



**WORKSHOP REPORT ON ENABLING A JUST TRANSITION:  
OPTIMISING LABOUR LAW AND LABOUR MARKET REGULATION FOR A  
JUST TRANSITION  
22 August 2024, 14h00 – 16h00  
(Virtual workshop)**

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**1. BACKGROUND AND PURPOSE OF THE WORKSHOP**

- 1.1 The workshop, part of the ongoing Nedlac Labour Law Reform processes, was constituted to present the think piece titled *Enabling a Just Transition: Optimising Labour Law and Labour Market Regulation for a Just Transition*,<sup>1</sup> which was prepared for the social partners and other key stakeholders such as the PCC to inform the law reform discussions in the Labour Market Chamber.
- 1.2 A scoping paper, workshopped in 2023, informed the content and direction of the think piece, which explores the implications of climate change, and climate change legislation, on employment, and considers the adequacy of current labour market regulation, and potential regulatory interventions to promote decent work and support workers during the transition to a low-carbon economy. As the paper addresses the intersection of labour and climate change law, the Presidential Climate Commission (PCC) was engaged and provided valuable comments and input on a prior draft of the think piece and participated in the Nedlac workshops on the just transition papers. The workshop participants are indicated in the attached attendance register.
- 1.3 The purpose of the workshop was to deliberate on the adequacy of existing labour law mechanisms that could support a Just Transition, to consider any gaps in the framework and whether current mechanisms can be optimised. The workshop considered the following key areas of labour law and regulation supporting labour market transitions, as discussed in the think piece.

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<sup>1</sup> A second paper on *'Climate-proofing' labour law and protecting workers from heat stress ('Heat stress' paper)* was presented to Nedlac on 16 July 2024.

## 2. KEY ASPECTS OF LABOUR LAW AND LABOUR MARKET REGULATION

2.1 The following mechanisms and regulatory interventions have the potential to support a just transition –

### Labour Law's protective and compensatory mechanisms:

- a) *Employers' obligation to consult* with employees and trade unions on business restructuring and job losses before making decisions, ensuring that workers have a voice in the transition process.
- b) *Retrenchment protections* including the LRA procedures for retrenchments, severance pay (BCEA) and the obligation for employers to negotiate alternatives with unions to minimise job losses during transitions.
- c) *Income support (UIF and severance)* entitlements providing financial relief during unemployment.
- d) *Collective bargaining and social dialogue mechanisms at workplace and sector level* for negotiating terms related to job security, training, and worker protections.
- e) *Occupational Health and Safety (OHS) measures* that protect workers from hazardous conditions, including those resulting from climate change, such as extreme heat, and the obligations on employers to take steps to ensure a safe working environment and mitigate risks (considered in the *Heat Stress* paper).

### Integrated regulation for labour market transitions:

- a) *Active Labour Market Policies (ALMPs)* including skills development (SDA) and employment services (ESA) to facilitate job transitions by providing training, reskilling, and job placement services for workers impacted by significant industry restructuring, for example when transitioning from coal-based jobs to renewable energy sectors, and in other sectors that are directly or indirectly impacted by the transition to a low carbon economy.
- b) *Social Plans and Social and Labour Plans (SLPs)* (the latter are used in the mining sector); which can play a role in coordinating a just transition and mitigating the impact of large-scale retrenchments by requiring and supporting employers to

prepare for job losses and support worker transitions through skills development and community investment.

- c) *Training Lay-off Scheme and Temporary Employer / Employee Relief Scheme (TERS)* providing temporary relief for workers by offering income support and retraining during periods of economic crisis or industry restructuring so as to assist workers to remain employed or to transition into new sectors.
- d) *Social protection and disaster management mechanisms*, in addition to UIF, consisting of broader social protection mechanisms like pensions and disaster relief funds (and DMA) that are integrated into labour market regulation to provide safety nets for workers affected by economic or environmental changes.
- e) *Cooperative governance and cross-sectoral collaboration* to facilitate effective labour market transitions, enable coordination between government departments, and across levels of government (national, provincial and local) will be required, as well as coordination with stakeholders (employers, unions, and communities) to ensure that policies related to retraining, income support, and employment services are aligned and implemented seamlessly across sectors.

