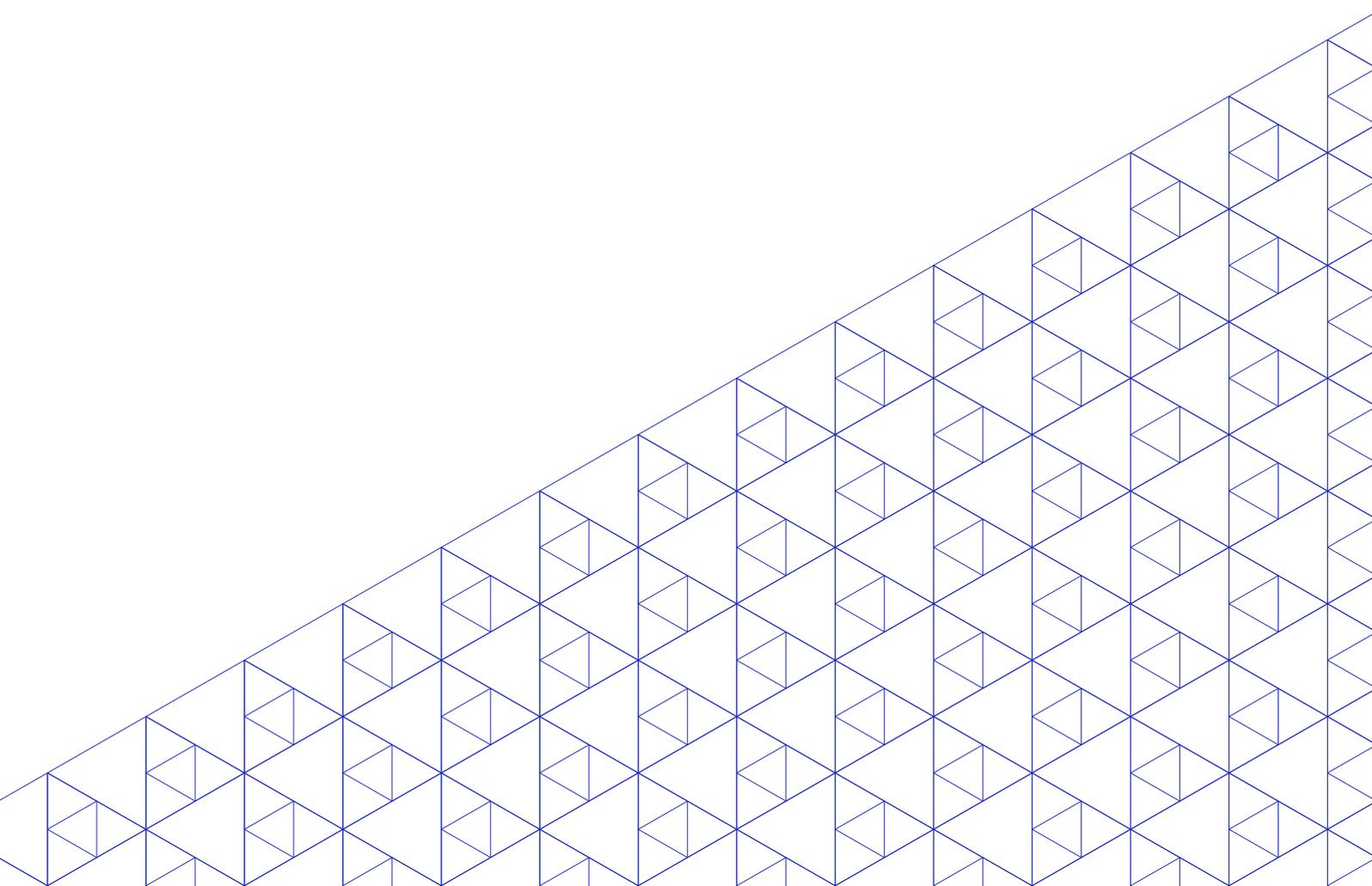




# ► The impact of Covid-19 on South African migrant wage workers and the self-employed

Author / Margareet Visser





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## Abstract

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When Covid-19 struck, the South African government declared some of the strictest lockdowns worldwide. The impact of lockdowns on the working classes was especially severe. Initially many workers were left with no income, leading to warnings that a pandemic of hunger may eclipse the deadliness of the Covid-19 pandemic. Classified as essential workers, farm workers were “lucky enough” to continue working and earning an income. Yet, this paper highlights how Covid-19 regulations exacerbated their vulnerability due to a pre-existing lack of public regulation and enforcement of basic labour and transport regulation in the sector. Apart from farm workers, the paper also discusses how informal workers – in this case taxi drivers – tried to leverage the pandemic to push for closer integration into the agricultural sector to create more sustainable livelihoods for themselves.

## About the author

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**Margareet Visser** is a researcher in the Labour, Development and Governance Research Unit (LDG) at the University of Cape Town. Her work is situated within Global Value Chain analysis. Empirically her research focuses on producers’ labour strategies and farm workers’ working conditions in the global fresh fruit and wine value chains. She also explores the ability of these stakeholder groups to organise and bargain a better deal for themselves within the context of existing private and public regulatory frameworks governing GVCs.

## Table of contents

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Abstract	01
About the author	01
Acronyms	05
<hr/>	
▶ <b>Introduction</b>	<b>07</b>
Impact of lockdowns	09
Government assistance to citizens during Covid-19	10
The research gap	11
Methodology, sample description and selection	12
<hr/>	
▶ <b>1 Overview</b>	<b>15</b>
Situating Cederberg citrus farmers and workers into the FFGVC	15
The labour relations framework of the agricultural sector	15
Increasing employment of migrant workers	16
The use and regulation of foreign migrants	17
Creating an opportunity for labour brokers	18
Creating a gap for taxi-drivers	18
<hr/>	
▶ <b>2 Producers and workers before Covid-19</b>	<b>19</b>
Type of employment	19
About the migrants and their working conditions	21
Transportation	21
Grievance mechanisms	22
<hr/>	
▶ <b>3 The impacts of Covid-19</b>	<b>23</b>
Government regulation of essential services	23
Producer responses	23
Sanitary conditions	24
Screening and social distancing	24
On-farm accommodation	26
Paid sick leave	26
Transportation of workers	27
Vaccinations	28
Costs of the pandemic	28

---

▶ 4 Workers' hopes and aspirations for the future	30
---	----

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▶ Conclusion	33
--------------	----

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References	35
Academic	35
Government documentation	38
Comment pieces	39
Media	40
Industry reports	41
Acknowledgements	42

## List of Tables

---

<b>Table 1: South Africa's lockdown levels during Covid-19</b>	<b>08</b>
<b>Table 2: Breakdown of key informant interviews</b>	<b>13</b>
<b>Table 3: Distribution of farm workers interviewed over key variables</b>	<b>14</b>
<b>Table 4: Surveyed producers' use of fixed-term workers</b>	<b>19</b>

## Acronyms

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BCEA	Basic Conditions of Employment Act (no.75 of 1997)
CBKI	Community-based Key Informant
CKI	Commercial Key informant
CGA	Citrus Growers' Association of South Africa
CRC	Covid-19 Response Committee
DALRRD:	Department of Agriculture, Land Reform and Rural Development
DHA	Department of Home Affairs
DEL	Department of Employment and Labour
DSD	Department of Social Development
ESA	Employment Services Act (No.4 of 2014)
ESTA	Extension of Security of Tenure Act (no.62 of 1997)
FFGVC	Fresh Fruit Global Value Chain
FGD	Focus Group Discussion
FPEF	Fresh Produce Exporters' Forum
GDP	Gross Domestic Product
GKI	Governmental Key Informant
ILO	International Labour Organisation
LRA	Labour Relations Act (no.66 of 1995)
NLMP	National Labour Migration Policy
NLTA	National Land Transport Act (no.5 of 2005)
OHSA	Occupational Health and Safety Act (no.85 of 1993)
PES	Public Employment Services
PPE	Personal Protective Equipment
PPECB	Perishable Product Export Control Board
SIZA	Sustainability Initiative of South Africa

SD	Sectoral Determination
SDA	Skills Development Act (No.97 of 1998)
SRD	Social Relief of Distress Grant
SSI	Semi-structured Interview
TERS	Temporary Employer/Employee Relief Scheme
UIF	Unemployment Insurance Fund

## ► Introduction

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When it was announced on 5 March 2020 that South Africa's first Covid-19 patient had been diagnosed, many South Africans shuddered. Due to South Africa's high incidence of HIV/AIDS and TB, it was feared that the country would be hard hit by Covid-19<sup>1</sup> (De Groot & Lemansky 2020). International reports of hospitals overflowing did not bode well for South Africans: 84% of them did not have private medical insurance and had to rely on the public healthcare system, which in 2017 had only 154 hospital beds per 100 000 uninsured people (Dell & Kahn 2017). Hence, on 15 March 2020 South Africa's president declared a National State of Disaster. This was followed by a national "hard lockdown" to "flatten the curve" of infections on 27 March 2020.

All workplaces were locked down, apart from those that provided essential services or goods. This included companies involved in the production, processing, distribution and sale of food, and as such, also agricultural producers.<sup>2</sup> All other citizens were ordered to stay at home; schools were closed; all public gathering and outdoor leisure activities were prohibited. They could only go out for medical reasons, to collect social grants, or to buy essential goods<sup>3</sup>. To free up hospital beds for Covid-19 patients, elective surgeries were postponed and government banned the sale of alcohol and tobacco, a decision which was widely questioned by industry and civil society and met by court challenges.<sup>4</sup> International borders were closed and only incoming international flights bringing home South Africans stranded abroad could land. Travel between provinces, districts and metros was prohibited, except for essential workers and for the transportation of essential goods<sup>5</sup> (South African Government 2020c).

At the end of the "hard lockdown" on 24 April 2020, an alert system, ranging from Level 1 to Level 5, with Level 1 being the most relaxed and Level 5 being the most restrictive was implemented.<sup>6</sup> It could be adjusted upwards or downwards depending on the rate of infection and hospitalisation levels of the populace; the capacity of health facilities to accommodate the infected; and the social and economic costs of continued lockdowns on South African society. Hence, when the Delta virus hit South Africa in June 2021, the country went back to Level 4.

<sup>1</sup> Just under 1% of the population suffered from TB in 2017 and approximately 13% of the population were HIV-positive in 2018 (De Groot & Lemansky 2020, citing WHO (2019) Global Tuberculosis Report, and Spotlight (2018)).

<sup>2</sup> Essential services are, as per the definition in Section 213 of the Labour Relations Act 66 of 1995 (LRA), services which, if interrupted, will endanger the life, personal safety or health of the whole or any part of the population (Lewin 2000). In terms of Disaster Management Act 57 of 2002 (DMA) Government also published a supplementary list of goods and services considered essential. These included banks, petrol stations, chemists, coal mines supplying Eskom, the national electricity generator, and caregivers. For the definition of essential services under different levels of lockdown, see: <https://www.gov.za/covid-19/companies-and-employees/essential-services-coronavirus-covid-19>.

<sup>3</sup> This included food, groceries, cleaning and hygiene products and products needed to keep warm.

<sup>4</sup> The Department of Health argued that people sharing cigarettes and pipes would increase the risk of Covid-19 transmission and that infected smokers were more risk of developing serious complications (Filby et al 2021). Alcohol was banned as it was argued that its abuse would contribute to serious assaults and car accidents that would fill up hospital beds. The validity of these arguments was questioned (c.f. Du Toit & Mitlin 2020). Regarding the various court challenges, see "Court cases mount against South Africa's lockdown rules", Business Tech, 28 January 2021. Available online at: <https://businesstech.co.za/news/government/463992/court-cases-mount-against-south-africas-lockdown-rules/>

<sup>5</sup> These included food, groceries and medical supplies.

