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Stakeholders' Perspectives on State Policy Response to the Rise in Remote Work Regimes in South Africa

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2025

WITS SCHOOL OF GOVERNANCE

UNIVERSITY OF THE WITWATERSRAND, JOHANNESBURG

STAKEHOLDERS' PERSPECTIVES ON STATE POLICY RESPONSE TO THE RISE IN REMOTE WORK REGIMES IN SOUTH AFRICA

A research report submitted to the Wits School of Governance in partial fulfillment of requirements for the degree of Master of Management (Development and Economics)

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1. **Plagiarism Cover Sheet**

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Due Date:	28 February 2025

DECLARATION

I declare that the attached research report is my own work and does not involve plagiarism or collusion. This research report is submitted towards my completion of a master's in management degree.

Signed:

Date: February 2025

2. Abstract

Key Words: Remote Work: Telework: Policy Response: Work Regimes: Employment

The COVID-19 pandemic was a catalyst in fast-tracking the adoption and implementation of remote working across the globe, with South Africa not being an exception. Post the pandemic, there has been a continued implementation of remote work, with some countries opting to put in place specific policies and regulations that govern the implementation of remote work. This study seeks to understand the perspectives of stakeholders on how the state responded to the rise in remote work. This study is qualitative in nature and relied on document analysis, looking at the several laws that exist to govern labour laws in South Africa, as well as existing literature and papers that highlight the views of various stakeholders on the rise of remote work, and the response by the state. In addition to the document analysis, in-depth interviews were conducted with key informants who have extensive experience dealing with remote work, as well as labour policy development. To ensure this is done effectively, the National Economic Development and Labour Council (NEDLAC) was leveraged as it has representation of all major social dialogue constituents nationally, i.e. Government, Labour, Community and Business. The study adopted the lens of the labour market flexibility theory which contends that businesses will adapt their workforce in accordance with changing environments, and that there should be more deregulation in the labour market to allow for flexibility. In addition, to understand the various complexities and layers involved in policymaking, the study looked at the advocacy coalition theory. The study highlights that stakeholders are of the view that there is a lack of clear state regulation for remote work with gaps identified in the occupational health and safety regulations, the need to establish specific provisions related to the right to disconnect and ensuring fair and equitable treatment of all employees. The state has delayed in adapting to remote work when in comparison to other countries like Angola, Brazil and Ireland who have opted to establish specific regulations speaking to remote work. Stakeholders argue that the state should provide greater guidance to enable them to navigate the changing landscape. The study finds that the rise in remote work presents an opportunity to update and modernise work and legal frameworks. This would benefit all stakeholders, ranging from the employers, employees, and labour unions as it would ensure that work and legal frameworks are fit for purpose and address current challenges faced by workers and employers. The modernisation of frameworks governing remote work and policy should be based on evidence. This is critical in South Africa considering the history of work and the impact of apartheid on the organisation of work.

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Bandile Mathandela

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4.1.

5. Abbreviations and acronyms

BCEA	Basic Conditions of Employment Act
OSHA	Occupational Safety and Health Act
CBD	Central Business District
COIDA	Compensation for Occupational Injuries and Diseases Act
ILO	International Labour Organisation
COVID-19	Coronavirus
NEDLAC	National Economic Development and Labour Council
LRA	Labour Relations Act
EEA	Employment Equity Act

6. Chapter 1: Introduction and background

6.1. Introduction

Remote work, defined as the ability for employees to perform their work duties from locations outside of a central location or office, typically making use of digital communication and other electronic collaboration tools, has gained significant traction over the years and post the coronavirus pandemic (Waynika Tanpipat, 2021). Telework tools (digitisation) enable alternative/ new ways of working in organisations, causing for a shift in places of work from the traditional centralised facilities for work, to employee homes (Veronica Popovici, 2020). The implementation of remote working policies was accelerated by the COVID-19 pandemic across various sectors due to the rapid spread of the virus across the world. The fear of contracting the virus, and government-imposed lockdowns also served as a catalyst leading to a significant rise in the implementation of remote work practices with many workers and employers opting to adopt work from home policies (Cevat Giray Aksoy, 2022).

As the world continues to recover from COVID-19 and its effects, the adoption of remote work by organisations has continued beyond the requirements of the pandemic, which has created both opportunities and challenges. With several countries at various stages of their post COVID-19 recovery journey, the question around the future of work remains for employers, employees, and governments. The rapid shift to remote working has surpassed the development of regulatory frameworks in South Africa leading to gaps in labour laws and regulations which protect and enforce the basic conditions of employment (Nicola Countouris, 2023). There is currently no specific legislation governing remote work in South Africa. However, several existing laws and regulations are relevant. The Basic Conditions of Employment Act (BCEA) outlines fundamental employee rights, including working hours, leave, and Occupational Health and Safety (OHS) standards. While there are several views that exist on how the future of work will look, it has however become clear that it will be virtual, with employers and employees embracing a more flexible approach to work (KPMG International, 2022). Remote work is expected to be an integral part of the new way of

working and thus may necessitate a policy response. (KPMG International, 2022). Remote work policy in South Africa is still evolving, while many other countries across the globe have adopted and legislated policy on remote work, an example of this is Angola which introduced a teleworking legislation (Presidential Decree No. 52/22) creating a new legal regime of telework in 2022 (Lockton Global Compliance, 2024). Argentina did the same by introducing a teleworking law No. 27,555 and Regulatory Decree No. 27/202, entered effect on 1 April 2021 (Lockton Global Compliance, 2024).

This study examines stakeholder perspectives on the policy response of the South African state to the shift in work practices and rise in remote working and the implications of remote working which the state must consider in ensuring that adequate laws and regulations are put in place to accommodate the new ways of working. Typical examples include:

- '*Urban city planning'*: remote working is leading to reduced commuter traffic and less visits to Central Business Districts ("**CBDs**") which have historically been economic hubs of Cities. With economic activity shifting from CBDs, does this necessitate a need to reconsider urban city planning and allocation of services/infrastructure? (Nicola Countouris, 2023);
- *'Tax implications and global trends'*: with the rise of remote work, global north countries are recruiting personnel from developing global south without the need to physically migrate. How can the state ensure compliance for both employees and employers?;
- *'Health & safety'*: What will the health and safety considerations be for remote workers? And to what extent will they be impacted? i.e. the Occupational Health and Safety Act, COIDA, etc. need to be updated or amended to extend to home environments. Remote work can lead to feelings of isolation and other mental health implications because of the lack of peer engagement/interaction (Nicola Countouris, 2023); and
- *Road and* traffic management (public transport use): remote work might lead to less movement, and as such less congestion, impact on the use of public transport.

Furthermore, increasing remote work could have an impact on the green energy policy as a reduction in congestion could have an impact on CO_2 emissions (Nicola Countouris, 2023).

The above mentioned is not an exhaustive list of areas of governance impacted by the rise in remote work, but a suggestion of some of the areas of consideration for the South African state. Uncertainty has allowed telework to "fall between the cracks" of various departments of government and responsibility (Hynes, 2014). This has led to a lack of practical policy in this area, ambiguous and imprecise guidance, and a vague understanding of the actual realities of telework and teleworkers' lives (Hynes, 2014). There is limited understanding of the factual issues affecting individuals working from home, reflecting the continuing struggle in acknowledging real sustainability concerns associated with society (Hynes, 2014)

This study sought to firstly understand some of the trends in remote work, the types of remote work, and the potential impact of these on society, the economy and overall policy in South Africa. The study then undertook a broad review of the stakeholder perspectives on the state policy responses to the rise in remote work by understanding what is being done, the constraints if any, as well as what is informing the response, or lack thereof.

6.2. Problem Statement

There are several regulations and/or laws that exist which are aimed at regulating labour relations in South Africa, these include the Basic Conditions of Employment Act, the Occupational Health, and Safety Act, the Labour Relations Act, etc. These provide guidance on where to work, how long to work, the responsibilities of the employee and employer, minimum wage, etc. Remote working has an impact on the implementation of these regulations, and there exist gaps in current regulations to adequately provide for remote work arrangements. This gap in policy presents a potential challenge to the State and a need for effective policy interventions to adequately regulate labour relations in the context of remote work. Additionally, the change in work practices raises questions regarding the health and safety of employees in the context of working from home to mitigate exploitation while enhancing productivity. From a global perspective and in cases of employees working

for organisations in different countries, there may be tax implications which arise and other policy considerations including, but not limited to, compliance with relevant legislation that governs the Unemployment Insurance Fund and Compensation for Occupational Injuries and Diseases Act contributions, and other basic conditions of employment. Additionally, remote work could lead to the classification of workers as freelancers, independent contractors or self-employed, resulting in a fundamental change in the structuring of employee benefits, and potential wage gaps and certain inequalities. Michael Hynes in his paper on Telework in Ireland argues that "telework remains marginalised in business terms and lacks the regulation and guidelines essential to legitimise it for employers and employees that wish to work from home. A neo-liberal approach to the practice adopted by policymakers is evident and in the absence of legislation employers retain sole discretionary decision-making powers over telework schemes and home working conditions. Indeed, at times policymakers may not fully realise the benefits that may accrue as a result of increased adoption of telework, which may be a contributing factor to the lack of consistent regulations, and as such stifling the rise of remote work (Hynes, 2014). Stakeholders have their own perspective on how the state should respond to the rise in remote work and this may influence policy development adoption.

It was thus critical to unpack stakeholders' perspective on state policy response to remote work in the digital age, and the implications on society and future policy directions.

Prior to the COVID-19 pandemic, there was limited research on remote work and its potential impact due to the slow pace at which it was being implemented. In the Europe, Middle East, and Africa (EMA) region, the number of people working from home was constant for a decade prior to the pandemic and was on average 5 percent in 2019 (KPMG International, 2022) as such it was not widely studied. At the outbreak of the pandemic the numbers of employed people usually working from home doubled and then tripled across Europe, Middle East, and Africa reaching on average more than 12 percent in 2020 (KPMG International, 2022). This trend is expected to continue, and as such provides significant research opportunities. The current literature, such as a studies conducted by Nicholas Baard (2010), Veronica Popovici (2020) and Matli (2020) has a focus on understanding the challenges and benefits for

employees and employers, whereas some literature looks at how technology can further enable this, while recent research looks at the opportunities and ways in which to facilitate remote work at an organisation level.

There was a gap in research exploring the perspectives of Stakeholder's on the policy response by the South African government be it from a policy or a regulatory perspective. This then necessitated that further research, be undertaken to expand on the existing body of knowledge on remote work and policy implications in South Africa.

6.3. Research Purpose/Aim:

The purpose of this research was to explore stakeholders' perspectives on the South African state' policy response to changing work practices linked to the rise of remote work.

6.4. Research Objectives

- To examine stakeholders' perspectives on the state position and what is currently being done in response to the changing work practices, particularly the rise of remote work.
- To explore how stakeholders' views may inform policy directions regarding remote work.
- To unpack stakeholders' views on the constraints and opportunities for remote work policy development.
- To understand stakeholders' views on what is informing the state response and policy direction.

6.5. Research Questions

The study concerned itself with the following questions to ensure the research purpose had been realised.

6.6. Main Question

How do stakeholders view how the state is responding to the rise in remote work?

Sub-Questions

- What are the stakeholders' views on state position and policy response to remote work in South Africa?

- How are the stakeholders influencing state policy development and adoption on remote work?
- What are stakeholders' views on policy directions regarding remote work?
- What are the stakeholders' views on the constraints and opportunities for remote work policy development?

