

Migrants with Disabilities [MWDs], Mental Health, and Inclusion in COVID-19 in South Africa: Legislations on Disabilities

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Abstract

The paper discusses the challenges of migrants with disabilities (MWDs) during COVID-19 and how government policies either amplify or aggravates their challenges in South Africa. This study also examined current disability legislation and COVID-19 policies on MWDs. The study is a qualitative study based on interviews with seven participants. Data were analyzed by thematic analysis. Findings suggest that MWDs struggles with mental health, exclusion from health care, COVID-19 palliative and social welfare. The paper argues that South Africa has failed to develop and execute relevant policies and strategies to assist MWDs. This is evidenced in insufficient government policy on the inclusion of MWDs in COVID-19. The paper suggests that the South African government and disaster management plans should improve policies and services provided to MWDs. It is also suggested that MWDs should enjoy human rights and be treated equally. This necessitates a review of current capacities and strengthening of disabilities legislation specific to MWDs.

Penelitian ini membahas tantangan yang dihadapi oleh migran penyandang disabilitas (MWD) selama pandemi COVID-19 dan bagaimana kebijakan pemerintah dapat memperburuk atau memperparah tantangan mereka di Afrika Selatan. Studi ini juga meneliti undang-undang disabilitas saat ini dan kebijakan COVID-19 terkait MWD. Penelitian ini merupakan studi kualitatif berdasarkan wawancara dengan tujuh partisipan. Data dianalisis menggunakan analisis tematik. Temuan menunjukkan bahwa MWD mengalami masalah kesehatan mental, pengucilan dari layanan kesehatan, bantuan COVID-19, dan kesejahteraan sosial. Makalah ini berpendapat bahwa Afrika Selatan tidak berhasil mengembangkan dan melaksanakan kebijakan serta strategi yang relevan untuk membantu MWD. Hal ini terbukti dari kebijakan pemerintah yang kurang memadai dalam mengikutsertakan MWD selama pandemi COVID-19. Penelitian ini menyarankan agar pemerintah Afrika Selatan dan rencana manajemen bencana harus meningkatkan kebijakan dan layanan yang disediakan untuk MWD. Juga disarankan agar MWD menikmati hak asasi manusia dan diperlakukan secara setara. Hal ini memerlukan peninjauan kapasitas saat ini dan penguatan undang-undang disabilitas yang spesifik untuk MWD.

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A. Introduction

Migrants with disabilities (MWDs) experience inequalities in healthcare, social services, discrimination and human rights violations aggravated during the COVID-19 outbreak (Agbelie, 2023). Since early 2020, COVID-19 has posed a massive problem to numerous countries worldwide, including South Africa. As of February 2022, the virus has caused more than five million deaths worldwide since the outbreak began (WHO, 2022). South Africa recorded incidences of COVID-19 on March 2020, which resulted in government implementation of lockdowns, contact tracing, isolations, quarantine, and sanitization to safeguard public health (Elizabeth, 2020). Migrants are individuals who travel from their home country, either temporarily or indefinitely, for several reasons to seek refugee status or asylum (IOM's Global Migration Data Analysis Centre, 2016). Refugees are people who flee their home country to another country for valid reasons grounded because of fear of persecution based on nationality, race, religion, or membership in a specific country's social or political group (Willie & Mfubu, 2016). Asylum seekers are individuals who fled their country to another country for protection from persecution and human rights violations. In the context of this paper, migrants are an umbrella that denotes "refugees," and "asylum seekers" as people who left their home country and crossed borders.

On the other hand, persons with disabilities have long-term physical, mental, or intellectual impairments that interact with various barriers and might hinder full and effective participation within society on an equal footing with others (United Nation, 2006). Disability is a physical, emotional, mental, intellectual, or sensory impairment alongside several obstacles which impede their full and productive participation in society (Marks, 1997; WHO, 2001). Disability is an overarching concept encompassing body functions, structures, activity and participation. It also comprises the physical, emotional, and mental disorders associated with challenges in fulfilling activities at the individual's level; and difficulty engaging in life circumstances in society (Rodriguez & McGrath, 2021; Voronyak, 2023). Persons with disabilities also have long-term physical, mental, intellectual, or sensory impairments that interact with various barriers that impede their full participation in society (Chaproniere, 2023; Marks, 1997; Voronyak, 2023). About one billion of the world's population has a disability, 2-4 percent experience severe functional difficulties, and 80 percent live in developing countries (IOM's Global Migration Data Analysis Centre, 2016). In 2018, more than 10 million of the 70.8 million forcibly displaced people had a disability (Willie & Mfubu, 2016). The number of persons with disability is increasing because of the aging population and the effects of COVID (Han et al., 2022; WHO, 2022).

