

Portability and Access of Social Security Benefits by Former Mine Workers

Regional Dialogue Report

Southern Sun Hotel, Pretoria South Africa, 27 - 28 February 2014



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List of Acronyms

AMIMO	Association for Mozambiquan Miners
COIDA	Compensation for Occupational Injuries and Diseases Act
FSB	Financial Services Board
ILO	International Labour Organisation
IOM	International Organisation on Migration
MDA	Mineworkers Development Agency
MOU	Memorandum of Understanding
NGO	Non-Governmental Organisation
NUM	National Union of Mineworkers
ODMWA	Occupational Diseases in Mines and Works Act
SA	South Africa
SADC	Southern African Development Community
SADC-CNGO	SADC Council of Non-Governmental Organisations
SAMA	Southern African Mineworkers Association
SARB	South African Reserve Bank
The Trust	Southern African Trust
SNC	SADC National Committee
SWAMMIWA	Swaziland Migrant Mineworkers Association
TEBA	The Employment Bureau of Africa
ToR	Terms of Reference

Executive Summary

The Southern Africa Trust and the Ford Foundation, in collaboration with the Southern Africa Miners Association (SAMA) convened a regional dialogue, which brought together critical stakeholders from SADC to engage on the challenges faced by former mine workers to access their social security benefits and the regional portability arrangements in SADC. The regional forum facilitated in-depth discussions among stakeholders on critical issues affecting migrant workers in the mining industry from Lesotho, Mozambique and Swaziland. Discussions were informed by a research paper and other presentations on experiences on the issue of social security benefits and regional portability arrangements presented by experts and officials drawn from various government departments and organisations within the region.

It was generally acknowledged that there were major challenges in cross border portability arrangements, especially for migrant workers that were employed in South. Several reasons were cited for the limitations in and, in many cases, absences of these arrangements. Some of these reasons include the discriminatory and inflexible nature of the deferred benefits payments system in South Africa, access to information on the status of social security and relevant benefits applicable to former miners, and delays as result of poor administration and cumbersome procedures.

Participants thus focused on how to ensure that the barriers identified throughout the dialogue were removed or lessened for the benefit of former mineworkers and their families across the region. The issues debated by the participants were particularly relevant because, across the region, the migrant workers returned home to poor living conditions including food insecurity and inadequate health facilities in isolated areas.

At the regional level, participants formulated a Roadmap for the way forward, placing emphasis on the roles that SADC, national governments, pension/provident funds and mining associations need to play in working together to arrive at effective solutions that will facilitate tracking of beneficiaries and easy disbursement of social security benefits access. At the local and grassroots level, participants noted the need to strengthen capacity at this level in view of its function as a conduit between former mineworkers and the other stakeholders including governments and the funds.

Recommendations

The Roadmap and key recommendations from the dialogue that were formulated to tackle the issues both immediately and over the long term are summarised below:

Roadmap

- Formalisation of a multi-stakeholder platform
- Collaborate with other existing platforms
- Development of Terms of Reference (ToRs)

Information

- Develop strategies to reach rural communities
- Technical capacity-knowledge development /research
- Means of information dissemination

Effective Collaboration

- Funds to follow up on groundwork initiatives to ensure speedy payments and reduction of outstanding benefits.
- Explore standardisation of forms by Funds.
- Collaborative roadshows by Funds should be undertaken in future.
- Former-miners to leverage on Government Authorities for assistance.
- Strengthen relations with development partners such as the International Labour Organisation and IOM.
- Strengthen livelihood initiatives in the relevant mine sending communities.
- CAPACITY BUILDING
- Strengthen SAMA and its affiliates' organisational capacity.
- Empower individuals with knowledge, skills and tools necessary to navigate the benefit claim process.
- Work on exchange visits with other countries and between associations to share learnings.
- Recommendation to SAMA to collaborate with One Stop Shop project initiative to roll it out regionally.

Regional Commitment

- Stakeholders to participate in the development and implementation of regional frameworks through SADC National Committees (SNCs).
- Build strong relations with government and civil society in order to advocate common interest.
- SAMA to formalise relations with the SADC Council of NGOs (SADC-CNGO).
- SADC will be lobbied on the operationalization of the cross border portability mechanisms through the SADC-CNGO.

- SAMA to unpack and understand the status of implementation of relevant regional policy frameworks that affect miners.

1. Introduction

The Southern Africa Trust and Ford Foundation, in collaboration with the Southern Africa Miners Association (SAMA), convened a 2-day regional dialogue that was held in Pretoria, South Africa over the course of the 27th and 28th of February 2014. Annex 1 is the Agenda of the dialogue; list of participants is at Annex 2 to this report.

The regional dialogue facilitated in-depth discussion among former mine workers, government officials and other stakeholders on the challenges faced by former mine workers in gaining access to their social security benefits they had accrued during the course of their employment in South Africa, and also the status of regional portability of social security benefits in SADC. The regional dialogue discussed the findings of the regional study on challenges experienced by former mine workers, their dependents and organisations in selected southern African countries and the portability of social security benefits that was commissioned by the Trust.

Participants also reviewed the status and implementation of the SADC Charter on the Fundamental of Social Rights and the SADC Code of Social Security in relation to the portability of social security benefits in the region. Finally, participants developed a set of recommendations and initiatives that could be carried forward in tackling the issues at hand.

Objectives

The objectives of the workshop were as follows included the following , discussions on the findings of the regional study; Challenges experienced by former mine workers, their dependents and organisations in selected southern African countries and the portability of social security benefits.

Participants also reviewed the status and implementation of the SADC Charter of Fundamental Social Rights and the SADC Code of Social Security in relation to the portability of social security benefits.

Participants also discussed the mechanisms/institutions that exist that support former mine workers to access social security benefits and compensation and explored the possibility of collaboration among stakeholders for joint action to support former mine workers and disbursement of benefits.