6.7. Significance of the study

Remote work is fast becoming a part of the working environment in many organisations and industries, with adoption and implementation having been catalysed by the COVID-19 pandemic (Ann, 2022). Recent studies suggest that this way of work is going to continue into the future with the continuing rise of digitization and globalization driving organisations to have teams positioned across the globe. Some countries, such as Brazil, Angola, and Ireland, have been proactive in ensuring that their labour legislation is explicit in how it will govern such working arrangements. The South African government has taken note of this growing work regime and initiated some responses from a policy perspective to ensure that remote work is governed adequately in the country.

This study makes some important contributions to the growing discussions around remote work, and how to effectively govern them in South Africa. Policymaking is a complex and tedious process as it looks to balance the interests and views of several stakeholders, i.e. businesses, government, labour (workers and unions), as well as civil society. Understanding the emerging perspectives of these key stakeholders will be crucial in informing how the policy response of the state continues to evolve and provides insights into how remote work impacts the various stakeholder groups.

6.8. Organisation of the report

The research report is organised such that it provides the context of remote work looking at the definition, emerging trends, sector considerations, as well as its evolution across various countries. This is all contained under the first chapter, which is the '*Introduction*' chapter.

The report then goes into the second chapter, which is the '*Literature Review'*. This chapter is a presentation of all the relevant literature that I have reviewed for the purposes of this study. The study is situated within two theoretical frameworks, namely the Labour Market Flexibility Theory and the Advocacy Coalition Framework. Within these frameworks, the study looks at the flexibility of labour and contrasts this with worker rights, as well as looking at the complexity of policymaking as there exists many views and interests through the lens of the advocacy coalition framework.

This is then followed by the third chapter, which looks at the 'Methodology' applied to complete this study. It outlines and explains why this chapter is qualitative in nature, elaborates on the research methods choice (document analysis and in-depth interviews), as well as outlines the sampling choices for this study.

The last chapter covers the 'Findings and Analysis', which comprehensively discusses the findings of this study, and the implications thereof. The report concludes by reflecting on the purpose of the report and further aligns it with the findings.

7. Chapter 2: Literature Review and Theoretical Framework

7.1. Introduction

The world at large has been undergoing a transition into increased digitisation with technological advancements leading to significant changes in how we live our lives as people. This change has been the development of technological tools that have enabled the increased adoption of remote working (Waynika Tanpipat, 2021). Remote working has been growing at modest rates in the last 2 decades with IT entities transitioning to remote working and establishing virtual teams to respond to increased competition in the global labour market (Nicholas Baard, 2010)

The adoption of remote working increased significantly with the emergence of the COVID-19 virus in 2020, forcing the world and states to implement movement restricting measures and infection control interventions (Ashraf, 2020). This rise in the adoption of remote work is demonstrated by the stats which suggest that the percentage of people who work remotely increased to 77,9% in 2020, while the share of those who worked in non-residential buildings decreased to 15% (Nkate, 2020). One of the challenges that will need to be considered with remote work is where people live as this generally has a consequence to access to things such as network connectivity, data services, electricity, etc. Related to this consideration, data suggests that 88,0% of those who work from home live in suburban areas and only 5,4% in townships (Nkate, 2020). The reason for that disparity could be due to the availability of an enabling infrastructure in the suburbs such as better network coverage as compared to townships (Nkate, 2020). This is an important aspect of remote work and needs to be considered to ensure that as work practices change, those with no adequate infrastructure are not left behind. The shift to remote work thus raises questions about inequality and the digital divide which in the South African context is embedded in the history of colonialism and apartheid.

The pandemic served as a catalyst for remote work adoption in South Africa and the world at large. In the European Union, an average of 5.4% of workers worked remotely on a regular basis in 2019, while the percentage of those who sometimes worked from home increased

from 6% in 2009 to 9% in 2019 (Veronica Popovici, 2020). These numbers have increased significantly since the pandemic, with statistics suggesting that workers plan to work an average of 2-3 days remotely across twenty-seven countries (Aksoy, 2022). A study by Davy (2023) which looked at the labour regulatory framework in South Africa and its suitability for remote work, concluded that although there was no specific policy on remote work, it is advisable that government positions itself in this regard in order to ensure that those workers who end up working remotely are covered by law and can continue to enjoy their rights as prescribed by the constitution.

With the pandemic coming to an end, it appears that remote working is set to become a norm in the working environment, with many researchers arguing that the future of work is a virtual one (KPMG International, 2022). Although there has been general consensus amongst researchers that remote work has some benefits for both the employee and the employer, there are still many challenges which exist and ought to be addressed, as well as significant implications for different societies at large in South Africa (Matli, 2020). This then necessitates that the State observes this phenomenon and determines if it warrants a response from a policy or regulatory perspective (Ann, 2022)

This literature review reviews the available research on how the state has responded to the changing work practices in South Africa, particularly the rise in remote work. It seeks to understand the policy direction for remote work, the constraints and opportunities in policy development, and implications of these policies within the socio-economic and labour market context of South Africa. The study draws from the Labour Market Flexibility theory. The review further examines the historical context and policy evolution by understanding the pre-pandemic work practices, impact of COVID-19 and the initial policy response of the State. Finally, it proceeds to examine the current policy landscape, conduct a comparative reflection with global trends, as well as an impact assessment of the policies.

7.1.1. Defining Remote work

Remote work is not a new phenomenon and flexible work arrangements have been explored by several organisations and analysts for many years (International Labour Organisation,

2020), with the intention of exploring it as a possible tool for employee management and cost management (KPMG International, 2022). The COVID-19 pandemic, as well as advances in technology, have been a catalyst in the adoption of remote work across several countries and organisations (International Labour Organisation, 2020). The pandemic affected how people move, engage, and live through the introduction of measures such as social distancing, lockdowns, and limitations to public spaces, and consequently how people work (International Labour Organisation, 2020). It is predicted that this impact on how work is organised will continue beyond the pandemic and is likely to become a new norm (KPMG International, 2022). This necessitates that the expanded understanding of these terms be sought and that there be a standardised understanding of the meaning (International Labour Organisation, 2020). In an exploratory note, the International Labour Organisation defines remote work as occurrences where work is conducted on an alternate place as opposed to the default working space, which is usually the office or employer provided workspace (International Labour Organisation, 2020). While Matti (2021) defines remote work as "a work arrangement in which an employee resides and works at a location beyond the local commuting area of the employing organization's worksite".

The definitions all centre around the understanding that remote work or telework is work performed outside of the traditional workspace provided for by the employer. This is the definition that this paper will rely on. It raises the question of how these change the modes of control, working time, health and safety issues and many other factors.

7.1.2. Sector Considerations

An important consideration with remote work is how it can be implemented and/or applied at a sector level. In South Africa, the Tech industry has emerged as the leading sector in adopting remote work, and this is due to several reasons such as:

- the existing infrastructure and tools;
- the nature of work is digital; and
- high demand for tech jobs.

  (Gauteng News, 2024)

These are important aspects as there are industries which may require more human interaction and/or intervention, making remote work more difficult to implement,. These industries include the retail sector (the rise in ecommerce has not eliminated in-person shopping), the manufacturing sector, healthcare sector and logistics sectors., which would require more thought and flexibility at an organisational level to ensure that the objectives of the job are still met.

7.2. Theoretical Framework

Remote work has a direct impact on the organisation of work and labour flexibility, in that it changes the geographical location of where work is done. To understand this further, the study will draw from the labour market flexibility theory, as well as the Advocacy Coalition Framework. Within these theories, the study will also draw on worker agency through the lens of labour geography.

7.2.1. Labour Market Flexibility Theory

The COVID-19 pandemic caused a significant impact and change in working environments across the globe, with many sectors transitioning into remote work because of the measures introduced by the various governments. The ability for the labour market to implement change and adapt is regarded as the 'Labour market flexibility theory.' It refers to the extent to which an organisation can change some of the aspects of its work or how it works to meet the demands of the business or changing market (Mathekga , 2009). But more importantly, it relates to the reduction of regulation and protection of workers (Mathekga , 2009). This theory is premised as enabling organisations to be able to make changes as they deem necessary in their workforce. This is often limited by the regulations imposed by the state.

In the early stages of the COVID-19 pandemic, we witnessed this theory in action with many businesses responding to the changing environment by making amendments to their workforce. This was widely accepted for the large part of the pandemic as the government had implemented strict lockdowns and companies were required to make these changes to comply with the regulations. The government provided guidelines on how the remote

working arrangements would be governed and implemented in so far as it relates to Occupational Health and Safety, worker rights, etc. However, as the dust settles and remote working becomes a norm, it is necessary to ensure that this flexibility that organisations enjoy doesn't contravene worker rights, and that health and safety considerations are implemented even in such arrangements.

The level of flexibility in work arrangements sparks an interesting debate in the context of South Africa which has a history of labour inequalities and exploitation, thus giving rise to labour unions which sort to advance worker rights. Unions argue that reduced regulation will enable employers to exploit workers and not improve the working environments. However, another school of thought is that this may enable employers to create more jobs by adopting flexible working hours, wages, etc. (Aksoy, 2022). Considering the historical context of South Africa, reduction in labour regulations would be a rather difficult and complex undertaking. Remote work presents an opportunity to implement a level of labour market flexibility by establishing policies that will enable organisations to adopt remote work more easily, i.e. tax incentives.

Remote work introduces a new paradigm in labour organisation as it has an impact on space and geography, for both labour and capital (Herod, 2001). Space is an important consideration in the workplace. Heiland (2021) argues that space is a medium of power. Space and geography can affect where workers choose to live and how they choose to work, potentially affecting how labour is organised. It also has impact on the power relations between labour and capital. Where work is conducted has impact of the workers powers as it for example has impact in how trade unions may be able to organise worker and forge worker collective solidarity (Herod, 2001).

Herod (2001) argues that a capitalist system does not operate in a space, but through the spatial organisation of the society. Labour organisation is at the crux of spatial planning. With more flexibility in where to work, workers may opt to move geographies and live in different places, additionally workers would be commuting less to zones of economic activity.

The rise of remote working has the potential to further expand how we understand labour market flexibility and labour geography which in turn has effect on the power relations between labour and capital.

7.2.2. Advocacy Coalition Framework

Policymaking is complex and often involves multiple stakeholders of different levels in government and outside of government. To attempt to simplify this and expand understanding, the Advocacy Coalition Framework was developed by Sabatier (Sabatier, 1998). The Advocacy Coalition Framework refers to "people from a variety of positions (elected and agency officials, interest group leaders, researchers) who share a particular belief system—i.e. a set of basic values, causal assumptions, and problem perceptions—and who show a non-trivial degree of coordinated activity over time" (Sabatier, 1998). The theory looks at the interaction between competing advocacy coalitions within a policy subsystem which, in turn, operates within a wider political system and external environment (Sabatier, 1998). Its description of subsystems paints a picture of a relatively open, multi-level policy-making system. Sabatier (1998, pp. p98-130) contends that "Our conception of policy subsystems should be broadened from traditional notions of iron triangles limited to administrative agencies, legislative committees, and interest groups at a single level of government to include actors at various levels of government, as well as journalists, researchers and policy analysts who play important roles in the generation, dissemination, and evaluation of policy ideas"

This framework is relevant for this study as it aligns well with the complexity that the South African state currently faces with the rise in remote work. There is a consensus that remote work provides both opportunities and challenges, and that its impact is varied across different stakeholders. Businesses can potentially benefit in the form of cost savings from the decreased requirement for physical space for employees to work; however, businesses are also concerned about the performance and output of employees who work remotely. On the other hand, employees enjoy the flexibility that remote work comes with; however,

businesses are concerned about the increase in working hours and the right to disconnect. That just reflects the complexity as there exists many views and stakeholders.