MWDs are the most marginalized and susceptible people neglected by COVID-19 plans and policies (Kubenz & Kiwan, 2021; Sabatello et al., 2020; Shakespeare et al., 2021). People with disability encounter discrimination, treatment delays and attitudes that impact the quality of mental health services (Frank,

2022; Mitchell & Karr, 2014; WHO, 2022). Prejudice and other hurdles, such as impediments, attitudes, and behaviors affect the standard of healthcare services for disabled persons seeking healthcare (Rodriguez & McGrath, 2021; WHO, 2022). However, globally, most responses to COVID-19 have ignored vulnerable groups as migrants with disabilities 'who are impacted the most.

Migrants in the context of this study are non-citizens, including those seeking asylum, refugees, undocumented migrants, and those with several types of residency permits. The study focused on migrants with disabilities - "those who have physical, mental, intellectual, or sensory impairments, which interact with various barriers which might hinder "full and effective participation within society on an equal footing with others (United Nations, 2006, p. Article 1) - who rely on the South African public health-care system and without private medical insurance. Being disabled and a migrant entails living in a "double disadvantage in a double plane of vulnerability and fragility (Bochicchio, 2018; Martinazzoli, 2015; Pileri & Friso, 2019).

Given this context, this article discusses the challenges of migrants with disabilities (MWDs) in South Africa during COVID-19 and how government policies either amplify or aggravates their challenges. This alludes to scant research on the relationship between disability and migration - including the many experiences and problems experienced by persons with disabilities in the host country is scanty. Migrants, especially those with disabilities, have frequently been portrayed as a hidden and difficult-to-reach community (Govere et al., 2020).

B. Legislations on Disabilities

Literature highlights that people with disabilities experience numerous problems before, during, and after travel. MWDs are among the most overlooked categories of migrants during flight, displacement, and return; depending on their disabilities, they face communication and/or physical barriers, negative attitudes, and other obstacles (Pisani & Grech, 2015; Soldatic et al., 2015). The literature highlights the institutional and administrative challenges people with disabilities encounter in South Africa (Kuper & Hanass-Hancock, 2020; Trani et al., 2020). While there is little literature and research on migrants and refugees with disabilities in the country, there is a substantial body of evidence documenting the specific institutional and administrative challenges faced by asylum seekers upon arrival like migration challenges (Ogunayo et al., 2017).

The family of MWDs faces additional obstacles helping them during the travel and while in the destination country (Berghs, 2015). Literature highlights that MWDs experience numerous problems before, during, and after travel and encounter additional obstacles during migration, mainly due to environmental changes or a lack

of access to or availability of appropriate care and services (Crock et al., 2012; Pisani & Grech, 2015).

Due to MWDs' challenges, several legislative instruments protect their rights, especially in disasters like COVID-19. These include the United Nations Convention on the Rights of Persons of People with Disabilities (UNCRPD), United Nations Department of Economic and Social Affairs (UN DESA) (2019) and the Sendai Framework for Disaster Risk Reduction [SFDRR] (UNCRPD, 2016). The Convention on the Rights of Persons with Disabilities (CRPD), Article 11, articulates, amongst others, that Government should recognize the rights of persons with disabilities in terms of their protection in circumstances of risk, humanitarian crisis, and natural disasters (Marks, 1997; Stolman, 2022). Notably, legislation that addresses the protection of MWDs during an emergency, such as the Sendai Framework, reiterates the need for a more people-centered approach to disaster management and inclusiveness (Phibbs et al., 2016). The framework also states that Governments should involve relevant stakeholders, such as migrants and persons with disabilities, in formulating and implementing policies (Phibbs et al., 2016). The United Nations Department of Economic and Social Affairs (UN DESA) (2019) observes that while international frameworks recognize the necessity of meeting the needs of migrants, subgroups such as migrants and refugees with disabilities are frequently disregarded.

Achieving health parity for MWDs depends on a country's commitment to suitable legislation, policies, and adequate funds for execution. Sections 31 – 35 of South Africa's Disability Act, Persons with Disability Act 715, provide for improving health care for PWDs. The disability law passed in 2007 specifically promised free medical care for those with total disability, while the National Health Insurance law (Act 650) passed in 2003 has a legislative instrument and Regulation 58 (Section 1) offers free health insurance for people with Disabilities (PWDs). MWDs have more healthcare needs than people without disabilities. The challenges experienced by MWDs are also exacerbated in the host country because of their migrant status; they struggle to access healthcare services, social security and disability grants accessible to South African citizens. MWDs also experience barriers related to attitude, environment, discrimination, and exclusion regarding access to social security (Rodriguez & McGrath, 2021).