<sup>6</sup> For an overview of prohibited activities during different alert levels, see SABC News: "Infographic: Look back at the different levels of COVID-19 lockdowns in SA", 24 June 2022. Available online at: <https://www.sabcnews.com/sabcnews/infographic-look-back-at-the-different-levels-of-covid-19-lockdowns-in-sa/>

▶ **Table 1: South Africa's lockdown levels during Covid-19**

Date	Level
15 March 2020	National State of Disaster declared
26 March 2020	5
01 May 2020	4
01 June 2020	3
18 August 2020	2
21 September 2020	1
29 December 2020	Adjusted 3
01 March 2021	Adjusted 1
31 May 2021	Adjusted 2
16 June 2021	Adjusted 3
28 June 2021	Adjusted 4
26 July 2021	Adjusted 3
13 September 2021	Adjusted 2
01 October 2021	Adjusted 1
05 April 2022	National State of Disaster lifted

Source: Adapted from South African Government website.<sup>7</sup>

South Africa's vaccination campaign began in February 2021, but by the end of July 2022 only 32% of the population were fully vaccinated. Despite the low percentage of people vaccinated, the country's number of excess deaths have declined significantly, probably as South Africa began to reach hybrid immunity due to a combination of vaccinations and natural immunity. By the end of July 2022, officially 102 000 people in South Africa had died of Covid-19. However, the number of excess deaths was estimated at about 300 000 (Madhi, 2022). South Africa's relatively low number of Covid-19 deaths compared to those of countries in the Global North, could possibly also be attributed to its young population: more than 70% of South Africans are younger than forty (Cloete & Rajaratnam, 2020). Internationally, it has been found that older people were more at risk of dying from Covid-19.

Interviewing agricultural migrants at the tail-end of the Covid-19 pandemic, this study gauged how the pandemic impacted on the working lives of migrant workers in the Cederberg, a major citrus-producing area in the Western Cape, South Africa. It specifically explores the extent to which existing state regulation and government interventions sufficiently protected farm workers during the pandemic.

In the remainder of the introduction, the impact of lockdowns on South Africans, especially workers, is discussed, followed by an unpacking of the main government initiatives that were launched to help people cope with lockdowns. The introduction is followed by Section 1, discussing the methodology and sampling of the study. Section 2 provides a brief overview of citrus farming and labour management in the Cederberg. Section 3 discusses citrus workers' working conditions prior to the pandemic, followed by Section 4, which describes the impact of Covid-19 on their working lives. Section 5 briefly sets out farm workers' hopes for the future, before concluding.

<sup>7</sup> See: <https://www.gov.za/covid-19/about/about-alert-system>

## Impact of lockdowns

Despite the number of excess deaths, the necessity for and extent of lockdowns were widely debated in South Africa. NGOs and poverty think-tanks warned that higher levels of lockdown might cause people to die of hunger before they died of Covid-19: in 2019 almost half (49,2%) of South Africa's adult population were living below the upper-bound poverty line of R1227 per person per month (Stats SA 2019). During the last two quarters of 2019, the country was already in a technical recession. Covid-19 thus exacerbated the state of an already bleak economy. In April 2020 – at the height of the hard lockdown – a Stats SA survey of 707 businesses registered for Value Added Tax (VAT) revealed that only 10% of these businesses were operating at full capacity, 40% were operating at partial capacity, 48% had closed temporarily and about 2% had closed permanently already (Bhorat et al 2020: 11). Using 2017 as a baseline and simulating industry-level capacity constraints imposed by South Africa's lockdown regulations, by 2020 the GDP of all sectors dropped 10% below the 2017-baseline (Van Heerden & Roos 2021).

The year before the start of the pandemic, the South African unemployment rate was 30% (Khambule 2021, citing Stats SA). By the second quarter of 2020, the unemployment rate increased to 42% (Stats SA, cited by Van Heerden & Roos (2021)).<sup>8</sup> Also the National Income Dynamics Study Coronavirus Rapid Mobile Survey (NIDS-CRAM) found high levels of unemployment: between 7 May and 27 June 2020, 33%-40% of people employed before the pandemic were unemployed and without an income (Ranchhod & Daniels 2020; Jain et al 2020).<sup>9</sup> During the same period 47% of respondents reported that their household had run out of money to buy food; one in five respondents reported that someone in their household had gone hungry in the previous seven days; and one in seven reported that a *child* had gone hungry in the previous seven days (Spaull et al 2020, citing Van der Berg et al 2020, Wills et al 2020). NIDS-Cram analysts found that the poor, especially black women, suffered disproportionately during the hard lockdown (Spaull et al 2020, citing Jain et al 2020, Ranchhod & Daniels 2020; Kohler & Bhorat 2020; Rogan and Skinner 2020; Casale & Posel 2020).

It was anticipated that the hard lockdowns would also have a severe impact on country's largely informal public transport system, provided predominantly by minibus taxis. Initially taxis were allowed only to load 50% of their licenced capacity and operate eight hours a day. The potential passenger pool of taxis also shrunk as only essential workers could travel to workplaces. More lucrative, long-distance trips - transporting migrant workers between their home communities and workplace - were impacted by travel restrictions beyond districts and interprovincial boundaries. Yet, when taxi associations threatened a nation-wide strike, the state quickly backed down by allowing taxis to carry 70% of their licensed capacity, or 100%, if drivers provided their passengers with surgical or N97 respiratory masks<sup>10</sup> (Simelane 2020a). Taxi associations objected even to the revised regulations, arguing that they struggled to cover their running costs and repay their vehicle loans, putting them at risk of vehicle repossessions (Henderson & Mbatha 2020). Three months after the start of lockdowns, the South African National Taxi Council (SANTACO) announced it would flout regulations by loading passengers at 100% capacity and resuming interprovincial travel without first obtaining Covid-19 travel permits (Simelane 2020b). A month later it was almost back to business as usual. Government allowed taxi drivers to load 100% of their licensed capacity as long as taxi windows were opened to at least 5 cm on each side, passengers wore masks, and drivers sanitized their vehicles after each trip. They were not required to screen passengers or take their temperatures. On trips of 200km or more, taxis could still carry only 70% of their licensed capacity (Business Insider SA, 12 and 22 July 2020). Fobosi (2020) argues that the taxi industry's flouting of Covid-19 regulations was fuelled by a lack of government subsidisation of the industry which, despite its informal nature, accounts for about 75% of all daily passenger transport in SA.<sup>11</sup> In January, the state offered a R1.135 billion relief package to the taxi industry, estimated at R5 000 per taxi in January 2021, (South African Government 2020h). However, this amount was bemoaned as too little, too late (Simelane 2020b).

<sup>8</sup> Van Heerden & Roos (2021) used the expanded definition of unemployment.

<sup>9</sup> Discrepancies in findings could be attributed to different definitions of employment and unemployment used by the authors.

<sup>10</sup> At the time these masks were costly and often unobtainable.

<sup>11</sup> Fobosi argues that the industry should first be formalised and regulated by the state before it can be subsidised.

## Government assistance to citizens during Covid-19

Government assistance to help the rest of South Africans cope with lockdown came much earlier. Already on 25 March 2020 Government launched a Covid-19 Temporary Employee/Employer Relief Scheme (TERS) to assist retrenched or furloughed workers as well as essential workers who had to isolate or quarantine, but did not qualify for paid sick leave (South African Government 2020b). While the Basic Conditions of Employment Act (BCEA) allowed employers to demand that workers use their annual leave when they run out of sick leave, the Department of Employment and Labour (DEL) encouraged employers to apply for TERS benefits on behalf of their workers. TERS benefits were paid out on a sliding scale of between 38% and 60% with a maximum benefit of R6 730 a month (Laubscher, 2020). Yet, only employers who were registered with the Unemployment Insurance Fund (UIF) and those who could prove that they had suffered financial distress because of lockdown would qualify for TERS relief (Lewin 2020).

Government's main intervention came on 21 April 2020 with the announcement of a R500 billion social and economic Covid-19 support package (South African Government 2020e). While it was unclear exactly how the money would be spent, Isaacs (2020) suggested that it might have been allocated as follow:

- R20 bn to support the health budget;
- R20 bn for municipalities to provide emergency water supplies, increase sanitation of public transport facilities, and food and shelter for the homeless;
- R50 bn towards increased social grants;
- R40 bn towards the TERS scheme;
- R200 bn for loan guarantees to businesses;
- R70 bn for tax and payment deferrals and holidays to businesses;
- R100 bn to protect and create jobs.

What was evident was that the bulk of support would be directed at formal businesses. Of the proposed R500 billion, only 10% (R50 bn) would be channelled to the poor by:

- increasing the value of social grants (child, disability, pensions) for a period of six months; and
- establishing a special Covid-19 Social Relief of Distress Grant of R350 a month for six months for all those who were unemployed but did not receive any social grants or UIF payment.
- rolling out a food assistance programme through cash transfers and vouchers, distributed by the South African Social Security Agency (SASSA), and handing out about 250 000 food parcels, distributed by the Department of Social Development, with the assistance of NGOs (Kavuro 2022, citing the Presidency).<sup>12</sup>

In October 2020 Government announced that a further R1 billion would be allocated towards a food relief programme. The value of food parcels ranged between R700 and R1 400 per month and depended on family sizes (Van der Berg, Patel, & Bridgman 2022) but were only distributed to households who met certain criteria.

While the hard lockdown started on 27 March 2020, government relief efforts only began in earnest in May 2020. For instance, while the TERS-scheme was already launched at the end of March 2020, two months later the National Employers Association of South Africa (NEASA) complained that more than half of its 10 000 members had not received any TERS (Business Insider SA 2020). While both asylum seekers and refugees are entitled to work in South Africa<sup>13</sup>, they were initially excluded from accessing TERS. The Unemployment Insurance Fund (UIF) blamed this lack of access on a computer glitch that allowed staff to capture only

<sup>12</sup> The Presidency: 'Statement by President Cyril Ramaphosa on further economic and social measures in response to the Covid-19 epidemic' (21 April 2020). Available online at: <http://www.thepresidency.gov.za/speeches/statement-president-cyril-ramaphosa-further-economic-and-social-measures-response-covid-19>.

<sup>13</sup> Asylum seekers and refugees are allowed to work in in South Africa if they are respectively issued with a Section 22 permit (valid for 6 months) or a Section 24 permit by the Department of Home Affairs.

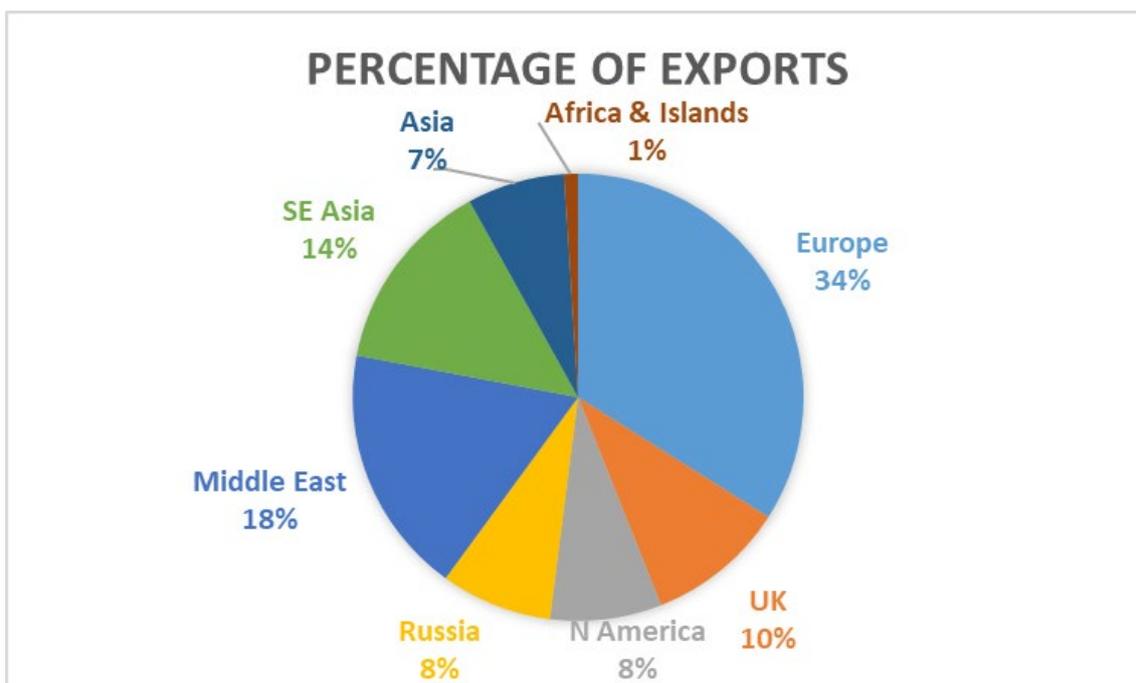
South African ID numbers and not those of foreign workers. It also blamed employers of foreigners who did not register them with the UIF. Foreigners registered for UIF complained that they were not compensated, while South Africans, working at the same companies, were [Mukubang et al 2020]

The COVID-19 Social Relief of Distress Grant (SRD) was only rolled-out in June 2020 (Spaul et al 2020). Some people never received COVID-19 relief grants and/or reported that food parcels were insufficient (Posel & Casale 2020, citing De Vos 2020 and Janse van Rensburg & Neer 2020; Stiegler & Bouchard 2020). Again, the foreign-born were initially excluded from accessing the SDR-grant and food parcels. It was only after this exclusion was reversed by the court on 19 June 2020 that they were able to access it (Ellis 2020; Mukumbang et al 2020; Kavuro 2022). This was not the first time the courts reversed a decision by the DSD which denied foreign migrants social assistance (Human Rights Watch, 2009). In October 2021 the Minister of Health indicated that only South African citizens with identity documents would be vaccinated (SABC News 2021; Stent 2021). While the president shortly thereafter declared that the vaccine would be available to all adults living in South Africa, regardless of citizenship or residence status (Cassette & Xaba 2021) foreigners only had common access to vaccines from December 2021 (Cassiem 2020).

