

MIGRATION AND COVID-19

EMERGING CONCERNS WITH SOUTH AFRICA'S
RESPONSE TO THE PANDEMIC

On behalf of the Migration and Coronavirus in Southern
Africa Coordination group (MiCoSA)

ISSUE BRIEF #1

This is the first in a series of issue briefs that explores the implications of Covid-19 and the South African response to the pandemic on migration and for migrant and mobile communities in South Africa.

This issue brief was prepared by Rachel Benavides, Thea de Gruchy and Jo Vearey on behalf of MiCoSA. This brief, a summary of it and others in the series, can be found on the Migration and Health Project (maHp) website – mahpsa.org

maHp is research programme at the African Centre for Migration & Society (ACMS), University of the Witwatersrand - www.migration.org.za

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About MiCoSA

The Migration and Coronavirus in Southern Africa Coordination Group (MiCoSA) is hosted by the Migration and Health Project Southern Africa (maHp) at the African Centre for Migration & Society (ACMS), Wits University, Johannesburg. MiCoSA is an informal network of migrant-led organisations, non-governmental organisations, international organisations, civil society, activists, lawyers, researchers, government officials and policy advisors. Through an online platform and weekly virtual meetings under Chatham House rule, MiCoSA brings together national and SADC regional partners who are concerned with the health and well-being of asylum-seekers, refugees and migrants during the current Coronavirus pandemic. To date, MiCoSA has over 150 members; to join this network, please sign up [here](#).

Summary : Key findings and recommendations

Key concerns

- **The exclusion of non-citizens from pandemic preparedness plans and responses to the current Covid-19 pandemic and the impacts of the lockdown.**¹ This has and continues to affect documented and undocumented migrants, refugees, asylum seekers and internally displaced persons (IDPs), including children and young people, formal and informal migrant workers, migrant sex workers and LGBTIQ+ migrants, asylum seekers and refugees. In addition to these individuals and communities having been excluded from state responses to Covid-19, organisations who work with and support them have also been excluded from the development and implementation of these responses, as well as from access to information about them. As a result, responses targeting non-citizens are taking place mostly in parallel to state initiatives.
- **The lack of engagement with migration in health system and social development responses.** The implications of the lack of migration-aware and mobility-competent policies and programmes prior to the pandemic have been exacerbated during the current pandemic response. Non-citizens face challenges accessing preventative and curative healthcare services, housing, secure livelihood activities – especially within the informal sector, food security, and economic and social support.
- **Difficulties in accessing documentation in order to regularise movement and stay.** The restrictions associated with the Covid-19 pandemic have resulted in multiple challenges for non-citizens, including asylum seekers, who need to access and/or renew their documentation. Many other forms of access are often contingent upon having access to documentation, such as access to healthcare, education, food parcels, banking services, unemployment benefits, social grants, or even, at times, freedom of movement. Expired documentation can result in arrest, detention and possible deportation as well as refusal by a court to release an individual out on bail when facing criminal charges or immigration-related charges pending deportation. Due to lockdown regulations, access to places of immigration detention, including police cells, as well as access to the required permits to move, have been severely limited. This has left individuals in an even more vulnerable position as lawyers and those who could provide assistance or legal advice cannot access these spaces. Deportations continued during the lockdown, with a total of 1376 persons deported to neighbouring countries since the start of the lockdown.²
- **Interruptions in established disease control programmes and access to treatment for chronic conditions, including cross-border initiatives addressing malaria, HIV and TB.** This is due to various factors, including the redeployment of staff and funds from disease control programmes to

¹ This is further explored in Issue Brief 2.

² Parliamentary Monitoring Group. (2020, June 19). *Question to the Minister of Home Affairs—NW938 | PMG*. Parliamentary Monitoring Group. <https://pmg.org.za/committee-question/13855/>

the Covid-19 response, and from border closures that have resulted in an increase in irregular border crossings, affecting testing and screening. This has implications for the management of malaria, HIV and TB with negative implications for individuals and communities. The expiry of documentation during the lockdown and severely delayed response by DHA has exacerbated potential interruptions in disease control programmes as persons with expired documentation were less likely to approach a clinic for their regular medication.

- **The closure of international borders and even provincial borders (apart from the transportation of goods, and formalised repatriation programmes by in-country consulates and embassies) has resulted in challenges for individuals trying to return to their country and community of origin.** Compounding concerns include:
 - The lack of clarification and uniformity on Covid-19 screening, testing and quarantine at border crossings;
 - Unclear post-repatriation quarantine measures in neighbouring states;
 - The reliance on government-run facilities in border areas to facilitate quarantine, the conditions thereof, and lack of alternative models for self-isolation/quarantine;
 - Implementation of penalties or labelling of persons as “undesirable” as a result of expired visas, which results in a 5-year ban imposed on travel back into South Africa; and
 - Subsequent irregular border crossings, including use of smugglers.

Recommendations and ways forward

These recommendations are informed by a body of work in the field of migration and health that has consistently shown the importance of health responses being migration-aware and mobility-competent. We understand government departments as having specific responsibilities in this regard.