1.1. Expected Outcomes

The Dialogue had the following key expected outcomes:

- A joint roadmap with clear targets and responsibilities adopted by stakeholders at the dialogue to support former mineworkers and dependants of deceased miners with regards to accessing and disbursement of social security benefits.
- An agenda to advance the cross border portability arrangements in SADC agreed upon by the stakeholders.
- Renewed commitment by all the key stakeholders to solve the problems experienced by former mine workers and the dependants of deceased miners. Awareness on the status of implementation of the SADC Charter of Fundamental Social Rights and the SADC Code of Social Security will be increased.

2. Day One

2.1.Introductory Remarks

Introductory remarks were made by key note speakers from SAMA, the Ford Foundation and the Trust.

Mr Rantso Mantsi: SAMA

The President of SAMA Mr Rantso Mantsi expressed gratitude for being afforded the opportunity to speak on behalf of mineworkers while also noting there were many issues that needed to be tackled during the dialogue. SAMA was presented as ‘an organisation that represents national mine associations from the countries that supply mine labour to South African mines specifically, whose role is to help mine workers gain access to the social benefits they are entitled to.’ SAMA’s function was contextualised in remarks about how the colonial era facilitated the easy flow of cheap migrant labour from countries surrounding South Africa to the mines located within it. For example, it was suggested that over 75% of male mineworkers in Lesotho found their way into South African mines.

The example of Nelson Dhlamini (a recently deceased mine worker survived by nine children who remain in a poverty-stricken position because of his failure to access the social benefits he was legally entitled to) was cited as a means of emphasising the need for the work SAMA engages in. Finally, Mr Mantsi noted that, in terms of fulfilling its mandate, SAMA actively seeks to form partnerships with ministries and various non-governmental organisations (NGOs) as, with their support, SAMA cannot function.

Ms Paula Nimpuno: The Ford Foundation

It was revealed that the present dialogue came about as a result of capacity building and cooperative efforts by the Trust as well as efforts supported by the Foundation. The Ford Foundation was described as an organisation focused on ‘supporting innovation and cutting-edge work in social justice issues in the region through its grant-making’.

This focus is founded on the goal of reducing socio-economic hardships in the region through collaborative efforts with other entities. It was noted that effectively tackling the portability of and access to social benefits will go a long way to building socio-economic security in poor households across the region. The high level of employment migration in Southern Africa was touched upon as an important issue, while Nimpuno also summarised the objective of the regional dialogue as being

engagement aimed at assisting mine in accessing legislated benefits they were legally entitled in order to improve their livelihoods and/or those of their families at home. Ms Nimpuno also went further by noting that a first step at addressing the issue at hand is the need to use the input of all the stakeholders and delegates present to 'unlock' the social benefits that have been denied mine workers for the benefit of not just their families, but also their respective communities. Also, it was noted that there is a need to use the experiences of the past in formulating responses to issues that have arisen in the present, and that this would only be possible through cooperation between all parties. Lastly, Ms Nimpuno noted that success in the present initiative would aid in fostering a spirit of Ubuntu throughout the region.

Dr Bhekinkosi Moyo: The Southern Africa Trust

The Trust's activities and mandate were outlined. It was noted that its efforts focused on two key areas: facilitating the creation of a platform for dialogue and enhanced policymaking to ensure that regional integration works for the poor; and providing support to its partners (such as SAMA) in strengthening their capacity and influence to ensure the existence of strong regional institutions that can make a substantive impact and contribution to issues in Southern Africa.

In addition, Dr Moyo also elucidated on the two main issues to be tackled during the dialogue: ensuring the speedy disbursement of the benefits that have thus far not been released; and the creation of a mechanism to aid speedy disbursement as a regional goal rather than a purely local one.

2.2.Challenges experienced by former mine workers, in accessing social security benefits in SADC: Presentation of the finding of the regional study commissioned by Trust. Dr Mathias Nyenti and Prof George Mpedi.

The presentation by the consultants gave an overview of the key findings and recommendations raised in their study into challenges faced by miners in accessing social benefits across SADC.

The areas that were looked into during the study were outlined as follows:

- Background and profile of migrant workers.
- How they are employed and where.
- Their makeup and its impact on migration status, as well as a profile on access to benefits.
- Who gets what, why and how.
- Who is eligible for South African Social Security benefits?

- The scope of unclaimed benefits.
- The size of outstanding and/or unreachable social benefits.
- Issues surrounding the prevention of access to the social benefits.
- The impact on miners and their families.
- Comparative social security agreements in the region e.g. Mauritius, Zambia and Malawi.

The aims of the study included the following:

- Gathering information from various sources and the relevant parties in order to find a mechanism for the release of funds.
- Documenting experiences of miners.
- Examining bilateral agreements.
- Identifying other national organisations for miners like SAMA and finding out what they do and what support they require.
- Finding means of supporting former mine workers outside assisting them in access to their benefits.
- The consultants engaged in the following activities for the study:
 - Reviewed the laws, regulations, agreements and other relevant documents dealing with former mine workers;
 - Attended national dialogues in each country to engage with stakeholders and get an accurate picture for each country;
 - Conducted site visits and documented stories among former mine workers and their families; and
 - Conducted interviews with institutions, former mine workers and their survivors.

Historically, a sizeable number of the workers in South African mines came from outside the country, and the proportion of workers has varied from decade to decade. Also, in terms of profile, the vast majority of these miners were male, household heads that had left behind spouses and families at home. This absence had the potential to affect not only their families, but also their wider communities. It was also acknowledged that, at present, over 86% of people seeking opportunities outside of their home countries have made their way to South Africa. Women and younger, non-household heads have also altered the profile of mineworkers' workforce. In terms of employment, mineworkers were sourced from their countries through bilateral labour agreements, with workers operating under contracts. The issues of concern arose when employment began to decline due to a combination of the introduction of subcontracting practices, and a decrease in the sourcing of foreign mine workers. Subcontracting was noted as being particularly problematic because the benefits normally received through the formal employment they had

initially held were no longer available to them, and there was much confusion and general unawareness of such implications.

In terms of the impact of laws on the benefits, the presentation made note of the fact that the South African legal framework is complex, with eligibility for social security benefits being influenced by both employment status and gender. As a result, before the implementation of subcontracting, former mine workers had been entitled to social security benefits as a consequence of their formal employment, but lost these after its implementation.