### The research gap

When considering the impact of Covid-19 on South African workers, the predominant focus has been on how the inability to work has impacted on the livelihoods of such workers (c.f. NIDS-CRAM studies). Studies that have focussed on essential workers, focussed mostly on health care workers who operated on the “frontlines” of the pandemic (cf. Lewis & Mulla 2021; Chersich et al 2020, Oosthuizen et al 2022) and for whom nightly shouts of support went up across the rooftops of cities worldwide. In South Africa, much less is known about how farm workers, who were also essential workers, coped. These workers largely remained invisible from public sight and discourse, although they continued to ensure the food security of both local residents as well as those in the Global North. Northern supermarkets and wholesalers remain important customers of South African citrus farmers (See Graph 1 below). As such, South African fruit exporters and their workers are deeply integrated in the Global Fresh Fruit Value Chains (FFGVC).

► Graph 1: Major Export destinations of South African citrus



Source: AgriHUB PPECB, cited in Citrus Growers’ Association of South Africa’s 2022 Industry Statistics, p10.

Already before lockdown, fruit workers were some of the most vulnerable workers in the country. Their vulnerability is multi-dimensional: Firstly, the vast majority are employed on fixed-term contracts, making them job-insecure and reluctant to unionise for fear that they will not be re-employed. Second, although official numbers are unavailable, a growing proportion of farm workers –properly the majority – are migrants, consisting of both internal (South African) migrants and external migrants from Lesotho and Zimbabwe. Internationally it has been found that migrant agricultural workers have “borne the brunt of the Covid-19 pandemic as essential workers” (Reid et al 2020: 73) and that the pandemic has further increased the risk of their labour rights being violated (Landry et al 2021). It has been argued that Covid-19 merely highlighted inequitable and precarious working conditions of migrant workers that existed long before the pandemic (Reid et al 2020; Landry et al 2021; Guadagno 2020, Palumbo & Corrado 2020). These same dynamics are also observable in the South African fruit sector, as will be discussed.

Third, both South African producers and workers are incorporated in the Fresh Fruit Global Value Chain (FFGVC) as is evident from Graph 1. Elsewhere worker incorporation into GVCs has increased workers' vulnerability during Covid-19 (Krauss et al 2022). Barrientos et al (2011) warned that workers' integration into GVCs can lead to “social downgrading”, especially a deterioration of labour standards (Barrientos et al 2011: 324). One reason for the latter is that powerful retailers ‘squeeze’ suppliers by engaging in unfair purchasing practices and terms of trade that drive suppliers to cut their labour costs by downsizing their labour forces and engaging in casualisation and externalisation of labour, leading to workplace stratification (Barrientos & Kritzingner 2004; Hughes 2005; Raworth & Kidder 2009; Barrientos 2013; Barrientos et al 2016). Mayer & Phillips (2017: 146) argue that GVCs *rely* on stratified workplaces for profit extraction and that these chains are therefore “intimately connected with global patterns of poverty and inequality across the world”.

Finally, the state's lack of enforcement of farm workers' rights lends an element of informality to agricultural workplaces (Barrientos & Visser 2012; Visser & Ferrer 2015; Alford 2016; Visser 2016; Alford et al 2017). For instance, in 2013/14 the ratio of public labour inspectors to workers in the Western Cape was 1: 16 090, exceeding the ILO's recommended ratio of 1: 10 000. At the time, Inspection and Enforcement Services (IES) in the Department of Employment and Labour (DEL) only had 56 inspectors in the Western Cape of which just six were OHS inspectors. Given that these 56 inspectors had to inspect all workplaces in the province, they only managed to conduct 23% of its inspections in the Agriculture, Forestry and Fishing sector (EY & DEL: 2017: 49). The funding shortage to appoint additional inspectors to meet the ILO's recommendations was not unique to the Western Cape, but existed nationwide (Parliamentary Monitoring Group, 2015).

## Methodology, sample description and selection

This study collected qualitative data in Citrusdal and Clanwilliam, two areas in the Cederberg district that form the hub of the Western Cape citrus industry. This sector and sites were selected because: a) previous research suggested there was a high concentration of migrants in the fruit-exporting sector (Visser & Ferrer 2015); b) compared to other, ‘over-researched’ areas of the Western Cape, far less is known about labour dynamics on farms in the Cederberg; c) the citrus season coincided with the start of hard lockdown; and d) workers in the area migrate between citrus, apple and table grape farms in the Western Cape, allowing for a broad overview of migrants' working conditions.

The first stage of data collection consisted of a desktop study of the South African government's pandemic regulations and measures to support businesses, workers and the poor during lockdown as well as industry support provided to producers and workers during lockdown.

The second stage consisted of fieldwork, conducted in May and June 2022.<sup>14</sup> The first phase of field research comprised of open-ended, unstructured interviews with sixteen key informants who were purposefully

<sup>14</sup> Prior to fieldwork, ethical clearance was first obtained by from the University of Cape Town's Ethics in Research Committee. Conditions for clearance involved ensuring participants' informed consent and ensuring their anonymity to ensure that they would not come to harm.

selected due to their knowledge and/or specific role in the area, or, who were recommended to the researcher by key informants already interviewed (See Table 2 below).<sup>15</sup>

► **Table 2: Breakdown of key informant interviews**

Officials	Community representatives	Business
2 x officials from Cederberg municipality	3 x Riverview committee members	2 x established taxi drivers
Police officer, Citrusdal	Khayelitsha committee member	Producer whose bus contractors were killed
Government official that did not want to be identified by organisation	2 x religious leaders	
Representative of the Department of Social Development	Paralegal of NGO	
Medical manager, Cederberg sub-district		

Most key informant interviews were conducted in person, apart from a few telephonic interviews conducted after the researcher had left the field. Interviews with key informants lasted approximately one hour and focused on gaining insight on the extent of migration into the area; key drivers and patterns of migration; and challenges faced by migrants staying in the area. Information was also collected about efforts to contain and mitigate the spread of Covid-19 in the area; and to provide support to migrants who had been impacted by Covid-19.

Interviewed workers were not approached via producers to prevent them potentially being inhibited during our discussion because producers knew they were being interviewed. Apart from one group of workers that were interviewed on a farm – but without the mediation of the producer – all other workers were interviewed off-farm.

Twenty-six farm workers were interviewed of whom 25 were migrants (See table below for further detail about the farm workers). This entailed four focus group discussions and eight semi-structured interviews conducted telephonically or in person.<sup>16</sup>

In addition to the farm workers, two taxi drivers and a labour broker who were tangentially integrated in the FFGVC were interviewed. Six producers were also interviewed individually. Getting more labour brokers to participate in the research was difficult, given that smaller brokers often have unregistered businesses which fall outside the regulatory radar of the state.

<sup>15</sup> The Department of Employment and Labour was repeatedly approached for an interview and a written list of questions was also sent to them, but they failed to respond.

<sup>16</sup> The original plan was to conduct six focus group discussions (FGDs) with workers representative of gender and work area (orchards versus packhouses). Each FGD would consist of six farm workers and two focus group discussions of three taxi drivers each (to also gauge the impact of Covid-19 on the self-employed). However, turn-out to FGDs was low. This could be attributed to the fact that workers were interviewed in what they regarded as their precious free time over the weekend. It had previously been decided that interviewing workers during the week (when they had to cook, care for children and rest after a long day of hard physical labour) would be even less desirable. Lack of worker participation could also be ascribed to the possibility that workers did not see any direct, tangible benefits in participating in the research.

► **Table 3: Distribution of farm workers interviewed over key variables**

FGD or SSI	Number of workers	Citizenship		Accommodation		Workplace		Gender	
		SA Citizen	Foreigner	On-farm hostel	Informal settlement	Orchard	Packhouse	Male	Female
FGD 1	5	5	0	5	0	5	0	5	0
FGD 2	5	3	2	5	0	5	0	5	0
FGD 3	4	0	4	0	4	4	0	4	0
FGD 4	4	4	0	0	4	4	0	0	4
SSI 1: in person	1	1	0	0	1	0	1	1	0
SSI 2: in person	1	1	0	0	1	0	1	0	1
SSI 3: in person	1	1	0	0	0	0	1	0	1
SSI 4: in person	1	1	0	0	1	1	0	1	0
SSI 5: Telephonic	1	1	0	1	0	0	1	0	1
SSI 6: Telephonic	1	1	0	1	0	0	1	0	1
SSI 7: Telephonic	1	1	0	1	0	0	1	0	1
SSI 8: Telephonic	1	1	0	1	0	0	1	0	1
Totals:	26	20	6	14	11	19	7	16	10

FGDs generally lasted between one and 1.5 hours. All discussions took place in the mother tongue of the participants (i.e. Sotho, Xhosa and Afrikaans). The exception was a FGD with Zimbabwean migrant workers which was conducted in English. FGD started off by first collecting demographic and workplace information about each participants before following the structure of a conventional FGD. A semi-structured individual interview was conducted with the shop steward.

Given the fairly close-knit nature of the communities in Citrusdal and Clanwilliam, contributions of all respondents were anonymised, unless information already appears in the public domain. However, to give the reader an idea of the constituency in which key stakeholders fall, the following abbreviations are used: CBKI (Community-based key stakeholder); GKI (governmental key stakeholder); KCI (commercial stakeholder).

Finally, secondary data alluded to during key stakeholder interviews was obtained. These included industry reports; the Integrated Development Plans of Cederberg Municipality and Senqu Municipality (an important migrant sender community); a 2016-survey of the informal settlement in Clanwilliam; a 2014-survey conducted by Citrusdal Police of producers' sources of labour; and data on Covid-19 deaths collected by the Department of Health: Cederberg sub-district.