Platforms such as the National Economic Development and Labour Council (NEDLAC) provide an opportunity for these coalition groups to make their interests known within the process of policy development. Considering that this study is situated within NEDLAC, the Advocacy Coalition Framework is the ideal framework for this study. It allows the researcher to obtain the views and perspectives of the stakeholders who form part of the sub-systems of policymaking. By engaging with the lead of each constituency, this study can capture the views of each of the coalition groups in the study.

7.3. Historical Context & Policy Evolution

7.3.1. Pre-Pandemic Work Practices

It was a commonly adopted practice to be physically in the place of work for many employees prior to the pandemic. Nkate (2020) states that remote working was not common practice in South Africa, with a survey from Statistics SA indicating that only 1.4% of the respondents worked from home before the 2020 national lockdown while 95,6% of the respondents worked in non-residential buildings (Nkate, 2020). This physical interaction enabled the ease of regulating the workplace with acts such as the Occupational Health and Safety Act (OSHA) and the Basic Conditions of Employment Act (BCEA). The OHSA legislates the work environment for workplace health and safety, it is there to protect workers from hazardous environments and provides for the health and safety of all employees working on the premises of the employer (Ann, 2022).

This arrangement of work made it easier for the state to govern and regulate employment arrangements as there could be an element of standardization and it would be slightly easier to enforce regulations. Remote work poses a challenge for policymakers as enforcement of regulations could prove challenging, i.e. enforcing companies to provide a safe working environment in every employee's home. It is therefore important that as the world of work changes and evolves, the state assesses the relevance of their policies and laws, and makes

the necessary changes to always ensure alignment, and that all stakeholders have the required guidance and clarity to comply with regulations (Ann, 2022)

7.3.2. Impact of COVID-19

The pandemic necessitated that the South African government implement a national lockdown and introduce interventions and measures as an attempt to curb the spread of the virus (NICD, 2022). These included the following:

- social distancing measures – health department recommended that people keep a 1m distance from each other;
- infection control measures – wearing of masks, increased sanitation, and handwashing, etc.; and
- movement restrictions – no movement beyond people's homes, essential staff only being allowed to work.

(NICD, 2022)

These measures had a significant impact on people and businesses, as well as significant implications for various industries and stakeholders. One of those implications was that many employers and employees had to resort to remote working to be able to keep the business operating during this time. This affected different industries differently, with industries such as mining, logistics, retail, and manufacturing being unable to implement work from home measures, while this was easier for professional services, finance industries, IT industries, etc. (Haroon, 2020). This highlighted one of the challenges of remote working, the ability to work from home immediately became a challenge for certain employees whose jobs require some form of physical action. In addition to this challenge, those working remotely must navigate the challenges of working hours, physical space to work at home, as well as ensuring that performance management is not biased. This is best articulated by Johns (2020). He argues that some of the workers working remotely tend to overwork by spending longer hours at work than they usually do only at the office during normal working hours, therefore there is a dire need for managers to not only focus on productivity, but also on the well-being of their workers. These matters provide potential

challenges in regulation, i.e. the BCEA prescribes working hours, while the OHSA prescribes working conditions from a health and safety perspective. The challenges of the BCEA and OHSA as far as it relates to remote work will be discussed in the next section under *'Current Policy Landscape'*.

7.3.3. Initial State Response

In attempting to curb the rise of infections, the government implemented the Disaster Management Act which enabled it to put into place specific regulations and directives to give effect to remote work. The government further issued directives and guidelines on leave management, sick leave, working hours, as well as health and safety to guide businesses and employees during the lockdown. These include the following:

- the Disaster Management Act: COVID-19 occupational health and safety measures in workplaces; and
- the Compensation for Occupational Injuries and Diseases Act: Compensation for occupationally acquired Novel Coronavirus Disease (COVID-19).

(Regulations and Guidelines - Coronavirus Covid-19, 2020)

Although these regulations, directives and guidelines were put in place to provide guidance during the pandemic, they were not carried through beyond the pandemic. This has meant that remote work remains unregulated in South Africa, as articulated by the study conducted by Jessica James titled '*Remote Working and Labour Legislation in South Africa'* (Ann, 2022).

7.4. Global Policy Response

Remote work is not a recent development globally, with countries such as Ireland having embraced it for some time through initiating policy work as far back as 2013 (Hynes, 2014). With COVID-19 acting as a catalyst for remote work across the globe, many countries have since responded by introducing new policies and regulations.

- Angola

A teleworking legislation (Presidential Decree No. 52/22) creating a new legal regime of telework in Angola, was effected on 20 March 2022. The new legislation introduces the following requirements:

- telework must be established through a written agreement for each employee;
- employers have the option to accept or reject an employee's teleworking request when it is incompatible with the activity of the employer. However, employers may not reject teleworking requests of employees who: (1) are pregnant with health complications (2) have a health condition incompatible with onsite work or (3) care for a child under age 5 or a disabled dependent with a disability equal or above 60%;
- employers are required to provide teleworkers with necessary work tools and bear their installation, repairs, and maintenance costs (unless it is agreed otherwise);
- employers are required to reimburse employees for teleworking-related expenses which are not normally incurred by employees;
- teleworkers should enjoy the same rights as on-site employees, including protection against occupational accidents and illnesses as well as employee benefits; and
- employees' right to disconnect after completion of their working hours should be respected.
- (Lockton Global Compliance, 2024)

o Brazil

In 2022, the Brazilian Government enacted legislation that introduced the following changes:

- the working hours legislation will be applicable to remote workers. This will require employers to implement an electronic timekeeping system (after approval by their relevant union) to employees working remotely;
- legislation and collective bargaining agreements must apply to all employees to include remote employees who are working outside of their employer's jurisdiction (except if otherwise agreed by the parties);
- employers are not responsible for reimbursing expenses that a remote employee may incur to return to in-person work, when such teleworker chooses to work in a location other than the one provided in their written teleworking agreement;
- employers are required to give priority to employees with disabilities and those with small children when allocating positions that can be performed remotely; and
- on 5 September 2022, the Brazilian government passed Law No. 14,442/22, aiming at regulating remote work and the payment of food allowances. Accordingly, the new law introduces the following provisions:
    - the teleworking regime should be expressly stipulated in the individual employment contracts;
    - The teleworking regime applies to interns and apprentices on the same basis as regular employees, when expressly stipulated in their internship contract, and expressly agreed upon by the intern and the grantor and the educational institution; and
    - Food allowances and vouchers paid by the employer to the remote employees must be only used for food purchases in restaurants or other commercial establishments.

(Lockton Global Compliance, 2024)

South Africa can learn from Angola and Brazil by either introducing completely new regulations as Angola did or expanding on current and existing legislation. These governments have been proactive in establishing remote work specific laws and provisions within the law. In contrast, in South Africa there exists many scenarios where employees do not have specific contracts that pertain to remote work directly, with remote working arrangements often governed through a company policy developed by the company itself. Additionally, employers do not always provide employees with the required tools to complete their work, nor do they incur the cost of installing any of these. Some employees are often faced with connectivity changes due to the increasing cost of data and phone calls. Additionally, with the history South Africa has, trade unions have played a crucial role in facilitating the transition from apartheid to democratic South Africa and have always ensured that the voices of the workers are also heard and relevant. It is thus important for the state to look at laws that pertain to collective bargaining in the context of remote work, as well elaborating on the right to strike.

Other countries are responding to the rise in remote work as noted above, and the South Africa state ought to review and learn from other countries where applicable and possible.

Current Policy Landscape

As previously noted, the adoption of remote work has rapidly accelerated over the past 5 years, having been propelled by the COVID-19 virus (KPMG International, 2022). Remote work has been characterised as having pros and cons for both the workers and employers. In her study on the legislation of remote work, Ann (2022) noted that in an experiment conducted at a Chinese company, it was found that the company experienced a 13% performance increase due to 'employees being able to work more minutes per shift on a monthly average, due to fewer breaks and sick days. However, Hynes (2014) argues that this increase in working hours has diminishing returns as employees eventually become overworked, become stressed, and could experience negative health and wellness effects. This is further highlighted by studies into the sustainability of remote working, such as the studies completed by the Department of Public Service and Administration (2023) who

looked at the impact of hybrid working arrangements on service delivery, as well as studies by Hynes (2014), Matli (2020) and Ann (2022) which highlight the extended negative effects of increased working hours noting challenges with work-life balance, the wellbeing of the employees, and most importantly, the potential challenges with the law. In South Africa, working hours are regulated under the BCEA which prescribes the maximum working hours an employee should/can work.

In addition to the working hours' consideration, employee health and safety needs to also be considered. Health and safety in the workplace are currently regulated through the OHSA which provides a framework for setting and enforcing occupational health standards and requires employers to maintain, as far as reasonably practicable, a work environment that is safe and without risk to the health of employees (Ann, 2022).

Lastly, from a broader societal perspective remote work is said to have an impact on commute to work, which consequently has an impact on climate emissions and infrastructure planning for road use (Cevat Giray Aksoy, 2022). Additionally, employees will have more flexibility to choose where they live. This can potentially impact urban city planning and urbanisation (Aksoy, 2022).

7.5. Labour Legislation Adaptations

This section examines how existing labour laws have been adapted (where applicable) to accommodate remote work with a focus on aspects such as working hours, occupational health and safety, and employee rights. The focus will be on the extension of these laws to remote work environments. In examining this, I investigated the Basic Conditions of Employment Act, Occupational Health, and Safety Act, as well as other laws that may be applicable to issues around employee rights.

7.5.1. Basic Conditions of Employment Act

In South Africa, the BCEA was enacted in 1997, and it sets out the basic conditions of employment for employees and employers, including working hours. Relevant to this study is the issue of working hours and how remote work has impacted it, and how the regulations

make allowance for such changes. As stated by Ann (2022), the Act's role is to ensure that there is a balance in protecting workers and ensuring they have sufficient rest periods. Simply put, the BCEA 'ensures that working hours do not exceed certain maxima; employees are granted adequate breaks during the working day, given prescribed annual and paid sick leave, paid a premium for overtime, work on Sundays and Public Holidays, and afford other basic rights. Historically, the issue of working hours has always been a critical issue to unions as they sought to protect workers from exploitation.

Research shows that workers working remotely often exceed the prescribed working hours in the BCEA (Matli, 2020). Research further indicates that in the UK 44% of employees working remotely reported that they were expected to do more work while working remotely in comparison to working in the traditional office environment. Furthermore, research has shown that remote employees are spending more time in meetings, keeping up with more communication channels, working through sickness and adapting to an always-on culture. This informs the assertion by some recent studies that the BCEA does not effectively regulate remote work (Ann, 2022). However, there exists other opposing views that argue that reliance can be placed on section 10 (overtime and payment thereof), section 16 (Sunday work) and section 17 (working after hours) of the BCEA to make the point that remote work can be regulated through the application of these sections. A key challenge that will need to be considered will be in the monitoring of the working hours by the employer (Cevat Giray Aksoy, 2022).

This study investigates whether these frameworks adequately provide guidance on remote work.