Department of Health

- Ensure that the response to Covid19 does not create barriers to access for non-citizens, for example through the requirement for documentation at the point of testing or recording of immigration status at point of testing;
- Ensure the continuity of care is not negatively affected, including - but not limited to - HIV and TB by the response to Covid19;
- Consider the inclusion of migration and population mobility realities in future policies and programmes aimed at strengthening national and regional health security; and
- Ensure that migrant and mobile communities, including LGBTIQ+ persons, children on the move, migrant sex workers, and migrant workers in labour intensive sectors such as mining and agriculture, are proactively included in testing and care strategies.

Department of Home Affairs

- Implement a comprehensive and effective communication strategy, and ensure that information about documentation and the rights of non-citizens are communicated to all government departments and private stakeholders, and the general public;

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- Process applications for new asylum seekers to regularise their movement into and stay in South Africa;
 - Ensure that despite the closure of borders, mechanisms are put in place to ensure that the principle of non-refoulement is adhered to at South Africa's borders during the lockdown and its various levels;
 - Develop and publicise (widely) a plan in respect of the resumption of services at Refugee Reception Offices (RROs), which will guarantee the safety of staff and service users and discourage large numbers of people congregating at or outside the RROs. Such a plan should include longer renewal periods for refugee and asylum seeker documentation as well as an online renewal system and ability for individuals to renew at their closest RRO regardless of where the document was first issued;
 - Ensure that extensions for non-citizens whose documentation expires is communicated to immigration officials, law enforcement, magistrates' courts, employers, the Department of Labour, and banks; and
 - Place a moratorium on the detention and deportation of non-citizens for immigration offences.

Department of Labour

- Improve bottle necks for non-citizens by making verification steps more efficient or removing completely;
- Ensure that sectors which are known to attract high numbers of migrant workers adhere to Covid19 appropriate health and safety regulations, and that healthcare is available to non-citizens; and
- Ensure that non-citizens are able to access unemployment benefits and that labour rights are guaranteed regardless of immigration documentation status.

Department of Social Development

- Open the Social Relief of Distress Grant to all in South Africa, non-citizens included, and regardless of documentation status;
- Improve bottle necks for non-citizens by removing or making verification steps more efficient;
- Remove the need for a 13-digit Identity Number when applying for social relief or food parcels, or provide an alternative mechanism that does not require further steps on the part of the applicant; and
- Ensure that humanitarian relief, including the distribution of food parcels, includes non-citizens.

State and media outlets

- Ensure that xenophobic violence, or the threat thereof, is strongly condemned as such; and
- Ensure that non-citizens are not blamed for Covid-19

Migration and Covid-19 : Emerging concerns with South Africa's response to the pandemic

South African context

The Covid-19 pandemic has affected migration and mobility globally. Border closures have emerged as a key response to the pandemic, but have created the conditions for an increasingly securitised approach to migration and mobility both during and after the current crisis. This is concerning as states have increasingly shown themselves willing to violate the human rights of non-citizens in recent years.

The outbreak of Covid-19 in South Africa and the implementation of a National State of Disaster on 15 March 2020,³ has had implications for all in South Africa, as well as those in the region reliant on remittances from individuals in South Africa. Whilst there is no evidence to support the idea that border walls prevent the spread of viruses, within the first three weeks of lockdown, the South African state spent around R37-million to build a 40km-fence at the Beitbridge border with Zimbabwe.⁴ Yet almost nothing has been spent on providing assistance to non-citizens during the lockdown.⁵

While both South Africans and non-citizens alike face a range of challenges in accessing safe and secure livelihoods, healthcare and food security, these challenges have been made more visible, and exacerbated, during the lockdown. For many, citizens and non-citizens alike, restrictions on movement within and between provinces has had consequences for livelihood security. However, non-citizens have faced additional challenges, including an inability to access social support, including grants and food parcels; apply for and renew documentation; and the fear of arrest, detention and deportation. In addition, during the lockdown, xenophobic violence, including the looting of foreign-owned shops and police brutality against non-citizens, has been reported.^{6,7} Xenophobic rhetoric about migrants as carriers of Covid-19 have surfaced, including on social media platforms such as WhatsApp. As the economic toll of the pandemic becomes increasingly clear, there are concerns that such incidents will increase.^{8,9}

³ Department of Co-operative Governance and Traditional Affairs, 15 March 2020, Declaration of a National State of Disaster.

⁴ <https://mg.co.za/coronavirus-essentials/2020-03-30-border-walls-dont-stop-viruses-but-this-might/>

⁵ "A total of 112 foreign nationals received support in the form of social relief of distress (food parcels) since 1 April to 18 June. For normal SASSA benefits, 48 062 foreign nationals are currently receiving such grants. No undocumented foreign nationals received assistance from SASSA during the period of the disaster". From <https://pmg.org.za/committee-question/13827/>

⁶ ANA Reporter. (2020). Medical association shocked by traffic cops' alleged xenophobic attack on doctor, wife. *Independent Online*. <https://www.iol.co.za/news/south-africa/gauteng/medical-association-shocked-by-traffic-cops-alleged-xenophobic-attack-on-doctor-wife-49757532>.

⁷ Xenowatch. (2020). Xenophobic Violence Incidents: Map. <http://www.xenowatch.ac.za/>.

⁸ United Nations. (2020). COVID-19 stoking xenophobia, hate and exclusion, minority rights expert warns. *UN News*. <https://news.un.org/en/story/2020/03/1060602>.

⁹ To report incidences of xenophobia during the COVID-19 pandemic (or at any other time), please contact Xenowatch.



