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info@tips.org.za
[+27 12 433 9340](tel:+27124339340)
www.tips.org.za

Gaylor
Montmasson-Clair
TIPS Senior Economist
Sustainable Growth

**Draft Policy Brief
for the Presidential Climate Commission**

POLICY PRIMERS FOR A SOUTH AFRICAN JUST TRANSITION FRAMEWORK

Gaylor Montmasson-Clair

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PRESIDENTIAL CLIMATE COMMISSION

TOWARDS A JUST TRANSITION

This policy brief has been commissioned by South Africa’s Presidential Climate Commission (PCC) as an input to the process of planning for a just transition. Specifically, this policy brief forms part of a series of briefs that will provide an evidence-based foundation for a new “Framework for a Just Transition”—a practical guide to ensure that South Africa’s transition to a low-emissions economy is well-managed, just, and equitable. The Framework will also build on existing just transition debates in the country, the vision set out by the National Planning Commission, and a new series of thematic and social-partner consultations that will gather a diverse range of views on what it means to achieve a just transition.

The views expressed in this policy brief represent those of its authors, and do not necessarily reflect the views of the PCC or its Commissioners.

About the Presidential Climate Commission:

The PCC is a multi-stakeholder body established by the President of the Republic of South Africa to advise on the country’s climate change response and pathways to a low-carbon climate-resilient economy and society. In building this society, we need to ensure decent work for all, social inclusion, and the eradication of poverty. We also need to protect those most vulnerable to climate change, including women, children, people with disabilities, the poor and the unemployed, and protect workers’ jobs and livelihoods. The PCC facilitates dialogue between social partners on these issues—and in particular, defining the type of society we want to achieve, and detailed pathways for how to get there.

1. Introduction

Imagine South Africa in 2050. Imagine a society which is economically dynamic, socially inclusive and environmentally sustainable. Communities are resilient. Democracy and public life are vibrant, with an effective representative democracy, a non-corrupt state, trusted and empowered community-based structures, and iterative grassroots processes of decision-making and monitoring for public policy. Citizens have the platform to exercise their agency at their workplace and in their communities. The economy is competitive, driven by dynamic investment and innovation. Social ownership, through broad participation, is a driving force in the economy. Levels of poverty and inequality are low, thanks to a striving economy complemented by a comprehensive social protection system, widespread social housing and universal access to public services, such as energy, education and healthcare. Fossil fuels are no longer in the picture. Energy is produced through renewable energy sources, supported by battery technologies. Transportation largely relies on public and non-motorised transport. Remaining vehicles are decarbonised. Industrial activities fully internalise their social and environmental externalities and operate in circular loops, eradicating waste. Agriculture is increasingly small scale, organic and circular. Unavoidable impacts on communities and the environment, such as mining, are reduced to a minimum and mitigated through rehabilitation and restoration.

This is but one possible future for South Africa, aligned with the vision of the National Development Plan (NDP) of an “environmentally sustainable, climate change resilient, low-carbon and just society” (NPC 2011, 199). Achieving such a future would, however, require a significant departure from the present situation. South Africa ranks as the most unequal society, with high levels of poverty and unemployment. Despite material improvements since the 1990s, access to housing and associated services, such as energy, water and sanitation, remains poor and unequal. As such, levels of resilience, notably to climate change impacts, are weak in many parts of the economy and society. South Africa is also one of the most carbon-intensive economies. And progress is hindered by vested interests largely controlling political and economic lives.

While the end goal (an inclusive and green economy) is paramount, the prevailing dichotomy between the existing present and the aspired future means that the journey matters as much as the destination. Like every transition, it is disruptive. Reflecting a deeply unequal political, social and economic system, people, communities, companies and countries have different abilities to respond and adapt to the disruption. Large corporations, their shareholders and to a lesser extent highly-skilled workers and high-income communities have a much greater ability to withstand shocks and respond to them than vulnerable stakeholders, such as unskilled and low-skilled workers, small businesses and low-income communities (Makgetla et al. 2020).

This skewed situation has led to calls for a ‘just transition’ to an inclusive green economy (ILO 2015). The just transition agenda aims to ensure that vulnerable stakeholders are better off through the transition process, or at least not negatively impacted by it. As such, it has an economy- and society-wide relevance. And crucially, it is premised on an ambitious development pathway compatible with the requirements of +1.5°C world compared to the pre-industrial era.

In South Africa, as highlighted by Patel (2021), a consensus has emerged in favour of a just transition to net-zero carbon emissions by 2050, defined as “a shift towards low carbon, climate resilient and

ecologically sustainable economies and societies which contributes to the creation goals of decent work for all, social inclusion, and the eradication of poverty” (NEDLAC 2020, 7).

Yet the just transition agenda remain a source of debates. This paper aims to contribute to unpacking the meaning of a just transition and the tools to foster it in the South African context. Building on current global debates, it discusses the current domestic situation and possible way forward. Section 2 unpacks the existing spread in ambition. Section 3 discusses the state of play and possible policy responses in terms of participatory, distributive and restorative justice. Section 4 concludes.

2. What degree of ambition?

The ambit of any just transition agenda pertains to its scope of action. Defining the degree of ambition (in other words, the parameters of action) is paramount to achieve the end goal(s). In turn, this also inform the tools, interventions and mechanisms that are required to foster and achieve a just transition. Applied to the just transition debate, ambition can be categorised along three dimensions of transitional justice:

- procedural justice focuses on the form and aims at facilitating an inclusive process;
- distributive justice deals here with the distribution of risks and responsibilities, and focuses on addressing the direct impacts resulting from the transition process; and
- restorative justice considers damages against individuals, communities and the environment, with the goal of rectifying or ameliorating the situations of harmed or disenfranchised communities (Montmasson-Clair 2021).¹

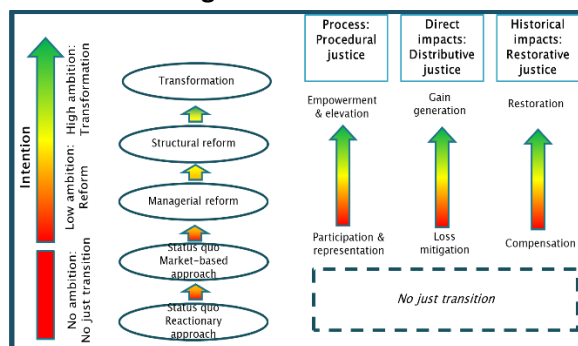
As depicted in Figure 1 and Table 1, the degree of ambition associated with the just transition paradigm varies extensively (see Montmasson-Clair, 2021 for a discussion of this spectrum). Ambition ranges from managerial reform to transformation. In some cases, stakeholders even aim to maintain the status quo rather than achieve a just transition. As unpacked in Section 3, in practice, any just transition would result from a mix of measures encompassing a variety of approaches, through a series of incremental blocking blocks (as well as setbacks). Importantly though, a just transition process is only truly effective and transformative in its most ambitious versions, when striving to bridge the three dimensions of transitional justice (i.e. procedural, distributive and restorative justice) with a transformative agenda that overall integrates social, environmental and economic justice.