7.5.2. Occupational Health and Safety Act

The OHSA aims to provide a safe working environment for employees by providing a framework for setting and enforcing occupational health standards and requires employers to maintain, as far as reasonably practicable, a work environment that is safe and without risk to the health of employees. It imposes various measures to promote the improvement of the health and safety of employees at the workplace, i.e. obligation on employers to

impose appropriate preventive measures to ensure a safer and healthier working environment (Ann, 2022). An issue that arises within remote work is the question of the 'workplace' and what constitutes a workplace. The definition of workplace in the act is broad and encompasses 'any premises or place where a person performs work in the course of his employment.' As such, researchers argue that remote work is covered within the prescriptions of the OSHA (Ann, 2022). Although there exists a thinking that the OSHA is not specific about remote work and there exists a lot of uncertainty and ambiguity on exactly who is meant to do what and to what extent between the employee and employer (Matli, 2020).

7.5.3. Government Initiatives & Support Programmes

Remote work is enabled by IT infrastructure that makes it possible for employees to communicate and share information via digital platforms. Connectivity is a significant enabler of remote work and requires intervention at a state level. The South African government has over the last decade been in a drive for increased digitisation through the 4th Industrial Revolution program. The investments made in such programs function as enablers for remote work by providing the required infrastructure for connectivity and sharing of information.

The government provides a tax deduction to employees who work from home under section 23(b) of the Income Tax Act (SARS, 2024). The section prescribes conditions in which an employee needs to comply to obtain the deduction. This is an example of an initiative by the government to support remote work in South Africa. In working remotely, workers exchange information and data regularly. To enable this and ensure data protection and information, the government has introduced laws such as the POPI act. The act was promulgated into law on November 26, 2013, following the President's signature (The Presidency, 2013). This law governs the flow of information and data and is a key enabler of remote work. Although the government has taken steps to support and enable remote work, there still exist opportunities to introduce regulations and policies that will create a conducive environment for remote work and ensure certainty for all stakeholders.

7.6. Conclusion

In conducting the literature review, several key pieces of literature emerged from other studies and researchers. This literature has been discussed in part in the above section and will be further examined and expanded as the study is undertaken.

Several studies have argued that remote work leads to increased flexibility for workers and can result in improved work satisfaction. Bloom (2015) argues that this can lead to reduced attrition levels. This is an important aspect of remote work as it impacts several areas in the way which labour is currently regulated. One key area is working hours and how worker flexibility can have an impact on this. The working hours of employees are regulated by the BCEA and prescribe the maximum number of hours allowed to be worked by the employee, as well as what happens in instances where working hours are exceeded, i.e. overtime, weekend pay, etc.

Rammila (2023) raises the point that remote work can lead to complexities in labour inspection and whether vulnerable employees are working outside the legally permissible working hours. This is even more important when considered against the research findings that flexible worker arrangements can lead to an intensification of work (Fonner, 2010). In many cases, the lines are blurred in remote work, as some workers find themselves working outside the legally permissible working hours without being duly compensated. As such, companies and the state need to be proactive in looking after the wellbeing of their employees by adopting policies that restrict work-related communications beyond certain hours of the day and ensure manageable workflow (Rammila, 2023).

In addition to the complexities surrounding labour inspection and the management of working hours, the measurement of employee performance presents a distinct challenge for companies, workers, and the state alike. Although research shows improved work satisfaction, other studies argue that workers may face ongoing personal and professional challenges that can affect performance (Leslie, 2012). An example is limited exposure to training and development opportunities due to being at home (Leslie, 2012). Workers can have limited exposure and miss opportunities to learn through human interaction and miss

out on opportunities due to the concept of 'out of sight, out of mind'. There needs to be thought and intention on how to ensure that employees get exposure to developmental opportunities (Leslie, 2012).

Closely linked to the performance of the employee is their state of wellbeing and health. Remote work has been reported to lead to improved work/life balance and that it can have significant positive effects on employees (Charlampous, 2019). However, other research raises the risk that working remotely can lead to employees being socially isolated, resulting in psychological impact for the individual and community at large (Eurofund, 2020). Remote work includes working alone most of the time and can have an impact on workers who require human interaction to function and thrive. Moreover, due to the intense use of information and communication technologies, remote workers can suffer from high stress, anxiety, fatigue, eyestrain, etc. (Boell, 2016).

Although remote work is not a new concept, and has been around for decades, it has been markedly accelerated by the COVID-19 pandemic. The Lockton Global Compliance (2024) report suggests that even though the pandemic is over, remote work is set to continue with several countries putting into place new regulations and policy to govern this (Lockton Global Compliance, 2024). This is evident within the business community as well where many corporate leaders have predicted that remote work will become a new norm over the next 3-5 decades.

In conducting the literature review, a significant number of existing studies, such as the that conducted by Ashraf (2020) and Veronica (2020) focus on understanding the immediate challenges and benefits of remote work for employees and employers, and not necessarily on the response of the state (Hynes, 2014). Additional a study by Sarich (2004) have been limited to understanding the impact of remote work to the organisation, and not to the broader society and at a policy level (Ann, 2022). Remote work is still evolving with various models being adopted by various corporates, i.e. hybrid models, cross-country remote work, etc. As it evolves, there will be opportunities for future research which will contribute to the emerging body of knowledge.

This research provides a new lens into remote working by placing the state at the centre, particularly examining its response to the rise in this working regime. Additionally, South Africa provides an interesting case study for remote work due to the existing inequalities and potential biases because of some workers not having the ability to work from home, and/or the gender disparities that may arise because of issues such as gender-based violence and patriarchy.

There exist many challenges and benefits linked to remote work. Many employers prefer to continue with remote work; however, this demands certainty around regulation and policy. There are several policy issues that should be considered by the state. For example:

- the impact on health and safety of workers;
- the impact on working conditions of workers – working hours, right to disconnect, etc.; and
- the impact on environmental issues – decreasing levels of co omissions.

This study contributes towards that knowledge base and expands on the understanding of policy implications and considerations.

8. Chapter 3: Methodology

8.1. Introduction

This section focuses on the methodology and methods adopted to answer the research question. Methodology is defined as the general research strategy that outlines the way in which a research project is to be undertaken and, among other things, identifies the methods to be used in it (Cresswell, 2014). The section starts off with a discussion on the research approach utilised, followed by a discussion on the research design that enabled the purpose to be achieved. This is subsequently followed by a section on the research tools used for data collection and information gathering, this includes how these tools have been used, and any relevant ethical considerations in the use of these tools. The rest of the section includes discussions on the sampling approach and technique, process of analysis of the data and information collected, as well as expand on the ethical considerations prior to concluding.

8.2. Research Approach

This research takes an interpretivist philosophy approach as it seeks to obtain an in-depth understanding of remote work, the policy response of the government through document analysis and in-depth interviews. Interpretivism is concerned with the subjectivity of truth and knowledge, and considers factors such as context, culture, and social standing (Gemma, 2018). It further argues that reality is perceived through intersubjectivity, through consideration of meanings, as well as understandings of social and experiential aspects in the research (Husam, 2020). This aligns well with this study as it seeks to understand the policy response of the state through review of documents, i.e. legislation, directives, reports, etc. and triangulation with in-depth interviews.

The primary research approach for this study is qualitative. Qualitative research relates to the meaning and process where it may not always be possible to examine a matter through quantity or amount (Husam, 2020). It seeks to provide specific understanding of a phenomenon based on participants subjective experience and does not aim to generalize (Husam, 2020). Additionally, it is ideal when the aim is to attain a deeper understanding of a

specific matter drawing from participants' subjective experience. In this study, I seek to understand the response of the State to the changing work practices in South Africa, with a particular focus on the rise of remote work. The study involved me as a researcher seeking to understand the response through key participants subjective experiences and the review of state regulatory and policy documents, formal communication such as conferences or written materials, reports, and from interviewed key informants. This required an in-depth understanding of the subjective views, and the interpretation of what is documented and contained in various policies. As such, this study takes an interpretivism approach and is concerned with the in depth understanding of the policy response within the existing laws, and in consideration of context specific issues, both to the country, but also specific individuals who have an opportunity to play a vital role in the state's response.

The research is anchored on the belief of relativist ontology, which is belief in that reality is perceived through intersubjectivity, it is perceived through consideration of meanings as well as understandings of social and experiential aspects in the research (Haroon, 2020). The research was not concerned with collecting definite data to be interpreted for general and universal meaning. There are some studies that have focused on that in looking at remote work, with the specific aim of understanding a definite data point, i.e. adoption of remote work. This study relied on the subjective analysis of the researcher and as such was qualitative. The researcher was actively involved in the research process.

8.3. Research Design

The study adopted a qualitative design which factored in the context and was explorative. It explored in depth the response of the South African state to the changing work environments, through the perspectives of stakeholders. It involved gaining the contextual understanding of the changing work environment and rise of remote work in the South African context, and some of the implications of this phenomenon. The purpose of this exploration was to obtain a deeper understanding of the state's response and the stakeholder's perspectives on this response. As discussed earlier, the rise in remote work has the potential to cause significant changes in society. i.e. urban city planning, health and

safety, tax implications, etc. This thus warrants that an explorative lens be applied in examining the regulations, policies, and other relevant documents.

A contextual study is described as one in which the matter being examined is studied in terms of its intrinsic and immediate contextual significance (Mouton, 1996). In this case context is important that remote work has been propelled by COVID-19 over the last couple of years. This has impacted individuals, countries, and organisations differently. Understanding this context contributes to understanding the changing work practice, and the response of the state.

8.4. Research Methods

The empirical evidence for the study was collected from a triangulation of interviews and documentary evidence. As explained below;

8.4.1. Document analysis

Document analysis as a research method involves systematic and rigorous analysis of the contents of select documents (IDS, 2013). It is commonly used in research to facilitate impartial analysis of government policies. In conducting this study, reliance was placed on the Altheide's 'Process of Document Analyses' (IDS, 2013), which involved the following; setting inclusion criteria for documents; collecting documents; articulating key areas of analysis; document coding; verification; and analysis.

The inclusion criteria used in this study included ensuring that relevant laws and regulations are reviewed, as well as research papers that can provide additional insights for the purposes of this study. From a law and regulation perspective, priority was given to laws that pertain to the employee and employee relationship and the different aspects of this relationship, i.e. conditions of employment, labour relations, occupational health, employment equity and worker rights.

In implementing this study and ensuring that the purpose of the study is achieved, a document analysis was conducted. The study examined the following documents:

8.4.1.1. The Basic Conditions of Employment Act 75 of 1997

The BCEA provides critical frameworks addressing working hours, health, and safety, leave, and employee rights. Inclusion criteria for this analysis concentrate on the applicability to remote work arrangements, provisions that might be pertinent given the rise of telecommuting practices, as well as sections pertaining to working hours, overtime, health and safety, and employee rights.

8.4.1.2. The Labour Relations Act 66 of 1995

The Labour Relations Act is pivotal for comprehending labour relations in South Africa. It includes provisions that uphold the rights of employees, employers, trade unions, and organizations. Important criteria for analysis include the Act's relevance to current work arrangements, particularly remote work, and its extant provisions that may impact or necessitate modifications due to changes in work dynamics.

8.4.1.3. Occupational Health and Safety Act 85 of 1993

The document was regarded as integral in understanding the existing legislation that governs workplace safety and health, particularly in scenarios where traditional work environments have changed.

8.4.1.4. Employment Equity Act 55 of 1998

The Employment Equity Act of 1998 was chosen for this analysis because of its significance in the prevention of unjust discrimination and the promotion of equal opportunities in the workplace. It also encompasses provisions that are relevant to all employees thus providing a perspective on how policies can be implemented in remote work environments.