## ▶ 1 Overview

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### Situating Cederberg citrus farmers and workers into the FFGVC

The citrus industry in South Africa has expanded rapidly during the last ten years. On Western Cape citrus farms, predominantly clustered in the Cederberg area, the number of hectares planted under citrus expanded by 111% between 2012 and 2022 (CGA). In the Citrusdal area alone, there are now about fifteen citrus packhouses. Expansion has been the flipside of a process of ongoing farm consolidation that began with state deregulation of the agricultural sector in 1997. Deregulation ended subsidisation, tariff protections and state-supported research and extension services to producers. It also phased out marketing control boards that previously negotiated collectively on behalf of producers with buyers. The state's regulatory about-turn happened at a time of increased international retail consolidation. Consolidated retailers, "governing" the FFGVC, are renowned for setting terms of trade and prices in their own favour and transferring risks disproportionately to their suppliers and their workers (Barrientos et al 2015; Mayer & Phillips 2017; Kaplinsky & Morris, 2018; Smith et al 2018). Retailers also demand that suppliers comply with a range of private standards, regulating the quality of products and production processes, including social standards (Barrientos & Visser 2012; Greenberg 2013; Visser & Ferrer 2015). Given that about 77% of all South African citrus is exported (CGA 2022) and Northern Europe buyers (who mainly consist of consolidated retailers) still buy 44% of all citrus fruit (Europe (34%) and the UK (10%)),<sup>17</sup> citrus producers and workers from Citrusdal and Clanwilliam remain deeply integrated into the FFGVC. Expansion, ongoing commercial pressure on their profit margins due to their integration into the FFGVC, combined with regulatory flexibility and pressure created respectively by South African labour (Alford 2016) and tenure regulation (Theron 2016; Visser 2016) have driven producers to switch to a mostly fixed-term labour force. It allows them to absorb market fluctuations and price shocks as a fixed-term workforce can be reduced more easily than a permanent one. While fixed-term workers are generally more job-insecure than permanent workers, migrant fixed-term workers are arguably more insecure than locally-based fixed-term workers. While the latter has access to local social networks, migrants' access to such local networks is constrained, especially if they are newly-arrived. Moreover, where migrants make their own way to farms, they have to pay their own travel costs to and from the farm, decreasing their already meagre incomes. Migrants are also more at risk of exploitation by criminal networks. These vulnerabilities apply to all migrants, regardless of being internal or external, but due to the often-undocumented status of external migrants, coupled with periodic waves of xenophobia among South Africans, external migrants more often become targets of criminality and exploitation (Misago et al 2015). Syndicates *inter alia* make money off undocumented external migrants by selling them fake South African identity documents and passports – at R5 000 per passport – as has been reported by the Department of Home Affairs (News24 2022). Claims that locals "hire out" passports, identity documents and bank cards to undocumented external migrants working on farms were also reported by Visser (2021).

### The labour relations framework of the agricultural sector

To understand how labour regulation has impacted on producers' labour strategies, a brief overview of the labour regulations framework in which they operate is provided. Historically farm workers have been excluded from key labour legislation: they only obtained the right to strike in 1995. While the then Minister of Labour passed a sectoral determination (SD8, and later SD13) to regulate farm work in 2003, SD13 still fails to provide sufficient protection to fixed-term farm workers. For instance, producers only have to pay fixed-term workers the minimum rate *per hour* instead of *per day*; and they only have to grant fixed-term workers paid leave (SD13: s29(1)(d,e)) and family responsibility leave if their contracts are for more than four months ((SD13: s23(1)(a)).

<sup>17</sup> Source: CGA

To the extent that the state does regulate farm work, such regulation is weakly enforced due to IES's manpower shortages (Visser & Ferrer 2015; Visser 2016; Alford et al 2017). Northern-based retailers demand that producers comply with private social standards reinforcing South African labour and health and safety regulation. With rare exceptions, the main private social standard enforced on fruit farms – the standard of the Sustainability Initiative of South Africa (SIZA) – does not raise the bar beyond minima set by the state (Alford et al 2021).

While the Labour Relations Act (no. 66 of 1995) creates the framework for organisational rights and collective bargaining, the use of a predominantly fixed-term labour force in the fruit sector is not conducive to unionisation as fixed-term workers are intrinsically job-insecure and fear not being re-employed if they join a union.

The Extension of Security and Tenure Act (no.62 of 1997) (ESTA) has further incentivised producers to employ workers on fixed-term contracts. While producers in the area have historically employed most of their workers on permanent contracts and housed them on-farm, today only “core workers” on permanent contracts live in on-farm housing. A major driver of this change is because ESTA stipulates that any farm dweller may only be evicted from on-farm housing if producers obtain a court order and if suitably alternative housing is available. To avoid ESTA's strictures, producers instead appoint workers on fixed-term contracts and accommodate them in on-farm hostels or not at all.

Various pieces of legislation have provided the scope for more regulatory oversight of labour brokering, but implementation thereof has been a stop-start process. Section 24 of the Skills Development Act (SDA) (no.97 of 1998) used to provide for the registration of labour brokers, but was repealed by Section 53 of the Employment Services Act (ESA) (No4 of 2014). Also Section 198(4F) of the LRA provided for the registration of labour brokers, but that section has been “suspended until a date to be determined” (see LRA). Currently Section 13(4) of the Employment Services Act (Act 4 of 2014) (ESA) directs Public Employment Services (PES) – a division within DEL – to register brokers. It states that “any person wishing to provide employment services must apply to the registrar...to register as a private employment agency” (of which brokers are a subset). Yet, Section 13(4) of ESA is “yet to be proclaimed” and therefore not yet enforceable (See ESA). Hence, currently there is no obligation on labour brokers to be registered with PES.

The Draft National Labour Migration Policy (NLMP) of South Africa (2022) specifically tasks PES and DEL to protect migrant workers against abuse by brokers. It states: “Government will regulate Private Employment Agencies and Public Employment Agencies through supervision and monitoring of the recruitment activities of private employment promoters or agencies...The recruiter will have to expose the intending migrant worker to his/her contract of employment *in the presence of an authorised labour official* [own italics] before the migrant embark on his/her journey” (ibid:74). But how this is to be achieved in the face of the DEL's critical manpower shortages is unclear.

Furthermore, PES is also mandated “to facilitate the employment of foreign nationals, [and] advise the DHA on issuance of work visas” (SA Government 2022:73). Partly to this end, PES has developed the Employment System of South Africa (ESSA), an electronic job-matching system for work seekers and employers that also provides contact details of *registered* private employment agencies. This system will also link South African employers with foreign workers: the Draft National Labour Migration Policy (NLMP) states that, thanks to ESSA, “employers would be able to place orders for workers from any part of the world and have their request met with[in] a short time” (ibid:74). Thus, on one hand, while PES will facilitate the employment of foreigners, on the other it will continue to regulate the flow of foreign migrants by strengthening its work visa processing system, inter alia by the strengthening its labour market tests for granting visa/permit applications.

## Increasing employment of migrant workers

The increased use of fixed-term contracts had led to a concomitant increase in the use of migrant workers. The use of internal migrant workers in the fruit sector is not new. Apple producers from Grabouw and Ceres and table grape producers from the De Doorns area have historically recruited migrants from

the Eastern Cape and Transkei (Levy 1976; Graaff 1976).<sup>18</sup> Recruitment of migrants from traditional sourcing areas has continued, but has also expanded into new areas. A primary recruitment area is Sterkspruit, situated in the Senqu Municipality. The latter is an area of extreme poverty and high unemployment. In 2016 66.40% of its resident lived in poverty<sup>19</sup> (Senqu Municipality 2020). In the Cederberg area, the use of Eastern Cape migrants is newer. Historically, most workforces in the area were permanent. Where necessary, producers supplemented their permanent labour with harvesting teams drawn from neighbouring towns and/or mission stations.

## The use and regulation of foreign migrants

These days a not insignificant proportion of migrants on Western Cape fruit farms are external. For instance, an informal settlement in the table grape-growing region of De Doorns, is called “Maseru” (after the capital of Lesotho), referring to the high number of Lesotho nationals living in the area. In 2009 about 2000 Zimbabweans were displaced after they were chased from a De Doorns township. According to the Hex River Table Grape Association, about 21% of workers in the area were external (Visser 2018) although this is probably an undercount. In the apple-growing area of the Witzenberg, corporate permits were granted to sixteen farms to employ 3 671 Lesotho nationals in 2013 (Visser 2021). According to the Department of Home Affairs (DHA), many Lesotho migrants have stayed in South Africa after their permits have expired, not only in the Witzenberg, but throughout the country, joining the ranks of undocumented migrants. While it is alleged that some deliberately remain in the country to search for new job opportunities, where employers do not pay for their return transport to Lesotho, high travelling costs may prevent such migrants from returning to Lesotho.

South Africa’s Immigration Act (No. 13 of 2002) allows the Department of Home Affairs (DHA) to issue work permits to foreigners if they have scarce skills (defined by Government) or corporate visas to employers if they can prove beyond reasonable doubt that no suitably qualified and experienced South Africans are available. While employers can apply for a corporate visa, the same conditions must apply as for a general work permit. Some farmers have indeed applied for such corporate permits. Those brought in under a corporate visa enjoy the full protection of South Africa’s labour regulation. The Act criminalises the employment of foreigners without a valid work visa. Fortuin (2022) argues that the majority of external migrants from neighbouring states work without permits in informal or poorly regulated sectors of the economy given the onerous and costly procedure of obtaining a work permit. Undocumented migrants not only face the threat of deportation, but are also vulnerable to exploitation as they do not enjoy any labour rights under South African law.

Despite these threats, over time undocumented migration has become so pervasive that the South African state implemented a special dispensation for undocumented migrants from Zimbabwe and Lesotho in 2009 and 2015 respectively.<sup>20</sup> The South African government has acknowledged that irregular migration is the result of “limited possibilities for legal entry into the South African labour market for low-skilled workers from neighbouring countries.... [leading to ] ad hoc regularisation schemes such as the special dispensation for Zimbabweans and people from Lesotho” (SA Government 2022:33). The dispensations allow them to work, study or obtain business permits in South Africa for a specific grace period. These have already been extended more than once. Zimbabwean Exemption Permits (ZEP) will now expire on 30 June 2023 and Lesotho Exemption Permits (LEP) on 31 December 2023.<sup>21</sup> Permit-holders will either have to return home or face the threat of deportation.

<sup>18</sup> At the time migrants were recruited to Western Cape farms as a result of labour shortages created by the apartheid state’s racialised influx control policies.

<sup>19</sup> Poverty is measured here using the upper poverty line definition.

<sup>20</sup> These dispensations aimed to document the number of irregular migrants from Zimbabwe and Lesotho and provided amnesty to irregular migrants whose applications for political asylum or work permits were denied. (DoHA, 2015; News24, 2009)

<sup>21</sup> In this study people from Lesotho are referred to as Lesothos to distinguish them from South African Sotho-speakers as both the latter and people from Lesotho are referred to as Basotho. While South African Sotho-speakers are internal migrants and citizens of the country, migrant workers from Lesotho are external and need a permit to work in the country.

## Creating an opportunity for labour brokers

The use of migrant workers on farms has created an opportunity for labour brokers. Recently arrived migrants who have not yet established employment relationships with local farmers often use labour brokers as an entry point to work. On paper labour brokers and farmers are jointly and severally liable for labour law transgressions. However, due to DEL's lack of resources, its ability to monitor the majority of unregistered labour brokers and enforce compliance with labour regulation is extremely limited. That enforcement of labour regulation - in particular labour inspections - is a major challenge, is admitted by the state in the Draft NLMP (SA Government 2022: 35). Further thwarting the monitoring of brokers is the fact that unregistered brokers prefer to remain under the official radar, operating from their car boots and using different SIM-cards to avoid traceability.<sup>22</sup> This characteristic facilitates the employment and abuse of *undocumented* migrants, who need to stay under the official radar themselves.<sup>23</sup> The Draft NLMP singles out farm workers as one of the categories of migrant workers at particularly risk (SA government 2022).

## Creating a gap for taxi-drivers

Until a couple of years ago, the number of minibus taxis in the rural towns of Citrusdal and Clanwilliam were a mere "handful" [CKI1; CKI2]. Taxi drivers in the area traditionally made a living transporting working class people, especially students, from local towns to Cape Town and its periphery. However, the rising number of migrant workers in the area have created a gap in the market not only for labour brokers, but also for taxi drivers. The link between agricultural migrants and the burgeoning rural taxi sector is poorly understood. While it has been suggested that some drivers moved to Citrusdal and Clanwilliam to escape stiff competition in more oversupplied areas elsewhere, it is also possible that rural taxi drivers themselves migrate between counter-seasonal fruit production zones, following migrating agricultural workers, who have since become their main clients. A key informant suggested that some taxi drivers had previously worked as migrant team leaders on farms, but switched to the more lucrative business of taxi-driving, transporting migrant workers from farms to their homesteads in the Northern Cape, Eastern Cape and Lesotho (CKI1).

The stakes involved in servicing lucrative, long-distance routes are high, which means that such routes quickly become oversubscribed and turf wars over long-distance routes are common.

Lack of state subsidisation of the taxi-industry further impacts on the marginality of the industry, exacerbating conflict and violence. In the six months up to July 2021, 83 taxi-related murders and 56 taxi-related attempted murders have occurred in the Western Cape, with more than 20 people being gunned down in July 2021 alone (Stoltz 2021). Taxi wars are no longer restricted to urban and peri-urban areas. In June 2021, five people were killed at a taxi rank in Ceres and in August 2021, taxi-related violence also erupted in Citrusdal.

