovered, and that these were the issues which were generally faced by workers.” Extract from an interview with a representative for the National Union of Metalworkers of South Africa (NUMSA).

9.2.8. The bureaucratic hoops in the disbursement of funds

Migrant labourers are faced with incredible bureaucratic hurdles in realising their rights and accessing pensions, remittances, and unemployment benefits. The bureaucratic hurdles stem from the assumption that information technology, access to electricity, and networks are evenly spread between urban and rural areas, labour-sending and receiving areas, and between different countries in the region.

“Well, the people would get that money but there's one thing that is really painfully happening to the ex-miners is... TEBA with the UBank. You will remember that ex-miners from the Lesotho have left a lot of social security benefits in South Africa. And because of unclear legislation or complicated procedures, they are not able to easily access those monies, especially if one would die before claiming those money, when the money is supposed to be claimed by now the dependents now TEBA, TEBA have arrangement with UBank. In my office, I have had so many complaints of people who,

when they go to TEBA to look for the statement of how the money has been deducted, deposited, you find that what they have, as the owner of that account is not same as what TEBA has. And we realise that that the service was really very bad for those people with UBank but unfortunately for them, TEBA would always force, and I would say force because they will not help you if you do not have a UBank account. So that is one of the areas where there is a challenge with the finances of those people that worked in the mines is still the UBank is not giving a standard banking service to these people they give a sub-standard banking service to the clients who worked in the mines. That is one of the reasons why we really would not prefer if these people were given a service by TEBA. But unfortunately, because TEBA has been there for a long time. Looks like there is no alternative but we are trying as much as we can. that people should have alternative service providers so that TEBA should improve its services to the ex-miners.” Extract from an interview with the Migrant Labourers Forum in Lesotho.

“It becomes very, very difficult, especially the people who are semi-literate or illiterate at all. In our case, as I say, it was better because it was during the time or the era of trade unionist, trade unionism, that we had some of our guys, who were even participating in the administration of the provident fund. But, if you go to the places like the old mines, we still have that problem even now, because the bulk is not 90, 90 per cent of the whole labour force, maybe, or even more than that, or even 98 per cent were either semi-literate or illiterate. And especially that they were drawn from these neighboring countries. It becomes very, very difficult because even people who are around here, especially in the other bantustans or the rural areas, who are South African, up to this day, they have not gotten their monies and you are surprised to be told that there are billions and billions, if not trillions of monies in the coffers. But it becomes difficult to access them.” Excerpt from interview with former NUM member.

“Now on the impacts. The unfortunate thing is the Malawian ex-miners, most of them are in the rural villages. They do not understand what Covid-19 is all about. There has not been much of that awareness because now all in the communities it only probably people who are in town who are aware. So, the impact has been so bad, but we cannot record it, we do not have any record of it to say, this is how it has impacted them as a group of ex-miners. But just like any.” Extract from an interview with the Malawian Mineworkers Association.

“...a lot of them have died along the way. Even from the time I have collected that data to present, a lot have died. And none has claimed anything we still fighting. Unfortunately, it is Malawi is kind of like, politically, involved a lot when it comes to this because of the aspect of the money that the South African government gave Malawi. So somehow, somewhere, governments have changed. And these politicians along the way, have benefited, but without a record, indicating, to say how much South African government has given Malawi, and how much has been given to the people. Apart from what I have learned along the way, as we are talking to some of the people that when certain monies came in 1994, somewhere thereabout, they were given Malawian Kwacha 1000 each, but they were made to surrender that document, which they got from the mines, which they can use to claim their benefits later.” Extract from an interview with the Malawian Mineworkers Association.

9.2.9. The limitations of corporate medical aid schemes and chronic medicines during Covid-19

Migrant mineworkers on chronic medicines for HIV/AIDS, TB and other illnesses struggled to obtain their medication during lockdown levels 5 and 4, when the mines were first shut down completely except for care and maintenance, and then operating at 50 per cent production levels.

"In terms of medical aid, you can't transfer it, it only applies if it has other benefits to transfer it to South Africa, but in terms of documented workers, who have work permits, see, you can get your pension and go back to your own country." Extract from an interview with a representative for the National Union of Metalworkers of South Africa (NUMSA).

"I suspect it depends on the package that they've got, because I know from the packages that we have, is that some of the packages are basic packages, and they only allow you to use certain services in the country. Even if they are Covid services sure, the services for Covid. But there may be like restrictions, you can only use public services, or you can use private services, or you can use foreign services. I suspect the same thing would be true of the cases in South Africa, to what extent are the different insurers allowing international payments? I do not think all the medical aid society schemes do that; I think some of the basic packages do not. So, it is not an easy question to answer. I do not know of any studies that indicate whether the folks that are moving the professionals are covered with international schemes or not, or nationally restricted schemes, I think that is something worth looking into. I have not got information on that. But I know you your schemes vary, you do not have one set of schemes, so it will depend on whether the scheme itself allows for international payments." Extract from an interview with a representative from the Training and Research Support Centre.

9.2.10. Mineworkers and company implementation of Covid-19 protocols

In this section the views of migrant mineworkers are contrasted with those of an official from Sibanye Stillwater.