8.4.1.5. International Labour Organisation: "Realizing Decent Work in the Platform Economy"

This report is pertinent and relevant to this study as it discusses international labor standards and their applicability to the evolving world of work, specifically in the context of digital platforms and remote work.

8.4.1.6. Academic report by Collier and Abigail Osiki: Remote and Hybrid Work(ers): Considerations for Regulating Remote Working Arrangements and a Code of Good Practice for Remote Work

This report provides insights into the implications of remote work driven by recent circumstances, notably the COVID-19 pandemic. This document analysis will systematically investigate the implications for employment, collective bargaining, privacy, working hours, discrimination, harassment, occupational health, and safety concerns.

8.4.1.7. Employee Remote Work Policy of Chabo & Joubert Airconditioning (Pty) Ltd

This report provides insights into how stakeholders have implemented remote work in their organisations, and some of the challenges and learnings that have resulted from that. It provides some practical examples and considerations for remote work.

Analysis

The first layer of consideration was whether the document was legislation or regulation pertaining to labour laws in South Africa or the relationship between employer and employee. Additionally, consideration was given to the relevance to this study and how it could assist in answering the research questions.

The documents were obtained electronically and downloaded into folders that were saved on a cloud-based platform with access control. Key themes and insights from each document were highlighted and included in the report as part of findings and analysis.

8.4.2. In-depth Interviews

Key informant interviews were conducted with the National Economic Development and Labour Council (NEDLAC) members from the secretariat, labour and community constituencies were conducted. The National Economic Development and Labour Council is a social dialogue institution that was established in 1995 (NEDLAC, 2025). The aims of the organisation are to promote the goals of economic growth, participation in economic

decision making and social equity and to reach consensus and conclude agreements on matters relating to social and economic policy (NEDLAC, 2025). The organisation and its members consider all proposed labour legislation and significant changes to social and economic policy before it is implemented or introduced in Parliament (NEDLAC, 2025). It brings together representatives from government, labour, business, and community organisations to cooperate through problem-solving and negotiating socio-economic challenges facing the country (NEDLAC, 2025).

In-depth interviews are a qualitative research technique that is predominantly used to conduct detailed interviews with a small number of participants (Rutledge, 2020). These participants are usually experts in the topic of discussion, and/or are a key subject of interest that can provide insights into the study (Rutledge, 2020). These interviews often involve the researcher investing a significant amount of time in conversation with each participant (Rutledge, 2020). Interview questions are usually very open-ended and can assist in significant discoveries (Rutledge, 2020). The purpose is to obtain detailed information which can shed light on the participants perspective, experiences, feelings, and the derived meaning about a particular topic or issue (Rutledge, 2020).

In-depth interviews are relevant to this study as they gave the researcher an opportunity to engage the stakeholders extensively to obtain their perspectives on the state response. The interviews allowed further probing to be done to ensure insights are obtained, as well as allowed the researcher to take note of facial expressions and the body language of the interviewee.

To secure the interviews, a request was sent to the NEDLAC secretariat and the leaders of each constituency within NEDLAC. Responses were received from the secretariat, labour constituency and the community constituency. The secretariat facilitates cooperation between government, labour, business, and community organisations and was crucial in understanding the impact of remote work across all constituencies. For the purpose of the interview, a representative of the secretariat was interviewed by the researcher. The labour constituency represents the labour and trade union community of South Africa. A

representative of the constituency and member of the Congress of South African Trade Unions was interviewed for the purposes of the research. The community constituency represents the civil society community of South Africa. A representative of the constituency was interviewed.

There are limitations that arose in conducting this study for myself as a researcher, and it is important to acknowledge these and highlight the ways which these were mitigated. As this study makes use of in-depth interviews with key informants, who are individuals who are subject matter experts and as such tend to be senior people, some of them had a challenge of availability for the purposes of the research.

Such limitations arose with the department of labour who simply had no availability for the research interview despite numerous attempts to schedule a meeting. This, however, will not adversely impact the study and the research question as the views of key stakeholders who aren't in government have been obtained and the research purpose fulfilled. It is also important to note the comprehensive document analysis completed, which relates to documents that the government is responsible for, i.e. legislation.

Additionally, the representative from the business constituency was not available for the purpose of this study. This was, however, mitigated through interviewing three different types of businesses to allow for broad views to be obtained. The interview includes a representative from a small entity (less than R5m revenue), a medium sized entity (revenue between R5 million and R50 million), as well as a large and listed entity. This will assist in obtaining views from different size businesses and allow for the researcher to consolidate these views to be representative of the views of the business community.

These in-depth interviews enriched the understanding of the state's response and provided context for discussions and considerations that were not contained in the documents. As mentioned above, in-depth interviews were suitable for this study as they involved the "asking questions, listening, expressing interest, and recording what was said" (Neuman L. N., 1994). This allowed the researcher to understand the state's response from the point of view of the key informants. The researcher interviewed one representative from each of the

constituencies that availed themselves, as well as the companies that availed themselves. This amounted to a total of six interviews were conducted with representatives from the constituencies in NEDLAC, as well as representatives from a small, medium and a large, listed entity were interviewed. The interviews averaged 45-60min each and all took place virtually as the constituencies had travel commitments and were in various locations.

To draw comprehensive findings, triangulation of Interviews and documentary evidence was implored. The triangulation is necessary to ensure that the researcher obtains an in-depth understanding of the state's policy response from all perspectives.

8.5. Sampling

A purposive sampling approach was used in conducting this study with the interviewees intentionally selected due to their extensive knowledge in this topic, and the roles they fill. Purposive sampling involves the intentional selection of participants based on their expertise and knowledge of the topic of the study (Bisht, 2024). Participants are selected deliberately to ensure alignment with the research aims (Bisht, 2024). This method is often utilised for small populations with a clear research purpose, allowing the researcher to target individuals who can contribute to the study (Bisht, 2024).

For this study, this approach was relevant as it allowed the researcher to purposely select participants who are experts and/or subjects of interest for this study, and those who can provide insights to answer the research question. This is even more true in a setting such as NEDLAC where several organisations and institutions are represented. These individuals who represent the stakeholders have varying expertise and skills, and as such the researcher needed to be intentional in selecting the participants.

A total of six interviews were conducted with the organisation, as one senior leader was interviewed per constituency/organisation to ensure that bias is somewhat mitigated and that several viewpoints were obtained across all these organisations. The senior leaders have been those with experience with policy drafting, expertise in labour relations and movement, and or work directly with employees or policy.

In addition, a total of seven documents, as outlined in the 'Research Methods section above.

8.6. Process of Analysis

The study empirical evidence was collected through in-depth interviews and document analysis. As such, this study utilised a deductive thematic content analysis which focused on identifying key thematic areas that emerge through the interviews and analysis of the various documents. Transcripts of the interviews were relied upon to form the thematic areas and conduct the interview analysis.

According to the social constructivist perspective, an understanding of a matter can be constructed through engagement and interaction between the researcher and interviewer (Cresswell, 2014). By utilising this perspective, the aim was to focus on the expertise and knowledge of the senior leaders, while bolstering that with the document analysis. This enabled the researcher to interpret the meaning behind some of the policy decisions, or lack thereof.

8.7. Data storage

The data collected in this study came in the form of the transcripts from the interviews as well as the insights obtained from the documents analysed. The data is in the following form(s):

- voice recordings of the interviews;
- transcripts (written) of the interviews; and
- written notes from the researcher.

All data has been digitised and stored in a cloud with limited access requiring a password and login details to access. The data has been named using the date of the interview, the initials or other code for the interviewee pseudonym and a number indicating which entity the interviewee is from. The data has been anonymised and stored safely.

8.8. Positionality & Reflexibility

Ethical Considerations

The involvement of human beings through the interviews necessitates that ethical considerations are addressed to ensure the data received is ethical and uncompromised. Ethics are a key aspect of respect and need to be addressed.

In conducting the interviews and completing the research, the researcher complied with all the accepted protocols and procedures as laid down in the Wits University code of ethics for the conduct of research involving human participants. The researcher applied to the Human Research Ethics Committee (non-medical ethics committee) for clearance prior to initiating the interviews and any fieldwork and obtained the clearance.

The nature and purpose of the study was explained to the interviewees prior to the interview. Informed consent was obtained from the interviewee and documented. Informed consent is explained by Burgess (1984) as the process where the researcher explains to the interviewee what the research involves and the title, the aim of the research, why they were chosen as study participants and the terms and conditions of being a participant, if any. The consent form is attached as annexure B.

The interviewees were informed that participation was voluntary, and participants were not incentivised in any way or form. The participants had the right to refuse participation and may withdraw from the study at any point doing the interview.

Anonymity of the participants has been respected and always maintained, and in analysing the data, names will not be included. In additional, all data and information collected in the field will be treated with confidentiality by the researcher.

9. Chapter 4: Stakeholder Perspectives on Remote Work

9.1. Introduction

This chapter presents and discusses the findings drawing from empirical evidence. This chapter is organised into three themes drawn from the empirical evidence. The first theme unpacks how there is a lack of clear state regulation for remote work. The second theme then discusses the state's response to date, the impact of the response and implication for future policy work because of the rise in remote work. Lastly, the third theme discusses the state's delay in adapting to the changing environment and rise in remote work.

9.2. Lack of clear state regulation for remote work

The labour market in South Africa is regulated by several statutes which deal with various aspects of labour relations and how the employer/employee relationship is managed. These laws provide guidance in relation to matters such as working conditions, working hours, occupational health and safety, employment equity, as well as provide guidance on actions to be taken in instances of contraventions.

In conducting the interviews, the emerging consensus from the stakeholders has been that there is a lack of clear state regulation for remote work within the statutes regulating labour in South Africa. Furthermore, the stakeholders highlight the necessity for legislation that not only acknowledges remote work but delineates specific protections addressing issues such as working hours, health and safety, and equitable remuneration. Stakeholders have also called for establishing clear guidelines that assure workers' rights, such as the right to disconnect, equal pay provisions, and protections against harassment in online environments, among others. These discussions emphasize a demand for more robust mechanisms that can address the unique risks posed by digital platforms and remote work. Through the analysis of the sampled documents, as well as the in-depth interviews, the following legislative gaps were identified;

9.2.1. Collective Bargaining

Section 27 of the Labour Relations Act includes sections relate to the right to equitable labour practices and provisions for collective bargaining, yet it lacks specific frameworks that accommodate the unique challenges of remote work. Historically, the right to form part of a trade union and the right to strike, have been key in South African labour relations, with many employees feeling that this right enables them to force organisations to listen to them when they have specific grievances. Through collective bargaining, trade unions in South Africa have been instrumental in securing better working conditions for workers (Barter, 2023).