The presentation then provided statistics revealing that the total value of the social benefits accrued to former mine workers is over R5.7 billion. The benefits are held in a number of pension, provident funds and retirement funds. A disclaimer was also provided that noted, firstly, that this figure and those related to it is likely to have increased since Oct/Nov 2013, and secondly, that the figure also includes outstanding social benefits due to former South African mine workers. Of the total figure of outstanding benefits, over R3 billion covering 106,419 beneficiaries is held by the Mineworker's Provident Fund. In addition, over R1 billion worth of unclaimed benefits were lost during the Fidentia fraud scandal.

The struggle to obtain financial statistics from the Compensation Commissioner for Occupational Diseases was also discussed, although confirmation was given that over 274,000 former mine workers have yet to receive their benefits, while the backlog of unprocessed claims currently stands at 18,000 individuals. Rand Mutual Assurance holds over R180 million in unclaimed benefits, while the Mines1970's Pension and Provident Funds holds over R200 million in benefits (this figure was later revised to R520 million after inputs from a National Union of Mineworkers (NUM) representative). Backed up by these large monetary values, the consultants emphasised the need to act speedily in light of the socio-economic hardships faced by former mine workers.

The obstacles that exist which restrict access to benefits were then presented. The broad categories of obstacles that were highlighted lie in the following areas: Social, Structural, Policy/Regulatory, and Administrative and/or Institutional. Brief explanations were given for each of the obstacles that fell under these areas as identified by the consultants:

- Immigration laws in South Africa. Issues raised included the logistical, financial and information burdens faced by widows who are forced to travel to SA after the death of a mine worker spouse.
- Absence of portability arrangements or limited provisions for this in SA social security laws. It was noted that there are instances where these are not in place,

but where they are (such as the SA-Mozambique Bilateral Labour Agreement), the system is problematic and in many cases, benefits never reach their intended recipients.

- Administrative and institutional challenges. These were identified as lack of information, lack of meaningful institutional engagement and an absence of administrative cooperation between entities.
- Delays in payments. This issue was noted for the devastating and diverse impact it had on both former mine workers, their families and their communities at large.
- Issues in dealing with professional occupational health services.
- Cumbersome documentation requirements for social security benefits applications. This was specifically noted with respect to widows who lacked the information, capacity of knowledge, or were faced with issues such as lost identification documents and exorbitant travel costs.
- Difficulties in establishing causal links between illness and employment, which directly affected legitimate access to benefits.
- Differences in regional banking systems. This issue included aspects such as difficulties in transfer, and the lack of understanding or clarity on exchange rates.
- Lack of implementation of international standards and protocols.
- Inertia by the South African government.

The presentation emphasised that non-payment is a regional issue affecting former mine workers in many countries, using the 250,000 migrant mine workers originating from Swaziland to support this.

In spite of the challenges, the positive strides that had been made and could be used as a template in future were revealed. The Zambia/Malawi Social Security Agreement and Convention on Social Security between Mauritius and United Kingdom were cited as potential templates that could be used in future. To conclude, the presentation also emphasised the need to act speedily while noting that the high rate of retrenchment of migrant mine workers in the recent past for various reasons was making the situation even worse as times goes by. Lastly, it was also noted that the lack of political will on the regional level further exacerbated the issue.

The presentation then provided a number of recommendations. These were as follows:

- Political will and proper approach to trace and compensate former mine workers.
- Development of an integrated and comprehensive approach (e.g. establishment of a multi-role player forum) to address the plight of ex-migrant mine workers.
- Compilation and publication of lists of lapsed beneficiaries by relevant social security institutions.

- Setting up of joint (mobile) clinics to provide medical examinations for mine workers in the migrant-sending areas or contracting of Rand Mutual.
- Provision of geographically-accessible government facilities in neighbouring countries and associations of former migrant mineworkers for the processing of claims.
- Identification of appropriate payment modalities by social security administration institutions.
- Investment of a portion of unclaimed benefits in social and economic programmes in migrant-sending areas if all ex-miners cannot be identified or traced.

Discussion

During a discussion of the report, the consultants clarified a number of issues that were highlighted by the participants, and these are discussed briefly below.

The Financial Services Board (FSB), the South African Reserve Bank (SARB) mining houses were not consulted, as the researchers wanted to maintain a narrow focus on gathering information on the ground and at the grassroots level. In spite of this, they acknowledged that there was room for future engagement with these and other entities such as the Pension Funds Adjudicator.

When asked about what is specifically being done to bring about the release of the benefits at both the fund-level and regional-level, the consultants suggested firstly, that the issues faced by funds are common to all of them, and secondly, that plans are afoot to implement a Common Monetary Area by SADC which should help improve the situation in the long-term. However, initiatives at both levels face difficulties and need a greater level of support and collaboration, which is one of the aspects the dialogue needed to look into.

The consultants also clarified the need for collaboration in the creation of a common database for mine workers (both current and former) as well as the creation of communication links with other regional and national institutions on this issue. On the issue of whether they had developed a comprehensive model that deals with the currently fragmented approach to the issues at the regional level, they expressed the opinion that, because the current system was envisioned to be the most efficient way forward, perhaps what is required now is not a new system but the strengthening and adjustment of the current system. In particular, the absence of a legal framework that made it compulsory for information to be released in many countries was cited as an area that needed to be tackled.

In response to a question on the potential role of the FSB, a representative from that institution highlighted challenges they faced which included legislative restrictions, the high prevalence of situations where the mine workers were never made aware of which fund they had been assigned to, and difficulties finding the necessary documentation due to several years having elapsed between the end of the mine worker's employment and the benefit claims. They also added their support to the call for cooperation and collaboration.

A question was asked about how the plight of the widows of mine workers could be addressed. In response, the consultants emphasised the need to expand the 'One Stop Shop' initiative throughout all regions. This would significantly ease the burden on widows in allowing them access to all the relevant information, documentation and services, both centrally and within their own countries/regions. Furthermore, the representative from Sentinel Pension Fund noted that a forum had been established, consisting of themselves, Mineworkers Pension Fund, the Chamber of Mines, NUM and Amplats, focusing on pension fund issues relating to mine workers. Lastly, it was noted that, in terms of the recommendations made by the consultants, there is a need to create specific timeframes for their completion.