Interview with an official of Sibanye Stillwater

He reported that Sibanye Stillwater takes precautionary measures from the time you arrive in the parking lot or bus-stop, with sanitisers everywhere. There are sanitisers, and electronic screening equipment sounds an alarm if the temperature of a passing employee is above normal. There are always security officials or their line supervisors on site. The informant indicated that the same facilities are found in the change rooms. There are isolation facilities, in a caravan, for workers. If they are found to have higher temperatures than normal, they are immediately taken to isolation room, and rapid Covid-19 tests are done on site. If the employee is found to be Covid-19 positive the worker is kept in a room and an emergency service is called to move the worker to an isolation facility.

He further said there are various facilities for isolation for different departments such as the senior management. He concluded by saying underground there is also provision of sanitisers.

Interview with Benchmarks Monitor in Rustenburg

She interviewed workers who work for Sibanye Stillwater who confirmed these findings. She said the workers said that a Hostel B has been converted into an isolation hospital where workers who do not have a place to isolate at home can be isolated. It is reported that there are doctors on site in the isolation facility, sheets are changed on a daily basis, and three meals are served. It was said that the facilities are decent including having three meals a day and microwave ovens for the heating of food. Families are also allowed to drop off home-cooked meals for workers who have relatives and family in the vicinity. It was further reported that the isolation schedule is aligned with government isolation duration.

9.2.11. Mineworkers and their living conditions

Mineworkers live in appalling conditions in near-mine informal settlements. Coping with the strictures required to combat Covid-19 is almost impossible. Requirements such as social distancing, wearing masks, washing hands, keeping surfaces clean is really difficult.

Hostel and shack accommodation: the history of the current situation

In the mid-1990s the Congress of South African Trade Unions (COSATU), of which NUM is a member, and the South African Communist Party put immense pressure on the African National Congress (ANC) government to pass legislation to improve conditions of mineworkers, and especially to improve their living conditions and end the single-sex mine hostels and compounds.

The industry through the Chamber of Mines (now the Minerals Council) and the ANC responded by suggesting that legislation in this regard would frighten investors, and that the country should settle for a non-legally binding Mining Charter that would cover all aspects of corporate social responsibility in mining. Mining companies responded to the charter



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requirements for the employment of local labour and the conversion of single-sex hostels, converting the hostels into family units, giving migrant workers a living out allowance, and giving the surplus who could not be accommodated in the converted family accommodation a living out allowance.

This resulted in the mushrooming of informal settlements around most mines, because foreign migrant workers did not qualify for housing and apartheid townships were often located far away from the mines. The other reason for the mushrooming of informal settlements around the mines is that

mineworkers have no interest in purchasing or renting housing outside of labour centres, and use the living out allowance to supplement the income they send home to their families (Mineral Resources, 2002).

“The informal settlements are overcrowded; the zinc shacks are bitterly cold in winter and unbearably hot in summer and workers often have to burn coal inside the shack for warmth and carry water over long distances.” Excerpt from an interview with Dr Melusi Nkomo who lived with mineworkers in Nkaneng informal settlement in Marikana.



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Ikaneng Squatter Kamp

as a result of the living out allowance

Mmamatswele Village

now known as Wonderkop, that evolved into a township due to influx

Hostels converted into family accommodation

Mining operations



Map 02 Google Earth image of Wonderkop

"You sound bourgeois when you talk about dreams, first of all, we're conditioned in the informal settlement. There is a lot, they are appalling, they are not human anyway. But just to give a caveat, that people still try to, for themselves, to live their life, because life must be lived but first of all, most of these, as you know, most of these shacks are made out of corrugated iron steel and whatever other rubbish people collect to build their houses. So, they are hot in summer and cold in winter, I remember, I always used to tell Chris that I will die in these shacks because I could not sleep in winter in July, you wake up two three times, most of these workers sleep in their overalls and boots because it is freezing, it is freezing. So that is first of all, that is the basic infrastructure is, is appalling, then there is no service provision from anybody because most of them are built on contested land. It could be land claimed by the mining company or land claim by local authorities." Excerpt from an interview with Dr Melusi Nkomo who lived with mineworkers in Nkaneng informal settlement in Marikana.

Royal Bafokeng Platinum has constructed some 422 houses in phase 1 at the Waterkloof Estates in Rustenburg for employees to buy. It is projected that in phase 2 the number of houses will increase to 3100 (About Us, 2016). Royal Bafokeng Platinum has a total labour force of 8372 (Royal Bafokeng Platinum, 2019). Migrant mineworkers whose families reside in labour-sending areas cannot be expected to buy houses in Rustenburg. This implies that 5272 workers employed by Royal Bafokeng Platinum are migrants and most of these find themselves residing in informal settlements and backyard dwellings in the yards of local community members. This contrasts with migrant workers working in remote mines in the Australian outback where workers are flown in from labour-sending areas, accommodated in mine-provided housing which includes meals, cable TV, advanced sport and recreation facilities and cleaning services. Workers work three weeks on and one week off (Jobaroo, 2021).

"Yah, Like I am saying in our case, maybe if they were to say, because the first case of that nature was in ERGO whereby employees bought houses, but those people were drawn from the township because that is where they stay. That is where they still are now, even after ERGO closed down." Excerpt from interview with a former ERGO employee.

Migrant mineworkers observing Covid-19 protocols at home

The researchers found that there was a serious contrast between observing Covid protocols at work and observing the same protocols at home in terms of social distancing.