C. Research Method

The study is a qualitative study which allows the use several techniques for participant recruitment, data collection, and analysis (Creswell, 2014; Creswell & Clark, 2011; Hirose & Creswell, 2023). Qualitative research examines a problem in the natural environment because less is known about the issue (Creswell, 2014; Yin, 2017). Qualitative research aims to understand a phenomenon by answering research

questions on 'why or how' a specific phenomenon occurs (Austin & Sutton, 2014; Yin, 2017). Data were generated from interviews.

An interview is a qualitative research approach that allows asking participants open-ended questions (Creswell, 2014; Patton, 2014; Roulston & Choi, 2018). Interviews explore in-depth topic details (Dahlin, 2021; Patton, 2014). The interview allows researchers to investigate or ask the participants follow-up research questions (Creswell, 2014; Densombe, 2014; Yin, 2017). Interviews can be conducted face-to-face, by email and telephone (2021; Patton, 2015; Creswell, 2018). Participants were contacted through phone calls, Zoom, WhatsApp messages, and referrals from other MWDs. Seven (7) participants were selected by purposive sampling which identifies and chooses information-rich cases from key informants connected to the phenomenon of interest (Creswell, 2014; Patton, 2014). Data was analyzed by thematic analysis. The generated data were analyzed by thematic analysis.

Thematic analysis involves looking for patterns of meanings in interviews and categorizing data into themes and sub-themes (Creswell, 2014; Dahlin, 2021; Yin, 2017). Thematic analysis emphasizes the themes of contextual meaning from the data, by representing different dimensions of a phenomenon (Nowell et al., 2017). Thematic analysis offers a flexible method that provides a thorough but complex account of results (Creswell, 2014; Nowell et al., 2017). Thematic analysis allows researchers to understand the aspects of a phenomenon that participants speak about frequently in detail (Creswell, 2014).

After data collection, it was transcribed, followed by coding into themes and sub-themes. The seven participants interviewed were assigned P1 - P7. Participants were made aware that participation in the study was entirely optional and that they might leave at any time without facing any repercussions. Anonymity, privacy, and confidentiality were all respected.

D. Findings and Discussion

This section presents the themes that emerged from the study's findings: (a) Struggles with Mental Health; (b) Lack of permit and Exclusion from Health Care; (c) Exclusion from COVID-19 palliative and social welfare.

1. Theme 1: Struggles with Mental Health

Findings also indicate that MWDs experience and struggle with poor mental health because of dissatisfaction with reduced healthcare services, discrimination and social isolation. These allude to limited access to primary health care, fear of deportation, stereotyping, negative attitudes toward immigrants, disability stigma, and denial of

treatment based on lack of documentation (resident permit). MWDs suffer the same obstacles as migrants without disabilities during COVID-19; however, disability amplifies these challenges. These allude to access to primary health care, fear of deportation, stereotyping, negative attitudes toward immigrants, disability stigma, and denial of treatment based on lack of documentation.

The study found that COVID-19 measures implemented by the South African government exacerbated existing inequalities and marginalization of MWDs. A participant gives an account of her sister, a Zimbabwean MWDs lady who is deceased. She mentioned that

Before the lockdown, she worked in the hospitality sector, where she usually gets tips of 300-500 per day, but when the lockdown started, her salary was slashed to half and when the full lockdown was implemented, it affected her accommodation and she evicted for failing to pay her rent.... she takes care of two children of her sister who died in November and two children of hers yours...before then she was robbed at gunpoint on the way from work and shot which made her use clutches... Due to this, she had mental disability and depression...she went to the hospital, but the hospital said the equipment is not available and they are short staff because they wanted her to use medical aid...not long she died. (P1)

The mental health issue of MWDs is aggravated by limited access and finding suitable language interpretation support is often challenging for MWDs with limited sign language and interpretation services - for individuals with hearing impairments. Thus MWDs miss critical information on protection systems, coping mechanisms, and health promotion due to their limited access to broadcast messages and posters (Pisani et al., 2016). Those who rely on caregivers experience severe psychological distress in the host country with a loss of social support and changes in their physical environment, making them even more reliant than before (Crock et al., 2012; Shivji, 2010). Discrimination has a significant impact on migrants' mental health, such as anxiety and depression (Baranik et al., 2018; Miller & Rasmussen, 2016; Pascoe & Richman, 2009; Schmitt et al., 2014).