- 2.2 Below is a summary of the workshop presentations, responses, and discussion; a final report incorporating the recommendations will be circulated to all workshop participants.

### 3. PRESENTATIONS

#### 3.1 Optimising labour law for a Just Transition (Debbie Collier, Centrow, UWC)

**Debbie Collier** provided an overview of the think piece and indicated that the paper grapples with the interaction between labour law and the wider regulatory framework needed to ensure a Just Transition. This includes the recently enacted Climate Change Act (CCA), supporting the transition to a low-carbon economy, which will have labour market implications. A people-centred approach is required to ensure decent work, which is an objective of the CCA. Transitioning without ensuring decent work will result in an unjust transition.

The presentation touched on the challenges of a Just Transition in the context of South Africa's reliance on fossil fuels. Drawing on studies from the Development Policy Research Unit (DPRU), Collier emphasised the need for coordination across levels of government and labour market sectors and the importance of developing existing labour law mechanisms aligned with the JT objectives of climate change law. She noted that labour coordination (national, sector, workplace) and across all levels of government (national, provincial and local) is necessary to address job losses in fossil fuel industries, such as coal mining and coal-based energy generation, and facilitate the transition of workers to green jobs in the renewable energy sector, or in other impacted sectors.

Collier detailed the regulatory interventions discussed in the paper (as set out in 2. above) and emphasised the importance of collective bargaining and consultative forums to engage workers in decisions about job transitions, retrenchments, and skills development. She also addressed the potential for establishing sectoral bargaining councils, particularly in industries transitioning to renewables, and the role of sector education and training authorities (SETAs) in coordinating skills development.

Collier highlighted the existing labour law mechanisms (in 2. above) that can be invoked during restructuring and retrenchments, such as the Labour Relations Act's provisions for consultation and severance pay, and the need to expand income support mechanisms through the Unemployment Insurance Fund (UIF). She also discussed active labour market policies that support workers during transitions, including retraining and re-employment services. She stressed the importance of integrating these measures into the broader Just Transition framework. She pointed out that while South Africa has several precedents for managing transitions during crises, such as the 1998 Social Plan and the 2008 Training Layoff Scheme, intentional and coordinated regulatory frameworks may be necessary to support a Just Transition. She emphasised the need for a coherent response that integrates labour law with broader social, economic, and environmental policies to ensure that no one is left behind during the transition to a low-carbon economy.

3.2 Just Transition and the labour market – key issues to consider (Haroon Borhat, DPRU, UCT)

**Haroon Borhat** presented an overview of the coal labour market and the landscape for transitioning workers from coal-related jobs and identified the policy mechanisms needed for a just transition. Borhat provided a categorisation of coal workers and explored the potential for job matching as a key strategy for transitioning coal workers to new jobs.

Borhat emphasized the significant role that coal plays in South Africa's mining sector, contributing 20% of mining's gross value added in 2019, though its contribution to overall GDP is relatively small at 1%. Coal remains vital for export revenue and is a key component of various value chains, including energy production (Eskom), rail, petrochemicals, and machinery manufacturing. Despite this, coal is a shrinking sector in terms of employment and its economic footprint is diminishing in comparison to other sectors.

In his analysis, Borhat highlighted that coal directly employs between **75,000 and 100,000** workers, constituting about 0.5% of total employment and nearly 20% of mining employment. Coal employment is geographically concentrated, with most workers based in four municipalities in Mpumalanga. The demographic profile of coal workers shows that the majority are African males aged between 25 and 44, with higher-than-average educational qualifications. Over 43% of coal workers have completed secondary education (matric), and 23% have a diploma or higher. Borhat explained that many coal workers are nearing retirement age, which presents an opportunity for a phased transition. By 2024, 2.8% of the 2019 coal workforce will have reached retirement age. This natural attrition process, along with the decommissioning of coal-fired power plants, provides a window for managing the transition out of coal without significant social upheaval. Early retirement, supported by pension and provident funds, could be a key mechanism in facilitating the just transition. Borhat introduced a framework that categorises coal workers into three groups based on their skills and education:

- *No Just Transition challenge:* Workers with diplomas or degrees (about 17,000, or 26% of coal workers) who are more likely to find alternative employment.
- *Intermediate Just Transition challenge:* Semi-skilled workers with some primary or secondary education who will need a combination of income support and retraining to transition to new jobs.
- *Just Transition challenge:* Elementary workers with low levels of education who will primarily require income support as they are unlikely to find alternative employment.