2.3.Responses from government officials on the plight of former migrant mine workers in Lesotho, Mozambique and Swaziland

Swaziland

Dr Cleopas Sibanda, Occupational Health Specialist from the Ministry of Labour and Social Security in Swaziland, presented on "Portability of Social Security Benefits for Swaziland Migrant Workers." The presentation offered a case study on portability issues with a focus on Swaziland's own experiences.

In following on from the commentaries and recommendations given in the previous session, the presenter noted that an acute lack of support and an overly complicated claims system (with particular emphasis on burdensome paperwork) were two issues that greatly affected the success of beneficiaries in accessing their benefits. This was complicated further by burdensome provisions of such laws as Occupational Diseases in Mines and Works Act (ODMWA) and Compensation for Occupational Injuries and Diseases Act (COIDA). This is especially significant in light of the fact that, currently, Swaziland is burdened with the plight of just over 30 000 ex-South African mineworkers and their dependents that are still alive today.

Other issues of equal importance that were cited in the presentation were logistical difficulties such as multiple journeys to and from South Africa by former mine workers and widows to a multiplicity of destinations; lack of financial resources to

successfully launch and pursue a claim up to finalisation; and the difficulties such as confusion and forgetfulness that arise with advanced age.

In an attempt to address these issues, the Swazi government proposed a number of broad initiatives. These were as follows:

- Joint and bilateral commitment by both the South African and the Swaziland governments to holistically look into and provide permanent solutions to the plight of migrant mineworkers in particular and migrant workers in general.
- Need for a single national and regional migrant mineworkers association for the purposes of tripartite negotiations and implementation of relevant projects and programmes aimed at solving the plight of migrant (mine) workers.
- Tripartite bilateral MOU (Memorandum of Understanding) between Swaziland and South Africa involving the two governments and their relevant ministries, organized employers (the Chamber of Mines of South Africa) and Migrant Mineworkers Associations mapping out the operational framework for tackling the challenges which are facing migrant mineworkers or ex-mineworkers.
- Specific Joint Bilateral Technical Cooperation Agreements under the MOU proposed above which would tackle the challenges posed to migrant mineworkers in the spheres of (1) Labour Migration, (2) Conditions and Benefits of Employment and (3) Workmen's Compensation and Occupational Health.
- The free movement of labour between Swaziland and South Africa at all skill levels with an employment contract being the only pre-requisite for getting a work and resident permit.
- The free movement of migrant workers' families and dependents between South Africa and Swaziland.
- Free repatriation of the employment benefits of all migrant workers in accordance with the international UN convention on the rights of all migrant workers and their families of 1990.
- Continued accessibility, availability and affordability of social security benefits, including workmen's compensation and occupational health services, to all migrant workers before, during and after the employment period.

The presenter then moved forward by listing the initiatives and undertakings that Swazi government had already made as first steps on the path to the broad initiatives listed above. These are listed as follows:

- Established a comprehensive national electronic register of all Swaziland-South Africa migrant mineworkers and ex-mineworkers through the Ministry of Labour and Social Security and with the assistance of mineworkers' organisations such as SWAMMIWA.

- Compiled a comprehensive national electronic register of all Havelock Asbestos Mine ex-mineworkers through the Ministry of Labour and Social Security with the assistance of the ex-Havelock mineworkers association.
- Drafted a Swaziland-South Africa MOU on employment and labour issues complete with its accompanying specific Joint Bilateral Technical Cooperation Agreements which would tackle the challenges discussed above.
- Started a post-mortem programme for the extraction of the heart and lungs of deceased migrant ex-mineworkers for examination in RSA for the purposes of workmen's compensation.

Lastly, the presenter then briefly outlined the type of support the Swazi government needed in order to maximise the effectiveness of the undertakings above and forge a comprehensive and collaborative policy to deal with this issue. This support included the following:

- Financial and technical assistance to complete the compilation of the comprehensive national electronic register of all Swaziland-South Africa migrant mineworkers and ex-mineworkers through the Ministry of Labour and Social Security.
- Financial and technical assistance to complete the process of signing and operationalization of the already drafted Swaziland-South Africa MOU on Employment and Labour issues together with its accompanying specific Joint Bilateral Technical Cooperation Agreements.
- Financial and technical assistance to set up a fully-fledged, well equipped and well-manned Occupational Health Clinic in Swaziland which clinic would provide comprehensive occupational health services to all migrant mineworkers and ex-mineworkers.
- Financial and technical assistance for capacity building for the government and migrant mineworkers associations.

Lesotho

A presentation was given by Ms Agatha Ramonate from the Ministry of Labour and Employment in Lesotho regarding the issue of portability of social security benefits for mineworkers in Lesotho.

It was noted that the Lesotho government has responded by establishing a department for migrant affairs, with the purpose of assisting in the tracking of social security benefits for mine workers that had been employed in South Africa. In addition, the speaker emphasised that the government regarded efforts to assist former mine workers as being an important responsibility it held.

The issues that were highlighted as challenges in Lesotho were largely the same as those experienced by Swaziland. Specifically, the lack of financial means, difficulties in communication (in the form of language barriers and contacting of necessary entities) and a lack of knowledge about claim processes and procedures, cumbersome documentation requirements, travel difficulties and the long length of time required for claims to be processed (in some cases taking well over a year, even after all the necessary documentation had been compiled) were all raised. In addition, the issue of tracing agencies was also raised (profit-driven legal entities that appear to be successfully fast-tracking the release of benefit claims). Banking issues were also noted as regular stumbling blocks in the provision of benefits. Lastly, the issue of subcontracting and its negative impact was also touched on.

In terms of what is being done in Lesotho to address the challenges, the speaker revealed that the only undertaking at present was the MOU that was signed with SA in 2013 with the Department of Labour to facilitate the transfer of benefits accrued through this department. Finally, the speaker also remarked that the government of Lesotho was keen to be part of joint forums on the issue that would be formed in future.