"So, you, you might be under duress, told to maintain social distance at work and stuff like that. But when you come home, the same people you were maintaining social distancing from at work, you are going to be sitting in the same shack, four to five people. So, there is no point at the end of the day, so overcrowding some of these, which kind of counts against all these preaching about maintaining social distance in some of these unhygienic conditions. Recommendations from authorities, to say it simply, it's just impossible to maintain some of these things or to do it." Excerpt from an interview with Dr Melusi Nkomo who lived with mineworkers in Nkaneng informal settlement in Marikana.

"In such conditions you would be asking too much from people to observe some of these Covid measures which in my opinion, it's a privilege to observe social distance in criminal conditions like the form of, it really is a privilege or how first of all, how do you maintain social distance, when you share a shack with four other people, it's not like a house in Brixton or in Auckland Park where they have 10 bedrooms for three people." Excerpt from an interview with Dr Melusi Nkomo who lived with mineworkers in Nkaneng informal settlement in Marikana.

Diet and access to electricity and water

The living conditions in informal settlements are actually worse than in the former apartheid single-sex hostels and compounds, where workers had access to mine-produced meals, electricity, water, recreation, and entertainment. This does not hold anymore in the informal settlement. The mines disguise the use of migrant labourers by claiming that those living in the informal settlements are local. The Marikana massacre in August 2012 exposed this claim, as most of the 34 workers shot at the koppie were from the Eastern Cape and Lesotho and resided in Ikageng informal settlement next to the mine.

Mineworkers who accept the living out allowance are no longer provided with food from the mines, and consequently mineworkers' health status has deteriorated markedly since the introduction of the mining charter. In an interview with Dr Melusi Nkomo, he referred to the dietary habits of migrant workers he studied and stayed with in 2016 and 2017, both in the informal settlement around Marikana and the labour-sending areas in the Eastern Cape.

"...okay, they, the workers that I interacted with, the ones I stayed with, in the informal settlements, cook for themselves and uh, so, most of them come back from work really fatigued. And after eight hours, eight-hour shift underground, no one, not even, have the energy to cook a decent meal. So, to just give you an example of the diet they have is bread and eggs or because it is quick, logically makes sense to make a quick meal because I want to sleep and rest of my body before the next shift." Excerpt from an interview with Dr Melusi Nkomo who lived with mineworkers in Nkaneng informal settlement in Marikana.

"So, they buy most of their food from, there are a lot of... Of course, in Marikana, there are a lot of supermarkets they can go to, supermarkets, Pick n Pay, Boxer. But they also, because of fatigue, I do not want to walk long distances to go, there is a lot of these small spaza shops, tuck shops which are located around informal settlements. That is where they buy basic necessities like eggs, cooking oil, but for a price that is marked up by small merchants, they can be Somali, Somali nations or some, some from the Eastern Cape also starting to and from Lesotho are also starting to establish some of these tuck-shops." Excerpt from an interview with Dr Melusi Nkomo who lived with mineworkers in Nkaneng informal settlement in Marikana.

"So, basically the meals are basic, the nutritional value are questionable of, for people who are supposed to work very hard on laborious tasks like mineworkers, so like I said in the beginning, the hygienic conditions in in some of these, in most of these informal

settlements are appalling, no pit toilets, usually none, push system, if you build your own pit latrine, then it is very basic, very basic just for you to relieve yourself.” Excerpt from an interview with Dr Melusi Nkomo who lived with mineworkers in Nkaneng informal settlement in Marikana.

“So there is contestation on whether services should be provided to what is considered quote unquote illegal settlements, so because they’re considered squatters, they usually don’t have access to some if not all services, so there’s no electricity, if there is electricity, then it’s illegal connections or what they call in Zulu “Izinyoka” these cables, because some of these guys might be electricians, employed electricians or electricians in the mines so they can easily tap from the main grid and provide electricity for themselves and friends. But I guess at a fee of course. Water-wise, where I was staying, at the big house? There was a connection of water which the resident of the Informal settlement did for themselves. It was very rudimentary plastic pipes connected to an old farmhouse” Excerpt from an interview with Dr Melusi Nkomo who lived with mineworkers in Nkaneng informal settlement in Marikana.

9.2.12. Employer-employee relationships

Many workers reported that the relationship between employer and employees largely determined working conditions and had a major impact on overall job satisfaction. The majority of workers reported high levels of discrimination and exploitation by their employers. In general, workers did not want to enter a dialogue with their employers for fear of losing their jobs, as described in the below extracts.

“The relationship between the employer and the employee ends at the work place, it doesn’t go beyond that, even in such difficult time that we are under, it doesn’t go beyond the gate of the mine, they will tell you to go and self-isolate, just do not come to the mine after so many days and then you can then come and report, they do not suspend the whole shift, it is a super spreader event, the local community are in huge danger, so I mean for one...if I am infected by Covid, they tell me to go self-isolate...where? Because I have children there, I have a wife that I live with, I have people that I normally meet on the way with on a daily basis, when the lockdown started, they initiated something that they believe was fair, they would take all people who would be infected with Covid and they would then find a place for them in the mine, where they would then stay, but as the lockdown continued and there were easing of restrictions, it just disappeared, they just told everyone, go self-isolate and then come back, I think it is about 10 days, it is about 10 days, yah, come back after 10 days, then you get tested again and if you found that you are negative, you go back to the team, the very same team that you were with, when you got infected, you still find they are drilling and blasting, they...it is now a question of safety vs profits, it has always been that, a question as to which one is important between safety and profit, and profit always comes out higher or come out more preferred than the actual safety” Extract from an interview with former underground mineworker and representative of AMCU.