Bhorat highlighted the role of age in this framework (the retirement cohort), suggesting that older workers nearing retirement may require early retirement packages supported by provident or pension funds, while younger workers would benefit from job matching and retraining initiatives. Bhorat discussed four key policy options to guide the just transition:

- *Job matching and skills transferability:* Job matching was a central theme in Bhorat's presentation, and he presented a framework for identifying jobs in renewable energy and other sectors that require similar skills to those held by coal workers. For example, power plant operators in coal can transition to roles like wind turbine service technicians or biomass power plant operators. This job matching framework relies on assessing the equivalence of skills required for coal jobs and jobs in other industries. He emphasised that coal workers' skills are transferable, particularly to sectors such as manufacturing, construction, and renewable energy.
- *Retraining:* In terms of education and training programs to help workers acquire new skills for emerging industries like renewable energy.
- *Income support:* Providing temporary or permanent financial support to workers who are unable to find new employment.
- *Early retirement:* Providing early retirement packages for workers nearing the end of their careers, funded by provident and pension schemes.

Bhorat also discussed the potential for job creation in the renewable energy sector, driven by infrastructure development and small-scale commercial use of renewables. While this sector presents new employment opportunities, he cautioned that it may not fully absorb all displaced coal workers, and careful planning is needed to ensure that workers are retrained for jobs in green technologies.

Bhorat concluded by stressing the importance of a deliberate and well-coordinated policy framework to manage the just transition. He emphasised the need for data-driven approaches, including using company data to accurately assess the number of workers, their ages, and their skills. He also highlighted the importance of involving stakeholders from government, industry, and labour unions to ensure that the transition is fair, inclusive, and adequately funded through a combination of public and private resources, such as retirement and provident funds.

## 4 QUESTIONS, RESPONSES AND DISCUSSIONS

### 4.1 Questions of clarification.

4.1.1 **Kaizer Moyane** (business) requested clarification regarding the number of coal workers mentioned in Bhorat's presentation, and whether downstream businesses dependent on coal were also included in the analysis. Bhorat indicated that the data was based on the Quarterly Labour Force Survey (QLFS) and primarily covered direct coal miners and Eskom employees. He noted that the data did not include workers from downstream businesses, such as those dependent on Sasol, because it was difficult to estimate their numbers accurately. Bhorat emphasised that obtaining accurate data from companies, including their HR-coded data on skills and age, would be necessary for a comprehensive just transition framework.

### 4.2 Responses from organised business —

- **Kaizer Moyane** expressed appreciation for the presentations and raised several key points:

- The importance of considering downstream businesses, as their survival is closely tied to coal and electricity sectors, even though they are not directly involved.
- The need for interdepartmental cooperation, involving business chambers, local authorities, and government departments like Employment and Labour, to ensure a coordinated response to the just transition.
- Concerns about the timeline for the transition and when companies in the coal industry would begin to wind down and consider alternatives for impacted workers. He wondered whether companies with a long operational runway (e.g., 10 years) would continue to hire new employees, potentially compounding the problem.
- The possibility of companies involved in the coal sector to start contributing to a fund or mechanism to cushion the financial impact of the transition, similar to social plans used in the mining industry.
- Whether tweaks to employment legislation were being considered to accommodate the anticipated changes in the labour market, and whether those changes should be integrated into the current round of labour law amendments.

- **Happy Khambule** echoed Kaiser's concerns and raised additional points:

- Sharing the burden of responsibility for managing the transition between employers losing workers and those receiving them should be considered as the economy undergoes structural changes.
- Concerns about the difficulty of job matching, particularly since jobs in the renewable energy sector often have different standards, packages, and skill requirements compared to coal jobs.
- The need to create an enabling environment for new job creation in emerging sectors, ensuring that workers losing jobs and new entrants to the labour market are accommodated.
- Existing processes and institutions, such as the Presidential Climate Commission (PCC), Social and Labour Plans (SLPs), and Integrated Development Plans (IDPs), were useful frameworks, but noting that they



may not be performing at optimal levels to handle the complexities of the just transition.