It is important to note that the Labour Relations Act includes provisions which relate to Collective Bargaining and Freedom of Association for both workers and employers under section 27. The Act allows 'employees', through their trade unions, to negotiate with employers on matters such as wages, working conditions, and other employment-related issues (Schulenburg, 2023). Freedom of association and collective bargaining rights can only be applied to remote workers who are employees within the scope of section 2013 of the LRA. However the provisions for effective collective bargaining require the existence of a workplace, which can be complex in the context of remote work (Collier, 2024). The 'workplace' is defined as the place of functional organisation, alluding to the fact that it is where many workers can collectively function and work (Collier, 2024). This presents a challenge in the context of remote work as workers do not work in one place and thus may fall outside of the definition of the workplace, thus having implications for collective bargaining and freedom of association. As such unions expressed concern over the potential for exploitation as many workers working remotely may not be protected under the same regulations as those physically present in workplace settings. The labour constituency made the following comments to this effect:

> *The law is currently silent on how remote workers can engage in practices of collective bargaining and does not consider the nuances and complexities of remote working" (Interview 02)*

The point highlighted by the labour constituency is a key consideration in remote work regulation and policy considerations. This is even more important in the South African context with the history of apartheid and worker rights. Alternate structures will need to be considered that will enable workers to collectively engage and have structures for collective bargaining. These regulations will need to outline what workers are permitted to do in instances of striking to express their grievances and detail the limitations of employers as power dynamics differ significantly in remote working settings.

9.2.2. Right to Privacy

Section 188 of the Labour Relations Act alludes to the fact that an employee's failure to meet an employer's attainable and reasonable performance standards may justify dismissal (Collier, 2024). The Act specifies though that the dismissal must be substantive and procedurally fair. For the fairness requirement to be met, the employer must demonstrate that the employee was not meeting reasonable performance standards; was aware of the expectation to meet the standard; a fair opportunity to meet the required standard was given, and dismissal was an appropriate sanction; and, in terms of procedural fairness, an employer is expected to evaluate the employee and to provide adequate instruction, training, and a reasonable time to improve. This is usually done by employers through direct observation, which may not easily be implemented by employers. As such, some employers may implement measures such as GPS tracking, tracking internet activity, and even tap into the webcams. This has implications for the right of privacy for employees, which is a right contained in the constitution. According to some recent studies such as the one done by Collier (2024), some of the digital regimes of control imposed by management for remote workers infringe their privacy.

9.2.3. Occupational Safety and Health

The Occupational Safety and Health Act is the main act that regulates occupational safety and health in the work environment in South Africa. As it currently stands, the scope of the Act is quite broad and extends to all employees (including non-employees in the context of the LRA) AND employment activities, (Collier, 2024). It is also important to note that the

definition of workplace in the act extends to all places where work is performed, including the place of work for remote workers. Additionally, the Act outlines that employers ought to conduct assessments of the workplace to identify risks that may accrue to the employee, i.e. ergonomic risks (Collier, 2024).

Remote working adds complexity to this as it may not be practical for the employer to conduct assessments at the place which remote workers utilize to conduct their work (Collier, 2024). Additionally, the right to privacy may be impacted given that the employee works in private residential home.

The Act also places some obligations on the employee to take reasonable care of the health and safety and other persons who may be affected by their conduct. Section 14(b) of the OSHA states that employees must comply with all health and safety rules and instructions determined by the employer. Employers can address this by providing training and information about health and safety and require remote workers to implement and adhere to these instructions. The challenge remains the practicality of enforcing compliance of these instructions by remote workers.

A participant representing business stakeholders expressed during the interview the following:

> *The current act doesn't specify who is responsible for what and to what extent that responsibility extends. The government had originally provided guidance to Occupational Safety and Health considerations during the COVID-19 pandemic, but these haven't been carried out through post the pandemic. More guidance is required in this regard as it places both the business and the employee at risk. (Interview 05).*

The Labour Market Flexibility Theory advocates for the flexibility of workspaces and working arrangements, however it is equally important to ensure that this is balanced against the protection of worker rights and creating safe and healthy environments for workers (Mathekga , 2009).

Another important consideration in so far as it pertains to the health and safety of the employees is their mental well-being. Remote work results in workers spending a significant amount of time in isolation and working alone, which can potentially have an adverse effect on the employee's

mental wellbeing. The OSHA needs to clearly articulate ways in which to govern and mitigate against this practice.

Stakeholders, including labor unions, employee representatives, and civil society organizations, have begun to advocate for clearer guidelines and regulatory reforms that extend the protections outlined in the OHSA to home and remote work settings. Through consultations and discussions with governmental bodies, these stakeholders are nurturing discussions about new policies or amendments to current legislation. Advocacy coalitions have become instrumental in pressing for reforms that align labor protections with the realities of remote work, including considerations about the necessity of health and safety measures tailored for home environments.

In thinking through the regulation of Occupational Health and Safety regulations, it will be important to consider that workers have different home realities and will lack the standardization that may be found in employer provided facilities. As such, regulations will need to be flexible to varying environments. Additionally, workers will also need to reflect honestly on their ability to work from home and the safety of the work environment as compared to the office. Where safety may not be possible, the employer and employee ought to engage on a form of compromise which either allows the employee to work from the office, or for the employer to support the employee in creating a safe working environment. This will have to be considered along with cost considerations and implications.

9.2.4. Hours of Work and Right to go offline

The regulation of working hours is an important consideration for remote working arrangements as workers often feel that they cannot disconnect from work, and that there is an expectation to always be online and available to work. This was explicitly expressed by the community constituency representative who said:

> *Our people are complaining about the working hours and that they are expected to work longer hours than usual. Their days start earlier with emails coming in as soon as people wake up and work until later with many people receiving emails posting the knock-off time. (Interview 03).*

This is a significant consideration as the Basic Conditions of Employment Act requires an employer to regulate working time in accordance with legislation regulating health and safety giving due regard to the employees' safety and health, the Code of Good Practice on the Regulation of Working Time (Working Time Code), and the employees' family responsibilities (Collier, 2024). Noting this requirement by the law, employers requiring employees to work longer than the prescribed working hours are in contravention of the law. It remains a challenge and impractical to monitor and enforce working-hour regulations in high pressure environments where employees are expected to deliver at all costs. In addition, longer working hours can have an impact on an employee's wellbeing.

The right to disconnect is not explicitly expressed within the current law, and stakeholders hold the view that these provisions should be developed. Updated regulations and provisions should consider the following: The right to disconnect in relation to hours of work; circumstances which may result in employees being expected to respond to emails as a matter of urgency; The use of electronic devices to conduct work outside work hours; The circumstances and mechanisms in which employees who work outside working hours will be compensated, and the nature of the compensation, i.e. time-off and flexibility to adjust working arrangements; and Monitoring and enforcement, as well as detail what the consultation processes will be (Collier, 2024).

9.3. State Response to Date and the Implication of the Perceived Delay in Adapting

The COVID-19 pandemic was a catalyst to remote work adoption and implementation across the globe as many governments implemented lockdown measures that forced many businesses to adopt remote work (KPMG International, 2022). These measures placed businesses in a position where they needed to adjust and adapt their workforce, ways of working and overall approach to labour relations. To adjust to the pandemic, businesses were forced to change the number of employees in their employment, move employees across divisions and departments, as well as adjust the wages and working hours of many employees (Ashraf, 2020). One of the most significant changes was the change of the "workplace" for many employees who had to now work from their homes (Ashraf, 2020).

These changes enabled businesses to be able to deal with the shock that the pandemic came with but equally raised some concerns from stakeholders such as trade unions who expressed the need for government to ensure that the changing environment and labour flexibility did not result in the contravention of labour laws (Haroon, 2020). As a result, there was a call for regulations to protect worker rights. The Labour Market Flexibility Theory contends that labour markets should be less regulated, with businesses allowed to adapt and respond in a flexible manner to changing environments. However, it is also important to note that deregulation does not necessarily amount to labour flexibility (Eamets, 2006).

As articulated in the literature review, the initial response by the South Africa government was to introduce guidelines for labour related matters such as occupational health, sick leave, risk management, etc. Many applauded the flexibility and the proactiveness by government during this period.

However, the adoption of remote working has extended beyond the COVID-19 pandemic and become a part of the working culture for many organisations across the country and world (Ann, 2022). This has led to some countries adopting remote work specific laws to govern and facilitate remote working arrangements. The International Labour Organisation document discusses various global approaches that have resulted in enhanced legal frameworks for platform workers, suggesting that South Africa could learn from these examples. Such examples are highlighted in the literature review where it is noted that Ireland, Angola, and Brazil have moved to implement remote work specific laws and policies to ensure there is policy direction in their countries.

In responding to a question about how the South African government has responded to remote work from a policy perspective, the labour representative responded by saying:

> *The state has been caught napping on remote work. They haven't adequately addressed the growing regime and have often been reactive in addressing the emergence of remote work. (Interview 02).*

Stakeholders believe state policies must prioritize vulnerable populations disproportionately affected by remote work dynamics, guaranteeing equitable access to employment opportunities for marginalized communities, which will mitigate the risk of deepening existing divides (Barter, 2023). Stakeholders have also called for establishing clear guidelines that assure workers' rights, such as the right to disconnect, equal pay provisions, and protections against harassment in online environments, among others (Aksoy, 2022). These discussions emphasize a demand for more robust mechanisms that can address the unique risks posed by digital platforms and remote work. The stakeholders base these calls on the changing power dynamics that emanate from the growing adoption of remote work with issues such as right to privacy, right to disconnect, and right to be provided with work tools coming to the fold (Barter, 2023). Employees' rights to privacy, right to disconnect and right to be provided for with the tools required to work should be prioritized and protected. Within South Africa, there is also the issues of historical exploitation of labourers by many industries (Barter, 2023). It is against this backdrop that the trade unions call for more proactiveness from the state on remote working policies (Barter, 2023).

One of the key areas of concern for the stakeholders in relation to the policy position of the state with regards to remote work is the issue of occupational safety and health for employees, which is an area that has been historically neglected by many businesses. Stakeholders express concern that the state has delayed in adapting existing legislative frameworks, like the OHSA, to include protections for remote workers. The OHSA predominantly defines a workplace in terms of physical premises which could cause ambiguity when applied to remote work settings. The absence of formal recognition of remote work environments under the OHSA has raised concerns among stakeholders such as the COSATU, NEHAWU and the community constituency representative(s), to argue that this gap could expose workers to inadequate health and safety protocols due to limited accountability over remote working environments. Additionally, stakeholders have noted the disparity in access to resources that facilitate safe remote work, such as adequate internet access and ergonomic furniture, which is essential for compliance with extant health standards. There is a consensus among stakeholders that the current policy framework requires transformation to more robustly address the intricacies

of remote work. Many suggest that a holistic approach that complements the OHSA with new guidelines specifically targeting remote and hybrid work formats should be developed. Stakeholders, through the in-depth interviews, have also recommended the introduction of mandatory assessments of remote work environments to ensure compliance with safety standards, which would partly resolve the ambiguous definitions in the OHSA. The ongoing discourse emphasizes that protections must evolve alongside workplace dynamics to safeguard both employees and employers.

Constraints in policy development predominantly originate from the existing framework's rigidity and the slow pace of legislative processes. The ambiguity surrounding definitions of workplace and employee status complicates the application of the OHSA to remote work. Additionally, a lack of specific guidelines for acknowledging remote work as a legitimate work form hinders immediate protective measures for employees working from home. However, stakeholders, through the in-depth interviews, also regard this moment as an opportunity for comprehensive policy reform. There is openness for innovation in policy development which would allow for modernization of existing laws to include remote work regulations. With more organizations transitioning to hybrid models, there is potential for developing guidelines that align occupational health and safety standards with flexible work arrangements.