“If you look at the health and safety agreements, if you analyse those agreements, they don’t empower workers to fight those issues I mean...like... you need to ensure that workers have the right to

refuse work, if they believe that the work is dangerous, because at the moment when you refuse work, even if you look under Covid, if you refuse work, and the employer put you on the spot that... can you go and prove it in arbitration that the work was dangerous, and workers get dismissed.” Excerpt from interview with the SADC Coordinator.

“Some workers were speaking to some domestic workers, who complained that they were locked in the homes of the employers. The employers refused for them to go to the shops, even one worker was saying that her employer was refusing for her to go to the clinic until she had a miscarriage, because the employer was afraid that she would get infected by Covid and bring it to the house.” Extract from an interview with a representative for the National Union of Metalworkers of South Africa (NUMSA).

9.3. The Employee’s response to Covid-19

The researchers found that there is a sense of fear and hopelessness when it comes to the worker response to Covid-19, as described below

“I think it is section 24 of the Mine Health and Safety Act, yah, I think it is section 24 of the Mine Health and Safety Act where it provides for the right to withdraw from an unsafe area, but once you start to do that, you get disciplined, so once you start to question anything in relation to your health and safety, you either get disciplined or you get threatened with a job loss, they always love to...when you start to question issues relating to non-adherence to safety they always threatened you with retrenchments or as an individual or that particular group that you are working with, once you start to question, you are facing the possibility of being dismissed, you know so, it is that particular situation, people’s minds have been bombarded lately with a half a loaf is better than nothing...these companies have changed the mentality of the workers from seeking for better conditions of employment to at least now I have a job, it is satisfactory, because a whole lot of people have lost jobs, so that is where unfortunately we are, not even in the mining industry but in the labour movement as a whole, so you are no longer concentrating on matters of interest for employees, most of the unions are really quiet and not really saying anything and workers take from the leaders of the organisation, if your organization is strong enough as an individual member of that organisation, when you are saying, I am withdrawing from a particular area because it is not safe, you will taking that momentum or that courage from your trade union, but no this thing that you are seeing is...your trade union is mum, nobody is really saying anything, so you wouldn’t really dare and try and speak out, I think that there is a whole lot of mental change in relation to, due to this whole Covid situation, you know, so everybody is really scared to say anything, all that I want to do is keep my job, whether there is an unsafe area, I would just go there as directed, do what needs to be done and at the end of the month at least I receive those peanuts that I receive, I can buy bread and milk for my children, it is fine... I think that is where we are.” Extract from an interview with former underground mineworker and representative of AMCU.

10 | Recommendations

Below are the recommendations to government, employers and labour, based on the findings from the interviews conducted as well as from the literature review.

10.1. Recommendations to the Government

1. Labour migrancy and inter-regional trade predates colonialism and the artificial borders imposed by the Berlin Conference of 1884 on what is now the SADC region. Historically there was a free flow of people and trade goods before colonialism.
 1. 1. Recognising that South Africa is the most developed economy in the SADC community, largely as a result of a reliance on migrant labour (particularly in mining), we recommend that the existing policies of free trade and free movement of people as proposed by SADC and in line with the ILO interventions, be activated in an orderly and meaningful fashion as soon as possible.
 2. There is great concern that the Department of Minerals Resources and Energy (DMRE) appears to be a super-department responsible for its own environmental, labour and health regulations and monitoring, not answerable to other departments, parliament, or even the presidency. This makes its interventions in the Covid-19 crisis questionable.
 2. 1. We strongly recommend that this department should be unbundled:
 - 2.1.1. Issues of labour should report to the Department of Labour.
 - 2.1.2. Issues of water should report to the Department of Water Affairs.
 - 2.1.3. Issues of the environment should report to the Department of Environment.
 - 2.1.4. Issues of health should report to the Department of Health.
 - 2.1.5. Issues of transport should report to the Department of Transport.
 3. Covid-19 exposed the unnecessary bureaucracy and red tape applicable to migrant workers.
 3. 1. We recommend that the citizens of the SADC states be more vigilant when electing leaders to ensure they are not used by professional politicians who do not have the interests of the region at heart but serve only their personal political ambitions, often pushing divisive agendas and promoting xenophobia and Afrophobia.
 3. 2. We call on public servants to report any form of corruption within the state apparatus, and on civil society activists to avail themselves for public office so that they can serve their countries and the region with diligence and trustworthiness for the betterment of Africans.
4. Covid-19 exposed the lack of communication between South Africa and labour-sending countries in terms of monitoring the movement of workers.
 4. 1. We recommend integration and harmonisation of policy including policy on freedom of movement and improved systems of monitoring and documentation of the migration of workers within South Africa and throughout Southern Africa.
 4. 2. We further recommend the use of a single SADC currency throughout the region to ease the problems faced by migrants relating to trade and exchange rate.
 4. 3. We recommend a consistent integrated judicial and customs system within SADC, which should include dedicated, humane, and effective policing and law enforcement.
5. Covid-19 exposed problems with border control, and deadly bottlenecks at key border posts.
 5. 1. We recommend that the existing policies of free trade and free movement of people, as proposed by SADC and in line with the ILO interventions, be activated in an orderly and meaningful fashion as soon as possible.
6. Covid-19 resulted in heightened xenophobia, with an emphasis on Afrophobia.
 6. 1. We recommend intensive education of the South African citizenry using all possible media, that migrants do not pose a threat to their jobs but actually contribute to job creation and the stimulation of the economy, emphasising the pan-African nature of our society and economy.
7. Covid-19 and the establishment of the Tshiamiso Trust has exposed ongoing corruption by intermediaries claiming to represent migrant workers in securing pension funds, UIF and other remittances. Disbursement technologies and systems require high levels of literacy and automated responses without the assistance of human contact in close proximity to the client.
 7. 1. We recommend that fund managers take into consideration the low levels of literacy among migrant mineworkers and their dependents, and constraints on access to technology especially in labour-sending areas
 7. 2. We recommend that immediate investigation is launched into corruption, and that the maximum penalties are applied to perpetrators.
 7. 3. We recommend that Tshiamiso Trust and financial and pensions disbursement agencies utilise organisations that are associated with SAMMA in order to facilitate a more humane and efficient system of fund disbursement.