This spread in ambition also finds expression in the range of beneficiaries considered by the just transition agenda (see Table 1). Conceptually, at the one end, a narrow understanding would focus solely on workers directly impacted by a transition. At the other end, some definitions stretch as far as including society as a whole within the ambit of the just transition. While this may be considered more inclusive at first sight, it effectively dilutes the focus on vulnerable stakeholders. The true nature of a just transition arguably lies in the middle. It extends beyond directly-impacted workers to all vulnerable stakeholders that may be directly and indirectly impacted, including low-income

¹ Such dimensions define transitional justice within a just transition context, in line with Just Transition Research Collaborative (2018), McCauley and Heffron (2018), and Cahill and Allen (2020). See <https://www.beyondintractability.org> for a discussion on dimensions of justice in their broader sense, key debates as well as their application in other contexts.

communities at large, particularly women, the youth and the elderly, as well as small businesses. However, it also recognises that not everyone in society is vulnerable.²

Figure 1: Dimensions of a just transition and degrees of ambition



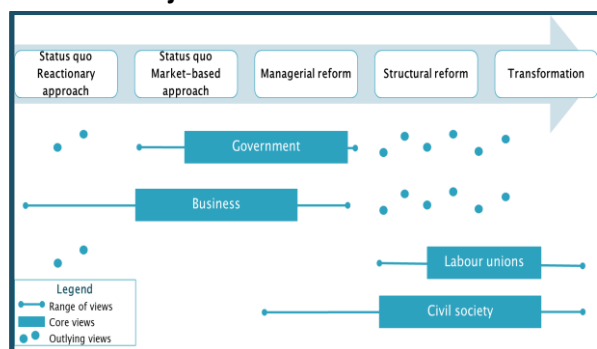
Source: Montmasson-Clair (2021)

Table 1: Just transition approaches and transitional justice elements

Approaches	Transformative nature	Distributive justice	Procedural justice	Restorative justice
Status quo: Reactionary approach	None: rejects 'just' and 'transition' aspects		No just transition	
Status quo: Market-based approach	None: Progressive greening of capitalism		No just transition	
Managerial reform	Limited: addresses impacts	Only some workers	Limited to firm level	Not considered
Structural reform	Intermediate: Addresses impacts and some of the root causes	Considers workers and communities	Promotes bottom-up approaches for workers and communities	Peripheral
Transformation	Strong: focuses on the root causes as well as impacts	Considers all vulnerable stakeholders	Rooted in bottom-up, democracy and solidarity.	Core aspect

Overall, the vast majority of ongoing debates and approaches in South Africa fall within the managerial reform agenda (i.e. focused essentially on distributive justice for workers), with some elements of structural reform (primarily community-level dynamics). Crucially, South Africa is yet to adopt a development pathway compatible with global climate goals, as recommended by PCC (2021), a fundamental premise to any just transition discussion. Debates then focus almost exclusively on addressing direct impacts on affected workers and, to some extent, communities. The roots of the problems are not meaningfully considered, nor are historical damages suffered by vulnerable stakeholders. Procedural justice has been unevenly enacted, primarily through representative democracy and stakeholder engagement processes.

Figure 2: Representation of stakeholders' views on just transition in South Africa



Source: Author

Table 2: Key features and interventions of transitional justice

DIMENSIONS OF JUSTICE	KEY FEATURES	EXAMPLES
Procedural justice	Voice Dignity and respect Neutrality, impartiality and transparency Trustworthiness	Ongoing public engagement Permanent community/grassroots forums Active support for participation of vulnerable stakeholders Mix of open, direct democracy and representative democracy
Distributive justice	Labour market policies (passive and active) Industry policy (functional and selective) Social protection (contributory and non-contributory)	Minimum wage policy, high working condition standards Retraining/reskilling and job placement schemes Industrial finance, empowerment policies, sectoral roadmaps Unemployment insurance, universal basic income
Restorative justice	Socio-economic empowerment Socio-cultural restoration Environmental restoration	Improved access to housing and public services (Mining) land rehabilitation, environmental protection Non-predatory use of land Social ownership of assets

Source: Montmasson-Clair (2021)

² Such a variation in scope also occurs at the level of a specific asset, such as a mine, a plant or a factory. When dealing with the restructuring or closure of an operation, a narrow scope (in terms of beneficiaries) would solely focus on direct employees whereas a more comprehensive coverage would include workers (both permanent and contractors), businesses in the supply chain as well as the surrounding communities.

South African stakeholders vary greatly in their positioning, looking at the just transition from their own vantage point. Unions naturally favour workers, civil society emphasises communities while business stresses economic competitiveness. But, importantly, stakeholder views are very disparate, even within traditional groups (see Figure 2). Divergence generally crystallises around differentiated positions in terms of transition timeframes (when will the transition occur and at what speed?), the role of technology (what technology should prevail?) and the burden sharing agreement (who should bear the costs and who should reap the benefits?).

Overall, government's position is not homogenous with wide divergence about the scale and pace of the transformation required. Government entities mostly follow a managerial reform agenda (focused on mitigating employment impacts) with gradual implementation, although important constituencies within government embrace the status quo (in both its forms), aiming to protect existing interests by hindering change. A number of more marginal actors are piloting projects and programmes fostering a more ambitious just transition.

The private sector generally supports a market-based approach consistent with a progressive greening of the economy, to achieve a just transition "in a manner that least disrupts society and business" (BUSA 2021, 1). However, positions differ widely based on existing vested interests. Material divergences exist between businesses at risks (such as coal mining and liquid fuels) and those at the 'green' frontier (such as the renewable energy industry). Historically based on increasingly outdated business models, most firms are progressively shifting their strategy to internalise climate risks and tap into new business opportunities. Noteworthy business-driven initiatives are, moreover, pushing for and working to implement more ambitious understandings of a just transition.

Trade unions are at the origin of the just transition agenda. Yet, they emerge divided between a defensive agenda on the one hand and a transformative approach on the other. The seminal policy position of the Congress of South African Trade Unions embraces a transformational vision, stressing that a just transition should provide "the opportunity for deeper transformation that includes the redistribution of power and resources towards a more just and equitable social order" (COSATU 2012, 52). However, important factions within the labour movement remain committed to protecting coal jobs and ensuring a future for the industry.

Civil society displays, on the whole, the most ambitious views, ranging from managerial reform to transformation. They are engaging with and pushing for an agenda consistent with structural reform and even transformation. They put strong emphasis on enacting participatory justice (through their work and inputs) at the grassroots level and are experimenting with the implementation of restorative justice (notably through community ownership and by holding polluters/offenders accountable). However, civil society's positions often lack a practical understanding of their implementability and implications on existing systems (including trade-offs).

In terms of beneficiaries, government, business and labour constituencies agreed on "the need [...] to consider the special needs and circumstance of localities, economic sectors and people that are particularly vulnerable to the adverse effects of climate change, including vulnerable workers and groups such as women – especially poor and rural women – children, especially infants and child-headed families, the aged, the poor, the sick and the physically challenged" (NEDLAC 2020, 10). Such

a scope is comprehensive, covering multiple levels of vulnerability (locations, sectors, individuals) and, while it does not close the door to a broad society-wide approach, it stresses key vulnerable groups which should be given particular attention. A notable exception is the absence of small businesses in the (long) list of vulnerable stakeholders.