- **Motsamai Motlhamme** raised two additional points for consideration:
  - Whether there was an estimate of how many jobs would be created in alternative energy sectors, as this would provide a better sense of the balance between jobs lost in the coal sector and those created in renewables.
  - Coal mines may not close entirely but could transition to renewables, which raises the question of how many current coal workers could adapt their skills to these new jobs.

#### 4.3 Input from Crispian Olver (Executive Director, Presidential Climate Commission (PCC))

- **Crispian Olver** highlighted developments in the Platinum Group Metals (PGM) sector, noting that it had undergone a rapid and largely unanticipated transition related to the global shift from internal combustion engines to electric vehicles. He highlighted several key lessons from the PGM sector:
  - The transition caught everyone by surprise, demonstrating the need for better preparedness in other sectors like coal.
  - There is uncertainty about the pace of the coal transition, including how long the global export market for coal will last and how quickly renewable energy will ramp up in South Africa. However, planners must avoid wishful thinking and prepare for the worst-case scenarios.
- Olver suggested that more in-depth work was needed on social and labour plans, which he described as becoming a "tick-box exercise" rather than dynamic tools for just transition planning.
- He also raised concerns about the adequacy of the Unemployment Insurance Fund (UIF) and whether it is sufficiently capitalised to handle the demands of the just transition.
- Olver stressed the importance of considering the upside potential of the green mineral strategy and ensuring that mine rehabilitation provides employment opportunities for workers as coal mines close.

#### 4.4 Input from Samuel Mabena (Department of Forestry, Fisheries and the Environment (DFFE))

**Samuel** Mabena indicated that the presentations were well-received by government. He emphasised the importance of considering different time frames — short-term, medium-term, and long-term — when planning for a Just Transition. He highlighted that the transition is not homogenous and will vary across sectors. In the short term, some sectors may manage to replace jobs, but in the long term, workers, especially those in the coal sector, will need to find alternative livelihoods in different sectors. For this, reskilling is crucial to help workers transition into more sustainable industries as the economy evolves. He suggested that the analysis would be more helpful if it clearly differentiated between short-, medium-, and long-term impacts and strategies, providing a clearer roadmap for transitioning workers over time.

#### 4.5 Responses from organised labour —

- **Matthew Parks** raised the following key considerations —

- Regarding Borat's point about workers having pensions, Parks raised concerns that some workers may have already accessed their pensions multiple times, leaving insufficient funds for a comfortable retirement. He suggested reviewing the role of pension funds; as well as social impact investments, in terms of contributing to a just transition and sustainable development.
- The need to also consider occupational health and safety (OHS) laws in the context of long-term climate-related health issues, pointing out that existing legislation, such as the Mine Health and Safety Act (MHSA), had expanded recently to cover illnesses that might develop long after exposure to hazardous conditions.
- The possibility of expanding current social and labour plans, possibly through amendments to the Labour Relations Act (LRA), to accommodate just transitions, particularly for industries like coal; and proposed that severance packages should be tailored to those displaced by the just transition, with a focus on ensuring adequate funding.

- The importance of a holistic approach addressing all sectors affected by the just transition, not just coal, as other sectors (e.g., agriculture, water use, manufacturing) will also face significant changes.
  - The role of the Skills Development Act in providing training to workers and host communities, highlighting the need for skills development in the broader context of the just transition.
  - Urgency, and the need for a clear timeline and legislative drafting process to ensure that new laws addressing the just transition are enacted within the current administration's term.
- **Jacques Hugo** provided the following input –
    - Pointed out discrepancies in employment figures for the coal industry, citing a report from the Minerals Council that estimated 96,000 workers as direct employees in the coal mines.
    - The importance of reinstating a bargaining council for the coal industry, which had been dissolved when employers withdrew from the council. He suggested re-establishing such a council as crucial for addressing an industry-wide transition and facilitating discussions on a just transition.
    - Lessons from Mpumalanga should be heeded. He noted the wider impact of plant closures, which extend beyond the plant itself to host communities and related industries, requiring a broader approach to addressing the impact on communities and sectors linked to coal.
    - Expressed concern that the existing social security net is not comprehensive enough to support workers and communities affected by the just transition and highlighted the significant disparities in social security coverage across employers in the coal sector, stressing the need for a uniform and comprehensive approach.
    - On Government's 'mixed messages', he highlighted the confusion caused by inconsistent government messaging regarding the decommissioning of coal plants. He noted that uncertainty about timelines (e.g., extensions of coal plant lifespans) complicates planning for the just transition, causing workers to delay preparations for job transitions.