This fits within the broader trajectory of South Africa's response to migration, a response that is characterised by a lack of migration-aware and mobility-competent policies,¹⁰ with implications for both non-citizens who move into South Africa and for South Africans who move internally;¹¹ xenophobia; and the securitisation of movement into and out of the country. This way of responding is however not unique to South Africa, and fits squarely within global trends.

Global context

Pandemic preparedness

The exclusion of non-citizens from pandemic preparedness plans and responses to the current Covid-19 pandemic is being seen globally. With implications for documented and undocumented migrants, refugees, asylum seekers and internally displaced persons (IDPs), including children and young people, formal and informal migrant workers, migrant sex workers and LGBTIQ+ migrants, asylum seekers or refugees. Whilst individuals have been excluded, organisations who work with and support these communities have also been excluded from the development and implementation of state responses as well as from access to information about these plans. As a result, responses targeting non-citizens are taking place mostly in parallel to state initiatives.

Global calls for action¹²

In recognition of this context, a range of global calls for action to ensure that migrant populations – including migrant workers, undocumented migrants, refugees, asylum seekers, and internally displaced persons – are not left behind in the response to Covid-19 have been made. The International Organization for Migration's (IOM) institutional statement on Covid-19 and mobility clearly outlines how migrants, refugees, and asylum-seekers face unique challenges. These populations are more likely to live in places where social distancing is difficult or impossible, and work and travel in ways that increase the likelihood of contracting Covid-19.¹³ As such, responses to Covid-19 – including screening and testing, and access to social services and healthcare – must not leave migrant and mobile communities behind.¹⁴ Regardless of this emerging global consensus among humanitarian actors and United Nations agencies, the exclusion of non-nationals and key populations from screening and testing and relief measures set up by the state to respond to Covid-19, as well as the preoccupation of the state with securing borders, and arresting, detaining and deporting non-citizens remains. The ways in which non-citizens have been included in state responses has primarily been through voluntary repatriations,

¹⁰ Vearey, J., Modisenyane, M., & Hunter-Adams, J. (2017). Towards a migration-aware health system in South Africa: A strategic opportunity to address health inequity. In: A. Padarath & P. Barron (Eds.), *South African Health Review 2017* (Durban: Health Systems Trust, 2017), pp. 89-98. <http://www.hst.org.za/publications/south-african-health-review-2017>.

¹¹ Vearey, J., de Gruy, T., Kamndaya, M., Walls, H. L., Chetty-Makkan, C. M., & Hanefeld, J. (2016). Exploring the Migration Profiles of Primary Healthcare Users in South Africa. *Journal of Immigrant and Minority Health*, 20, 91-100. <https://doi.org/10.1007/s10903-016-0535-7>.

¹² A forthcoming issue brief (Issue Brief #3) will address these.

¹³ IOM. (2020). COVID-19 and Mobility. *International Organization for Migration Institutional Statement*. https://www.iom.int/sites/default/files/institutional_statement_COVID19_28052020.pdf.

¹⁴ United Nations Committee for Development Policy. (2018). Leaving No One Behind. *UN Sustainable Development Goals Knowledge Platform*.

https://sustainabledevelopment.un.org/content/documents/2754713_July_PM_2_Leaving_no_one_behind_Summary_from_UN_Committee_for_Development_Policy.pdf

enhancement of health controls at borders aimed at allowing the movement of essential goods and associated transport operators (including non-citizens),¹⁵ and making allowances for tourists.

The following sections of this brief highlight concerns that have emerged with South Africa's response to the Covid-19 pandemic in relation to migrant and mobile communities. Highlighting the ways in which these communities have been excluded from responses and issues of migration have been further securitised.

A lack of migration inclusive responses

Although Southern Africa has a long history of migration and mobility, the South African state has consistently failed to effectively engage with patterns of movement into, out of and within the country, with implications for both citizens and non-citizens alike. The implications of this – the lack of migration-aware and mobility-competent policies and programmes in place prior to the pandemic – have been exacerbated during the current pandemic response. In addition, responses to the pandemic have failed to take the realities of migration within the Southern African context into account. As such, non-citizens are facing challenges accessing preventative and curative healthcare services, housing, secure livelihood activities (including in the informal sector), food security, and economic and social support. The lack of migration-aware and mobility-competent systems further pose challenges for the eventual re-opening of borders and have the ability to impede economic recovery.

1. Covid-19 screening and testing

No formal reports have been made of non-citizens experiencing challenges when seeking Covid-19 related testing and treatment. However, the current screening and testing strategy does not appear to take into account the importance of ensuring that key populations, including migrant and mobile communities, are included in the state's response to Covid-19. Neglecting such communities in a global pandemic is harmful not only to these individuals, but to South Africa as a whole, and will impede efforts to respond to the spread of Covid-19. Migrants, refugees, and asylum seekers should not only be able to access testing, but they should be able to do so without jeopardising their status in South Africa and without threat of deportation.¹⁶ To date, it is unclear how many non-citizens have been screened, tested or treated for Covid-19 in South Africa.