<sup>22</sup> A labour broker interviewed during the research claimed there were only ten registered labour brokers in the area and that the rest were all unregistered. He complained that unregistered brokers undermined the competitiveness of registered brokers by charging clients lower rates. They were able to do so as they did not make UIF contributions, but also by illegally deducting their operating costs from their workers' wages. As a result their workers received less than the statutory minimum wage.

<sup>23</sup> According to the Department of Home Affairs (Western Cape) the use of undocumented labour is high on Western Cape farms, especially in De Doorns, Ceres, Citrusdal and Clanwilliam areas, although no official numbers are available (Visser 2021).

## ► 2 Producers and workers before Covid-19

### Type of employment

The use of fixed-term workers has spurred migration into the area. Both the informal settlements in Clanwilliam and Citrusdal are bursting at their seams. By 2022, an official of Cederberg Municipality estimated there were about 4 000 households living in Khayelitsha, the informal settlement in Clanwilliam and 3 000 households in the Riverview, the informal settlement in Citrusdal.<sup>24</sup> A 2016-survey conducted on behalf of Cederberg Municipality among Khayelitsha residents found that 90% of those surveyed had migrated to the area in search of work. About 50% of those surveyed had moved into the area between five and ten years ago and 40% within the last five years (Cederberg Municipality 2016).

Any doubt about the link between agriculture and the growth of these settlements can be quickly dismissed by observing movements at the entrance to the settlements. On weekdays, from sunrise, workers in farm overalls gather at a designated pick-up point, waiting for farm trucks to transport them to the farm. "Within an hour and a half, a few thousand people move through those pick-up points on their way to packhouses and farms," commented a police officer. The reverse happens when a procession of trucks stops in a cloud of dust at the end of the day, off-loading farm workers who rapidly disappear between a huddle of shacks to go and cook their supper (direct observation).

Among the sample of producers in this study, two of the bigger producers (P2 and P4) respectively engaged 76% and 22% of their workers through brokers. Others employ fixed-term workers directly (See Table 4).

► **Table 4: Surveyed producers' use of fixed-term workers**

Producer	Percentage of workers employed via labour brokers	Percentage of workers on permanent contracts	Counter-seasonal crops farmed with	Average contract length of fixed-term workers
Producer 1 (P1)	0	40%	Rooibos tea (Jan-March) Nectarines (Nov-Mid-April)	8 months
Producer 2 (P2)	75%	15%	Tomatoes (Jan-March)	Fixed term workers: 10 -11 months Contract workers: 5 -6 months
Producer 3 (Packhouse only)(P3)	0	3%	None	7 months
Producer 4 (P4)	22%	9%	Rooibos tea (Jan-March)	7 months
Producer 5 (P5)	0	6%	Table grapes (Olifants: Dec to Feb)	10-11 months

<sup>24</sup> The growth of Khayelitsha can be attributed partly to an announcement twenty years ago that the height of the wall of the Clanwilliam Dam ( a major irrigation dam adjacent to Clanwilliam) would be raised. It has led to an influx of job seekers hoping to get construction jobs. While the raising of the dam wall has still not started, the job seekers have remained and since moved on to agricultural jobs.

Producer	Percentage of workers employed via labour brokers	Percentage of workers on permanent contracts	Counter-seasonal crops farmed with	Average contract length of fixed-term workers
Producer 6 (P6)	16%	18%	Vegetables; watermelon (mid-Dec to April)	"Permanent": 12-month contracts, renewed annually; fixed-term: 6 - 9 months

Source: Compiled from producer interviews

Well before the start of the citrus harvest, citrus producers start lining up their harvesting and packing teams by contacting team leaders. Over time, as migration routes and routines between counter-seasonal Western Cape fruit farms have become more established, it has become easier for jobseekers to migrate and find work in the area on their own steam. Opportunistic migration by workers in search of employment is responsible for the biggest influx of migrants into Khayelitsha (Cederberg Municipality 2016). But the growth of these settlements can also be attributed to the “settling” of migrants previously accommodated in on-farm hostels who remained in the area after they had to evacuate farm hostels at the end of their contract. These ‘settled’ migrants typically look for counter-seasonal work on farms in the area (e.g. harvesting rooibos tea, peaches or table grapes) while a minority find work in the local town or start their own businesses (Cederberg Municipality 2016).

In addition to the use of internal migrant labour, the use of external migrant labour has also increased. According to a 2016-survey conducted among households in Khayelitsha, Clanwilliam, about a third of those interviewed at the time were foreign nationals (Cederberg Municipality Survey-2016). The study was not able to obtain information about the number of Zimbabweans and Lesotho nationals that had ZEPs and LEPs versus those who were undocumented. However, during the research government officials interviewed in the Cederberg area often lamented the high incidence of *undocumented* labour in the area. One of them commented: “Foreigners get work easier than our own people, regardless of whether they have the correct documents or not.... The majority of workers [exiting the trucks] are from Lesotho. You can hear it when they speak, but also see it from the way they dress; they wear balaclavas and blankets. Perhaps fifteen of the workers who get off the truck are Coloureds; the rest are from Lesotho”. Officials interviewed also commented on the high number of fraudulent documents circulating in the area and blamed “labour brokers [who] contract with foreign nationals, many of whom have fraudulent passports. That is why we feel that it would help if the Department of Home Affairs could come onboard to execute raids,” they commented, complaining that the Department of Home Affairs was “non-existent” in the area (GKI5).

One producer (P4) was considering implementing facial recognition technology to verify that workers turning up for work were the same as those who were appointed. Some time ago he discovered five workers sharing one identity document. During his 2022-recruitment drive, to avoid inadvertently employing undocumented job applicants, he asked the Department of Immigration to help verify applicants’ identity documents. “Unfortunately Immigration dropped us, but just because of the rumour that Immigration would be there, about a thousand less people turned up than the previous year,” he commented.

The labour broker commented that not only did producers in the area make extensive use of labour brokers, but they also employed many external migrants, specifically from Lesotho. His remarks suggest that the preference of producers was not necessarily for Lesotho nationals per se, but rather for workers who were willing to do the job for the minimum wage. “[The producers] ask me to bring the right worker that can meet the target of the day. [The workers] have to work very fast to meet the target and earn the minimum wage and it is the Lesothos that are the ones that are willing to do the job; they don’t complain like the South Africans...Before coming here, I worked as a foreman in Kuruman and the Eastern Cape, but the South African workers would always go on strike, saying they cannot work like a donkey, that the work is too hard. Then they walk out of the field and leave you standing there to deal with the farm owner.” He feared for the day that the Lesotho Exemption Permits would be phased out: “We [the labour brokers] are the ones that have to say no to people [who don’t have permits] who do not have food...If DHA prevents

Lesothos from working, some of the farms will have to close their doors because there will be nobody to pick the oranges and cut the tea”.

## About the migrants and their working conditions

Of the 26 migrants who were interviewed, basic information was collected from 21 workers. Of them, sixteen were internal and eleven external migrants (six from Lesotho and five from Zimbabwe). Sixteen of the 21 workers had completed at least ten years of schooling. All five Zimbabweans had completed their final year of school. Five workers had only completed primary school. The majority of workers were younger than forty. Of the nineteen workers who were prepared to disclose their relationship status, eleven were single and eight were either married or in a stable partnership. Of the eight who were in a relationship, five stayed with their partners. Eighteen of the 21 workers had children. The majority (thirteen) had one or two children. Nine workers (of whom four were women) had children under six, but did not stay with them. Those who lived in on-farm hostels paid rent of about R72/week, while those staying in the informal settlement paid rent of between R69/week and R138.50/week.

Twenty-five migrants were questioned about their work histories, their basic conditions of work and their accommodation circumstances. Most migrants had been working on farms for more than a year, but less than six years. The exceptions were three migrants who had worked on farms for more than ten years and five Zimbabweans who had worked in the area for less than a year. Of those who had worked on farms for more than a year, half had worked for the same producer for a number of years and the other half migrated to different geographical areas where counter-seasonal crops were grown. Where workers stayed on the same farm for most of the year, the farm produced counter-seasonal crops such as citrus (April to September) and grapes (October to March).

Those who were interviewed reported that their working conditions generally complied with labour legislation. Apart from one, all migrants had signed a contract of employment. Eight could not read their contract as it was written in Afrikaans. Two thirds of workers were employed on contracts of between four to six months; the remaining third were appointed on contracts of ten months or more. The majority of workers (75%) were paid per hour, while the rest were paid the piece rate. With the exception of one worker, who was an office cleaner, all workers earned at least the minimum hourly wage. About 80% worked between 7.5 and nine hours per day, which is in line with SD13. Of the rest, one worked 9.5 hours and two worked ten hours.<sup>25</sup> One worker worked eleven hours per day, which was clearly illegal as SD13 did not allow overtime for extended periods because of health and safety risks associated with long hours of work. All workers reported working overtime, but receiving overtime payment when they did so.

## Transportation

As in rural areas elsewhere, transportation of workers on the back of trucks was common.<sup>26</sup> This practice has been contentious for a long time. In January 2021, in two separate incidents, more than 130 Western Cape farm workers were injured after they were flung from the back of trucks: thirteen workers died (Ngcakani 2021). At the time Billy Claassen, executive director for the Rural and Farmworkers Development Organisation, said: “We appeal to the president and the Ministers of Labour and Agriculture to put a stop to this inhumane transportation of farmworkers on open trucks and bakkies. This we have pleaded for years now, and nothing has been done” (Sinxo 2022). In response, producers have modified their trucks by installing roll-bar canopies and removable seating at the back of trucks and covering canopies with tarpaulins with flaps.

Current legislation does not outlaw such transportation. An amendment to Regulation 250 of the National Road Traffic Act (no.93 of 1990) which came into effect on 11 May 2017 stipulates that no person shall convey any other person in the goods compartment of a motor vehicle for reward. Hence, if producers do not

<sup>25</sup> By agreement, SD13 allows a worker’s ordinary hours to be extended to fifty hours per week for four months on the condition that working hours are later reduced to forty hours per week for the same period.

<sup>26</sup> The exception was packhouse workers who were generally transported by bus (personal observation).

charge workers for transportation, then they can transport workers in the goods compartment of his vehicle. They just have to comply with Regulation 247 of the National Road Traffic Act, which only requires that:

“the vehicle in which such persons are being conveyed is enclosed to a height of -

(a) at least 350 millimetres above the surface upon which such person is seated; or

(b) at least 900 millimetres above the surface on which such person is standing, in a manner and with a material of sufficient strength to prevent such person from falling from such vehicle when it is in motion.”

Dembovsky (undated) points out that “there exists no limitation whatsoever on the number of persons that may be transported in the goods compartment of a vehicle; provided that all passengers in the goods compartment comply with the provisions of Regulation 247 and that the gross vehicle mass of the vehicle is not exceeded (overloaded)”.

## Grievance mechanisms

Despite workplace challenges none of the migrants interviewed were unionised. In fact, half of them did not even know what a union was. About a third of workers interviewed were represented by a worker committee and reported that they lodged their grievances with the committee. Of the workers who were not represented by a committee, half either complained to their foreman or supervisor if they had a grievance. The rest kept quiet, fearing that they would lose their jobs if they complained.

## ▶ 3 The impacts of Covid-19

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### Government regulation of essential services

When Covid-19 broke out, the Department of Employment and Labour published various occupational health and safety directives for essential workplaces. These included minimising the number of workers “as far as practicable” through staff rotation, staggered working hours, shift systems and remote working arrangements (South African Government 2020f),<sup>27</sup> observing a distance of 1.5 meters between workers, or, where this was not possible, erecting solid physical barriers between them (ibid: S.17-18); providing sanitizers and disinfectants and adequate hand-washing facilities to all workers free of charge (S.26); disinfecting workplaces before and after work (S28); providing workers with a minimum of two “cloth masks” free of charge; and enforcing mask wearing (S.30-31). Employers also had to screen workers for symptoms and ensure that they sanitised before entering workplaces. All workers had to carry essential work permits and IDs to show to officials enforcing the lockdown regulations (South African Government 2020d).<sup>28</sup> DEL also required all employers with ten or more employees to conduct a risk assessment to assess their risk of infection. Those with more than five hundred employees had to develop a documented risk assessment and Covid-19 policy setting out how they would respond to risks (Government of South Africa 2020f).<sup>29</sup>

### Producer responses

Given the state’s warning that essential businesses would be shut down if they did not comply with Covid-19 health and safety protocols, the agricultural industry realised that it was in their best interest to comply. To advise its members, the Citrus Growers’ Association (CGA), the commodity organisation representing citrus producers, formed a Covid-19 Response Committee (CRC) consisting of directors and staff of the CGA. From 15 April to 27 August 2020, the CRC met weekly to discuss the industry’s response to Covid-19. The risk of workers falling ill and putting out of action entire harvesting teams, packhouses, cold stores and shipping terminals was identified as a major risk. Another was that the state might restrict the movement of migrants, preventing them from reaching farms and packhouses (CGA 2021:22).