8. Covid-19 exposed the lack of portability of cross-border banking and financial institutions and the need for an integrated banking system within SADC.

8.1. We therefore recommend integration and greater cooperation of postal services of different SADC countries to allow post offices and post banks to be used for the disbursement of remittances, pensions, and worker's compensation.

8.2. We further recommend integration of banking and financial institutions across national and provincial borders in SADC and call for the redlining of rural and remote areas by corporate institutions.

9. Large-scale industrial mining and agribusiness imposed mono-economies and monocultures on the region and an involuntary migrant labour flow through a system of coerced taxation. However, due to the changing economic realities as a result of advancement of technology and international trade, the nature of migrant labour is rapidly changing and migration now involves more than just mining and agriculture, but the systems are lagging behind the changes in the reality.

9.1. We therefore recommend, that the government and the private sector in South Africa recognise the changing realities and effect more integrated and sophisticated systems.

9.2. Noting with concern that if artificial intelligence is deployed strictly for private profit, it will lead to the destruction of jobs. Sophisticated systems should mean greater social control over the deployment of artificial intelligence for the benefit of the people in SADC, rather than at their cost.

9.3. We recommend that the deployment of new technologies should result in progressive outcomes for working people in terms of the reduction of hours of work, without retrenchments or the reduction of wages or benefits.

10.2. Recommendations to the Employer

1. Current modes of transport available to migrant workers in South Africa and between South Africa and its neighbours present a major challenge to the health, safety and human dignity of migrant workers. People are packed like sardines into unroadworthy taxis, bakkies and buses; this shows a fundamental disrespect for the contribution of migrant workers to the economies of SADC.

1.1. We recommend that employers in general, and mining companies in particular, learn from Australian mining companies in Australia who fly migrants in and out of operational sites and apply the system of three weeks on and one week off with regard to migrant workers in recognition of their family responsibilities and obligations.

2. Daily transport made available by mining companies for mineworkers from their place of residence to their place of work has not changed since the outbreak of Covid-19, and workers interviewed indicate that they are still packed in mine buses to and from work without social distancing.

2.1. We recommend that mining companies increase the number of busses available to take workers on and off shift on a daily basis.

3. The health and nutritional status of migrant mineworkers deteriorated rapidly after 1994 with the introduction of the "living out allowance" on South Africa's mines. While the South African hostels and compounds pre-1994 provided workers with housing, electricity and water, nutrition, sport, and recreation, this occurred in single-sex hostels and compounds that resembled concentration camps.

3.1. We recommend that the living out allowance should not leave workers worse off with regard to family housing, electricity and water, nutrition, recreation, and transportation as is now the case.

3.2. We recommend that mining companies be compelled to introduce nutritional programmes for migrant workers even when underground.

3.3. We recommend a more humane, systematic, efficient, reliable, affordable pandemic testing and vaccination system, both within the workplace and between labour-sending areas and their destinations (such as at border control points).

3.4. In addition, we recommend the introduction of vaccination evidential documentation for cross-border movement, similar to the yellow fever certification.

4. The protocol suggested by the government gazette requires that if an individual in a team is found to be Covid-positive the entire team must be suspended. Workers interviewed expressed the opinion that trade union leaders need to express themselves more clearly and firmly on matters related to workers' rights and Covid-19 and the adherence to the government gazetted protocols by the mining industry and to the Mine Health and Safety Act which clearly stipulates that if a workplace is unsafe, workers can refuse to enter it until it is made safe.

4.1. Stopes and crosscuts where social distance is impossible can be considered unsafe in terms of the spread of Covid-19 and changes to the methodology of working in these confined work spaces need to be addressed.

5. Covid-19 exposed the inadequacies of pension, UIF and remittance fund managers and systems; the disbursement technologies and systems require high levels of literacy and involve automated responses without the assistance of human contact.