Furthermore, MWDs were excluded from South Africa's government COVID-19 policies and marginalized. MWDs live in more precarious situations reported a higher risk of experiencing adverse mental health issues, particularly those with expired asylum permits or those without documents. This finding aligns earlier studies that indicated situational everyday stressors negatively impact MWDs mental health. As previously reported that access to mental health care was one of the most difficult challenges for participants (Diba & Zakaria, 2020; Perera et al., 2020; Rathore & Qureshi, 2021; Samaila et al., 2020). Research indicated that MWDs are exposed to a confluence of risk factors that may have a detrimental effect on their mental

health, including precarious housing conditions, residing in areas where there is a high level of social exclusion and material deprivation, being in a constant state of uncertainty about their future and legal status, and encountering persistent barriers to entering the labor market and securing economic stability (Alarcão et al., 2023; Kumar & Nayar, 2021).

2. Theme 2: Lack of permit and Exclusion from Health Care

Findings indicate that lack of documentation also excluded migrants with disabilities from accessing health care during COVID-19, which created new barriers because they needed documents to register at the government hospital. Some participants expressed that their permit documents were missing. Excerpts from the participants reveal their experiences during COVID-19. Some participants also highlighted how the South African Police contribute to making migrants disabled by unlawful arrest and detention at restaurants, markets, and bus-stops. They point out that resisting arrest by the police resulted in being battered and assaulted

A participant from Burundi who alleged he was supposed to have a refugee status by now, but lost the right to refugee status because of his dealings with the police. He mentioned that,

As the leader of Refugees from Burundi how he was made disabled by a South Africa Police while trying to claim his Right'. As the leader of I was unlawfully detained and the police tortured me because ib told them I will grant an interview to media. I am sad because my wife was also arrested during my dealings with the police based on the allegation that I was fuelling anarchy...I stayed for three months in the prison and separated from my wife and child... My child was with the Department of child welfare... I cannot work because of my hand is dislocated during my frac with the police... It is my wife that works and takes care of the family with the little business she does selling used clothes on the road...the lockdown affected her business and the family... (P7)

My brother now uses clutches because he was shot and arrested by the police (P2)

For example, a participant with a physical Disability [use wheel chair] revealed that it is

Herculean task commuting to buy essential goods like groceries. The person who usually gives me lift stopped because of fear of catching coronavirus ...I have to resort to Uber because of proximity to the bus-stop to catch a bus is far from my house...(P6)

Another participant (P4) expressed

Before the corona started, it is difficult for me...I have been robbed on my way from campus when pushing my wheel chair...since I have limited support I hardly go out...I usually order things online, but times you do not like what you order online because it is not what you actually want. (P4)

It is a different story for participants that are international students. The finding also reveals that a participant who is an international student who is visually impaired has challenges conducting an online class on Zoom and writing assignments. He stated that before COVID-19, UKZN disability assisted with assignments and exams.

Findings also suggests that MWDs may not report sickness and (or) symptoms of COVID-19 when their permit is expired or they lack a permit because they assume they will be arrested or deported. Further, migrants with disabilities are also challenged by the lack of medical aid.

It is critical to also view the rights of migrants with disability in the light of policies by the South Africa Department of Health. In Gauteng, an alleged circular issued by the national health department directed clinics and hospitals to charge undocumented foreigners fees for accessing public health services provided to them (Stevenson, 2019) . Although, the Department of Health denied that the circular was not released. But, we saw the circular during a visit to one of the public hospitals in Durban. Although the Gauteng Hospitals Ordinance Amendment Act 4 of 1999 specifies that before admitting any person to a hospital, the hospital Manager may require identity papers, except where treatment may be deferred because of 'dangerous or detrimental consequences to the Person seeking such medical treatment. Also to attend to patients, hospitals might also need means of identity to attend to patients, and they might even need proof of income; however, patients might be turned away because they cannot provide asylum documents or a refugee permit.

A participant from Eritrea, with refugee status, stated that

When my brother-in-law had a problem with his shoulder, he needed surgery... the plate that would fit the dislocated arm was not available except at St Augustine Hospital, which cost R150,000, he has brothers in Europe who contributed the money for him...(P3).

Access to public health care is extremely difficult for migrants in general. But it's far more difficult for people with disabilities to get there and go through the processes if they don't have Permits. (P5)

3. Theme 3: Exclusion from COVID-19 Palliative and Social Welfare

Findings suggest that MWDs experienced more hardships and unequal treatment during COVID-19 because they were excluded from COVID-19 palliative, such as food packages and health policies that negatively affected them. For MWDs in a wheelchair who rely on public transport, entering and alighting from the bus is difficult because passengers are reluctant to assist them because they fear contracting the Coronavirus. Also, migrants who are deaf have challenges communicating with lip-reading while shopping and meeting up with doctor's appointments due to wearing the mask. Findings also reveal that self-isolation is not a choice for MWDs because they rely on caregivers for their daily self-care activities and often rely on transportation from others to go shopping.

