Challenges experienced by former mine workers in accessing social security benefits in SADC

Prof George Mpedi & Dr Mathias Nyenti
OUTLINE

- Background
- Profile of migrant workers
- Modalities of employment of migrant mine workers
- Impact of migration profiles on access to social security
- Eligibility of migrant mineworkers to South African social security benefits
- Scope of ‘unclaimed’ or unreachable social security benefits
OUTLINE (cont’d)

- Obstacles restricting access to South African social security benefits
- Socio-economic and health impact of lack of social security benefits
- Comparative labour and social security agreements
- Conclusions
- Recommendations
1. BACKGROUND

- Primary aims of the scoping study:
  - Evaluate existing mechanisms that enable non-citizen mineworkers to claim their social security benefits when they have returned to their home countries and possible portability of social security benefits;
  - Document the experiences of former mineworkers, their dependants and/or organisations;
  - Investigate the difficulties in accessing social security benefits and/or savings;
  - Examine existing bilateral agreements between South Africa and neighbouring countries; and compare these bilateral agreements with agreements between other Southern African countries (such as Mauritius) on the portability of social security and other benefits;
1. BACKGROUND (cont’d)

- Identify institutions involved in employment of miners and institutional frameworks used and how these impact on access to social security benefits and investigate organisations involved in the protection of the rights of, and representing, former mineworkers;
- Identify national organisations established by former migrant mineworkers to represent them;
- Make recommendations to empower former miner workers (and organisations representing them) to contribute to the development of policies affecting them in relation to their social security benefits from their employment in the mining industry in South Africa.
1. BACKGROUND (cont’d)

- Procedure of the study:
  - Desk-top reviews;
  - Participation at national dialogues (Lesotho and Swaziland);
  - Country visits (Lesotho, Mozambique and Swaziland);
  - Interviews with social security institutions, representatives of migrant worker associations, former mine workers and survivors (Lesotho, Mozambique and Swaziland).
2. PROFILE OF MIGRANT WORKERS

- Sizeable number of migrant workers has worked in South Africa.
- Largest concentration in mining sector:
  - Average of 327 000 per annum in the 1950s
  - However, reduction in 1960s and 1970s (37% in 1966 and 16% by 1979).
  - However, further increase in the 1980s and 1990s (183 000 or 42% in 1984 and 147 000 or 49% in 1994).
  - Further decline in the 2000s (38% of total workforce).
2. PROFILE OF MIGRANT WORKERS (cont’d)

- Decline in employment compounded by increasing (through sub-contracting).
- Approx. 86% of migrants from Botswana, Lesotho, Mozambique and Swaziland (as well as Zimbabwe) currently working in South Africa.
- The gender, age and family responsibility profiles of migrant workers have also changed over the years.
3. MODALITIES OF EMPLOYMENT OF MIGRANT MINE WORKERS

- Historical mine employment under corporate work permits in terms of bilateral labour agreements.
- However, due to downsizing and restriction of employment of novices in mines, many current mineworkers employed illegally or as contractors/sub-contractors.
4. IMPACT OF MIGRATION PROFILES ON ACCESS TO SOCIAL SECURITY

- Employment status and gender of migrant workers has an impact on their eligibility for social security benefits.
- Historical mine employment was under corporate work permits in terms of bilateral labour agreements with access to social security benefits.
- However, many current mineworkers employed illegally or as contractors/sub-contractors with no access to social security.
- Gender-based differences in employment also confine females in informal employment with no access to social security.
5. Eligibility of migrant mineworkers to SA social security benefits

- Eligibility for South African social security by non-citizens and the portability of these depend on:
  - Mode of recruitment and employment status;
  - Immigration status;
  - Sector of employment; and
  - Provisions of a labour agreement (to some extent).

- Vast majority of former migrant mineworkers eligible for occupational injury and disease benefits; and private social security benefits (such as housing, medical care, life and retirement insurance (provident fund)).
6. Scope of ‘unclaimed’ or unreachable social security benefits

- Mineworkers Provident Fund: R3 008 289 913 in unclaimed benefits (about 106 419 lapsed beneficiaries);
- Living Hands Umbrella Trust and; R1.2 billion lost in the Fidentia scandal (12 500 lapsed beneficiaries);
- Mines 1970’s Pension and Provident Funds: R200 million of unpaid benefits (59 702 lapsed members);
- Sentinel Mining Industry Retirement Fund: R101 million;
6. Scope of ‘unclaimed’ or unreachable social security benefits (cont’d)

- Compensation Commissioner for Occupational Diseases: Backlog of 18 000 and up to 274 400 former miners still to receive compensation;
- Compensation Fund: About 12 000 claimants still to be paid;
- Rand Mutual Assurance Company Limited (provision for outstanding claims): R180 790 000.
7. OBSTACLES RESTRICTING ACCESS TO SA SOCIAL SECURITY BENEFITS