- Earnings differentials are concerning, and the issue of income disparities between coal workers and potential jobs in other sectors should be considered. Many coal workers earn relatively high wages and support multiple families, making the transition particularly challenging for these workers and their dependents.
- The community impact of coal mine closure is an important consideration, and efforts should be made to support communities reliant on coal for employment.
- NGOs and organisations involved in just transition efforts should collaborate to pool resources and knowledge, ensuring a more unified and effective approach.

#### 4.6 Input from Waheed Hoosen (Hospersa)

- **Waheed Hoosen** pointed out that the just transition is not sufficiently addressed in the public sector, particularly at the Public Sector Coordinating Bargaining Council (PSCBC). He noted that many public sector institutions still rely on coal-powered boilers, and the integration of green energy solutions has been slow or absent. The just transition will also affect the public sector and its facilities, which should be included in future reports and analyses. Hoosen highlighted the need to incorporate service providers and contractors working with public institutions into the broader conversation on the transition, as they too will be impacted by the shift away from coal.

#### 4.7 Input from Louise Naude (PCC)

- **Louise Naude** expressed concern that discussions on reallocating workers to new jobs focused too much on energy-for-energy job swaps, particularly in the coal and renewable energy sectors. She pointed out that workers might end up in entirely different sectors, not renewables.
- Naude emphasised the need to include the informal economy in the just transition discussions, and that more attention should be given to informal workers who will be affected by the transition, noting that there has been insufficient focus on this issue.

- The National Business Initiative's Pathways to Net Zero report offers valuable insights into what business finds acceptable in emissions reduction. Naude recommended using these pathways as a basis for sector-level discussions, such as in bargaining councils, to assess their impact on jobs.
- Naude highlighted the opportunity for the just transition to address gender parity in new job creation. She advocated for ensuring that new opportunities in emerging industries would promote gender equality in employment and pay.

## 5 SUMMARY OF WORKSHOP CLOSING, OUTCOME AND WAY FORWARD

**5.1 Lisa Seftel** (Nedlac ED) provided a high-level summary and way forward, raising the following key points, and invited comments in closing –

- Regarding time frames, the Just Transition is urgent, highlighted by challenges recently experienced in the Platinum Group Metals (PGM) sector. The transition is not limited to coal and must address digitalisation and shifts in various sectors because of climate change. Immediate action and measures are needed to prevent large-scale job losses and to create new opportunities for workers.
- Seftel highlighted that it is unrealistic to expect certainty and a predictable transition from one sector to another, given the circumstances and pace of changes. Instead of focusing on a macro-level plan, the focus should be on creating institutional integration (Kaizer Moyane's term: 'intersection of institutions and authorities') between local government, businesses, and various government departments; coordination between institutions, including engaging local government and relevant industries (across sectors) (eg. Mpumalanga) through forums like bargaining councils; and clarifying responsibilities using existing frameworks, including the Climate Change Act (CCA) and sector master plans.
- There is a question about how one fosters institutional integration: government, non-government organisations, and companies. This is not necessarily developing a single institutional set of arrangements but using existing mechanisms to clarify roles, responsibilities and obligations and

possibly a deep dive into social and labour plans (toolkits, etc). This was identified as a first area of work, ie. –

→ Fostering institutional integration, using existing regulatory mechanisms (and identifying any gaps/areas for development), and clarifying roles, responsibilities and obligations, and the role of social and labour plans (developments to improve) supporting workers and communities to achieve a just transition.

- A second area of work –

→ Income support and social security; not only income support from unemployment insurance or universal basic income grant but also pension funds and possibly pension funds at a sector level/contribution for workers affected in the future by the just transition. In addition, the intermediate JT category of workers who may need relocation allowances (where would that come from? Who has the obligation for that?)