5. 1. We therefore recommend that mining corporations and their pension and remittance fund managers take into consideration that internet and information technology infrastructure networks are not evenly spread throughout Southern Africa, and that the highly electronic systems in place for accessing pensions, remittances, UIF and worker's compensation presents migrant mineworkers and their families with insurmountable challenges, which accounts for why countless migrant mineworkers have been unable to claim these funds. Fund managers and mining companies must create more user-friendly systems for the release of these funds.
5. 2. We also recommend that mining corporations and their fund managers set up mobile units that can reach remote rural areas and use post office and post bank infrastructure to make their services more accessible, and ensure human contact.
5. 3. A further recommendation is that fund managers take into consideration the low levels of literacy among migrant mineworkers and their dependents.
6. Covid-19 exposed the inadequacy of corporate medical aid schemes for migrant workers in terms of
- i. cross-border (provincial and national) portability
 - ii. access to chronic medicines in labour-sending areas.
6. 1. We recommend that mining companies and medical aid schemes be compelled to address the limitations in the portability of their programmes and reach.
7. Noting the colonial origin and heritage of employment agencies associated with the Minerals Council (formerly the Chamber of Mines) such as WNLA (now TEBA) and similar agencies, which was designed to ensure the supply of cheap labour to South African mining, agriculture and other industries, there is great need for more professional and less exploitative labour relations structures and systems within South Africa and between South Africa and its neighbours.
7. 1. We support the recommendation by the ILO for policies based upon social dialogue and full involvement of employers' and workers' organisations that can foster inclusion of migrant workers in national responses and protect them from the spread of Covid-19, a process to be coordinated by the Department of Labour (ILO, 2020).
8. Pension fund managers making money out of interest from unclaimed pension funds, UIF and remittances act as a disincentive in the smooth disbursement of these funds.
8. 1. We therefore recommend that any interests accumulated on an individual's funds should accrue to that individual and not to the pension fund manager.
9. We applaud the fact that some mining companies replaced the old breathalyser system (where workers breathe in the same tube into a device that measures the alcohol in their blood) to the new facial recognition or the disposable straw system, which includes a blood alcohol test. However workers interviewed expressed concerns that the confined space within which this occurs and the number of workers having to pass through during shift changes defeats the purpose of preventing the spread of Covid-19.
9. 1. We therefore recommend that there be changes in this methodology; for example, some workers recommended reducing the number of work hours and the number of workers going on shift at a time.
10. Migrant workers are not interested in the currently offered bonded houses from mining companies as they do not see a future for their families in the mining areas but would prefer free or rental accommodation instead.
10. 1. We recommend that South Africa and other of SADC countries follow the Australian example of providing free serviced accommodation, inclusive of meals, cleaning services and sanitation, entertainment, sport, and recreation to migrant workers.
11. Hostels converted into family accommodation caters for fewer workers with the bulk of employees driven onto the "living out allowance" arrangement finding themselves in near-mine informal settlements. Covid-19 exposed the challenges faced by migrant workers and their families, both in labour-sending areas and residing in near-mine informal settlements with regard to:
- i. access to services (water, electricity, sewage management, and roads)
 - ii. access to health and welfare facilities
 - iii. access to food parcel distribution
 - iv. access to vaccination programmes
 - v. education and childcare.
- 11.1 We recommend that mining companies participate with governments in gradually transforming informal settlements into proper accommodation and housing. These arrangements should include the recognition of local house owners being able to rent accommodation to mineworkers in the form of backyard dwellings, in the form of permits to homeowners who meet the required standards, and based on pre-arranged contracts with the mining company.
- 11.2 We further recommend that this transformation should include due attention to childcare and education, proper health provision and the inclusion of all residents (not only South African citizens) to Covid-19 and other relief efforts, including vaccination, food parcel distribution, and social distress relief (e.g., the R350.00 grant).
- ### 10.3. Recommendations to the labour movement
1. Covid-19 exposed the lack of data capturing by labour movements, which includes medical, financial and personal data of their members.
1. 1. We recommend that labour movements in South Africa

and in the SADC region should keep disaggregated details of all their members, including citizenship.

2. Covid-19 revealed a gap in South African legislation, which it is silent on the protection of migrant labour in the country although its economy is built on the back of the migrant labour system.

2. 1. We recommend that the labour movements in Southern Africa should advocate for integrated labour laws that specifically protect migrant labourers in each host country.

2. 2. We recommend that such laws must be harmonised at the regional level with SADC parliamentarians.

3. Covid-19 has laid bare the difficulties of workers accessing their remittances and using their medical aids once they leave the borders of South Africa.

3. 1. We recommend that the labour sector must launch a campaign to get the SADC banking system to be integrated in the region, and for the government departments dealing with employment ministries to have interfaced systems to track workers' movement and ensure that all pay-outs are paid to the correct beneficiaries.

3. 2. We recommend that the labour movement should advocate for medical aids of workers to be permissible to be used in the labour-sending area, to ensure that dependents can make use of the medical benefits and the registered owner can also have use of their medical aid when they are home.

4. Covid-19 has exposed the lack of any coordinated drive to protect migrant workers across international borders.

4. 1. We recommend that the labour movement, in partnership with civil society, should advocate for all SADC states to implement ILO and UN principles that regulate the protection of migrant workers.

4. 2. We recommend that regional labour movements should consider the principle of "one sector one union", which will have the same governance system and identical campaigns to protect workers across political boundaries.