The CRC consulted widely to collect best practice on implementing Covid-19 regulations, inter alia with the Department of Agriculture, Land Reform and Rural Development (DALRRD) and with fruit industry representatives from Spain, Australia and New Zealand. It asked its members to share tips and experiences of coping with Covid-19 in the workplace. It eventually developed two best practice guidelines for producers: one for workplaces and one for transporting workers. It also sent newly-published government directives to its members and updated its own guidance based on new information and new directives. Between April and July 2020 the CGA distributed 44 memos containing guidelines to its members and also posted the guidelines on its website. It also distributed posters and pamphlets that producers could display in workplaces.

While the activities of the CRC were placed on hold after the first wave, it was reconvened to deal with the Delta-virus. This time representatives of the Department Agriculture, Land Reform and Rural Development (DALRRD), the Fresh Produce Exporters Forum (FPEF), the Perishable Produce Export Control Board (PPECB) and AgBIZ were invited to join the CRC, leading to closer cooperation between industry bodies and government institutions (CGA 2021). Most other commodity organisations as well as the national farmers’ organisation, AgriSA and the ethical trade organisations, the Sustainability Initiative of South Africa (SIZA) and the Wine and Agricultural Ethical Trade Association (WIETA), supported their members in similar ways. In addition, in the Cederberg, various local WhatsApp groups, respectively linked to the producers’ organisation

<sup>27</sup> See Department of Employment and Labour: GN 449 of 2020: S.16.7

<sup>28</sup> In terms of Regulation 11B(1)(a)(iii) in GNR.446 2020

<sup>29</sup> Department of Employment and Labour: GN 449 of 2020: Section 16.2.

AgriSA, community policing forums and the Cederberg's medical manager (who conveyed guidelines via the Department of Health) were also established. In short, producers received substantial information and guidance on how to deal with the pandemic.

Despite having access to the same information, producer responses to the pandemic sometimes differed markedly, even within this small sample. P6 locked the gates to his farm after ending up in hospital with Covid-19. P4 "realised that Covid was no joke" following the death of one of his senior managers. P4 developed a contact-tracing app to be able to quickly quarantine all contacts. Both P3 and P4 conducted a detailed, Covid-19-specific risk analysis of their workplaces. P4 hired a consultant to ensure that Covid-19 risk prevention strategies were implemented on his farm. P3 appointed a Covid-19 management team (including senior management, HR, the packhouse quality controller and the shop steward) and instructed its industrial nurse to monitor high-risk areas on an ongoing basis. At P2, workers who did not wear masks in the packhouse received disciplinary warnings. P5 launched a cell phone-based campaign to keep its workers informed about Covid-19 and later about the roll-out of vaccinations. On the other end of the spectrum was P1: "I told the workers it is nonsense – if your spit stays behind your mask, it cannot influence anybody". He also thought that social distancing was "nonsense".

## Sanitary conditions

Workers interviewed during this study reported high compliance with basic sanitary conditions in the workplace. This could potentially be attributed to the state's Covid-19 regulations, which increased occupational health and safety regulations, but also to the fact that fruit exporting farmers have to be GlobalGAP-certified. The latter is a private standard promoting good agricultural practices which inter alia puts a high premium on health and safety in the workplace. Of the 21 workers questioned about their workplace conditions prior to Covid-19, twenty had access to a toilet; seventeen out of those twenty reported that workplace toilets were clean and that they had access to toilet paper; sixteen had access to soap. Eighteen had access to clean drinking water (three were unsure about the safety of their drinking water). The one aspect of their working conditions that was deeply problematic - especially in the light of Covid-19 - was non-payment of sick leave: eighty percent of workers reported that they did not receive paid sick leave.

## Screening and social distancing

As the risk of infection was higher indoors than outside producers focussed most of their Covid-19 interventions on packhouses. Before being allowed to enter packhouses, all workers had their temperatures taken and were required to sanitise their hands. At P3, any worker who displayed symptoms, was removed from the queue and sent to the company nurse via a dedicated route. She would then perform further screening and a rapid Covid-19 test, if required. All packhouses - except P1 - enforced social distancing. P2 and P3 used tape to mark out dedicated walkways and distances on the floor, forcing workers to walk in a line and observe social distancing. Two packhouse (P3 and P5) erected Perspex dividers between packers and issued them with visors. At P3, packhouse management erected screens between workers in the canteen so that they could be protected when they had lunch; P2 enlarged its canteens; and P4 hired stretch tents to allow each team to lunch outside, separately. While P1 did not apply social distancing, he fumigated his packhouse twice a day; P4 periodically fumigated his packhouse. Of the producers interviewed, all six said they provided workers with masks and sanitizers at work.

The shop steward working in P3's packhouse reported that Covid-19 protocols were generally strictly observed at her packhouse, that workers had access to sanitizer and masks and that working spaces were regularly sanitized. As a member of the union, she was sat on the company's Covid-19 committee. Generally, she felt supported by the company and let down by her union, as she felt it did not reach out to support workers during the early days of the pandemic. She commented: "Our company did far more than [the union]. [The union] did very little to support us. I know it was difficult for [the union] to reach us during Covid, but even if it sent a message to the shop stewards that we could have read out to our members – to show that [the union] is not only here to take your money, but actually cares about us. In 2021 the union gave us training on the rules and regulations about Covid-19 via Skype, but they should have done that right at the start of

the pandemic,” she commented. Given that it is predominantly women who work in packhouses, women were disproportionately exposed to Covid-19 as they worked in confined spaces for long hours. Some packhouses also bused in their packers and sorters from neighbouring towns, which meant that women continued to find themselves in confined spaces until they were dropped off at home.

Most of those interviewed worked outside. As workers did not necessarily work on the farms of producers interviewed, contradictions between what producers and workers reported were to be expected since they were not always referring to the same workplaces. However, in some cases producers and workers from the *same* farm contradicted each other, as did *workers* from the *same* farm. Of the workers interviewed, four (one of whom worked for P6) reported that their employer provided them with masks; eight workers (four of whom worked at P4) were provided with masks during the first month of lockdown, but had to buy their own masks thereafter; eight had to buy their own masks right from the start (including at P6); and four workers were not specifically told to wear masks. Commented a male orchard worker: “Many people have died of Covid-19, but people still did not take it seriously. Even the manager did not wear a mask. I personally feared that I may contract the infection and put my family at risk. Only in the packhouse did people wear masks, but no one wore masks in the orchards.” All workers reported that they had access to sanitizer at work, but eight workers employed by P4 said they sometimes had to buy their own when the company’s sanitizer ran out. Workers at P5 complained that the foreman hogged the sanitizer (as well as the toilet paper). Also the labour broker commented on different levels of compliance on the farms of his two clients: while one provided workers with masks and sanitizer, the other did not.

Given that farm work, especially the harvesting of fruit is physically demanding and that it is impossible to constantly supervise workers who disappear behind trees when picking fruit, producers acknowledged that they adopted a more relaxed approach to mask wearing outside. Generally they relied on other strategies to curb the spread of the virus. Three producers treated each team as the “family unit”. This involved consistently separating teams from each other during work, breaks, transportation and also after working hours (P1, P4, P5). Sometimes producers went to great lengths to keep workers staying on-farm separate from those who stayed off-farm. For instance, some producers did not allow workers staying on-farm to mingle with those who commuted to the farm from informal settlements on a daily basis (P3, P4, P5). Some producers went to extreme measures to protect their on-farm workforces from the virus, even after the hard lockdown had come to an end, to the extent that such measures infringed on workers’ constitutional right to freedom of movement. For instance, when the owner at P6 was hospitalised during the Delta-wave, management locked the farm’s entrance gate and had it guarded by a security company for a period of five months: no worker living on the farm was allowed to go into town and no unauthorised person was allowed to enter. Similarly, a representative of an NGO said he had to intervene after a producer stopped workers from going into town (CBKI1). At P5, instead of taking workers to town for their shopping, management arranged that two supermarkets sell a limited range of groceries to workers *on the farm* for about a year. At P2, management did not allow migrant workers, whose hometown had become a hotspot, to return home for a period of two months. P4 did not allow workers from its different farms to visit each other after hours. However, attempts to restrict the movement of workers after hours was a challenge. The representative of an NGO observed that “on some farms you would not have thought it was Covid” as “people visited their friends from neighbouring farms without wearing any masks after hours” (CBKI1).

Workers generally reported that their working hours stayed the same regardless of social distancing. The exception was one farm where teams were alternated so that each team only worked on consecutive days. As a result workers on this farm worked only 27 hours per week during the height of Covid-19. Another worker reported that her former employer reduced the number of workers to implement social distancing in his pack house. She commented: “We were normally a hundred workers in that packhouse, but some people lost their jobs because of social distancing. One supervisor had thirty workers, but [because of social distancing] she only had 23. My friend was retrenched. She has two children: one is three and the other is six months old. Her boyfriend had to care for her because her TERS-funding was declined.”

## On-farm accommodation

Hostels where workers shared dormitories for several hours a night were high-risk areas. P4's workers reported sharing a room with seven or nine others, but two workers shared a room with fifteen others. At P5 about 25% of accommodation consisted of rooms housing only four workers. However, the remaining 75% of its accommodation consisted of hostels where twelve workers shared a room. Even before Covid-19, P5 installed partial room dividers in dormitories to give workers a sense of privacy. Whether these were sufficient to stop an airborne virus for several hours a night is unclear. The worst case reported by workers was a farm where seventeen workers shared a room and some workers had to sleep on mattresses on the floor so that everybody could fit in (it was unclear whether this happened before or during Covid-19). Far luckier were the workers who shared a room with three workers before Covid-19, and only shared a room with one person during Covid-19. Despite the high infection risk presented by hostels, none of the workers reported that DEL had inspected their hostels during Covid-19. One worker reported that a social auditor had visited their hostel and commented on the lack of cleanliness of the hostel – but said nothing about high occupancy rates. Compared to the extensive measures they took to safeguard workers in packhouses, two of the three producers who accommodated migrants in on-farm hostels were silent about the precautions they took to protect hostel dwellers. The third producer, P4, appointed a contract cleaner to clean hostels on a daily basis. He also tried to keep teams separate and to restrict the movement of workers between farms.

The three producers who had on-farm worker hostels (P2, P4, P5) arranged separate accommodation for infected workers by setting aside a hostel or house for workers who were symptomatic and had to isolate. On farms in the Citrusdal area, the local hospital provided food to ill workers at isolation sites. Producers (P2 and P4) also delivered food hampers to workers who had to quarantine or isolate. Yet, when interviewed, a group of workers of P4 complained that an ill worker who displayed Covid-19-like symptoms was not immediately isolated. “We did not feel safe. The person with symptoms was still staying in the same room as us. The doctor only came to see him after a couple of days,” they commented.

## Paid sick leave

SD13 stipulates that producers only have to pay workers sick leave if they have accrued sufficient sick leave. Workers on fixed-term contracts accrue sick leave at a ratio of one day sick leave for every 26 days worked (SD13: S22). SD13 does not force producers to transfer accrued sick leave from one contract period to another, even when workers enter more than one contract with the same employer in the same year. The result is that sick leave accrued during one contract period is forfeited if not used. The medical manager of the Cederberg sub-district said he had advised producers to pay sick leave to symptomatic workers and their contacts regardless of whether they had accrued sufficient sick leave. This was to encourage workers to report illness rather than hiding symptoms for fear of having to isolate or quarantine for fourteen days (as per the initial government regulation) without pay (South African Government 2020g). Going without pay for fourteen days constitutes a major loss of income for farm workers earning only the minimum wage. In terms of the BCEA, employers can also ask workers to use their annual leave if they have insufficient sick leave (BCEA:S20(10)). Instead of taking this route, the DEL encouraged employers to apply for TERS funding on behalf of workers who had to isolate or quarantine, but did accrue sufficient paid sick leave (South African Government 2020f).