3. A policy toolbox for just transitions

Given the prevailing dichotomy between South Africa's (past and) present economic, social and environmental situation and the aspirations of an 'environmentally sustainable, climate change resilient, low-carbon and just society', a material departure from 'business as usual' is required to achieve a just transition. Building on the three dimensions of transitional justice identified above (i.e. procedural, distributive and restorative justice), the following section unpacks the key tenets of an ambitious just transition and, accordingly, reviews South Africa's state of play. It also proposes a (non-exhaustive) continuum of possible interventions.³

3.1. What procedural justice?

A key underlying assumption in just transition discussions is that a just outcome can only emerge out of an inclusive process. It is embodied by the drive to achieve procedural (or participatory) justice. It focuses on facilitating an inclusive decision-making and implementation process, paying particular attention to enabling and empowering vulnerable and oft-neglected stakeholders to take part.

Overall, participatory justice calls for ongoing, rather than *ad hoc*, public engagement, as a complement (rather than alternative) to existing representative democracy mechanisms. Processes at the community as well as firm level should provide the platform for meaningful, long-term engagement on key decisions, enabling trust building, capacity development, experience learning and co-creation. Any meaningful process should be continuous, starting well before critical decisions, and carrying on after decision-making, to ensure joint monitoring of implementation and, if needed, course correction. The participation process itself should foster inclusion and bottom-up engagement. All voices should carry equal weight and all stakeholders should be provided the opportunity and resources to participate meaningfully. In addition, proceedings and rules of engagement should be clear, explicit and consensual. Access to information should be equal and unrestricted, so that decisions can be informed by evidence, rather than opinions. This also involves ensuring that all parties have the opportunity and resources to collect and bring forward evidence (Montmasson-Clair 2021).

In practice, two formats of participation are possible: open, direct democracy and representative democracy (Makgetla 2019). To enact participatory justice, both formats should be used in parallel and in such a fashion that they build on each other. Indeed, a central difficulty is always to balance the power of organised constituencies, the desire for participatory and open procedures, and the need to bring in expertise to test diagnostics and proposals against the evidence, and to identify the necessary resources. The multiplicity of platforms is also fundamental to build trust both between stakeholders and in the transition process itself.

³ Governance and institutional arrangements, covered in Makgetla (forthcoming), are not discussed here.

South Africa has a rich history of grassroots, bottom-up mobilisation, which translated into important democratic progress from 1994. This spirit has, however, been eroded over time, turning increasingly into a tick-box exercise rather than genuine social dialogue. Community structures have also progressively weakened. Various existing channels (both representative and direct) could provide the basis for a rekindling of citizen-led decision-making.

The notion of all people having a voice can be traced back to the struggle against apartheid. Important guiding documents, such as the Freedom Charter (1956), the 1994 Reconstruction and Development Programme and the 1996 Constitution, were all borne out of grassroots engagements, bringing the voices of the people to the debate and ultimately influencing key decisions. As such, public participation was integrated into many of the democratic government processes and policy development (such as ward committees, School Governing Bodies, clinic committees and Community Policing Forums).

Participatory policymaking in South Africa has, however, taken a downturn in the last decades, at the expense of grassroots, citizen-led decision-making, with a shift towards managerialist and technocratic interpretations in the implementation of policies and legislation (Kariuki 2018). Faced with implementation issues, established structures have not proven to be effective and credible vehicles of participatory democracy (DPME 2014). Community-level capacity and capability have also materially eroded, as historical community leaders took new responsibilities and vocal but not necessarily civic-minded individuals entered grassroots structures. The democratic transition also led to a recomposition of the civil society landscape, weakening grassroots ties of many civil society organisations (as many disappeared, joined government or turned into member-less advocacy groups) (DPME 2014). Yet, as enshrined in the Constitution, both open, direct democracy and representative democracy have been explored to foster a social compact for a just transition in South Africa.

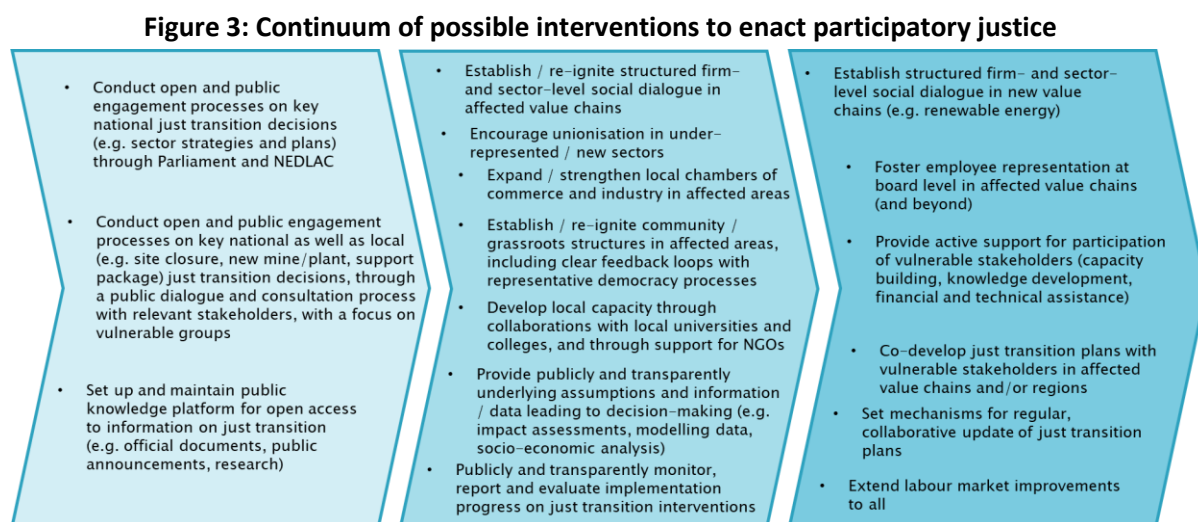
Like in every modern society, representative stakeholder engagements are the primary mechanism used to promote social dialogue in the country.⁴ In 1994, the National Economic Development and Labour Council (NEDLAC) was set up as a unique body which brings together representatives from government, organised labour, organised business and the community to consider all socio-economic and labour policy and legislation. Such ‘social partners’ also form the basis of most nationwide agreements, such as the 2011 Green Economy Accord and the 2018 Decent Work Country Programme. The representativity and effectiveness of NEDLAC have, however, been questioned over the years, calling for a recommitment to institutionalised social dialogue. For instance, the NEDLAC Task Team which debated the Climate Change Bill did not include community representatives.⁵ In late 2020, a multi-stakeholder Presidential Climate Commission was also set up to inform the country’s just transition, with representatives from government, labour unions, business, civil society, research and political parties. Its degree of influence on key decisions remains, however, to be ascertained.

⁴ Firm-level social dialogue is primarily enacted through negotiations between employers and labour unions at industry-specific Bargaining Councils. Union membership stood at just below 30% in 2018, but rose to 78% in mining, 68% in utilities and 51% in services. In law, employees do not have rights of representation on the board and employee representation is extremely rare in practice.

⁵ Importantly, a structure focused on government, organised business and organised labour reflects NEDLAC’s role of managing economic power in a transparent forum, rather than ensuring participatory justice.

Complementarily, a diverse and wide set of grassroots engagements aims to foster a bottom-up procedural justice. South Africa's NPC led in 2018-2019 an extensive public process of consultation at provincial and national levels, which culminated with the compilation of a draft national vision for the country's just transition (NPC 2019). In addition, local non-governmental and community-based organisations play a central role in stimulating engagements at the grassroots level. Problematically, no structured channels exist to feed such engagements (directly or indirectly) into more formal engagement and decision-making processes, or to empower stakeholders to meaningfully take part in ongoing discussions.