Mozambique

A presentation was given by Mr Celso Tomas Director General for the Ministry of Labour.

It was revealed that although the government of Mozambique has been actively involved in attempting to bring about the release of the benefits for former mineworkers, they have encountered a number of difficulties. Issues that were raised included a high rate of illiteracy among current and former mineworkers, the lack of access to information and the vast distances that need to be travelled during the processes required to release the funds. It was also noted that the government had conducted a study on social benefits systems throughout the region in order to inform its own policy initiatives in future. The results of this study suggested that South Africa lagged behind other countries in the region with respect to the initiatives undertaken by its government on the policy level. As a result of all the issues that were raised, they have engaged with the South African government in trying to overcome these difficulties.

Discussion

Participants discussed whether the deficiencies in and lack of regional agreements identified in each presentation were evidence of a lack of political will on the part of SADC, it was noted that a Declaration signed by SADC in 2012 led to the creation of the MOU signed between Swaziland and South Africa on the issue of migrant workers.

Further, a representative from the South African Department of Labour Compensation Fund suggested that simplifying the process of accessing benefits should form a part of all future bilateral and multilateral agreements.

The involvement and role of The Employment Bureau of Africa (TEBA) in finding solutions for the present issues was also discussed. Specifically, a question was raised inquiring as to why TEBA imposed a monetary charge during the course of its employment tracing activities. In response, a representative from TEBA noted that although TEBA was a profit-driven institution, they were open to engagement and involvement on these issues.

In response to a question on the engagements they had with other national entities, the representative from Lesotho noted three things from its experience that needed to be changed. Firstly, pension and provident funds regarded them as being a 'third party' in benefit claims, limiting the level of legitimate and essential assistance they could provide to their citizens. Secondly, the speaker also noted that Rand Mutual Assurance regularly failed to communicate back on requests on behalf of former mine workers. Subsequently, a representative from Rand Mutual undertook to take up the matter with his organisation. Lastly, it was noted that, as things stand now, countries can only communicate and form discussions on these issues with their counterpart departments, and not at a higher administrative and policy level, a situation that needs to change.

A comment was also raised by the representative from the Mineworkers Provident Fund who explained that the large documentation requirements for benefit claims were put in place in order to ensure that the funds were released to the true recipient in light of the serious issue of identity fraud, also suggesting that more should be done to combat this by the SA government. The issue of tracing agencies was commented on, with the representative noting that they exacerbated the situation by charging a percentage exceeding 30% of the benefits

A testimony on the experiences of former mine workers was given by a member of the Association of Mozambiquan Mineworkers (AMIMO). He recounted his experience as a migrant worker from Mozambique working in South African mines. He emphasised the lack of information provider to workers, noting from his personal experiences that mine workers were never told of which fund they were joined to at any stage, never received statements or representations from the funds themselves in relation to this, and also experienced language barriers in both interpretation of documents and verbal communication. He also thanked the dialogue for raising all these issues over the course of the dialogue.

payments successfully released. Finally, it was confirmed that plans are being made to alleviate the difficulties related to differences in banking accounts and practices.

2.4.Responses from initiatives and mechanisms that support former mineworkers to access social security benefits.

In this session, a panel discussion was held to discuss the initiatives and mechanisms in place to assist with the speedy release of social security benefits by representatives of the following entities: Sentinel Retirement Fund, TEBA, and Mineworkers Provident Fund.

Sentinel Retirement Fund

The representative from Sentinel noted the following:

- They currently have a department dedicated to tracing activities.
- Value of unclaimed benefits currently stands at over R150 million covering 77,457 individuals.
- They have actively sought out collaboration and partnerships and continue to do so.
- Roadshows and walk-in centres in mining towns, as well as a call centre are used as additional means of raising awareness and tracking down beneficiaries.

TEBA

The representative from TEBA noted the following:

- They have a database of over 1.3 million mine worker records.
- The Protection of Personal Information Act needs to be taken into account in the provision of the necessary information.
- Technical and Human Resource capacity needs to be built up in order to have a functional database for mineworkers that is both up-to-date and available to a wide range of entities.

Mineworkers Provident Fund

The representative from Mineworkers Provident Fund noted the following:

- The fund became self-administering in 2011 in order to better serve the interests of its clients.
- Between that period and now, the number of claim pay-outs made has increased from 14,000 to 44,000 in 2013.
- Reduced their backlog of unclaimed benefits from 68,000 to 64,000.
- They conduct regular roadshows as part of their awareness campaign initiatives, and they are planning to introduce educational videos and comprehensive walk-in and call centres.

- The fund is also actively seeking out further opportunities for partnership and collaboration.

Discussion

On the issue of tracing, all panellists agreed that it was essential for mine workers to ensure that their contact details were updated regularly, and it was suggested that the unions could play a crucial role in this regard for their members. The inaccuracy of details was also raised as a related issue, with recorded instances of incorrect name and birth records. It was also suggested that ties be strengthened between the funds in order to also achieve a comprehensive communication network, while the role of the employers in the provision and maintenance of records was also highlighted by the panel.

Comments were also made from the floor emphasising the need to tackle African cultural stereotypes that hinder the process of benefit claims, and also the need to involve more community structures in both tracing former mine workers and their families, and providing education and support. In addition, the panellists were also encouraged to look into ways in which the database held by TEBA and its physical infrastructure across the region could be leveraged.

When asked about what the previously mentioned SA Pension Fund multiparty forum was doing, the representative from Sentinel undertook to bring the issues raised during the regional dialogue and the report upon which it was based to the forum. Lastly, in response to question querying what could be done in the immediate short term, it was revealed that plans were being put in motion in partnership with the Compensation Commission for Occupational Diseases to create one-stop shops dealing with the following issues:

- Health issues.
- Compensation.
- Funds for miners who have passed away.
- Support services to miners.