A key concern relates to the requirement for documentation – a passport or thirteen-digit identity document number as well as a copy of the document – in order to access Covid-19 testing.¹⁷ There is currently no option to provide any other form of identification, which may mean that those without documentation are turned away from facilities, choose not to seek care in public facilities, or use the private healthcare system. If these populations are forced to provide proof of residency or

¹⁵ SADC Guidelines on Harmonisation and Facilitation of Cross Border Transport Operations across the Region (Revision); SADC Regional Standard Operating Procedures for Management and Monitoring of Cross-Border Road Transport at Designated Points of Entry and COVID-19 Checkpoints

¹⁶ Vearey, J. (2020). Op-Ed: Why xenophobia is bad for the health of all in South Africa. *Africa is a Country*. <https://africasacountry.com/2020/04/why-xenophobia-is-bad-for-the-health-of-all-in-south-africa>

¹⁷ Disaster Management Act 57 of 2002, Chapter 3, Section 11H: Contact Tracing. Amended 2 April 2020.



documentation in order to get tested, it could dissuade them from seeking testing or care out of fear of negative consequences. Due to the heterogeneous nature of migrant communities, this may also disincentivise non-nationals with documentation from accessing care as they may expose their community to the state.

Concerns have been raised about the risks that the establishment of a national Tracing Database poses to the constitutional rights of citizens, particularly with regards to privacy, and the opportunities that this Database provides for the state to implement surveillance projects.¹⁸ The risks this kind of surveillance poses to non-citizens, particularly those who are unable to regularise their stay, is of real concern, particularly as South Africa moves to further securitise its approach to migration.

2. Exclusion from social relief schemes

Non-citizens have, in general, been excluded from the state's responses to the pandemic and consequent lockdown, specifically the Social Relief of Distress Grant and Temporary Employer-Employee Relief Scheme (TERS).

The South African Social Relief of Distress Grants, for which applications opened on 11 May 2020, are monthly payments of R350¹⁹ for a set 6-month period from May-October 2020. These were limited to citizens, permanent residents, and refugees only. On 19 June 2020, the Scalabrini Centre won a court challenge to ensure that asylum-seekers and holders of special permits are now also eligible for the grant.²⁰ However, other non-citizens remain excluded from the relief scheme. Applications for the grant include a requirement to submit the identity document of the application and birth certificates of the children of the applicant. If these documents are not available, additional efforts must be made to prove citizenship, residency, and identity, and may entail a verification procedure which could delay the processing of applications made by non-citizens.²¹

Some issues have also been reported in the dissemination of TERS payments, through the Unemployment Insurance Fund (UIF). Non-nationals with the appropriate documentation permitting them to legally work in South Africa, are eligible to receive TERS if they were legally employed and registered for UIF through their employer, and as long as they worked more than 24 hours a month and were not on a temporary contract prior to becoming unemployed.²² The Department of Labour issued amendments to the Regulations, which entitled employees whose employer had not registered them with UIF to apply for and, if all eligibility requirements were met, receive TERS. However, non-citizens without documentation or an uncertain employment status are less likely to try and claim as it would mean that they are exposing both themselves and their employer to the Department of Labour.

¹⁸ Klaaren, J., Breckenridge, K., Cachalia, F., Fonn, S., & Veller, M. (2020). South Africa's COVID-19 Tracing Database: Risks and rewards of which doctors should be aware. *South African Medical Journal*, 0(0), Article 0.

<http://www.samj.org.za/index.php/samj/article/view/12983>

¹⁹ Approximately 20 US Dollars on 1 July 2020.

²⁰ Scalabrini. (2020). Press Release: Victory in COVID-19 Social Relief Grant Court Case. *News*.

<https://scalabrini.org.za/news/victory-in-COVID19-social-relief-grant-court-case/>.

²¹ South African Government. (2020). Social relief of distress. *Services for Residents: Social Benefits*.

<https://www.gov.za/services/social-benefits/social-relief-distress>.

²² Scalabrini. (2020). Unemployment Insurance Fund: An Explainer. *Resources*.

<https://scalabrini.org.za/resources/unemployment-insurance-fund-explainer/>.

Reports indicate that while South Africans have received TERS pay-outs, their foreign counterparts have not. While this may be a result of additional verification being necessary, UIF pay-outs for non-citizens have historically been problematic. The Department of Labour has indicated that they are aware of this issue, have attributed it to an error, and are working to address the problem.²³ Some pay-outs have begun to be received by non-citizens, but the delays and additional procedures remain.

In addition, civil society and humanitarian organisations have found it increasingly difficult to mobilise resources and provide relief for migrants as part of the Covid-19 response. As lockdown measures have been implemented, various responses have been put under pressure, especially those related to education, health care and food security.

Under the initial lockdown, there was some confusion over whether humanitarian relief would be included in the government's definition of 'essential services', with some services such as soup kitchens being shut down by law enforcement. However, subsequent regulations have clarified that humanitarian initiatives can operate during all levels of lockdown.