In light of the above domestic state of play, a set of interventions could be implemented to foster participatory justice on just transition issues. Such interventions could then be leveraged to broaden procedural justice in the country overall. Figure 5 provides a non-exhaustive list of possible, complementary interventions, structured in a series of increasingly ambitious building blocks. The focus is on fostering social dialogue on key national and local just transition issues, in complement of existing representative democracy processes, as well as empowering vulnerable stakeholders to meaningfully exercise their agency.



Source: Author

3.2. What distributive justice?

Achieving distributive justice within a just transition context hinges on addressing the direct negative impacts associated with the transition, such as loss of economic activity, employment and livelihood (Montmasson-Clair 2021). It relies on harnessing a set of (generally) existing policy tools to lessen or mitigate adverse impacts as well as generate counter-balancing positive forces (Makgetla et al. 2020), i.e. labour market policy, industrial policy and social protection.

Labour market policy

As the transition to a green economy disrupts the economic structure (leading to most activities transforming, some phasing out, and others emerging), labour market policies are critical and necessary to foster employment and decent work. Active labour market policies, such as income

support programmes, reskilling, job placement schemes, small business support and early retirement, aim to facilitate the entry and exit of people from the labour force. Passive labour market policies have an impact on labour market conditions, through minimum standards for employment conditions and worker benefits (Carter et al. 2019).

In South Africa, a wide range of labour market policies are in force. Yet, in the face of high unemployment and other legacy issues, they have been unable to deliver adequate levels of worker protection, adding to the complexity of delivering a just transition. Standards are also too low to ensure the promotion of decent work, notably in new economic activities, or constitute a robust safety net for workers who would lose their employment in the transition. Nevertheless, existing policies provide a degree of protection and support to workers, both at the workplace and in between jobs, which could formulate the basis for a just transition and a more inclusive labour market overall.

Fundamental labour market protections are in place in the country. The South African Constitution, complemented by a series of laws (such as the Labour Relations Act and the Basic Conditions of Employment Act) and codes of practices, provides a set of minimum labour market standards. The Bill of Rights enshrines freedom of association, fair labour practices, unionisation, striking (and reciprocal lockout) and collective bargaining as fundamental rights. In addition, the legal framework sets mandatory standards for working hours (a maximum of 45 hours per week), leave (no less than 21 consecutive days per year), employee benefits, minimum age of work, unfair discrimination and workplace equality, workplace equity through affirmative action, confidentiality, damages and compensation issues.⁶

Yet clear areas for progress remain to ensure adequate levels of climate resilience in the economy. This is the case for social protection, with direct impacts on workers who could lose their livelihood as a result of (physical and transition) climate impacts. In 2018, only 47% of employees had pension/retirement fund.⁷ And only 29% of workers had medical aid benefits (compared to 70% for paid sick leave), leaving many without respite against (increasingly climate-related) health impacts.

Numerous workers do not receive a living wage, materially reducing their ability to mitigate or adapt to climate-related impacts. A national minimum wage was introduced in January 2019.⁸ As of March 2021, the minimum hourly wage stood at R21.69, which equals to R3760 per month for a full-time job (40 hours a week). In 2018, the median monthly earning stood at R3500, but varied strongly between sectors and occupations (Statistics South Africa 2020). Also, a large share of the workforce (31% in 2018) operates outside of the formal economy, where minimum wages are generally not enforced and revenues are much lower than in the rest of the economy. This is notably the case in some 'green' activities, such as waste management and natural resource management.

⁶ South Africa has also adopted the International Labour Organisation's (ILO) eight fundamental conventions. However, South Africa has only ratified 27 ILO conventions out of 190, of which 24 are in force.

⁷ The introduction of a National Social Security Fund is supported by all social partners. However, key implementation details remain areas of disagreement. See NEDLAC (2021) for an account of discussions as of August 2021.

⁸ Some sectors also set their own minimum wages through collective agreements. Previously, a number of sectoral minimum wages existed, notable in agriculture, forestry, the taxi industry, private security, wholesale and retail, and domestic work. Certain sectors still benefit from temporary exemptions.

In addition, the existing employment-related safety net, the Unemployment Insurance Fund (UIF), covers workers imperfectly,⁹ raising the level of vulnerability to climate impacts of many workers. Only 60% of employed people made contributions to the UIF in 2018 (Statistics South Africa 2020). The UIF, moreover, requires four years of contribution to qualify for a maximal, full year of benefits. Although this is aligned with the median job tenure in the economy (49 months in 2018), it does not adequately cover a large share of workers with much lower job tenure (such as low-skilled occupations, young people and informal workers). Many workers are also simply ineligible: numerous people are self-employed, particularly in the informal sector; 69% of employed people in 2018 had been without a job for more than a year; and 32% were unemployed for more than five years (Statistics South Africa 2020). Lastly, the UIF only provides partial cover for previous earnings, to the tune of a maximum of R221 per day or R1516 per month for the median salary.¹⁰

A wide range of additional active labour market policies have also been in place. They span from a youth wage subsidy to employer and job-seeker services, to workplace improvement, employment and placement schemes (Youth Employment Service, Harambee Youth Employment Accelerator), learnership and apprenticeship programmes, training and skills development (Training Layoff Scheme with Sector Education and Training Authorities, National Youth Development Agency), small business support (Small Enterprise Development Agency [SEDA], Small Enterprise Finance Agency [SEFA]), and overall project development (Jobs Fund). They could be harnessed to facilitate the transition of workers into new employment or business opportunities in new (green) activities. As it stands though, despite multiple initiatives in the country, South Africa does not have a comprehensive, cross-cutting approach to 'green' skills development or 'green' entrepreneurship.

More broadly, labour market policies are mostly effective in an environment characterised by low unemployment, high job creation and economic dynamism. In South Africa, the unemployment rate, including discouraged jobseekers, stood at 43.2% in the first quarter of 2021. This rose to 46.8% for women, 47.9% for Black people and 57.5% for young people (Statistics South Africa 2021). This is a critical vulnerability factor for the South African economy as it embarks on a low-carbon transition. Furthermore, DPME (2014) highlighted the need for "reducing unfair inequalities in pay, conditions and amenities, and reviewing workplace organisation to promote career paths for more workers" (p.100). The effectiveness of existing policies has moreover been hampered by coordination issues between a multitude of programmes and initiatives, mismanagement and decision-making problems (Marock and Grawitzky 2014).