- An overarching consideration in the context of these two areas of work is whether we need ‘new’ legislation or regulatory changes; and whether legislative amendments could still be included in the current labour law amendment process.

5.2 In her concluding remarks, Collier stressed the importance of existing institutions and regulatory functions and enhancing existing capacity. At the sector level, the role of bargaining councils (and SETAs) should be revisited in the context of the just transition, and consideration should be given to the possibility of sectoral bargaining / a bargaining council for the coal/energy sector, which currently lacks a central platform for industry-wide negotiations. She emphasised the need to address social security gaps and to include the informal economy in just transition discussions.

5.3 Bhorat concluded by reiterating the worker-centric matrix and the importance of segmenting workers based on their specific needs/interventions such as job matching, retraining, or income support, and applying tailored solutions to each worker. He emphasized that funding mechanisms, especially provident and pension funds, are critical, with the state playing a role only when top-ups are needed. Bhorat stressed that coal employers should be central to the process,

as they contribute to provident and pension funds (and administer the contributions of workers) as well as the Unemployment Insurance Fund (UIF).

5.4 In concluding remarks, **Devan Pillay** (PCC) raised two points: beyond coal, we need a sector-specific approach, with a focus on sectors most at risk (in the JT framework) such as the automotive value chain and agriculture sector. The second point highlighted was the need for social protection mechanisms to bridge income gaps for workers transitioning to new sectors with lower wages. Pillay mentioned that the PCC is planning a conference on social protection next year to address gaps in current systems to explore how to support workers, and bridge gaps in income arising from the transition.

5.5 The following was agreed on the way forward about the areas of work discussed in the workshop –

- On the social protection issues: this has two legs, firstly the Department of Social Development (DSD) grants, universal income grants, etc.; and, secondly, the UIA, which is on the agenda for revision; which could be dealt with either separately or possibly via joint Nedlac / PCC<sup>2</sup> work (Nedlac has experience and a history with TERS).
- In terms of roles, responsibilities, and obligations (which would be regulated in social and labour plans), within the context of institutional integration and sectoral coordination –
  - A joint task team comprising representatives of the Labour Market Chamber and PCC could be established to consider how to move this forward in terms of legislation, regulatory developments, and guidelines.

5.6 The think piece, with recommendations, will be finalised and updated to include the workshop outcomes and will be circulated to all workshop participants. The workshop concluded with a commitment to continue exploring these issues within Nedlac and the Labour Market Chamber.

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<sup>2</sup> Noting the PCC conference on social protection in early 2025, which could explore ways of expanding unemployment insurance and exploring sector-specific funds for income support, reallocation funding etc.

**Attendance Register: Workshop on Labour Law and Labour Market Regulation for a Just Transition, 22 August 2024**

<b>Name</b>	<b>Constituencies</b>
Sethusha, Lebogang	Business
Moyane, Kaizer	Business
Motlhamme, Motsamai	Business
Jantjies, Sanelisiwe	Business
de Villiers, Jahni	Business
Khambule, Happy	Business
Rathai, Stephen	Government
Ramabulana, Unathi	Government
Mkalipi, Thembinkosi	Government
Huna, Bulelwa	Government
Nxumalo, Sibusiso	Government
Mamashela, Ntsoaki	Government
Mabena, Samuel	Government
Bikitsha, Thami	Government
Ruiters, Milly	Government
Parks, Matthew	Labour
Mbewana, Boni	Labour
van Rooyen, Nick	Labour
Wilimiec, Janek	Labour
Hugo, Jacques	Labour
Khoza, Sandra	Labour
Hoosen, Waheed	Labour
Lesabe, Tebogo	Labour
Madolo, Mawonga	Labour
Mnguni Richard	Labour
Ngangile, Nokuthula	Labour
Pillay, Devan	PCC
Olver, Crispian	PCC
Johnson, Lindiwe	PCC



Louise, Naudé	Commissioner, PCC
Jones, Nonhlanhla	PCC
Bhorat, Haroon	DPRU, UCT
Collier-Reed, Debbie Wendy	UWC
Shane, Godfrey	UWC
Seftel, Lisa	Secretariat
Lelaka, Tsholo	Secretariat
Javu, Nosipho	Secretariat
Sibisi, Nobuntu	Secretariat