Organisations have partnered with the City of Johannesburg, the Department of Health and the Department of Social Development to provide shelters with healthcare, including sexual and reproductive health services, data management, and other support. However, there have been numerous difficulties in the provision of social relief to non-citizens in the Covid-19 response. Many have been told that in order to receive government social and food assistance they must produce a South African ID or work permit, barring many from receiving critical support. The barriers in this process are illustrated by the fact that Department of Social Development has reported that only 112 non-citizens received social relief of distress food parcels between the period 1 April to 18 June 2020.²⁴

Other social support services provided by NGOs have been affected by the Covid-19 lockdown measures, and many of these will have an impact on migrant populations. For instance, school-based food assistance programs have been stopped due to school closures, and these programs are often the primary source of food provision for children from migrant, asylum seeker and refugee families. Though formal evictions are currently prohibited, some landlords are cutting electricity and water connections as 'constructive evictions'. The City of Johannesburg has suspended these cuts, but it is unclear whether other municipalities have done the same. Other types of illegal evictions are also continuing, including evictions by local government in the form of 'demolishing illegal structures'.

Access to documentation

Non-citizens have historically faced a myriad of difficulties when trying to access documentation in order to regularise their movement or stay in South Africa. The restrictions associated with the Covid-19 pandemic have compounded these challenges for many, including asylum seekers, who need to

²³ Business Insider SA. (2020). UIF coronavirus payouts: 700,000 applications have not been paid due to this error. *Business Insider South Africa*. <https://www.businessinsider.co.za/uif-unpaid-claims-2020-6>.

²⁴ <https://pmg.org.za/committee-question/13827/>



access and/or renew their documentation at Refugee Reception Offices. These Refugee Reception Offices were closed prior to the start of the nationwide lockdown and the Department of Home Affairs has suspended all immigration related services. Although the Department of Home Affairs indicated early on in the lockdown that there would be a concession for those with permits and visas that expired during the lockdown period, official communication on this was delayed.²⁵ As a consequence of not being able to submit renewed documentation to banks, some non-citizens had their bank accounts frozen or were unable to receive remittances from overseas through money transfer services. The Banking Association of South Africa is aware of this issue and has assured organisations working with migrants that this should not happen.²⁶ The same was communicated to the Banking Association's membership.

Many other forms of access are often contingent upon having access to documentation, such as access to healthcare, food parcels, banking services, unemployment benefits, social grants, or even, at times, freedom of movement. In the Covid-19 response, this is seen in the need to have a specific type of document with a 13-digit identity number in order to access grants, food parcels, or the smooth and efficient processing of a TERS application. In addition, expired documentation can result in arrest, detention and possible deportation as well as refusal by a court to release an individual out on bail when facing criminal charges. Organisations working with migrant and mobile communities have reported the continued arrest, detention and deportation of non-citizens for immigration offences during lockdown. These organisations have also reported a disproportionate impact on non-citizens of the criminalisation provisions in the lockdown regulations. In addition, there have been reports of non-citizens who leave the country, either through repatriation or deportation, being marked as 'undesirable' in terms of the Immigration Act of 2002.²⁷ For those affected, this has implications for those future travel and livelihoods opportunities. This is discussed in more detail in the section titled Border Closures.

Interruptions in continuity of treatment

Interruptions in continuity of care are being reported across the region, with implications for established disease control programmes and access to treatment for chronic conditions, including cross-border initiatives addressing malaria, HIV and TB. The numbers of people being tested for HIV and TB have decreased, and there have been reports of antiretroviral medication shortages. This will affect both mobile South Africans and non-citizens who often bear a disproportionate burden of HIV and TB due to unique mobility-related challenges such as frequent travel, disrupting treatment access and continuity, and xenophobia.²⁸

Interruptions to existing health programmes are due to various factors, including the redeployment of staff and funds from disease control programmes to the Covid-19 response, and border closures that

²⁵ Disaster Management Act 57 of 2002, Amendments issued 10 June, Section 4.19.

²⁶ Banking Association of South Africa. (2020) Letter to the Scalabrini Centre Re: Restriction of Asylum Seeker and Refugee Bank Accounts, 26 May 2020.

²⁷ Department of Home Affairs, Second Amendment Directions to the Directions published in Government Gazette No. 43162, Government Notice No. 416 of 26 March 2020, 10 June 2020.

²⁸ Camlin, C. S., Cassels, S., & Seeley, J. (2018). Bringing population mobility into focus to achieve HIV prevention goals. *Journal of the International AIDS Society*, 21(S4), 1-5. <https://doi.org/10.1002/jia2.25136>.

have resulted in an increase in irregular border crossings, affecting testing and screening. Food insecurity is increasing, affecting nutritional status. These concerns have implications for the management of malaria, HIV and TB with negative implications for individuals and communities. Key populations, including LGBTIQ+ migrant communities and migrant workers who already bear a disproportionate burden of HIV and TB, are likely to be hardest hit.

Border closures

The closure of international borders and even provincial borders (apart from the transportation of goods, and formalised repatriation programmes by in-country consulates and embassies) has resulted in challenges for individuals trying to return to their country and community of origin. With some indications that those affected have turned to irregular border crossings, including the use of smugglers.

At present there is a lack of clarification and uniformity on Covid-19 screening and testing at border crossings and in post-repatriation quarantine measures across neighbouring states, highlighting the need for improved regional co-operation. In addition, the reliance on government-run approaches to quarantine in border areas are proving inefficient, and concerns with the conditions at quarantine facilities have been raised. There is an urgent need to map and evaluate alternative models that are more sustainable, safe and effective.