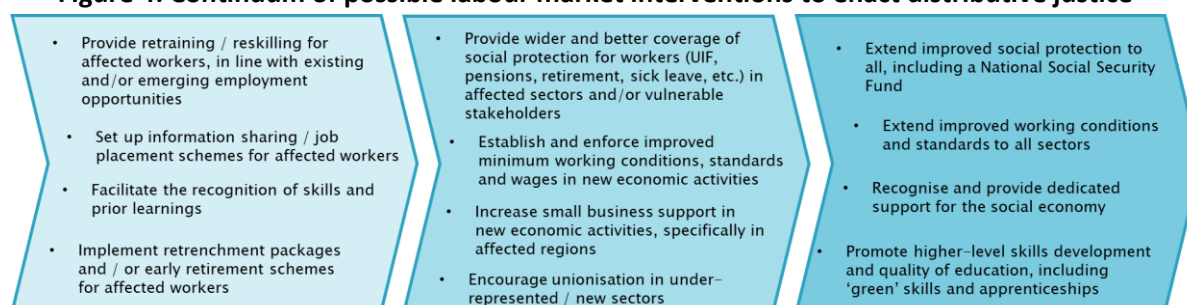
From the above analysis of labour market policies in the country, a number of interventions could be implemented to foster the country's just transition. Figure 4 lists a non-exhaustive catalogue of possible labour market measures which would contribute to promoting distributive justice, first in hotspot sectors and regions, and then more broadly at a national level. The main objectives would be

⁹ To support businesses forced to close down as a result of restrictions introduced to fight the COVID-19 pandemic, a Temporary Employee/Employer Relief Scheme was introduced for employer and employees who contributed to the UIF in 2020. A number of temporary, sector-specific programmes, such as the Tourism Relief Fund, the Agricultural Disaster Support Fund and the SMME Debt Finance Relief, were also established. These could provide important lessons in establishing dedicated support for mitigating climate impacts.

¹⁰ Calculated in August 2021 using <http://ezuif.co.za/uif-calculator>.

to facilitate the transition of workers to new employment or business opportunities (or retirement) as well as ensure adequate working conditions and standards in new (and existing) industries.

Figure 4: Continuum of possible labour market interventions to enact distributive justice



Source: Author

Industrial policy

Even if enhanced to provide adequate support to workers, labour market policies are necessary but insufficient to achieve distributive justice. They need to be complemented by industrial policy to drive investment and support the emergence of new economic opportunities (Makgetla et al. 2020). Functional industrial policy aims to have a widespread impact on the functioning of the economy, by for instance identifying and pointing to national priorities, shaping market structures (notably ownership, discussed in Section 3.3¹¹), providing infrastructure and market institutions and removing unnecessary regulatory blockages. Selective industrial policy complement functional interventions by unlocking sector-specific opportunities, using targeted tools, such as trade policy, finance, incentives and skills development (UNCTAD 2016).

Numerous policy measures have been implemented in South Africa to foster the transition to an inclusive and green industrial development, leveraging a variety of instruments. These 'green shoots' are an encouraging basis on which to build. However, on the whole, industrial policy remains to be aligned with the just transition paradigm, with many interventions still being counter-productive. Notably, industrial policy has yet to internalise its role in achieving restorative justice.

Effectively, all industrial policy tools have been used to some extent to foster the low-carbon transition (Montmasson-Clair and Chigumira 2020).¹² About a fifth of South Africa's research and development (R&D) expenditure in 2016/2017 was directed towards 'green' activities. Likewise, 16% of the Industrial Development Corporation's funding targeted 'green industries' over the 2008-2017 period and 7% of the Black Industrialist Support programme supported clean technologies and energy over the 2015-2018 period. Infrastructure development has, to some extent, also positively contributed to green industrial development, through the extension of rail and public transport. Furthermore, some of the country's industrial zones have aspects supporting the transition to a green economy, such as the greentech manufacturing hub of the Atlantis Special Economic Zone (SEZ) or the East London

¹¹ While ownership issues are relevant to distributive justice and directly related to industrial policy, they are principally discussed under restorative justice, as they result from historical dispensations.

¹² Industrial policy has also been a key avenue to address inequality in the South African society. This is discussed in Section 3.3.

Industrial Development Zone's efforts to become an Eco-Industrial Park. Procurement requirements (such as local content targets and requirements) and fiscal rules (such as deductions for 'green' investments and R&D) have, likewise, been used with some success in South Africa to promote the transition to a green economy, essentially in the energy sector. Regulations (both command and control and pricing) have been utilised to support behaviour change, with some positive impacts for plastic bags and electric filament lamps. An economy-wide carbon tax, covering about 80% of the country's greenhouse gas emissions, has also been introduced since June 2019. At the sectoral level, industrial development Master Plans are under development to actively promote some key 'green industries', such as renewable energy, green hydrogen, and water and sanitation.

Overall though, the mix of measures lacks internal coherence, long-term certainty and alignment with other public policy areas. Industrial policy tools remain to be meaningfully harnessed for supporting green industrial development (Montmasson-Clair and Chigumira 2020). Only a small fraction of South Africa's industrial policy targets the transition to green industrial development. Resources have furthermore been overwhelmingly channelled towards the energy sector (renewable energy and energy efficiency), at the expense of other sectors and aspects of the transition (such as climate change adaptation). This is a key risk to the economy and society.

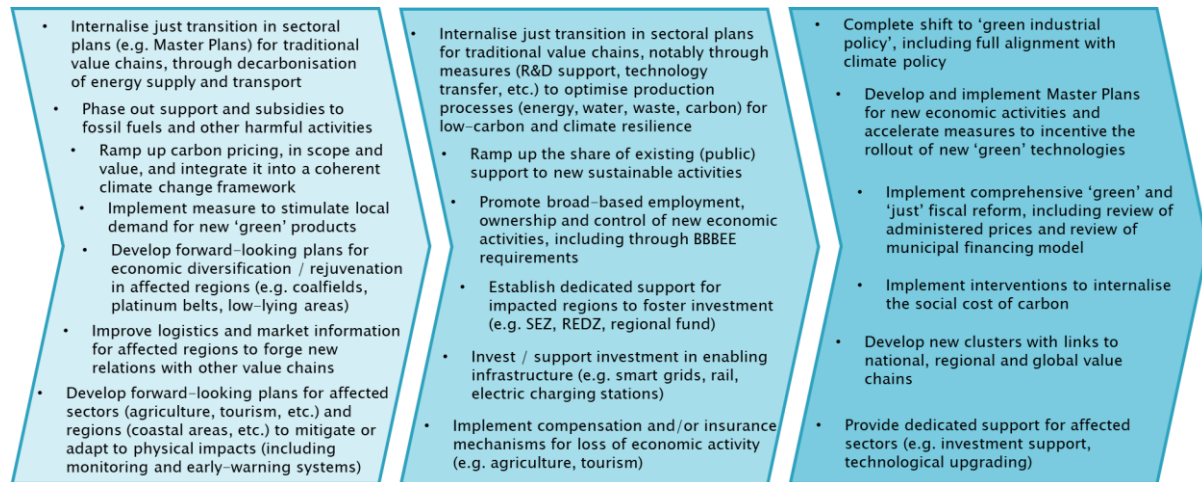
Much more can be done to fully utilise the power of industrial policy to foster an inclusive and green transition, notably through the Master Plans for key industrial value chains, such as automotive, iron and steel, chemicals and plastics. Carbon pricing remains too low to generate expected changes and has yet to be meaningfully integrated with other instruments, notably to prevent any socially-regressive impacts. Both public and private expenditure on (green) R&D and innovation is vastly insufficient. The use of standards and targets, such as the ISO 50 0001 for energy management, has shown disappointing results, with South Africa lagging behind peers. 'Green procurement' has yet to be rolled out in South Africa and the effectiveness of many regulations remains highly imperfect, from the lack of enforcement to unnecessary regulatory bottlenecks. In some cases, regulations even have had a hindering effect on the transition by obstructing circular economy initiatives or preventing the rollout of new technologies.