Findings reveal that MWDs are not eligible for disability grants, like South Africans, except if they have refugee status or permanent residents. Migrants with disabilities are exempted from South Africa's COVID-19 response and packages. Although South Africa has several legislative policies to protect the rights of people with disabilities, a review of the COVID-19 triage policy structure implemented by the Health Department shows the contrary. Persons with disabilities are vulnerable to contracting COVID-19 due to insufficient information on prevention and symptoms of COVID-19 because such information is not presented in a disability-friendly format such as Braille, sign language interpretation, captions, audio provision, and graphics.

Findings suggest that while national and international policies on disability exist in general, few are aware of the unique needs and rights of MWDs. As a result, MWDs are marginalized and excluded from policies and South Africa's social welfare. Although some legal frameworks and instruments recognize the rights and needs of people with disabilities, such as the 2006 United Nations Convention on the Rights of Persons with Disabilities (CRPD), our findings show that these do not adequately articulate the needs of MWDs. Current laws are only concerned with citizens. Nothing is written about MWD. Laws address people with disabilities internationally but are silent about MWDs.

The United Nations Department of Economic and Social Affairs (UN DESA) (2019) acknowledges a global shortage of migration data disaggregated by handicap status. Furthermore, UN DESA observes that, while international frameworks recognize the necessity of meeting the needs of migrants, subgroups such as migrants and refugees with disabilities are frequently disregarded. MWDs in need of social support, frequently find it difficult, if not impossible, to access water and sanitation facilities, temporary shelters, and other necessary infrastructure to meet their particular needs (Crock et al., 2012; Mirza, 2012). Furthermore, most social welfare programs and services rarely target undocumented migrants and asylum

seekers with disabilities, and those that do frequently fail to incorporate the needs of persons with disabilities (Burns, 2017).

In this regard, Pavesi (2017) suggests that it is vital to activate a paradigm of "responsible welfare" that goes beyond the concept of "welfare assistance" to place the individual with their needs, capacities, and support networks at the center of intervention (Pavesi, 2017). This approach is centered on making resources available to individuals, groups, and organizations through collaborative integration of knowledge, professionalism, and resources (Kuper et al., 2020; Kuper & Heydt, 2019).

It also appears that South Africa's lack of prioritization of MWDs during the COVID-19 pandemic, which they believed may be partially justified by a lack of political will and resources to design and implement PWD-related regulations. Several studies have indicated that PWDs' access to various services was already constrained before COVID-19 and was exacerbated during the pandemic (Diba & Zakaria, 2020; Lebrasseur et al., 2021; Rathore & Qureshi, 2021).

E. Conclusion

This article discusses the challenges of migrants with disabilities (MWDs) in South Africa during COVID-19 and how government policies either amplify or aggravates their challenges. The paper demonstrates that the situation for MWDs is dire in South Africa. The paper also shows migration status is a significant obstacle to including MWDs during COVID-19 in South Africa. South Africa has yet to develop and implement appropriate policies, strategies, guidelines, and institutions supporting MWDs. The paper highlights insufficient government policy on the inclusion of MWDs in COVID-19. Migrants with disabilities [MWDs] in South Africa still experience inequalities in healthcare and social services as well as discrimination, and pervasive human rights violations. Arguably, MWDs are expected to be included in COVID-19 packages as enshrined in various disability legislation services, but this is far from reality in South Africa. The paper suggests that the South African government and disaster management plans should improve policies and services provided to MWDs. It is also suggested that MWDs should enjoy human rights and be treated equally. This necessitates a review of current capacities and strengthening of disabilities legislation specific to MWDs.

The inclusion of MWDs necessitates the improvement of health policies and the development of response strategies that consider the social, environmental, political, and institutional variables that support them. Responses from the South African government in the context of COVID-19 have mirrored this exclusion. The paper suggests that the South African government should pay adequate attention

to promoting the equality and inclusion of MWDs. MWDs should be included in all COVID-19 program responses, including addressing their specific needs. The paper suggests that strong political action is required for MWDs to ensure access to mental health care services for MWDs and increased availability of psychosocial support in these contexts is required. Interventions to reduce the mental health impact of the COVID-19 pandemic on MWDs should include anti-discrimination measures.

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