1. Repatriation and quarantine

In addition to the continuation of deportations (discussed below), the repatriation of non-citizens who have chosen to return home has taken place. Though multiple embassies have formed a task force to assist their citizens stranded in South Africa, concerns have been raised about the lack of resources to facilitate voluntary repatriations. For example, while large numbers of Zimbabweans have been repatriated through Beitbridge, and Zimbabwe prepared reception centres in advance in order to receive at least 3000 returnees, some issues with the process of repatriation have been noted. These include the lack of disability-sensitive measures such as braille and sign-language services, reports of blind returnees being expected to walk distances of several kilometres to quarantine facilities, and rumours of required payments of R500/R600²⁹ for transport from Johannesburg.

In addition, as noted above, reports have been made of returnees being marked 'undesirable' and issued a ban on re-entering South Africa for a period of five years. The Department of Home Affairs has indicated that any person whose visa expired from 15 March 2020 (the date upon which the National State of Disaster was declared) will not be declared an undesirable person in terms of the Immigration Act upon leaving South Africa during the period of the national state of disaster up to and including 31 July 2020. It has further state, in official Directions, that any such declaration issued to a person whose visa expired from 15 March 2020 and who has left South Africa, is set aside.^{30,31}

²⁹ 28 - 34 US Dollars on 1 July 2020.

³⁰ Du Plessis, C. (2020). Zimbabweans stuck in SA because of pandemic slapped with five-year ban. *Daily Maverick*. <https://www.dailymaverick.co.za/article/2020-05-21-zimbabweans-stuck-in-sa-because-of-pandemic-slapped-with-five-year-ban/#gsc.tab=0>.

³¹ Disaster Management Act 57 of 2002, Amendments issued 10 June, Section 4, insertion of section 21.



At Beitbridge and Musina, there is no capacity to keep all occupants in quarantine. A task force is attempting to test everyone with a rapid diagnostic test; anyone who tests negative is able to move on to their respective provinces and enter quarantine there for eight days, while those with positive tests are kept at Beitbridge in quarantine. Musina shelters are reported to be full, with no capacity for hygiene practices or social distancing. Organisations are currently supporting the purchase and distribution of hygiene products in Musina, as well as providing food and mattresses to occupants. Of critical concern is food security within these facilities. In addition, an increasing number of escapes are being reported from quarantine sites.³² The first positive case of Covid-19 at Musina was recorded on Thursday, 11 June. Teams are now attempting to conduct contact-tracing, although the person in question has not been located since taking the test.³³

In Mozambique, the IOM has been working with community health workers to trace and collect health data from returnees from South Africa, and returnees have been able to quarantine for the required 14 days in their own homes.³⁴ This has raised questions about the efficacy of the South African government's focus on quarantine to prevent the spread of Covid-19, rather than on implementing less expensive contact-tracing initiatives which are better able to identify and follow up with migrants.

2. Arrest, detention and deportation

A moratorium on the arrest, detention and deportation of non-citizens is urgently needed as conditions of detention and deportation are conducive to the spread of Covid-19 to both detainees and detention officials.

The South African government has prioritised the securitisation of borders and migration during the pandemic. This can be seen as an extension of the ways in which South Africa has historically engaged with migration, including, for example, the Amendments to the Refugees Act which came into effect in early 2020, restricting the rights of non-nationals to political expression and the development of a Border Management Authority.³⁵ A key example of this approach during the pandemic is the building of 40km of fencing along the border with Zimbabwe, allegedly as part of the strategy to contain the spread of Covid-19, and as part of a fast-tracked procurement procedure.³⁶

Despite calls to suspend deportations and detention during the Covid-19 lockdown period, non-nationals continue to be detained and deported. This has a number of consequences for the pandemic response. Detention centres are often crowded, and detainees have reported being unable to practice

³² Mutsaka, F. (2020). Nearly 2 dozen escape from virus quarantine in Zimbabwe. *AP News*. <https://apnews.com/0a79dff43fac66bc2ecfe5abc6ea30cf>.

³³ Nyoni, K. (2020). Fourth person dies of COVID-19 in Limpopo. *SABC News*. <https://www.sabcnews.com/sabcnews/fourth-person-dies-of-COVID-19-in-limpopo/>.

³⁴ IOM. (2020). Mozambican Workers Returning from South Africa Engaged to Check COVID-19's Spread. *IOM Press Room: Press Releases*. <https://www.iom.int/news/mozambican-workers-returning-south-africa-engaged-check-COVID-19s-spread>.

³⁵ Nyoka, N. (2020). Amended Refugee Act restricts fundamental rights. *Mail & Guardian*. <https://mg.co.za/article/2020-01-20-amended-refugee-act-restricts-fundamental-rights/>.

³⁶ eNCA. (2020). COVID-19: South Africa to build R37m Beitbridge border fence. *eNCA.com*. <https://www.enca.com/news/COVID-19-south-africa-build-r37m-beitbridge-border-fence>.

social distancing and recommended hygiene measures in these facilities.³⁷ As noted above, migrants may be less willing to seek testing or care for Covid-19 symptoms if they are afraid of being detained or deported. The process of deportation or repatriation often puts migrants at greater risk of contracting Covid-19.³⁸

Recommendations made by the Detention Justice Forum and the inspecting judge for the Inspectorate Services for South Africa, suggest that a reduction in occupants at detention centres would greatly facilitate the ability to implement hygiene and social distancing measures critical to the Covid-19 response³⁹. In addition, there is a need for greater access to screening and testing for inmates due to concerns with facility conditions. These recommendations do not appear to have been taken into consideration by policy makers. Instead, organisations working with migrants have noted a growing number of concerns with regards to foreign nationals being detained and imprisonment.