In many cases, South Africa's industrial policy still promotes an economic development model that goes against the transition to a green economy. The envisaged Musina-Makhado SEZ, in Limpopo, is a case in point. It would include 20 industrial, steel and ferrochrome facilities, fed by a 3300 MW coal-fired power plant. In addition, the amount of support directed at unsustainable activities remains particularly high. Direct fossil fuels subsidies amounted to 2.0% of gross domestic product in 2017, rising to 13.6% when the cost of externalities is included.

Furthermore, South Africa's industrial policy has yet to be aligned with the imperative of a just transition. In fact, the longstanding promotion of an extractive and polluting industrial development model is at the source of the very problems which restorative justice aims to address. South Africa's industrial policy is rooted in the development of the Minerals-Energy Complex (i.e. energy-intensive industrial activities underpinned by mineral extraction and abundant, cheap coal-based electricity) and yet to meaningfully move to a more sustainable development paradigm.

Looking ahead, Figure 5 takes forward the above diagnostic by formulating a non-exhaustive set of possible industrial policy interventions which would advance distributive justice in the country, in a series of three building blocks rising in ambition. Key goals would be to increase the resilience, inclusivity and sustainability of existing value chains as well as foster the development of new economic opportunities, with a notable focus on hotspot areas.

Figure 5: Continuum of possible industrial policy interventions to enact distributive justice



Source: Author

Social protection

In addition to labour market and industrial policies, social protection policies are necessary to provide a genuine safety net to workers and citizens in general (Carter et al. 2019). This is critical to improve the resilience to (climate change) impacts of many people. Contributory social protection requires a direct financial contribution by individuals and is often attached to employment (such as unemployment insurance). As such, it overlaps to some extent with labour market policies discussed above. Non-contributory social protection deals essentially with providing a safety net for all, generally through monetary support (social grants, universal basic income), public employment programmes, and service provision, such as energy and water (discussed in Section 3.3¹³).

South Africa has a widespread social protection system, primarily social grants, public employment and service provision, which has critically contributed towards reducing poverty in the country. Gaps in coverage and insufficient levels of support have however hampered its impact, leaving vulnerable stakeholders in jeopardy of climate impacts. Addressing such shortcomings could form the basis of a comprehensive and empowering social security, starting with stakeholders vulnerable to climate impacts.

South Africa's Constitution recognises, in the Bill of Rights, that "everyone has the right to have access to social security, including, if they are unable to support themselves and their dependents, appropriate social assistance" (Republic of South Africa 1996, 9). The country's income support programme is among the largest of upper-middle-income economies in terms of the share of

¹³ Service provision, while a key pillar of social protection, has a strong historical dimension and is discussed in the section on restorative justice.

households affected. Almost 35% of South African households received some kind of state transfer in 2018, compared to a weighted average of 15% for peer economies.

The provision of social grants is the largest programme aimed at alleviating poverty, by redistributing income from relatively well-off households and big business to poor people who are unable to work. In February 2018, 17.5 million South Africans, or almost one in three, received some kind of social grant (old age, disability or child support). Two thirds of households in the poorest 60% received a grant. For these households, given high jobless rates, access to a social pension often is the only protection against destitution. Social grants accounted for around a quarter of total income for the poorest 60% of households in 2015, and well over a third for the poorest 30% alone. Both the old-age and disability grants came close to the food poverty lines for a couple. However, the child support grant would only lift half a person out of poverty (Makgetla 2020).¹⁴

South Africa's social grant system has done a great deal to reduce poverty, but it is not sufficient to adequately ensure the climate resilience of vulnerable communities (and more broadly secure the right to social security). The levels of social assistance benefits are too low to ensure an adequate standard of living. Those with no or little income, who are between the ages of 18 and 59 and are capable of working, are furthermore not covered by existing schemes.¹⁵ An estimated 18% of eligible children do not receive the grant because of a lack of documentation. In addition, no benchmark to adequately set the levels of social benefits, such as a composite index on the cost of living, currently exists (IEJ, SECTION27, and CESR 2021), a key shortcoming considering that food supply and prices are increasingly affected by climate change impacts and responses.

The social grant system is complemented by a widespread public employment programme. The Expanded Public Work Programme (EPWP) creates temporary and/or part-time opportunities for unemployed and poor households as a labour absorption and income transfer strategy. Over 10 million work opportunities (defined as paid work for an individual for any period of time) have been created over the 2004-2019 period, in infrastructure development, environmental preservation, culture, social support and non-state sectors (DPWI 2019). In 2020/2021 alone, the programme injected R9.4 billion in wages in the economy creating close to 300 000 full-time equivalents through about 1 million work opportunities (DPWI 2021).

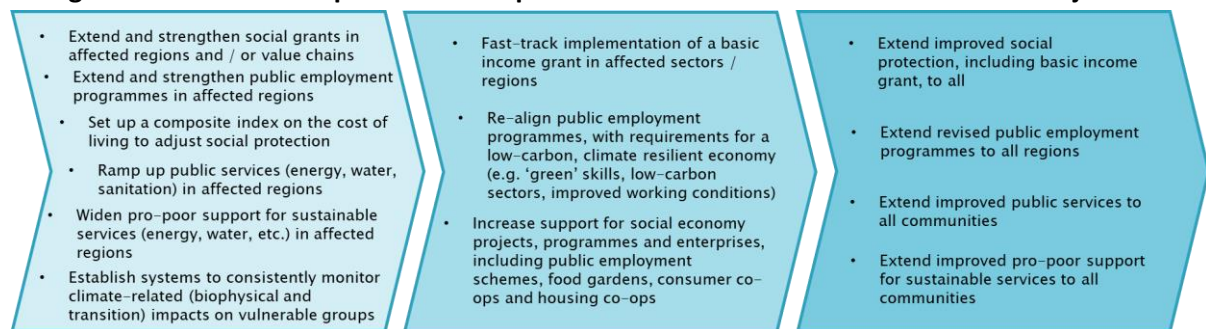
Notwithstanding the pioneering nature of the EPWP (notably in supporting community-based projects in the social and environmental sectors) and its significant role in alleviating poverty and social isolation in the country, "the employment created through the programme is still small compared with the number of unskilled unemployed people" (DPME 2014, 47). In addition, opportunities generated by the programme are often far from being decent jobs, as the EPWP pays low wages and does not offer job security and reasonable career prospects. The training provided is also often too basic to provide for the entry into the labour market, let alone equip recipients with emerging 'green' skills.

¹⁴ The amount of all grants was momentarily increased as a response to the COVID-19 crisis.

¹⁵ While no universal basic income grant (UBIG) currently exists in the country, Government's response to the COVID-19 crisis has included the rollout of a temporary provision of basic income grant. As of August 2021, discussions are under way for the possible establishment of a UBIG in the country. See NEDLAC (2021) for an account of discussions.

The above review of social protection in South Africa opens the door for a series of interventions in support of a just transition. Figure 7 puts forward a non-exhaustive range of possible social protection interventions which could promote distributive justice. Structured around three building blocks, the core idea would be to widen (both financial and non-financial) social protection in affected value chains and regions, as a prelude to broadening support to vulnerable stakeholders as a whole.