4. 3. We recommend that the labour movement should advance "equal work, equal pay" across the region, and close wage differentiation between workers in general.

11 | Conclusion

The migrant mineworker leads a precarious existence. This is reflected not only in the dangers of the workplace for both his, or her health and safety, but also in the informal settlement in which the worker resides, and in the manner in which the worker relates to the employer, the state and its institutions.

While the migrant mineworker is supposed to be protected by the constitution and various labour laws, in reality their low wage status cheapens their lives in the eyes of the governments and the corporate bureaucracies they have to deal with. This was starkly revealed by the outbreak of Covid-19 and the response to the disease by employers and government. Particular concerns include:

1. Access to the funds due to workers, such as their UIF contributions.
2. Access to food distribution and Covid relief measures, which often excluded "foreigners".
3. Access to chronic medicines which can only be obtained in South Africa or from doctors associated with medical aid schemes that do not reach across borders or into deep rural areas.
4. Access to banking facilities that do not extend into neighbouring countries.
5. In the case of the Tshiamiso Fund for workers who suffered from silicosis as a result of working on the mines, the arrogance of senior managers of this fund who do not seem to see how this fund relates to migrant mineworkers.
6. Appalling modes of transport to and from labour-sending areas. Whereas under apartheid workers were brought to the mines from labour-sending areas and taken back there by rail at the cost of the employer and the recruitment agencies, current migrant workers are expected to make their own way home and back in overcrowded unroadworthy minibuses, busses and bakkies. This mode of transport is not only unsafe but also represents a health risk in terms of Covid-19.
7. Unreliable access to water and electricity in informal settlements; overcrowding and the rudimentary sanitation facilities in these settlements present a breeding ground for disease and pandemics.
8. Many mineworkers faced the possibility of retrenchments during Covid-19 in spite of majors like Anglo Platinum and Sibanye registering exceptional profits in 2020 and magnificent dividend pay-outs to shareholders.
9. The National Union of Mineworkers (NUM) in Matlosana region in the North West says it rejects outright Village Main Reef Mine's announcement that it will retrench some NUM members. The union says the company issued a Section 189 notice recently without consulting the union.
10. More than 6 000 jobs are expected to be cut after the lifting of the lockdown. NUM Regional Secretary in Matlosana, Masibulele Naki says some of the workers received messages that instruct them not to return to work once lockdown regulations are lifted. "Now we are mobilising and telling our members that they must ignore the messages that they are receiving. Whenever the president announces that the lockdown is lifted, they must come back to work so that we mobilise and put our strategy and to get mandate from them and see what we are going to do moving forward." The mining company is yet to comment.
11. North West Province relies on mining, particularly platinum, for about 30 per cent of its economic output. However, the past few years have seen a depreciation in the price of the precious metal because of falling global demand and other factors. This has led to thousands of miners being retrenched. In September, Sibanye Stillwater, which acquired Lonmin operations in Rustenburg, announced that it would lay off 5 000 employees as part of restructuring (Maine, 2020).
12. Poor management of Covid-19 screening at border crossings led to massive congestion, with truck drivers and other travellers (including migrant workers) becoming ill, and some even dying on the spot.

What is clear is that the law itself does not discriminate against the migrant mineworker employed on the mines in South Africa, but the same cannot be said for the manner in which employers put the law into practice. A lot of work still needs to be done to ensure the implementation of policy and legislation as well as compliance by employers within the mining industry.

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Appendix A: Acknowledgements

This report and the research behind it would not have been possible without the guidance and support of Brown Motsau and David Van Wyk, both of whom I have the greatest of respect for. Being the new kid on the block, it has been a rewarding and humbling experience going through the process of putting together this final draft. Aura Cy (Pty) Ltd would like to express its deepest and sincerest gratitude for the opportunity presented by the Southern African Resource Watch to conduct this research.

Aura Cy is extremely grateful to the following professionals and activists, who sacrificed their time to discuss and share their expertise on the researched topic:

Name	Organisations and/or Institution associated with
Vama Jele	Swaziland Migrant Mineworkers Association
Dr Melusi Nkomo	Research Fellow - Switzerland
Karl Cloete	National Union of Metalworkers of South Africa (NUMSA)
Naledi Monnakgosi	Botswana Mineworkers Union
Mr Dikudu	Botswana Mineworkers Union
Ms. Musi	Botswana Mineworkers Union
Sonto Magwaza	Ecumenical Service for Socio-Economic Transformation (ESSET)
Dr Rene Loewensen	Training and Research Support Centre (TARSC)
Theo Sparreboom	International Labour Organization (ILO): Labour Migration Specialist
Mr Kayama	Namibian Association for Former Miners
Rob Parker	Namibia
Anna	Malawian Migrant Workers Association
Paula Ndessomin	IndustriALL
Elijah Chiwota	IndustriALL
Lucky Ndlangamandla	National Union of Mineworkers (NUM)
Phokello Mahlomola	Migrant Laborers Forum in Lesotho
Sipho Shongwe	Former National Union of Mineworkers (NUM) founder
Lerato Maloba*	Former Mineworker
Michael Radebe*	Former Mineworker and Association of Mineworkers and Construction Union (AMCU) representative
Thabo Smith*	Informal Mineworker
Hlokoza Motaung	Southern African Development Community (SADC) Coordinator
Michael Tau*	Official at Sibanye Stillwater in Rustenburg
Olebogeng Motene	BUA Mining Communities and Bench Marks Community Monitor