However, another argument is made by the NEDLAC secretariat during the in-depth interviews who states that:

> *Remote work alone is not impactful enough to warrant a full-scale policy response from the state. There are other labour issues that require more focus like equitable access to employment opportunities, and perhaps remote work can be leveraged to address some of these. (Interview 01).*

These differences highlight that the issue of legislating remote is not a simple one and there may exist some complexities. These complexities are explained in the Advocacy Coalition Framework which highlights the complexity of policymaking considering the existence of varying views from different coalition groups. There are a lot of stakeholders involved in policymaking. While numerous stakeholders are involved in shaping the conversation, a

fragmented approach may also work against unified advocacy. Different priorities which are a more stringent regulatory supervision from unions versus a flexible framework from businesses can lead to contradictory messages, complicating state policymaking. However, stakeholder coalitions are forming around common interests, advocating for comprehensive reforms that could unify their positions and increase their impact. Through organised forums and advocacy campaigns, various stakeholders which include trade unions, employer associations, and community organizations are collectively emphasizing the need for formalized policies accommodating remote work.

9.4. Rise In Remote Work as an Opportunity to Update and Modernise Work and Legal Frameworks

9.4.1. Employment Equity Act

The Employment Equity Act (EEA) endeavors to address historical inequalities in employment, ensuring equitable opportunities and treatment across various demographics within the workforce. From a historical context, the EEA was enacted post-apartheid to rectify discriminatory practices and promote equality within workplaces, leading stakeholders to question whether this foundational purpose remains pertinent in the rapidly evolving digital labor landscape. Many stakeholders feel that the government has not taken proactive measures to overhaul or supplement the EEA to incorporate modern challenges presented by remote work, leading to inconsistencies in its application across different work settings. Labour representatives and unions perceive this as a lack of foresight and advocacy from the state, translating into potential exploitation of workers in remote settings particularly among marginalized groups if the current policies remain unaltered.

Furthermore, stakeholders affiliated with civil society organizations argue that a state policy response is crucial not only for compliance but to guarantee a level playing field that addresses inequities created by geographic and infrastructural disparities in South Africa. They advocate for a comprehensive remote work policy that ensures organizations are held accountable to EEA principles, regardless of the work environment.

Employers recognize that remote work can facilitate greater flexibility and enhance productivity; however, they are often concerned about regulatory compliance within the existing framework of the EEA. For instance, the provisions aimed at promoting equal opportunity and fair treatment necessitate that organizations implement practices compatible with both in-office and remote work arrangements. Thus, stakeholders in business often call for clarity from the government regarding how these regulations apply in remote settings, highlighting the need for updated guidelines that consider the subtle differences of remote work. In the in-depth interviews, the director of large entity shared the following view:

> *A lot of the current laws were drafted for a different time in our country, with a completely different economic and labour market. Over time there have been significant changes from a technological perspective that has enabled the world of work to change. This calls for greater guidance from government and requires a broader review of our legal frameworks and the need to modernize these. (Interview 06)*

Stakeholders also perceive the necessity for a comprehensive approach, suggesting the incorporation of specific guidelines, training programs, and development initiatives that do not leave employees behind in their career advancement simply because they work remotely. Adapting the EEA to encapsulate such policy orientations would indicate a state preparedness to meet the evolving dynamics of labor influenced by technological advancements.

As businesses and corporations continue to evolve and adapt as per the labour market flexibility theory, the state ought to continually evaluate its role and the need to modernise legal frameworks in line with the changing landscape.

9.4.2. Regulatory Gaps

It is clear through the study that the stakeholders feel that there are regulatory gaps pertaining to remote work, and this is an area that requires attention urgently. Some of these gaps have been identified within the Occupational Health and Safety regulations, as well as the Basic Conditions of Employment Act. The following considerations, arising from the in-depth interviews, are needed for the modernisation of these laws:

- Occupational Safety and Health Act:
    - the OHS rights and responsibilities of employers and employees;
    - access to employee homes for purposes of inspections;
    - provision of the process and clarity regarding COIDA claims and payments; and
    - all associated risks that employees face when working remotely; and
- Basic Conditions of Employment Act:
    - working hours – closely linked to this is the right to disconnect;
    - working assets and resources (tools of trade);
    - performance management, discipline, and growth;
    - fair labour practice for all employees; and
    - contractual arrangements and agreements.

9.4.3. Need for a Gender Sensitive Approach

The EEA provisions clearly state that employers should provide equal opportunities and fair treatment to all their employees. The EEA endeavors to address historical inequalities in employment, ensuring equitable opportunities and treatment across various demographics within the workforce. An example of these demographics is the various genders that exist within the workforce.

Historically, there has been disparities in opportunities and pay for women and men, with some studies indicating that these disparities still exist to this day. Some of these disparities are enabled by certain cultural practices that require women to be more domesticated and take on more of that type of responsibility. In the context of remote working, this can create a challenging environment for women, especially those who work remotely in that they will be expected to perform and deliver on deliverables at work. This may, however, lead to an additional burden of performing domestic duties, while meeting all work deliverables. This can eventually impact performance and opportunities for growth.

This was clearly highlighted by the NEDLAC secretariat who expressed the following:

In considering regulation or developing policy for remote work, it is important to keep in mind the potential impact on the different genders. Many women find themselves significantly impacted by working from home through increased domestic work, potential gender-based violence scenarios and inability to switch off even after hours. (Interview 01)

Additionally, the following areas are identified as areas of additional research:

- Compensation for Occupational Injuries and Diseases in remote working arrangements;
- Tax breaks as incentives for increased remote employment; and
- Favorable laws that incentivize global organisations to employ South Africans remotely.

These are some of the areas that can be explored further by additional research.

10. Chapter 5: Conclusions

The study examines stakeholders' perspectives state response to the rise in remote work regimes. The aim of the study was to explore stakeholders' perspectives on the South African state' policy response to changing work practices linked to the growing prevalence of remote work. Remote work is defined as the ability for employees to perform their work duties from locations outside of a central location or office, typically making use of digital communication and other electronic collaboration tools, has gained significant traction over the years and post the coronavirus pandemic (Waynika Tanpipat, 2021). As was highlighted, telework tools have enabled new ways of working, causing a shift in places of work from the traditional centralised facilities for work, to employee homes (Veronica Popovici, 2020).

There has been a consensus that remote work introduces greater flexibility in work arrangements across several stakeholders and studies (Boell, 2016), and thus this study explored the Labour Market Flexibility Theory. The labour market flexibility theory contends that as the environment changes, businesses will adapt their workforce to absorb the shock and changes. Remote work, although propelled by the COVID-19 pandemic, has been a growing phenomenon for several years as technological advances have enabled working from home and across different locations. The sudden shock of the pandemic meant that businesses adapt in line with the labour market flexibility theory. The theory looks to the extent to which an organisation can change some of the aspects of its work or how it works to meet the demands of the business or changing market (Mathekga , 2009). But more importantly, it relates to the reduction of regulation and protection of workers (Mathekga , 2009). As the government has found, the balancing act of reducing regulation while ensuring the protection of workers is a difficult one and often leads to the need to consult extensively across all stakeholder groups. This study focuses on understanding the perspectives and views of these stakeholders on how the state has responded to the growth of remote work.

The data collected, through the interviews and the document analysis, in the study suggests that stakeholders view that the state has been reactive in its response to remote work.

Regarding the Labour market flexibility theory, the constituencies expressed varying views with the business constituency contending that business correctly adapted to the changing environment and continued to do so hence the rise in the adoption of remote work. However, the labour constituency contends that the lack of regulation and reliance sorely on businesses to adapt without providing guidelines will prejudice the workers and create an imbalance in power dynamics. Several stakeholders hold the view that remote work is on the rise and requires that the state is proactive in legislating remote work within the country. This would be similar to the position taken by other developing countries such as Brazil and Angola. The stakeholders hold the view that the current legislation does not have provisions that are specific to remote work and that the current provisions may be limited in governing the nuances that may arise in remote work arrangements. An example of this is the issue of working hours which is ventilated in the Basic Conditions of Employment Act; however, it does not account for the challenges presented by remote work where workers are unable to disconnect and as such are working longer hours than is prescribed by law, with no additional remuneration.

There is however a counter argument presented by some of the stakeholders who suggest that remote work on its own is not sufficient to warrant a specific policy response by the state. The general perspective of the stockholders suggests that the rise of remote work presents opportunity to the state to review and modernize all existing labour laws to align them with the changing labour market driven by the digital revolution and new technology.

The empirical evidence also suggests that some stakeholders are of the view that remote work can find expression within the existing framework and need not have specific frameworks developed. The view is that practice notes and guidelines would suffice to provide clarity and direction to organisations and workers on how to govern remote work arrangements, and the rights of all.

The stakeholders highlight the complexity of policy development and the requirement for advocacy coalition across different stakeholders. Through organised forums and advocacy campaigns, stakeholders which include trade unions, employer associations, and

community organizations are collectively emphasizing the need for formalized policies accommodating remote work.

The development of regulations and mechanisms that will govern and regulate remote working arrangements would provide much needed clarity and certainty around remote work (Collier, 2024). The issuing of guidelines and practice notes would also assist significantly in the short term (Collier, 2024).

The growing adoption of remote working arrangements has led to the need for the development of regulatory mechanisms and comprehensive remote work policies (Collier, 2024). Various instruments could be considered for this purpose (Collier, 2024).

In conclusion, this study and findings will have the following implications:

- Literature – the labour market flexibility theory is a contentious one as the stakeholders expressed varying and opposing views regarding the need for more or less regulation. The views of the researcher are that in the initial phase, the labour market flexibility theory will always be in effect in that business will always adapt to the changing environments and landscapes. However, it is important that government eventually provides guidelines that will ensure that there is no prejudice that occurs to any of the parties.
- Policy – the study finds that there is a gap and an opportunity to be proactive in policymaking for remote work as it is a growing phenomenon and will be crucial in the future of work. While the stakeholders acknowledge the initial response by the state, they express that there is an opportunity for better guidance to be provided by the state.
- Future opportunities - in engaging with the constituents and conducting the document analysis, the study found that there are numerous future opportunities within remote work for South Africa, i.e. employment opportunities for South Africans to work remotely for foreign-based organisations, rethinking urban city planning to address spatial planning by the apartheid government, etc.

11. References

Aksoy, C. G. (2022). *Working from home around the world.* Cambridge: National Bureau of Economic Reseaarch.

Ann, J. J. (2022). *Remote working and labour legislation in South Africa.* Cape Town: UWC.

Ashraf, B. N. (2020). Economic impact of government interventions during the COVID-19 pandemic: International evidence from financial markets. *Journal of Behavioral and Experimental Finance*.

Barter, H. (2023, November 16). *The Integral Role of Trade Unions in South Africa's Workforce*. Retrieved from Barter Mckellar: https://www.bartermckellar.law/employment-law-explained/the-integral-role-of-trade-unions-in-south-africas-workforce#:~:text=Trade%20unions%20play%20a%20vital,stakeholders%20in%20the%20labour%20market.

Bisht, R. (2024, January 30). *What is Purposive Sampling? Methods, Techniques, and Examples*. Retrieved from Researcher.Life: https://researcher.life/blog/article/what-is-purposive-sampling-methods-techniques-and-examples/

Bloom, N. L. (2015). Does Working From Home Work? Evidence from a Chinese Experiment. *The Quarterly Journal of Economics*, 165-2018.

Boell, S. C.-K. (2016). Telework paradoxes and practices: The importance of the nature of work. *New Technology, Work and Employment*, 114-131.

Bromberg, J. M. (2025, May 13). Modern Law Fit For The Future - The Role and Value of Indpendent Law Reform Agencies. Victoria, Australia.

Burgess. (1984). *In the field: An introduction to field research.* London: Unwin Hyman.