Figure 6: Continuum of possible social protection interventions to enact distributive justice



Source: Author

3.3. What restorative justice?

Restorative justice, a fundamental pillar of the just transition agenda, is generally overlooked. Yet it is in this area that lies its truly transformative nature. Restorative justice extends beyond process and direct, short-term impacts to include long-term historical dynamics.¹⁶ It is a core pillar of improving the economic, social and environmental resilience of vulnerable stakeholders, activities and regions.

South Africa has strong roots of restorative justice from the post-apartheid days and significant progress has been achieved in addressing some fundamental socio-economic injustices. The drive for restoration has, however, been eroded over time, with clear frictions between political, economic, social and environmental outcomes. A rekindling the restorative justice agenda and spirit in the country could provide the basis for achieving a transformative transition.

It starts by fostering the socio-economic empowerment of vulnerable stakeholders (Montmasson-Clair 2021). This involves (materially) improving the access to modern housing and associated services (energy, water, sanitation, etc.). It is also about ensuring that all stakeholders benefit from new 'green' technologies, through direct access and/or indirect spillovers. Over and beyond access, socio-economic empowerment speaks to ownership issues, through the promotion of the social ownership of productive assets. It is furthermore a platform to enhance access to economic opportunities, by stimulating the emergence of new local economic activities. Fundamentally, a just transition aims to have a net positive effect on impacted communities (and not only at the aggregate level).

¹⁶ Importantly, the scope of historical damages which should be covered by restorative justice is a source of debate. Similarly, the kind of remedies that should be considered is open to interpretation. Financial compensations are often the first port of call but, on their own, rarely remedy a situation in the long term. Alternative remedies, such as restitution, relocation, targets and commitments, are generally required to effect restoration. Different remedies are also required to address irreversible losses compared to reversible damages.

While South Africa's homeownership is high across all income levels (ranging from just over half for the poorest decile to over 80% in the richest), the value of housing is highly unequal (from R30 000 for the poorest 30% to R2 million for the richest 10%). Furthermore, in many townships, informal settlements and rural areas, there is effectively no housing market, preventing most homeowners to raise cash from their houses (Makgetla 2020). These features denote the inadequate nature of most housing in South Africa to withstand any sort of climate impacts, from heatwaves, to flooding, to cold waves. It is also an indication of the inability of most homeowners in the country to bear the costs required to enhance their resilience and sustainability by retrofitting their homes or tapping into new 'green' technologies, such as solar-based systems.

In addition, deep inequalities persist in municipal services despite substantial improvements from 1994, affecting both the quality of life and productivity of poor households. This further limits the resilience of vulnerable households to climate impacts. Low-income housing is also generally distant from city centres and amenities (such as banks and hospitals), raising the cost of accessing economic, educational and social opportunities. In 2017, under two thirds of households in the poorest 60% had running water on site, half had flush toilets and municipal refuse removal, and just over four out of five had electricity. Furthermore, even where low-income households have access to services, the quality is often poor (Makgetla 2020). Financial access issues further compound this picture (Mohlakoana and Wolpe 2021). The progress regarding the electrification rates hides the persistence of high levels of energy poverty (43% in 2013). In addition, pro-poor energy subsidy programmes (such as the Free Basic Electricity or the Solar Water Heater programmes) have been insufficient in their coverage, scope and implementation to meet the basic energy needs of poor households. Strikingly, in 2018, only 49 of the 213 municipalities in the country indicated that they provided fee-for-service support (in the form of the Free Basic Alternative Energy subsidy) to households without grid connection. And more households received support for dirty and harmful energy sources (such as paraffin and fire gel) than for solar-based systems.¹⁷

Notwithstanding some progress since democracy, asset ownership remains very skewed in South Africa, even more so than income distribution. Without dedicated policy interventions, this situation is set to be prolonged rather than addressed by the low-carbon transition. Industrial policy has been a key avenue to address inequality in the South African society (Makgetla 2021), spearheaded by regulations on Broad-Based Black Economic Empowerment (BBBEE). These set sectoral targets in terms of empowerment of, ownership by and control by previously-disadvantaged South Africans to overcome the profound inequalities in race, gender and class in ownership and power that were entrenched under the apartheid regime. Supported by a number of other initiatives, such as the Black Industrialist Support programme, and agencies, such as SEDA and SEFA, the BBBEE policy led to considerable improvements in economic empowerment, particularly in wealth transfer, the ownership of listed companies and the number of local enterprises. At the same time, in addition to a burdensome and opaque implementation, several shortcomings persist. This is notably the case in representivity in senior and executive management, the lack of spillovers towards local procurement, and the concentration of benefits from the transfer of assets to the top 20% of households (Makgetla 2021). In 2015, the top decile of households, with earnings of over R26 000 a month (in 2017 rand), owned 61% of the assets of businesses owned by households; 50% of the value of housing; and 58%

¹⁷ Only 22 municipalities provided support for solar-based systems in 2018.

of other assets (such as pensions). The poorest 60% of households held just 7% of business assets and 5% of financial assets (Makgetla 2020). This situation has negative implications on the climate resilience of most South Africans. In addition, the status quo has so far been perpetuated – rather than disrupted – by the transition to a green economy, with low levels of transformation in new economic activities. In a different turn of events, the large majors have started to divest from coal, selling their (potentially stranded) assets to local owners.

Furthermore, the distribution of human capital remains profoundly inequitable, hindering the ability of many people to seize opportunities in new sustainable economic activities. Lower income households have limited access to quality schools, which in turn constrain their members' ability to obtain decent work and incomes. This also leaves many young people ill-equipped to find employment at all. In 2016, in the poorest 30% of households, only 29% of adults over the age of 21 had matric or more, compared to 83% in the richest decile. Of all adults with a university degree, two thirds were in the top decile and only a tenth were in the poorest 60%. The persistence of deep inequalities in the education system both reproduces privilege and sustains deeply unequal wages (Makgetla 2020).

Advancing socio-cultural restoration is a critical complement to progress on socio-economic empowerment, and indeed deeply intertwined with it (Montmasson-Clair 2021). It acknowledges the historical marginalisation of vulnerable stakeholders. This can notably be implemented by enforcing a non-predatory use of the land, including fundamental respect for local, indigenous culture, heritage and practices. Access to and quality of community services (health, education, transport, safety) is another core component. Communities generally reap little benefits from mining activities in terms of the availability and quality of many public services.

Land use competition issues are pertinent for all large infrastructure and industrial activities but are particularly stringent in the case of mining, which has dramatic impacts on the environment. Despite the progressive strengthening of the South African regulatory framework for mining operations since 1994, significant competition persists between mining and other land usages (Montmasson-Clair et al., 2015). Environmental regulations remain complex and not enforced consistently, leading to mining rights often being granted without due consideration to “cumulative impacts on water resources, biodiversity, air quality, and food security, nor to the health or well-being of affected communities” (CER 2016, VIII). For instance, in 2013, more than 2.1 million hectares (74% of total) of Mpumalanga's highest-value agricultural land (class I and II) was subject to mining and prospection applications while more than 50 000 hectares (2% of total) had already been lost to mining (Collett 2013).