Organisations have observed a disproportionate impact on non-citizens of the criminalisation provisions included in the lockdown regulations. Specifically, the non-release on bail of non-citizens, even for petty offenses or minor infractions of the lockdown regulations. One example of this was the arrest of 126 undocumented non-citizens in Soweto, allegedly after 'complaints of lawlessness in the area'⁴⁰. It has been suggested, although difficult to verify, that 80 individuals from this group, all Zimbabwean nationals, are being held at the Orlando Police Station indefinitely, a space in which being able to practice social distancing or access healthcare is limited. Non-citizens with expired documents are less likely to be released on bail, and reports have been made of public defenders failing to request bail for non-citizens. In addition, due to the lockdown, those who have been remanded are being kept in remand facilities instead of being moved to detention centres, contributing to the further overcrowding of facilities.

3. Lindela Repatriation Centre

At Lindela Repatriation Centre, organisations have expressed concerns about access to testing and health promotion for Covid-19. According to some reports, detainees have been educated about Covid-19, but there have been conflicts over measures such as mask-wearing. There have been reports that women and children are currently being housed in Section B, a section of the facility not equipped for children.⁴¹ Some organisations have partnered with the United Nations Children's Fund (UNICEF) and others to work with women in Lindela, including providing counselling, relocation to host communities, and delivering food parcels. The ICRC is offering occupants the ability to make phone calls to family or friends, but many are worried about deportation. On May 3, 37 individuals escaped Lindela. While the

³⁷ Mahtani, S. (2020). We need to decongest Africa's prisons urgently. For everyone's sake. *African Arguments*. <https://africanarguments.org/2020/03/30/decongest-africa-covid-19-prisons-urgently/>.

³⁸ World Health Organization. (2020). Key considerations for repatriation and quarantine of travellers in relation to the outbreak of novel coronavirus 2019-nCoV. *WHO Newsroom*. <https://www.who.int/news-room/articles-detail/key-considerations-for-repatriation-and-quarantine-of-travellers-in-relation-to-the-outbreak-of-novel-coronavirus-2019-ncov>.

³⁹ Detention Justice Forum. (2020). Letter of Recommendations for Addressing COVID-19 in Detention. <http://detentionjusticeforum.org.za/wp-content/uploads/2020/04/Letter-of-Recommendations-for-Addressing-COVID-19-in-Detention.pdf>.

⁴⁰ Ntshidi, E. (2020). 130 People Arrested in Soweto for Breaching Lockdown Laws, Other Offences. *Eyewitness News*. <https://ewn.co.za/2020/05/11/police-arrest-130-people-in-soweto-for-breaching-lockdown-laws>.

⁴¹ Jaynes, K. (2016). FACTSHEET: Detention and deportation of undocumented migrants in South Africa at the Lindela Repatriation Centre. *Africa Check*. <https://africacheck.org/factsheets/lindela-repatriation-centre-migrants/>.



Minister of Home Affairs verified that all occupants at the time had been screened and none had tested positive for Covid-19, concerns about the conditions in the Centre remain.⁴² As a result of the breakout, a swift deportation process was undertaken the following day. To date, 1376 individuals have been deported since the start of lockdown.⁴³ Lockdown regulations issued by the Department of Home Affairs prohibit visits by anyone except consular agents during lockdown, a consequence of which is fewer oversight visits by civil society organisations and the SA Human Rights Commission.⁴⁴

4. Camps and shelters

In addition to detention, non-citizens have also been moved into camps in Cape Town and into shelters across the country.

On April 2, 2020, police and law enforcement forcibly removed migrants protesting at Greenmarket Square and relocated them to a tented camp in Belville called Paint City. A second group of protesters, who had been situated near to the City Centre, were removed to a National Government site known as Wingfield. The Department of Home Affairs have indicated that the protesters are the responsibility of the city, with Dr Aaron Motsoaledi, the Minister of the Department of Home Affairs, claiming that the welfare of refugees in South Africa is not the responsibility of the Department of Home Affairs.⁴⁵ Concerns over the conditions at these sites have been raised by both civil society and Members of Parliament.⁴⁶

In addition, there is growing concern that immigration checks are being made and used to detain non-citizens either on their way to one of the camps or as the camps have been emptied. For example, many non-citizens who were part of the homeless population in Cape Town were separated from the South African homeless population and taken to Paint City or Wingfield, rather than Strandfontein, a camp that had been specifically set up for the homeless population. Furthermore, although Strandfontein has been steadily emptied over the course of the lockdown, and reports as of May 25 indicate that occupants have been relocated either to an unofficial site under the Culumberg overpass near the City Centre, or to quarantine sites,⁴⁷ there have been some concerning reports of non-citizens being taken from Strandfontein to police stations. These reports have, however, been difficult to verify.

Homeless shelters have also become a major concern as spaces in which social distancing and appropriate hygiene cannot be practiced. Some organisations are doing health promotion and education activities in the shelters to inform occupants about how best to protect themselves from Covid-19.