Of the producers interviewed, one (P4) said he paid sick leave to infected workers and their contacts, regardless of whether they had accrued sufficient sick leave. If one member of a team contracted Covid-19, the whole team would go into quarantine. He was unaware that he could apply for TERS for workers who had to isolate or go into quarantine (P4). A second producer (P2) transferred fixed-term workers' sick leave accrued during previous contracts periods to the current contract period, allowing workers to receive some paid sick leave during their fourteen-day quarantine period.<sup>30</sup> A third producer (P1) said ill workers “preferred to use their annual leave” rather than apply for TERS if they had insufficient leave. A fourth producer (P3) applied for TERS on behalf of workers who had to isolate or quarantine, but described this process as

<sup>30</sup> If a worker had worked two contract periods of four months each, they would only have accrued 6.66 days sick leave.

“a complete nightmare”. The same producer commented that some workers were not paid out because their ID numbers were not linked to the DEL’s data base (P3), a problem that was especially likely to affect external migrants who did not have South African ID numbers. A year later some workers were still waiting to be paid out. Two producers allowed Covid-19 contacts who had accrued insufficient sick leave to continue working separately, away from other workers (P1, P5). This allowed them to at least continue earning an income, they argued.

While producers claimed to implement a more lenient sick leave policy during Covid-19, workers were not aware of it. Eighty percent of workers interviewed reported that they had not received paid sick leave even before Covid-19; the rest said they were only paid sick leave if they had sufficient accrued leave. Ironically, despite the fact that the working conditions of workers employed by labour brokers are renowned for being sub-standard, a team leader of a labour broker reported that one of his co-workers who contracted Covid-19 was sent home for two weeks on full pay.

In the absence of paid sick leave, it is highly likely that workers with mild Covid-19 symptoms continued to work, rather than reporting symptoms and foregoing pay. Significantly, one of the producers commented that workers took much less sick leave during Covid-19, for fear that they would be sent home for fourteen days without pay. There is also a strong likelihood that farm workers might have continued working as they were not aware what constituted Covid-19 symptoms. In the NIDS-CRAM survey, Burger et al (2020) found that only 6% of respondents knew the three most common COVID-19 symptoms.

## Transportation of workers

Apart from packhouses and hostels, another high-risk infection area was the transportation of workers. The industry organisation AgriSA pointed out that while initial lockdown regulations regulated “public transport services”, no conditions were prescribed for transportation of workers on trucks or bakkies where workers were not charged a transportation fee (Wait 2020). This regulatory lacuna arose partly due to an exemption in the National Land Transport Act (NLTA)(No 5 of 2005). While Section 50(1) of the NLTA states that “[n]o person may operate a road-based public transport service, unless he or she is the holder of an operating licence or a permit”, Section 53(1)(c) of the Act specifically excludes producers transporting workers free of charge.

Interviewed producers generally took the following precautions when transporting workers: all workers had to wear masks and sanitize their hands; their temperatures were taken before embarking; supervisors/ drivers had to ensure that vehicles were filled to 50% of their *loading* capacity only and had to enforce social distancing during transportation.<sup>31</sup> Some producers marked out distances of 1.5 meter on benches at the back of trucks. Two producers fumigated and sanitised vehicles transporting workers daily, while a third disinfected vehicles each time a new team was transported. Producers and a labour broker interviewed said that police also stopped trucks to ensure that vehicles were not filled to more than 50% of their loading capacity; that passengers wore masks; and that workers carried essential work permits. P6 admitted that he dodged the system: he instructed workers to stand (instead of sit) on the back of the truck. That way he could accommodate more workers per trip, allowing him to make only two trips, instead of three, and save on diesel costs.

Of the workers interviewed who commuted to work daily, workers from four sites (including P3 and P6) reported practising social distancing during transportation. At six other sites (including P5) workers reported that no social distancing was implemented during transportation. In contrast to producers, none of the interviewed workers reported being stopped by police. The exception was a group of Zimbabweans who were stopped at the border. Yet, they reported that border patrol had little interest in monitoring Covid-19 regulation; only passports and visas were checked to ensure that border crossers entered the country legally.

Taxi drivers in the area saw Covid-19 as an opportunity to argue their case for their upstream insertion into the FFGVC. They argued that transporting workers on the back of trucks was not only unsafe from a Covid-19

<sup>31</sup> Unlike taxis, trucks are not licenced to carry a maximum number of people; only to carry a maximum load.

perspective, but also dirty and dehumanising. Far better and safer for farm workers to be transported between the farm and the township by taxi, they pointed out. Taxi drivers had already done their sums: one farm truck load of workers equals about four taxi loads of passengers. In June 2021 they approached a bus operator, who was contracted by a major producer to transport his packhouse workers from Citrusdal to his farm on a daily basis. The taxi drivers demanded that the bus driver relinquish some of his trips to them. When he refused, they approached the farmer directly, demanding that he use them instead. According to Citrusdal police, some taxi drivers also visited other producers and even used intimidation tactics to force them to transport their workers via taxis (GKI1). When these attempts failed, taxi drivers used their vehicles to block a key entrance to Citrusdal, preventing producers from transporting workers to their farms. Public order police eventually towed the taxis away (CKI3).

Asked why they did not use taxis to transport their workers, one of the interviewed producers commented that “there are only nineteen registered taxis” in Citrusdal who would be “unable to meet the transportation needs of even one of our farms” (CKI3). Yet, it is also obvious that producers’ transportation bill would increase drastically if they used taxis as workers can be transported much cheaper at the back of a truck. Moreover, given the taxi industry’s history of violence and strikes, contracting taxi drivers - who may hold producers to ransom by preventing their workers from getting to work - would constitute a major risk to producers’ businesses, especially given the time-sensitive nature of fruit harvesting. A producer who could not operate his packhouse because of the taxi blockade, claimed that he had lost “millions of Rands” in the space of a day (CKI3).

On 11 August 2021 the proverbial bomb exploded in Citrusdal: two local bus drivers – including the son of the bus operator who had a contract with a local farmer - were shot. The shooting happened early in the morning, right at the entrance of Riverview as farm workers were boarding the bus. A week later the bus operator, whose son was killed, died of a heart attack. One of the four men who were subsequently arrested for the murders was a taxi driver, but has since died in jail (KS01; CKI3). According to police, this was not the end of the violence. Soon afterwards, a taxi driver who drove migrants to the Eastern Cape, was shot dead while sitting opposite his house in Riverview. A driver who took control over the killed taxi driver’s route, was killed days later.

## Vaccinations

As was the case elsewhere, access to vaccinations eventually saved the day. Apart from one producer (P1) who seemed sceptical, the rest of the producers embraced the opportunity to vaccinate themselves and their workers. In the Citrusdal area, some of the largest producers organised a vaccination drive in cooperation with the Department of Health. All producers in the area were invited to bring their workers and participate in the drive. On the farms of producers interviewed, vaccination rates were above 90% immediately after the drive. The exception was at P3, where the vaccination rate hovered between 60 -70%.<sup>32</sup> In Clanwilliam, the local clinic staff visited farms close to town and vaccinated workers. Of the producers interviewed, P5 had the highest vaccination rate. Not only did he provide free transport to workers to vaccination sites, but he also launched an extensive vaccination campaign over cell phones, messaging workers throughout the epidemic about how to avoid Covid-19, and later, extolling the benefits of vaccination. At this site 99% of workers were vaccinated. Workers interviewed confirmed that they were encouraged to be vaccinated and were provided with free transport to vaccination sites. Except for one worker who did not want to be vaccinated, all interviewed workers were vaccinated.

## Costs of the pandemic

According to statistics provided by the Department of Health and Wellness (Western Cape Government) for the Cederberg subdistrict, a total of 93 people died of Covid-19 in the Citrusdal and Clanwilliam areas. As elsewhere, these statistics were probably an undercount.

<sup>32</sup> It is unclear what the reasons were for this lower rate.

It is not possible to gauge whether the area's death rate to Covid-19 was less or exceeded South Africa's average Covid-19 death rate as population statistics were outdated: they were gleaned from Census-2011; but since then the populations of Citrusdal and Clanwilliam have exploded. In July 2022, the medical manager of the Cederberg subdistrict described the "low death rate" in the area as "a miracle" given that farms were not shut down and people continued to work (GKI4).

That not more deaths in the area occurred as a result of Covid, could possibly be ascribed to the relative youthfulness of the area's population. A 2016 survey of Khayelitsha residents – who predominantly came to the area to work - found that only about 1.7% of the surveyed population was older than 60.

Apart from the cost to life due to Covid-19, producers' costs of fighting the pandemic were not insignificant. While two producers (P1; P5) described the impact of the pandemic on their businesses as "negligible", all producers remarked that their transport costs had doubled. Two large producers created a separate cost centre to calculate the cost of the pandemic: P4 spent approximately R1.1 million on additional transportation; appointing a consultant to monitor the implementation of Covid-19 regulations; fumigating and sanitizing indoor spaces; appointing a contractor to clean and sanitize hostels on a daily basis; purchasing masks and sanitizer, and buying food hampers for ill workers. P3 spent approximately R1.5 million on sanitation, masks, fumigating the packhouse and appointing ten extra cleaners to sanitize its packhouse.

## ▶ 4 Workers' hopes and aspirations for the future

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The hopes of migrants working on farms were fairly moderate. The Zimbabweans, whose working hours had been reduced due to Covid-19, hoped to find more regular employment in the Cederberg area. Hostel dwellers hoped for better accommodation. Staying in close proximity to each other for months on end was far from ideal. Some workers had to share dormitories with members of the opposite sex. They complained about a lack of privacy, especially having to share bathroom facilities. Other workers complained of having to clean their own bathrooms after a long day of work, or even having to buy their own cleaning chemicals. External migrants – both from Zimbabwe and Lesotho – hoped for the political and economic situation in their countries to improve so that could return home and work there. The most frequently expressed hope of migrant workers was however that their employers would “see” them and “show more care”. Commented a Lesotho worker, who has lived in the area for the last eighteen years: “They will throw you away like a piece of paper. There is no communication or relationship between producers and workers. I have worked for my boss for eighteen years, but he has never seen where I live and he has never asked me how I survive. I have helped him so much to grow his farm, but he still does not trust me. [The producers] don't know where you come from and what you dream of. You don't feel like you are a family.” The same sense of disposability was articulated by a woman from the Eastern Cape who commented: “I want to be treated equally, but I am treated worse than the Coloureds, even if I do the same work. Instead, I am treated as a Black person. I feel like a piece of paper that is thrown away...like a douche bag.”

However, farm workers' wish to be more visible was not only directed at the producers, but also at the state. The period between contracts, when farm workers receive no income, is colloquially known as the “dry” months. Documented migrants who are registered by their employers for UIF can apply for UIF benefits during this period – if they are aware of their rights. However, during Covid-19, the DEL's labour centres were closed. At the start of the pandemic Colette Solomons, the director of the NGO Women on Farms, reported that “farm workers, especially women, [were] already facing a crisis of hunger two weeks into the lockdown” because they could neither access unemployment benefits (UIF) nor food parcels (Solomons 2020). While the Department later announced that workers could apply for UIF electronically (South African Government, undated) whether average migrant workers had the capacity to do so, is unclear. Farm workers also expressed their disappointment that they did not receive any food hampers from the state during the “dry” months between contracts. However, providing them with such hampers during the “dry months” of Covid, would be for the state to concede the *chronic* hunger of farm workers, beyond Covid-19.