2.5.Group discussions as preparation for key recommendations

For the fourth and final session of the day, presentations were given on potential recommendations by four subgroups. The recommendation topics for each of the subgroups were: Information, Effective Collaboration, Capacity Building and Regional Commitments.

Information

On the issue of information, the group participants listed the following broad recommendations:

- Establishing a platform for the engagement of multiple stakeholders – employers and miners (both current and former) must have representation. Suggested that the Trust take leadership of this.
- Service-level Agreements need to be made that include clear goals and deliverables.
- Communication avenues need to be expanded – through flyers, volunteers at the community-level.
- Education of mine workers.
- Emphasis on mobile communication.
- In response to a question on how the new platform would differ from the Sentinel forum, it was clarified that the new platform will have a wider mandate while also placing greater emphasis on collaboration.
- Effective Collaboration

On the issue of effective collaboration, the group participants listed the following broad recommendations:

- Creation of the platform/forum mentioned under point i. of the Information group.
- Development of Terms of Reference.
- Identification and engagement with key stakeholders.
- Finding a convener (the Trust was nominated for this role).
- Creating a framework for the role of each stakeholder.
- Standardisation of documents for funds

It was also suggested from the floor that governments should be involved in all future roadshow initiatives as they are invaluable in helping trace beneficiaries that live in rural areas who may not have access to either the roadshows or information. Further, it was agreed that a comprehensive calendar of roadshows will be made.

Capacity Building

On the issue of capacity building, the group participants came up with the broad recommendations:

- Building capacity at the district and community-level
- Training individuals who engage with former mine workers and/or their spouses/widows
- Educating families

The lack of funding was highlighted as an issue that needed addressing, particularly given the fact that organisations such as SAMA are voluntary. On the issue of the

current livelihoods of former miners and their families as they attempt to receive that which they are entitled to, it was suggested that income-generating activities be created in the interim as a means of offering them at least some form of additional support.

Regional Commitments

On the issue of regional commitments needed, the group participants listed the following broad recommendations:

- Initiatives need to be placed on the SADC agenda and implemented. Include stakeholders in developing frameworks.
- Collaboration must take place at National level & beneficiary level.
- Domestication of any declaration, all stakeholders must be informed
- Build strong relations with government & civil society in order to advocate common interest.
- Drive to register SAMA with the SADC Council of NGOs.
- Adoption of the regional framework for Occupational Injury & Disease Protection.
- Include Mineworkers in talks at this level and not side line them when implementing resolutions.

3. Day Two

3.1. Reflections From The Previous Day

It was agreed that the need for collaboration and cooperation was an element that was emphasised regularly throughout the main and plenary sessions. It was noted that the labour agreements and laws currently governing the portability and access to social security benefits were formulated a long time ago, and subsequently enquired as to whether it was not time to re-evaluate these in light of the vastly changed circumstances.

Another comment was made suggesting that, in terms of barriers to regional commitments and legally-binding initiatives, the greatest obstacle was the SA government, which was perceived as unwillingly to remove its restrictions on its labour market citing high domestic unemployment as the main reason.

A representative from the Chamber of Mines was also present. In her remarks, it was acknowledged that the Chamber need to play a critical role in strengthening and reinforcing the proposed platform as it looked beyond South Africa and into the rest of the region. Lastly, the MDA acknowledged that there was room for the enhanced links and partnerships it had made.

3.2. Cross border portability arrangements to facilitate effective tracking and disbursement of social security benefits

For this session, a presentation was given by Ms Christabel Phiri of the Trust. Her presentation examined the role SADC played in facilitating effective tracking and disbursement of social security benefits throughout the region.

It was revealed that there are two separate initiatives dealing with this. These are the Charter of the Fundamental Social Rights in SADC and the Code on Social Security in the SADC. Both documents have been adopted by all SADC members.

The Charter is legally binding and contains a clause for the harmonisation of social security benefits mechanisms and social protection. Of particular note is Article 10 of the Charter, which aims to provide an adequate level of social protection regardless of status or type of employment, as well as adequate social security benefits. In spite of this, the principle of Variable Geometry means that there are few cases of actual enforcement taking place. This issue of weak enforcement was emphasised as probably the greatest challenge to the practicality of regional efforts. It was also

remarked that the original method of enforcement, a tribunal, was permanently disbanded in 2012.

With respect to the Code, it is not legally binding, but it was developed in order to guarantee the right to social security and provides guidelines to member states for the development and improvement of social security schemes. Article 17 of the code deals with migrants, foreign workers and refugees and it attempts to provide guidelines on their participation in social security schemes and their basic social rights. Further, it was stated that the Code also encouraged Member States to introduce legislation that will facilitate bi- or multilateral arrangements, cross border co-ordination principles and the exportability of benefits.

In terms of the progress SADC has made, the presenter noted that SADC had formed a committee on migration and social protection, and created a monitoring and evaluation tool on social security-launched in 2013 for a two-year timeframe. A report for this tool is due in 2015. In her closing remarks, the presenter expressed the hope that the recommendations of the regional dialogue would find their way to SADC to raise the issues identified as a matter of urgency.

A number of additional issues and comments were raised during the discussion that followed. Weak bargaining power was emphasised, with lack of cooperation from South Africa being emphasised as an example of this. One of the participants also enquired as to how mine worker issues can be taken directly to SADC and, following on from this, a representative from the SADC Lawyers Association revealed that efforts were being made to reform the SADC Protocols in a manner that will prevent non-SADC related institutions from being able to raise issues with it directly.

A representative from the Consortium for Refugees and Migrants also noted that there needs to be better and more efficient use of SADC National Committees. These are supposed to be the mechanisms for the formulation and enforcement of SADC policies, but only Mozambique has a National Committee that is fully functional. All delegates were in agreement that this needed to be rectified urgently.

Swaziland, Lesotho and Mozambique were all asked about their states of progress in implementing the Charter and Code, and all three confirmed that they are all at various stages in the drafting of MOUs and social security schemes. Delegates also commented on the need for an increase in the number of technocrats present in various government ministries to enhance cooperation. Finally, greater emphasis was also placed on the need for speedy action, clarity and accessibility in the frameworks that will be developed in future, and expanded capacity building at all levels.