Access to and quality of community services (education, healthcare, etc.) remains highly skewed, further weakening the already low resilience of many vulnerable communities to climate-related impacts. This is starkly illustrated by the state of education in South Africa. In spite of significant expenditure and progress to rectify the legacy of apartheid, South Africa has one of the most unequal school systems, with the widest gap between the test scores of the top 20% of schools and the rest (Amnesty International 2020). Inadequate infrastructure (86% of public schools had no laboratory in 2018; 77% had no library; 72% had no Internet access) and the absence of essential facilities (19% had no toilet or only pit latrines) are key persisting problems.¹⁸ Beyond infrastructure, overcrowded

¹⁸ See <https://www.education.gov.za> for full data.

classrooms, problematic teacher skills and ability, insufficient teaching time but also lack of transport are widespread problems, particularly in low-income areas (Amnesty International 2020). Problematically, real spending on basic education per learner has plateaued since 2011/12, and even declined according to Spaull (2018).

Last but not least, restorative justice involves environmental restoration (Montmasson-Clair 2021). This is evident in the case of land (mine) rehabilitation, but also extends to air and water. Communities at the forefront of the transition have in most cases suffered the negative consequences associated with decades (if not centuries) of natural resource extraction and/or industrial pollution. Besides the destruction of the natural environment, with dire consequences on the use of land, environmental impacts have had dramatic spillovers on the health of people in these areas.

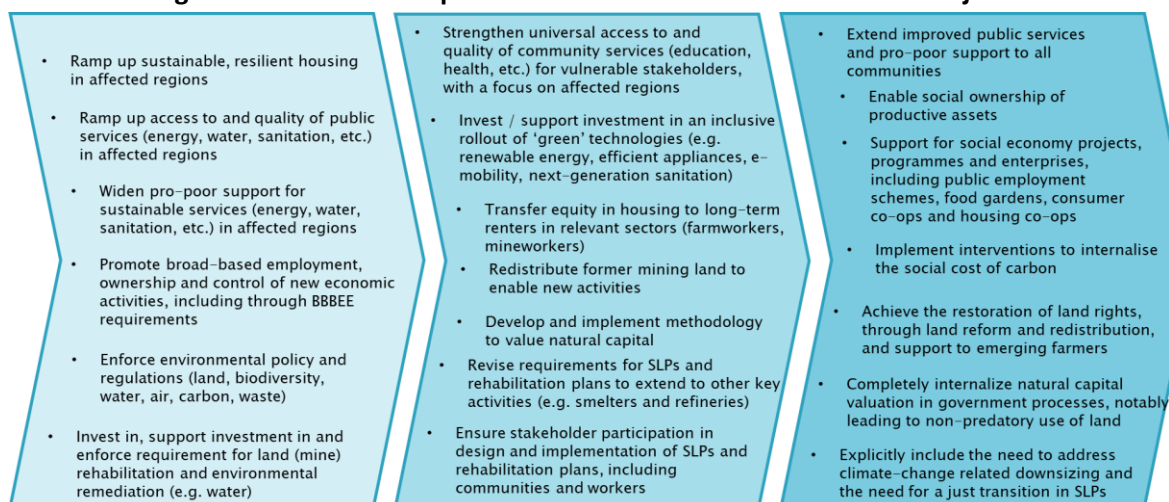
The share of households experiencing environmental problems in South Africa has been rising strongly over the last two decades. About 43% of households reported facing waste-related issues (waste removal and littering), compared to about 29% in 2003. Similarly, land degradation and soil erosion was experienced by a third of household, a notable increase from 16% in 2003. The share of household reporting water pollution problems has been relatively stable, at 16% in 2018. Households that considered air pollution to be a problem decreased slightly to 19% in 2018, essentially due to a switch to electricity as a main source of energy (Statistics South Africa 2019).

Such problems are particularly acute in mining and industrial areas, leading to dire health and socio-economic impacts. As a result of coal mines, heavy industries, power stations and vehicles, air in the Vaal Triangle is the most polluted in the country. The coal fields of the Mpumalanga Highveld and the Limpopo Waterberg-Bojanala mining area follow. The Vaal River, like bodies of water in other mining and industrial zones, is also heavily polluted. Land is degraded and/or highly polluted by mining and industrial activities with dire consequences on usages during and after the lifespan of economic activities (Montmasson-Clair et al. 2015).

Some mechanisms, in the form of Social and Labour Plans (SLPs) and rehabilitation plans/funds, exist to minimise the negative socio-environmental impacts of mining as well as reduce the negative impacts of downsizing or closure. The SLPs are meant to stimulate the local economy and ensure that mine-affected communities are left better off by mining. Rehabilitation plans require mining companies to set aside funds at the onset of a project for the rehabilitation of the local area once the mine has reached the end of its life. Yet, neither systems have proven able to promote meaningful social and economic advancement of communities (CALS 2018). The SLP process remains highly undemocratic, exclusive and largely shrouded in secrecy. Implementation also appears to be failing, due to lack of consultation, monitoring and alignment with existing structures and the needs of communities. Similarly, the mine rehabilitation system is highly flawed, from the legal and accounting frameworks to the actual monitoring of implementation (CER 2018).

Considering the current situation, Figure 7 looks forward and formulates a non-exhaustive series of potential interventions to advance restorative justice in the country. Based on three cumulative tiers of increasing ambition, proposals aim primarily to improve the socio-economic resilience of vulnerable stakeholders to climate-related shocks, broaden the participation in the new economic opportunities and promote the internalisation of all social and environmental externalities into decision-making.

Figure 7: Continuum of possible interventions to enact restorative justice



Source: Author

4. Conclusion

Overall, South Africa's just transition is very much in the making. Some foundations are already present. Local debates to date have grounded the just transition agenda within an economy- and society-wide climate change ambit. This is largely consistent with contemporary applications and could provide a blueprint for other transition processes. Vulnerable stakeholders, particularly workers and low-income groups, have been identified as the key beneficiaries. Small businesses are generally overlooked though and should be included. Most (if not all) policy tools and interventions necessary to affect a just transition are known and already tested (at least to some extent) in the country. This is true for participatory, distributive and restorative justice. But these are yet to be meaningfully harnessed for an ambitious just transition agenda. As suggested above, this could be achieved through a series of incremental building blocks, progressively raising the bar.

The degree of ambition to be pursued by South Africa's just transition is, indeed, the key bone of contention between stakeholders. No agreement currently exists on the end state (the so-called 'inclusive green economy') and the pathways to achieve it (the parameters of action for the three dimensions of transitional justice). Within this, each stakeholder has a role to play in driving implementation as a just transition is not achievable without all parties contributing. Government can notably build evidence, broker consensus and provide the direction of travel. It can also drive action through its structural and catalytic roles. Businesses, both public and private, carry a historical responsibility in the implementation of a just transition, including but not limited to investing in new, sustainable activities and business models. Workers and communities are crucial to co-design and co-implement the just transition process. Organised structures, such labour unions, also have in many cases the ability to invest in transformative initiatives.

The question of financing must similarly be answered as the availability of (both public and private) resources and financial flows can enable or choke off transitional justice ambitions. A fundamental issue is also who should pay for the required interventions (i.e. the burden sharing agreement). Too often, the costs of transition (as well as negative externalities) are socialised despite benefits having

been (and remaining) privatised. A genuine just transition agenda should aim to achieve more equitable repartition of costs and benefits between stakeholders.

Overall, achieving a just transition will be an incremental process made of small progress, important breakthroughs and some setbacks. Political will from all stakeholders, notably to reach consensus and engage with diverging views, and the alignment of vested interests are here the main driving forces, for the opposition of only one group can derail the process. Whether a just transition can be achieved depends on it.

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