* Note that the real name of the interviewee was not used as to protect their identity

Appendix B: Table of Interviews

List of Interviews conducted

Name	Institution associated with	Comments
Sonwabile Mswana	Fort Hare University	Not able to secure availability
Asanda Benya	Cape Town University Sociology Department	No response to request for interview
Vama Jele	Swaziland Migrant Mineworkers Association	Transcribed Interview
Dr Melusi Nkomo	Research Fellow - Switzerland	Transcribed Interview
Karl Cloete	NUMSA	Transcribed Interview
Rafiq Hajat	Institution for Policy Interaction – Malawi	Not able to secure availability
Naledi Monnakgosi	Botswana Mineworkers Union	
Mr Dikudu	Botswana Mineworkers Union	Transcribed Interview
Ms. Musi	Botswana Mineworkers Union	
Sonto Magwaza	ESSET	Transcribed Interview
Dr Rene Loewensen	TARSC	Transcribed Interview
Theo Sparreboom	ILO	Declined permission to record interview
Mr Kayama	Namibian Association for Former Miners	Transcribed Interview
Rob Parker	Namibia	Transcribed Interview
Anna Kamwadzi	Malawian Migrant Workers Association	Transcribed Interview

List of Interviews conducted (cont.)

Name	Institution associated with	Comments
Paula Ndessomin	IndustriALL	Facilitated the discussion with IndustriALL
Elijah Chiwota	IndustriALL	Facilitated the interview with Lucky
Lucky Ndlangamandla	NUM	Technical issues, not able to complete the interview, requested another date
Phokello Mahlomola	Migrant Laborers Forum in Lesotho	Transcribed Interview
Alan Fine	RASC / Tshiamiso Trust	Telephone call and referred us to the website https://www.tshiamisotruster.com/
Lerato Maloba*	Former mineworker	Transcribed Interview
Sophia Kisting	Tshiamiso Trust	Not able to secure availability
Olebogeng Motene	BUA Mining Communities and Bench Marks Community Monitor	Summarised version
Michael Tau*	Official at Sibanye Stillwater in Rustenburg	Summarised version
Hlokoza Motaung	SADC Coordinator	Transcribed Interview
Florence Magampa	MHSC Occupational Health Program Manager	Telephone conversation with notes

Note: *Former mineworkers and official's name has been changed to protect their identity

The below tables detail the recruitment agencies, organisations and guest houses that were contacted by the researchers and no response was received on multiple occasions.

List of Recruitment Agencies contacted

Name	Website	Contact no	Email address
TEBA	https://www.teba.co.za/	011 353 6000	Online submission
African Mining Recruitment	https://kaschula.co.za/	011 782 8640	Poultney@kaschula.co.za
MECS	http://mecs.co.za/	011 218 8060	Online submission
Hire Resolve	http://www.hireresolve.co.za/	011 807 8064	jhb@hireresolve.co.za
Absolute Mining & Engineering Recruitment (Pty) Ltd	https://miningeng.com/	087 809 6252	info@miningeng.com
Career Avenue Global - Mining Recruitment	https://www.careeravenueglobal.com/	082 887 5798	info@careeravenueglobal.com
The Icon Group	http://www.icongroup.co.za/	011 463 0401	info@icongroup.co.za

List of Organisations contacted

Name	Institution associated with	Comments
Richard J Rogers	Global diligence.com	No response
Alexandre Prezanti	Global diligence.com	No response
	United Nations High Commission for Refugees (UNHCR)	No response
Dr J Afful	International Organization for Migration (IOM)	No response
	Office of the High Commissioner for Human Rights (OHCHR)	No response
Alan Fine	Tshiamiso Trust / R&A Strategic Communications	Referred us to their website
Nikisi Lesufi	Minerals Councils of South Africa	No response

List of Guesthouses contacted

Name	Comments
Chrome Valley Lodge	No response
Burgersfort Lodge	No response
Naaupoort Lodge	No response
Road Lodge Rustenburg	Was happy to be interviewed, but is yet to confirm availability with staff
Boschdal	No response

Note: The above guesthouses are located in the Rustenburg and Burgersfort area



SARW Objectives

Monitor corporate and state conduct in the extraction and beneficiation of natural resources in Southern Africa, and assess to what extent these activities uplift the economic conditions of the region's communities.

- Generate and consolidate research and advocacy on natural resource extraction in Southern Africa.
- Create informed awareness of the specific dynamics of natural resources in Southern Africa, building a distinctive understanding of the regional geo-political dynamics of resource economics.
- Provide a platform of action, coordination and organisation for communities, activists, researchers, policy-makers, corporations, regional and global governing bodies in the watching and strengthening of corporate and state accountability in extractive industries.
- Engage with and support government on building accountable and transparent management of extractive resources.
- Build capacity for communities, civil society, parliaments, and media to hold governments and corporations to account, and to participate in decisions about resource management.
- Advocate and promote human rights and environmental protection in resource extraction activities.
- Support efforts to legislate mandatory public disclosure of and access to financial, social, environmental and regulatory compliance information in the extractives industry.
- Promote extractive industries that create wealth for local communities.

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