3.3. Adoption of Joint Roadmap (Implementable recommendations to support former mine workers and cross border portability arrangements).

During this final session of the regional dialogue, the overall Joint Roadmap and Key Recommendations that would be taken forward by the stakeholders were debated and adopted by the delegates. The finalised Roadmap and Recommendations, as well as some of the comments that were raised during the debate are listed below.

Roadmap

Formalisation of a multi-stakeholder platform

The creation of this platform will be coordinated by Southern Africa Trust. A sub-committee comprising of Government representatives, Fund, Mine workers, International institutions, Chamber of Mines, TEBA, SAMA will be responsible for interfacing and taking forward recommendations and issues from the newly formed platform.

Collaborate with other existing platforms

These other platforms will include the SA Pension Fund initiative discussed by Sentinel, the Technical Working Group on TB in mines through the Chamber of Mines, Regional Partnership Forum on Migration and Health through the IOM, and the SA Inter-Departmental Task Team on Social Security through the Department of Labour Compensation Fund.

Development of Terms of Reference (ToRs)

The development of the TORs for the multi-stakeholder forum will be led by the Trust. The newly developed forum will deliberate on how information will be disseminated in future, such as information from provident funds relating to health matters and death benefits. Information will also be cultivated to use in the education of current and former mine workers, regardless of whether they are migrant workers or citizens. Meetings and/or workshops will be set up to review objectives undertaken at regular intervals. The new forum must agree on Service Level Agreements by each stakeholder to track performance of objectives. All of these tasks fall under short term goals.

Information

Develop strategies to reach rural communities

This will involve individuals in influential positions in the community such as traditional leaders, former miners and civic organisations. Former miners and funds will leverage on government authorities for assistance when travelling to remote areas (for example, for road shows).

Technical capacity-knowledge development /research

Stakeholders should consider using all communication mediums available to them, taking cognisance of languages and the SLA will determine the content of such initiatives.

Means of information dissemination

Flyers (governed by sector requirements), workshops such as roadshows, media, TV, radio link to shows to drive the campaign, social network presence in forms such as Facebook and Twitter, managed by elected stakeholders from within forum, word of mouth.

Effective Collaboration

Funds to follow up on groundwork initiatives to ensure speedy payments and reduction of outstanding benefits (Sentinel and Mineworkers Provident fund).

- Explore standardisation of forms by Funds.
- Collaborative roadshows by Funds should be undertaken in future.
- Former-miners to leverage on Government Authorities for assistance when travelling to remote areas.
- Strengthen relations with development partners such as the International Labour Organisation and IOM.

Strengthen livelihood initiatives in the relevant mine sending communities through CSI, CSR, IOM and VSO partnerships.

Capacity Building

Strengthen SAMA and its affiliates' organisational capacity.

This will be done by creating linkages and networking, recognition of relevant bodies, advocacy and lobbying. It was also noted that SAMA is now registered and is developing strategic plans. In addition, SAMA will continue to leverage the use of its volunteers.

- Empower individuals with knowledge, skills and tools necessary to navigate the benefit claim process.
- This will involve educating those targeted (including current and formerminers, their dependents) on their rights and obligations, rules and requirements (funds, governments and unions) and possibly language training in English.
- Work on exchange visits with other countries and between associations to share learnings.
- Recommendation to SAMA to collaborate with One Stop Shop project initiative to roll it out regionally.

Regional Commitment

- Stakeholders to participate in the development and implementation of regional frameworks through SADC National Committees (SNCs).
- Build strong relations with government and civil society in order to advocate common interest.
- SAMA to formalise relations with the SADC Council of NGOs (SADC-CNGO)
- SADC will be lobbied on the operationalization of the cross border portability mechanisms through the SADC-CNGO.
- SAMA to unpack and understand the status of implementation of relevant regional policy frameworks that affect miners.

4. Closing Remarks

In their closing remarks, the President and Deputy-President of SAMA thanked the Trust and the Ford Foundation for their cooperation and assistance in the organisation of the regional dialogue, and the participants for their presence and contributions. The Deputy-President also expressed her hope that the initiatives and recommendations reached during the course of the two days would be carried forward positively into the future. A representative from the South African Department of Labour Compensation Fund also offered a note of thanks while also emphasising the need for urgency now that a roadmap had been established by all parties. In this regard, the representative from the Chamber of Mines SA also undertook to report back to her institution while giving her thanks. Lastly, final comments praising the strides made during the regional dialogue were given by the representatives' from Sentinel.

5. References

Mpedi, L.G., and Nyenti, M. (2013). Portability of Social Security Benefits in Mining Sector. Available:

http://www.southernafricantrust.org/docs/highlights_portability_of_social_security_benefits_in_mining_sector.pdf

Profile of Organisations

The background profiles of the institutions that organised and sponsored the regional dialogue are briefly presented below:

Southern Africa Trust¹

The Southern Africa Trust works with diverse civil society organisations from southern Africa and beyond that promote public policy dialogue with a focus on poverty, especially those with a significant regional presence and impact. Partnerships with well-formed networks are of particular value to the Trust. The Southern Africa Trust supports and develops networks amongst a wide range of role-players in civil society, representing different interests and constituencies that are focused on overcoming poverty. In addition, the Southern Africa Trust has strong collaborative relationships with governments and governmental and inter-governmental agencies in the national, regional, and global spheres. The Southern Africa Trust believes in robust debate and will challenge policies, practices, attitudes, and beliefs that, in its view, are inappropriate. However, the Trust is equally open to learning and changing its own policies, practices, attitudes, and beliefs by being challenged by others.

Ford Foundation²

The Ford Foundation supports visionary leaders and organisations on the frontlines of social change worldwide. The goal of the Foundation is to strengthen democratic values. In Africa, Ford Foundation works in countries such as Zimbabwe, South Africa and Mozambique which are characterised by widespread poverty and deep seated inequalities. Ford Foundation supports efforts to:

- Strengthen transparency and accountability in governance;
- Build sustainable livelihood and economic opportunities for the rural and urban poor; advancing social and economic rights;
- Address HIV/AIDS related stigma and discrimination;
- Tackle factors that undermine sexual and reproductive health and
- Promote postsecondary education for those typically excluded.