⁴² Mitchley, A. (2020). 37 illegal immigrants escape from Lindela Repatriation Centre, Motsoaledi claims 'inside job.' *News 24*. <https://www.news24.com/news24/SouthAfrica/News/37-illegal-immigrants-escape-from-lindela-repatriation-centre-motsoaledi-claims-inside-job-20200506>.

⁴³ Parliamentary Monitoring Group. (2020, June 19). *Question to the Minister of Home Affairs—NW938 / PMG*. Parliamentary Monitoring Group. <https://pmg.org.za/committee-question/13855/>

⁴⁴ Disaster Management Act 57 of 2002, Amendments issued 10 June, Section 4.22.

⁴⁵ Parliamentary Monitoring Group. (2020). Briefing by the DHA on the removal and movement of refugees in Cape Town Central Business District during the lockdown period. *Minutes: 28 April Meeting of the Portfolio Committee on DHA services rendered during COVID-19*. <https://pmg.org.za/committee-meeting/30113/>.

⁴⁶ Parliamentary Monitoring Group. (2020). Discussion. *Minutes: 28 April Meeting of the Portfolio Committee on DHA services rendered during COVID-19*. <https://pmg.org.za/committee-meeting/30113/>.

⁴⁷ GroundUp. (2020). Strandfontein Homeless Site Closes. *MarketWatch News*. <https://www.marketwatch.com/press-release/strandfontein-homeless-site-closes-2020-05-25>.

However, reports indicate that access to hygiene products is limited, social distancing is difficult due to cramped spaces and as homelessness is increasing due to evictions and other issues, additional pressure is being placed on these shelters. In addition, there have been some reports of trafficking victims and other vulnerable migrants at homeless shelters wanting to return to their home countries.⁴⁸ Due to the lockdown and police station closures, it is unclear if any have been able to be transferred to safe spaces as they wait to be repatriated.

Ways forward

While both South Africans and non-citizens alike are struggling, non-citizens face specific and additional barriers to care and relief. Efforts to respond to Covid-19 and stimulate the domestic and regional economy will both fail if they do not consider the realities of migration and mobility within South(ern) Africa. Responses must be inclusive; they need to be migration-aware and mobility-competent. Bearing this in mind, we understand government departments as having specific responsibilities in this regard.

Department of Health

- Ensure that the response to Covid19 does not create barriers to access for non-citizens, for example through the requirement for documentation at the point of testing or recording of immigration status at point of testing;
- Ensure the continuity of care is not negatively affected, including - but not limited to - HIV and TB by the response to Covid19;
- Consider the inclusion of migration and population mobility realities in future policies and programmes aimed at strengthening national and regional health security; and
- Ensure that migrant and mobile communities, including LGBTIQ+ persons, children on the move, migrant sex workers, and migrant workers in labour intensive sectors such as mining and agriculture, are proactively included in testing and care strategies.

Department of Home Affairs

- Implement a comprehensive and effective communication strategy, and ensure that information about documentation and the rights of non-citizens are communicated to all government departments and private stakeholders, and the general public;
- Process applications for new asylum seekers to regularise their movement into and stay in South Africa;
- Ensure that despite the closure of borders, mechanisms are put in place to ensure that the principle of non-refoulement is adhered to at South Africa's borders during the lockdown and its various levels;
- Develop and publicise (widely) a plan in respect of the resumption of services at Refugee Reception Offices, which will guarantee the safety of staff and service users and discourage large numbers of people congregating at or outside the RROs, such a plan should include longer

⁴⁸ APO Group (2020). Coronavirus - South Africa: United Nations agency donates COVID-19 PPE to shelter houses in South Africa. *AfricaNews*. <https://www.africanews.com/2020/04/15/coronavirus-south-africa-united-nations-agency-donates-covid-19-ppe-to-shelter-houses-in-south-africa/>.



renewal periods for refugee and asylum seeker documentation as well as an online renewal system and ability for individuals to renew at their closest RRO regardless of where the document was first issued;

- Ensure that extensions for non-citizens whose documentation expires is communicated to immigration officials, law enforcement, magistrates' courts, employers, the Department of Labour, and banks; and
- Place a moratorium on the detention and deportation of non-citizens for immigration offences

Department of Labour

- Improve bottle necks for non-citizens by making verification steps more efficient or removing completely;
- Ensure that sectors which are known to attract high numbers of migrant workers adhere to Covid19 appropriate health and safety regulations, and that healthcare is available to non-citizens; and
- Ensure that non-citizens are able to access unemployment benefits and that labour rights are guaranteed regardless of immigration documentation status.

Department of Social Development

- Open the Social Relief of Distress Grant to all in South Africa, non-citizens included, and regardless of documentation status;
- Improve bottle necks for non-citizens by removing or making verification steps more efficient;
- Remove the need for a 13-digit Identity Number when applying for social relief or food parcels, or provide an alternative mechanism that does not require further steps on the part of the applicant; and
- Ensure that humanitarian relief, including the distribution of food parcels, includes non-citizens.

State and media outlets

- Ensure that xenophobic violence, or the threat thereof, is strongly condemned as such; and
- Ensure that non-citizens are not blamed for Covid-19

Migration and Health Project Southern Africa

At the African Centre for Migration & Society

School of Social Sciences, University of the Witwatersrand

P.O. Box 76, Wits 2050, Johannesburg, South Africa

T: +27 11 717 4033 | F: +27 11 717 4040

info@migration.org.za | www.mahpsa.org