While the state had some line of sight of the plight of farm workers during the pandemic, retailers who buy oranges picked and packed by Cederberg farm workers, seemed oblivious to their lot.<sup>33</sup> Despite the Covid-19 pandemic (or perhaps because of it – consumers became more health conscious and upped their fruit intake) the South African industry managed to export a record of 2.2 million metric tons of citrus fruit in 2020 (CGA Annual Report 2021 v2). Increased levels of consumption during Covid royally benefitted retailers. Gleaning the financial reports of listed global retailers and comparing their performance before and after the pandemic, the advocacy group Oxfam found sterling performances. Excluding fuel, the like-for-like sales of listed retailers grew by 11.1% on average during the second to fourth quarter of 2020, compared to just 1.6% sales growth for the same period in 2019. The sales of non-listed retailers followed a similar trend. In comparison to 2019, 2020-sales grew by 8.5% at the discount retailers Aldi North, Aldi South and Lidl; 9% at Jumbo's; 14% at PLUS; and almost 17% at Edeka and the REWE Group. While unlisted retailers have no obligation to publicly declare their dividends to their shareholders, total dividends distributed to shareholders by listed retailers increased by 123% between 2019 and 2020 – from about \$10bn to \$22.3bn. (Oxfam 2022).<sup>34</sup> In the light of workers' complaints of not receiving paid sick leave, not working because of social distancing requirement, and sometimes even having to buy their own masks and sanitizers, these

<sup>33</sup> Most producers interviewed reported they had a bumper season due to increased demand for oranges from their buyers during Covid-19.

<sup>34</sup> These listed retailers included Ahold Delhaize (Netherlands), Albertsons (USA), Costco (USA), Kroger (USA), Walmart (USA), Morrisons (UK), Sainsbury's (UK) and Tesco (UK).

excesses are galling. None of the producers interviewed reported receiving assistance from their buyers. Their claim is corroborated by Oxfam who commented that “there is no clear evidence that international food suppliers in developing countries have received any such support from supermarkets” (Oxfam (2022: 16-17)

On the one hand, migrants claimed that they are invisible to producers and the state. They also seem to be invisible to international retailers. Yet, they are highly visible to the communities of Citrusdal and Clanwilliam. Khayelitsha, the informal settlement in Clanwilliam, has grown to such an extent that locals now refer to “old” and “new” Khayelitsha. In Citrusdal, Riverview’s name has become wholly inappropriate as the building of shanties has long ago moved down the hill, right onto the flood plains of the Olifants River. Officials interviewed decried the erection of unauthorised constructions which allegedly “sprang up” overnight and on weekends when law enforcement is off-duty. Due to “illegally” constructed housing and the municipality’s inability to collect taxes in these informal settlement, the municipality largely absolves itself from its duty to provide services in the area. Fields of waste dumped on the edges of the settlements due to a lack of refuse removal have long displaced the area’s legendary fields of Namaqualand daisies.

Lack of service delivery also seems partly politically motivated. Officials and community leaders often linked the growth of these informal settlements to an influx of external migrants. Officials expressed their frustration with the Department of Home Affairs’ failure to enforce immigration laws in the area (GKI1, GKI4, GKI6, KCB3). “[The people from Lesotho] come here, because in comparison to Lesotho, the Cederberg is the land of milk and honey. But non-South Africans also have to be liable and be held accountable: they also need to become taxpayers. South Africa cannot become a bottomless pit,” one of them commented (GKI6).

Residents of Khayelitsha and Riverview must find it hard to see the milk and honey. A 2016-survey of Khayelitsha, commissioned by Cederberg Municipality, found that only a third of those interviewed were foreigner nationals.<sup>35</sup> At the 717 houses where interviews were conducted, 64% had one resident who wanted to work, but could not find work; 64% of interviewees had a monthly income of R3 500 or less;<sup>36</sup> 83% of houses had access to only a communal toilet.<sup>37</sup> About 40% of interviewees had no access to electricity. Despite the rapid growth of both Khayelitsha and Riverview, for about four years Cederberg Municipality had no dedicated housing officer for informal areas.

In Citrusdal, the biggest part of Riverview is known as the Dark Place, due to the absence of electricity. It is a dark place in more than one sense of the word. At night the police are hesitant to patrol the area, not only because it is dark, but because there are no roads, forcing them to patrol by foot. “Crime in our once tranquil town has gone through the roof. Gangsters are shooting at each other like never before,” commented a police officer (GKI1). Despite dismal socio-economic conditions in Khayelitsha and Riverview, social services in the Cederberg area have reached a “crises situation” (GKI6). By the end of July 2022 there was no social worker to provide childcare services in Riverview and only one such social worker in Khayelitsha. There is only one social worker responsible for gender-based violence interventions in the *whole* of the Cederberg area (GKI6). One of the producers interviewed for this research, (P4) wanted to stop sourcing workers from Riverview as he argued that the settlement is not sustainable. “The circumstances under which people live is desperate. [The settlement] expanded unplanned and is still expanding unplanned. The town itself and the services available can only accommodate a fixed number of people. The municipality cannot even manage the rubbish – and all of it ends up in the river. The same goes for sewage. And there is not enough water or electricity,” he complained. Yet, producers’ offer of fixed-term employment for several months of the year has been a major magnet drawing migrants into the area: P4 itself sourced more than 500 workers from Riverview in 2014.

Despite increasing stratification along race, class and citizenship lines that jeopardizes the social cohesion of these two towns, it was local communities that eventually did most to help protect their fellow town residents. In conjunction with local farmers, the Citrusdal community policing forum developed a roster assigning time slots to each farm so that workers from different farms could take turns to do their shopping

<sup>35</sup> The 2016-survey should be treated with caution. Of the 2070 houses, interviews were conducted at 717 houses (35%); nobody was home at the remaining 65% houses. By now the survey is outdated, given that the settlement has “probably doubled”. (KS05).

<sup>36</sup> Sixteen percent were unemployed; seventeen percent chose “other” under income; and 3% earned more than R3 500 per month.

<sup>37</sup> Of these, half were flush toilets and the other half chemical.

on different days. Health workers took turns to monitor that health and safety regulations were followed when producers collected workers at Riverview, the informal settlement (GKI4). Temporary isolation and quarantine facilities were established in Clanwilliam and in Citrusdal, in the case of the latter thanks to the assistance of a major packhouse. During the height of lockdown, the municipality, with the assistance of local churches, businesses and farmers provided temporary shelter and food as well as rehabilitation to the homeless. While the Department of Social Development (DSD) distributed food hampers to the needy, only those who met its criteria received hampers. Eventually it was faith-based organisations, assisted by producers who donated fruit and vegetables, who distributed most hampers to people who had lost their jobs, contracted Covid-19 or who had to go into quarantine (CBKI1; CBKI2).

## ▶ Conclusion

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Like elsewhere in the world, Covid-19 has exacerbated the existing vulnerabilities of migrant workers in the Cederberg. Elsewhere migrant workers who continued to work during Covid-19 complained of being “essential, but disposable”. The slogan drew attention to the fact that “essential” workers often receive the lowest wages and perform the riskiest and most precarious forms of wage work (Reed 2022). It was striking that when Cederberg migrants were interviewed, they repeated these words almost verbatim, commenting that they feel like a piece of paper that can be discarded without a second thought. Their sense of disposability is aggravated by their voicelessness as a result of low levels of organisation, inherent job insecurity due to being employed on fixed-term contracts, and their status as migrants which relegates them to unentitled “inkommers” (outsiders). These factors, rendering migrant workers imminently vulnerable, are compounded by their structural vulnerability due to high levels of unemployment in South Africa and its neighbouring states. But farm workers’ vulnerability also stems from under-regulation of their working conditions by the state. This under-regulation became life threatening during the pandemic. SD13’s poor regulation of on-farm hostel accommodation and worker transportation put such workers at high-risk of infection. While TERS aimed to provide infected farm workers and their contacts with paid sick leave, few workers in this study benefited from it. SD13’s weak regulation and enforcement of paid sick leave for fixed-term workers played into this situation. It is highly likely that sick workers and their contacts continued to work to avoid income losses, as a Covid-diagnosis - or even a suspicion thereof - would have sent them home without pay for fourteen days. Given the persistent denial of fixed-term workers’ right to sick leave (Visser & Ferrer 2015), the first recommendation of this paper is that SD13 sets a daily wage rate for fixed-term workers that would incorporate sick leave (as well as pro-rata annual leave) on a *daily*, pro-rata basis.<sup>38</sup> This would allow fixed-term workers to manage their own leave.

Despite the pervasive use of on-farm hostels, where fixed-term workers stay from four to eleven months of the year, SD13 contains almost no stipulations regulating on-farm hostel accommodation. To the extent that it does, it sets the bar extremely low. While the Covid-19 pandemic is now under control, South Africa has one of the highest rates of TB worldwide. High-density hostel accommodation is not conducive to fighting communicable diseases. The second recommendation is therefore that the state urgently set minimum conditions for on-farm hostels.

Transportation of up to sixty workers in the back of a truck also poses a high risk of spreading disease. Moreover, it constitutes inherently unsafe worker transportation as such trucks are not built for the safe transportation of people. If Government does not allow school children to be transported in the back of trucks, why should it allow farm workers to be transported in this way? Neither the BCEA nor SD13 regulates the conditions under which workers may be transported to the worksite. The third recommendation is that SD13, which is supposed to regulate particular working conditions in a specific subsector, be amended to regulate the safe transportation of workers. Fourth, while not suggesting that taxis are necessarily the answer to farm worker transportation, the subsidisation of the taxi-industry – especially in rural sectors where public transport is non-existent – should be considered.

To monitor the health and safety of workers, Section 17(4) of OHS Act stipulates that health and safety representatives in the workplaces only consist of “...employees employed in a full-time capacity at a specific workplace and who are acquainted with conditions and activities at the workplace or section thereof...” However, given that the component of fixed-term workers overshadows that of permanent, full-time workers (not only in agricultural workplaces but in workplaces across the country) this stipulation is becoming dangerously outdated. The fifth recommendation is that OHS Act specifically provides for the *inclusion* of fixed-term workers on health and safety committees in workplaces where fixed-term work is the norm.

<sup>38</sup> Fixed-term workers are entitled to one day annual leave for every seventeen days worked and one day sick leave for every 26 days worked. To calculate a wage rate for fixed-term workers that would incorporate these two types of leave on a daily basis, the following calculation would be used, where x = minimum wage rate per day:  $[x + (x/17) + (x/26)]$ .

The Department of Home Affairs plans to phase out ZEP and LEP by the end of June 2023 and December 2023 respectively. Regardless of whether the decision to end this permit dispensation is politically justified, doing so is unlikely to curb the migration of desperate people from neighbouring states. Given existing manpower shortages of the DHA, it is also highly unlikely that it will be able to police the use of undocumented labour. It is however *extremely likely* that once the permit system is phased out, migration will move underground and further exacerbate the vulnerability of undocumented migrants and their exploitability. The sixth recommendation is that DHA urgently rethinks the phasing out of ZEP and LEP dispensations and consider regular pathways for low-skilled workers to work in South Africa, a need already acknowledged in its Draft National Labour Migration Policy for South Africa (SA Government 2022).

Finally, without addressing power imbalances in the FFGVC between workers and producers on the one hand, and between producers and their buyers on the other, risk will continue to be passed down to the weaker party. Collective organisation of workers and producers are vital to resist the disproportionate power of their bargaining partners. Yet, unionisation of farm workers is weak due to their multi-dimensional vulnerability. There is need for new organisational and bargaining models that would pose less risk to workers. As for producers, currently the strictures of South African competition law prohibit companies from colluding and setting prices collectively (what Marketing Boards effectively allowed producers to do in the past).<sup>39</sup> Allowing producers to set prices collectively when bargaining with international retailers – a process that is unlikely to impact on fresh food prices for local consumers – should be considered. That there is clearly room for negotiation is evident from retailers' Covid-19 company results. Channelling more value down the chain may ultimately also provide workers with more scope for negotiation.

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<sup>39</sup> The Minister of the Department of Trade Industry has recently announced plans for a block exemption that would enable small and medium-sized enterprises to collaborate with each other without the risk of prosecution for collusion under competition laws. However, while such an exemption applies only to the *buying* of products or also to the *selling* of products is unclear, as is the definition of what constitutes a small and medium-sized enterprise (Editorial: "Block-exemption regulations may open door to abuse by companies," Business Day, 2 September 2022. See <https://www.businesslive.co.za/bd/opinion/editorials/2022-09-02-editorial-block-exemption-regulations-may-open-door-to-abuse-by-companies/>).

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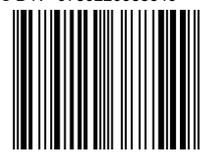
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