Cevat Giray Aksoy, J. M. (2022). Working from home around the world. *NBER working paper series*.

Charlampous, M. G. (2019). Systematically reviewing remote e-workers well-being at work: A multidimensional approach. *European Journal of Work and Organisational Psychology*, 51-73.

Chotipanich, S. (2004). Positioning facility management. *Facilities Vol 22, No 13/14*, 364-372.

Collier, a. A. (2024). *Remote and Hybrid Workers: Considerations for Regulating Remote Working.* Johannesburg: NEDLAC.

Cresswell, J. W. (2014). *Research design qualitative, quantitative, and mixed methods approaches* (4th Edition ed.). Thousand Oaks, CA: Sage Publications.

Department of Public Service and Administration. (2023). *The impact that hybrid working arrangements had on public service delivery and the associate policy implications*. Pretoria: Department of Public Service and Administration.

Eamets, T. P. (2006). Labour Market Dlexibility and Flexicurity . In p. Tiiu Paas and Raul Eamets, *Labor Market Flexibility, Flexicurity and Employment.* 2006 Nova Science Publishers, Inc.

Eurofund. (2020, May 15). *Telework and ICT-based mobile work: Flexible working in the digital age.* Retrieved from https://www.eurofund.europa.eu/sites/default/files/ef publication/field ef document/ef19032en.pdf

Fonner, K. R. (2010). Why Teleworkers are more satisfied with their jobs than office-based workers: When less contact is beneficial. *Journal of Applied Communication Research*, 336-361.

Gauteng News. (2024, June 5). *Discover the Leading Sector for Remote Work in South Africa*. Retrieved from Gauteng News: https://gauteng.net/news/leading-sector-for-remote-work-in-south-africa/

Gemma, R. (2018). Introduction to positivism, interpretivism and critical theory. *Nurse Researcher*, 41-49.

Haroon, B. T. (2020). *The economics of Covid-19 in South Africa: Early Impressions*. Development policy research unit.

Heiland, H. (2021). Controlling space, controlling labour? Contested space in food delivery gig work. *New Technology, Work and Employment , Volume 36(1)*, 1-16.

Herod, A. (2001). *Labor Geographies: Workers and the Landscapes of Capitalism*. . New York: Guilford Press.

Husam, H. A. (2020). A Review of key paradigms: positivism VS interpretivism. *Glob Acad J Humanit Soc Sci; Vol-2*, 39-43.

Husam, H. A. (2020). A Review of key paradigms: positivism VS interpretivism. *Global Academic Journal of Humanities and Social Sciences, 2020; 2(3) 39-43*, 39-43.

Hynes, M. (2014). Telework Isn't Working: A Policy Review. *The Economic and Social Review, Vol. 45, No. 4*, 579-602.

IDS. (2013, August). *Learning about Qualitative Document Analysis.* Retrieved from file:///C:/Users/thams/Downloads/PP%20InBrief%2013%20QDA%20FINAL2.pdf

International Labour Organisation. (2020). *Defining and measuring remote work, telework, work at.* International Labour Organisation.

Johns, D. R. (2020). "Recontextualising remote working and its HRM in the digital. *International Journal of Human*.

KPMG International. (2022). *Current trends in Remote Working.* KPMG.

Leslie, L. F. (2012). Flexible Work Practices: A source of career premiums or penalties? *Academy of Management Journal*, 1407-1428.

Lockton Global Compliance. (2024, May 01). *New Remote Working Legislation Around the World*. Retrieved from Lockton Global Compliance News: https://globalnews.lockton.com/new-remote-working-legislation-around-the-world/

Lockton Global Compliance. (2024, May 01). *New Remote Working Legislation Around the World [Updated]*. Retrieved from Lockton Global News: https://globalnews.lockton.com/new-remote-working-legislation-around-the-world/

Mathekga . (2009). The political economy of labour market flexibility in South Africa .

Matli, W. (2020). The changing work landscape as a result of the Covid-19 pandemic: insights from remote workers life situations in South Africa. *International Journal of Sociology and Social Policy*.

Mouton. (1996). Understanding Social Research. *JL Van Schaik*.

NEDLAC. (2025, February 02). *Overview of Nedlac history.* Retrieved from Nedlac: https://nedlac.org.za/wp-content/uploads/2023/10/Overview-of-Nedlac-History.pdf

Neuman, L. N. (1994). *Social Research Methods: qualitative and quantitative approaches.* Boston: Library of congress cataloguing in publication data.

Neuman, W. (2003). *Social Research Methods: Qualitative and Quantitative Approaches. (5thed).* Boston: Allyn and Bacon.

NICD. (2022, July). *Covid-19 Prevention.* Retrieved from NICD: https://www.nicd.ac.za/diseases-a-z-index/disease-index-covid-19/covid-19-prevention/

Nicholas Baard, A. T. (2010). Teleworking in SouTh AfricA: employee benefits and challenges. *SA Journal of Human Resource Management*.

Nicola Countouris, V. D. (2023). *The Future of Remote Work.* Brussels: ETUI aisbl.

Nkate, J. (2020). International Journal of Sociology and Social Policy. *AJPSDG | Vol 3 (1) 2020*, 147-159.

Rammila, D. (2023). Teleworking in South Africa: Laws and Challenges in an unequal society. *ILAW*.

Rammila, D. (2023). Teleworking in South Africa: Laws and Challenges in an unequal society. *ILAW*.

Regulations and Guidelines - Coronavirus Covid-19. (2020). Retrieved from The South African Government: https://www.gov.za/covid-19/resources/regulations-and-guidelines-coronavirus-covid-19

Rutledge, J. L. (2020, September 09). In-depth Interviews. *The International Encyclopedia of Media Psychology*.

Sabatier, P. (1998). "The Advocacy Coalition Framework: Revisions and Relevance for Europe." . *Journal of European Public Policy*, 98–130.

SARS. (2024, August 24). *Home Office Expenses*. Retrieved from SARS: https://www.sars.gov.za/types-of-tax/personal-income-tax/filing-season/home-office-expenses/#:~:text=What%20are%20the%20requirements%20for,specifically%20equipped%20for%20that%20purpose.

Schulenburg, P. (2023, July 06). *A Comprehensive Guide to Understanding the Labour Relations Act*. Retrieved from Pagel Schulenburg Website: https://pagelschulenburg.co.za/understanding-the-labour-relations-act/#:~:text=Collective%20bargaining%20is%20a%20fundamental,in%20the%20collective%20bargaining%20process.

The Presidency. (2013, November 26). *Government Gazette: POPIA.* Retrieved from South African Governement : chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.gov.za/sites/default/files/gcis_document/201409/3706726-11act4of2013protectionofpersonalinforcorrect.pdf

Vartiainen, M. (2021). Telework and Remote Work. *Oxford Research Encyclopedias*.

Veronica Popovici, A. -L. (2020). Remote Work Revolution: Current Opportunities and Challenges for Organizations . *“Ovidius” University Annals, Economic Sciences Series* , 468-472.

Waynika Tanpipat, H. a. (2021). Implementing Remote Working Policy in Corporate Offices in Thailand: Strategic Facility Management Perspective. *Sustainability MDPI*.

Annexure 1: Consent Form

INFORMED CONSENT FORM FOR PARTICIPANTS

STAKEHOLDERS' PERSPECTIVES ON STATE POLICY RESPONSE TO THE RISE IN REMOTE WORK REGIMES IN SOUTH AFRICA

- I agree to take part in the research project specified above. I understand that this research is conducted for academic purposes.
- I understand that agreeing to take part means that:
    - I agree to be interviewed by the researcher ◯ Yes ◯ No
    - I agree to allow the interview to be recorded ◯ Yes ◯ No
    - I will make myself available for another interview if required ◯ Yes ◯ No
- I understand that my participation is voluntary; that I can choose not to participate in part or all the project, and that I can withdraw at any stage of the project.
- The research will be conducted in accordance with the research policies and procedures for postgraduate students at the University of the Witwatersrand. The research will be used for academic purposes and the results may be used at academic conferences.

Participant's name _____

Signature _____

Date_____

If you have any questions or want further information about the study, please contact:

Contact details of Researcher:

Bandile Mathandela

Wits University

Tel: 060 346 2168

Email: 322245@students.wits.ac.za

Contact details of Supervisor

Dr Crispen Chinguno

University of the Witwatersrand

Tel: 0790132393

Email. Crispen.chinguno@wits.ac.za

Annexure 2: Participant Information Sheet

Dear Sir/Madam

My name is Bandile Mathandela, I am a master's student in master's in management: Development and Economics at the University of the Witwatersrand, Johannesburg, specifically the School of Governance. In conducting this research study, I am supervised by Dr. Crispen Chinguno. I am conducting a research study about the South African state's policy response to the rise of remote work in the country and world at large. The study title is *'State Policy Response to The Rise in Remote Work Regimes in South Africa'.* I am inviting you to take part in an interview which will be conducted by myself, and I will seek to learn from your knowledge and attempt to understand the purpose of my study. Should you decide to take part, your participation in this research study will last about 45min. The interview will take place at the convenience of your office or at 377 Rivonia Boulevard, Rivonia, Johannesburg at an agreed time.

With your permission, I would like to audio record the interview to ensure that I capture our discussion fully and correctly. This data will be stored in a cloud server, anonymized to maintain anonymity, and to ensure confidentiality, the server will be password protected with the data stored for 12 months and deleted after. Only the researcher will have access to the data. The interview will be confidential and anonymous. In finalizing the research results and report, your name will not be included or anything else that could identify you. With your permission, other researchers may use the data collected from this research study, but your name and any personal information will not be used or passed on. If you decide to take part in the research study, it should be because you do so on a voluntary basis. You are not obliged or compelled to take part and may stop participating in the study at any time. You do not have to answer any questions should you not want to. There are no incentives or any direct benefits for choosing to participate in the research study. Taking part in the research study will not cost you anything as I will come to your office at your convenience.

The risks for this research study are no more than what happens in everyday life and will focus on understanding the state's policy response to the rise in remote work. There will be no personal

questions asked or those which may be controversial or make you uncomfortable. This research study will be written as a research report. The report will be available on the university library.

If you have any questions during or afterwards about this research study, feel free to contact me or my supervisor on the details listed below. If you have any concerns or complaints about the ethical procedures of this research study, you are welcome to contact the University Human Research Ethics Committee (Non-Medical), telephone +27(0) 11 717 1408, email hrecnon-medical@wits.ac.za.

Yours sincerely,
Bandile Mathandela

Researcher:
Bandile Mathandela, 322245@students.wits.ac.za, +27 60 346 2168
Supervisor:
Dr. Crispen Chinguno, crispen.chinguno@wits.ac.za, +27 79 013 2393

Annexure 3: Interview Guide

1. Please can you tell me your name, position, and the institution that you are with?
2. What is your experience in policy development, analysis, or review?
3. What is your understanding of remote work? What are your views on it?
4. What is the state position and what is currently being done by the state?
5. How is the state policy response to remote work in South Africa evolving?
6. What are the policy directions regarding remote work?
7. What are the constraints and opportunities for remote work policy development?
8. What is informing the state response and policy direction?
9. How have this been effective? And is there more that the state should be doing?
10. We have come to the end of our interview. Is there any other thing that you would like to add or ask that you feel I did not mention which might be helpful to my research?

NB: *This is just a guide, and the number and sequence of the questions will not follow this order. The order and number of questions will be determined by the interview flow and other context specific factors.*