- Former mineworkers faced by daunting social, structural, policy/regulatory, administrative and/or institutional obstacles (e.g.):
  - Lack of information by migrants or dependants to assess and access rights, and on procedures and administrative formalities;
  - Impact of South African immigration law;
  - Absence of portability provisions or limited portability arrangements in South African social security laws;
  - Administrative and institutional challenges (such as administrative and institutional capacity);
  - Lack of administrative cooperation between schemes;
7. OBSTACLES RESTRICTING ACCESS TO SA SOCIAL SECURITY BENEFITS (cont’d)

- Delays in payment of social security benefits etc.);
- Inaccessibility of professional occupational health services;
- Inaccessibility of certification and compensation institutions;
- Cumbersome documentary requirements for social security benefit applications;
- Restrictions arising from difficulties in establishing causal link between illness and employment;
- Restrictions arising from the classification of diseases and from the certification appeal process;
- Difficulties in determining how compensation benefits are computed;
- Reluctance due to inadequacy of compensation benefits;
7. OBSTACLES RESTRICING ACCESS TO SA SOCIAL SECURITY BENEFITS (cont’d)

- Differences in national banking systems;
- Weak SADC regional framework for occupational injury and disease protection;
- Limited application of international standards relevant countries;
- Reluctance of South African government and social security administration institutions.
8. SOCIO-ECONOMIC AND HEALTH IMPACT OF LACK OF BENEFITS

- Non-payment of benefits affects large number of persons (e.g. 250,000 or ¼ of Swazis).
- Most former miners live in rural areas as subsistence farmers where benefits make difference between survival and starvation.
- Suffering of former mineworkers aggravated by illness and injury (about 21.9% of estimated 1 million people leaving employment in SA mines between 1986 and 2006 due to illness (219,000) and 5.8 per cent due to injury (58,000).
- Suffering of former mineworkers is further worsened by personal and community socio-economic conditions.
9. COMPARATIVE LABOUR AND SOCIAL SECURITY AGREEMENTS

- Zambia/Malawi Social Security Agreement:
  - Makes provision for a Joint Permanent Commission of Cooperation to deal with challenges experienced by former Malawian workers in accessing Zambian social security benefits;
  - Agreement involves reciprocal visits between the two countries by social security officials to discuss issues that require attention, present status reports and meet with affected persons in Malawi.
  - Some of the problems faced by beneficiaries include delay in receiving cheques; cheques bearing signatures not recognised Malawian banks; non-payment of survivors benefits; stoppage of payment for unexplained reasons; reduction of pension due to exchanges rate fluctuations; lack of bank accounts to cash cheques; submission of uncertified documents; lack of information about eligibility conditions and coverage; lack of communication between beneficiaries and schemes; pensioners not claiming pensions etc.
Proposals to deal with challenges include developing a database of Malawian nationals who worked in Zambia; distribution of data capture forms to all the Labour Offices in Malawi; collection of complete life certificates at local labour offices for transmission to the Zambia; identification of Malawian medical centre for medical examination and assessment for pneumoconiosis and silicosis; and embarkation on an awareness campaign through radio programmes in Malawi to enlighten the pensioners on the availability of rehabilitation services and procedures for claiming their pensions.
Convention on Social Security between Mauritius and United Kingdom:

- Makes provision for, among others, the continued payment of contributions by UK employers for their workers who are posted in Mauritius for periods less than 24 months.
10. CONCLUSIONS

- A large number of migrant workers have been retrenched from SA mines in the near past due to illness and injury.
- A large majority were eligible for SA social security benefits;
- However, social, structural, policy/regulatory, administrative and/or institutional obstacles restrict access;
- Former mineworkers mostly older, married male household heads.
- Non-payment of benefits has dire socio-economic and health consequences on mineworkers, families and communities.
- Initiatives by SA Parliament and Eastern Cape Government to assist former SA mineworkers indicate need for political will and proper approach.
11. RECOMMENDATIONS

- A political will and proper approach to trace and compensate former mineworkers;
- Development of an integrated and comprehensive approach (e.g. establishment of a multi-role player forum) to address the plight of ex-migrant mineworkers;
- Compilation and publication of lists of lapsed beneficiaries by relevant social security institutions;
- Setting up of joint (mobile) clinics to provide medical examinations for mineworkers in the migrant-sending areas or contracting of Rand Mutual;
11. RECOMMENDATIONS
(cont’d)

- Provision of geographically-accessible facilities Governments in neighbouring countries and associations of former migrant mineworkers for the processing of claims;

- Identification of appropriate payment modalities by social security administration institutions; and

- Investment of portion of unclaimed benefits in social and economic programmes in migrant-sending areas if all ex-miners cannot be identified or traced.