¹ <http://www.southernafricantrust.org>

² www.fordfoundation.org

6. Annexes

6.1. Annex 1 – Dialogue Agenda and Programme

Regional Dialogue

The Portability and Access of Social Security Benefits by Former Mine Workers

27 - 28 February 2014, Southern Sun Hotel, Pretoria

Day 1: 27th February

09:00	Introductory Remarks	Rantso Mantsi: Southern Africa Miners Association (SAMA) Paula Nimpuno: Ford Foundation Bhekinkosi Moyo: Southern Africa Trust
09:30	Challenges experienced by former mine workers, in accessing social security benefits in SADC Presentation of the findings of the regional study commissioned by Trust.	George Mpedi: Consultant Mathias Nyenti: Consultant
10:30	Discussion	Facilitator
10:55	Tea Break	
11:15	Sessions: Responses from select government on the plight of former migrant mine workers in Lesotho, Mozambique and Swaziland	Agatha Romanate: Ministry of Labour and Employment Lesotho Celso Tomas: Director General, Ministry of Labour Mozambique Dr Cleopas Sibanda: Occupational Health Specialist Ministry of Labour and Social Security, Swaziland
12:00	Discussion	Facilitator
13h00	Lunch Break	

14:00	Panel Session: Responses from initiatives and mechanisms that support former mineworkers to access social security benefits.	Lihle Khoza:Mineworkers Provident Fund Dr.Luvuyo Dzingwa: Rand Mutual Assurance Company Limited Madula Manayane: Sentinel Mining Industry Retirement Fund Benefits Vama Jele: Swaziland Migrant Mine Workers Association (SWAMMIWA) Nobesuthu Matsepe Mnguni: The Employment Bureau of Africa (TEBA)
15:40	Group discussions/ key recommendations	Facilitator
17:00	End of Day One	

Day 2: 28th February

09:00	Reflections from the previous day	Facilitator
09:15	Cross border portability arrangements to facilitate effective tracking and disbursement of social security benefits Review the status of the Southern Africa Development Community (SADC) Charter on Fundamental Social Rights and SADC Code of Social Security.	Christabel Phiri: Southern Africa Trust Mathias Nyenti: Consultant
09:45	Discussion	Facilitator
10:45	Tea Break	
11:15	Adoption of Joint Roadmap (Implementable recommendations to support former mine workers and cross border portability arrangements)	Facilitator

13:30	Closing remarks	Southern Africa Trust
	Lunch	

6.2. Annex 2 – List of Participants

Numbers	Full name	Organisation
1	Ms Darshana PEMA	Canadian High Commission
2	Mr Habofano Thomas KETSISE	National Union of Mineworkers
3	Ms Tina Da CRUZ	Asbestos Relief Trust
4	Mr Jose CARIMO	TEBA limited
5	Mr George L MPEDI	University of Johannesburg
6	Mr Mathias NYENTI	University of Johannesburg
7	Ms/Mr Nobesuthu MOTSEPE	TEBA south Africa
8	Ms Sichel Mpilo Shange BUTHANE	Consortium of refugees and Migrants in South Africa
9	Ms Paula NIMPUNO	Ford Foundation
10	Ms Georgina JEPERSON	Asbestos Relief Trust
11	Ms Jackie MUKWEVHO	SAFAID
12	Ms Roshan DADOO	COMRSA
13	Mr Leksothla MABEA	Mineworkers Development agency
14	Mr Jacob SEGALÉ	ARASA
15	Ms Allison RUSSEL	USAID
16	Ms Kettie TEMBO	SATREGIOANL
17	Mr David KHUMALO	Unemployment Insurance Fund
18	Ms Melody KWEMBA	South Africa Women in Mining Association
19	Mr Mncedisi Sifiso Derrick ZWANE	SWANNEPHA
20	Mr Christopher Ishmael MDLULI	SWAMMIWA
21	Mr Vama JELE	SAMA / SWAMMIWA
22	Ms Sibongile Fortunate MAHLALELA	SWAMMIWA
23	Mr Ndumiso Jerome MKHALIPHI	SWAMMIWA
24	Ms Bongile MDLULI	SAMA / SWAMMIWA
25	Mr Mavela Hector KUNENE	SWAMMIWA
26	Ms Gugu Simangele MNDZEBELE	SWAMMIWA
27	Ms Sbhongile Patricia DLAMINI	SWAMMIWA
28	Ms Nomalungelo MAPHANGA	SWAMMIWA
29	Mr Cebisamadoda Bernard NXUMALO	SNEMA
30	Mr Cleopas SIBANDA	Ministry of Labour and Social Security: The Kingdom of Swaziland
31	Ms Zodwa Gabsile Gladys DLAMINI	Ministry of Labour and Social

		Security: The Kingdom of Swaziland
32	Ms Nonkazimlo Regina GCALI	SAMA
33	Mr Clearance Phumzile BONGA	SAMA
34	Mr Ashis Kumar KUNDU	SAMA/EX MINERS
35	Ms Mamonyake Emely CLASS	SAMA
36	Mr Simon Tsoene MAKOANYANE	EX MINERS LESOTHO
37	Mr Ngaka KHOABANE	EX MINERS LESOTHO
38	Mr Rantso Ernest MANTSI	SAMA
39	Mr Lerato Nelson NKHETS`E	EX MINERS LESOTHO
40	Mr Pheello Ernest SENKHANE	EX MINERS LESOTHO
41	Ms Agatha Moliehi RAMONATE	Ministry of Labour and Employment
42	Mr Bereng MPAKI	PUBLIC EYE NEWSPAPERS
43	Mr Mpho Paul MATSINYANE	Lesotho Government
44	Mr Rogério CUMBANE	AMIMO (Mozambican Mine Workers Association)
45	Mr Samuel Antonio ZANDAMELA	AMIMO
46	Ms Janna MOLEMAKER	AMIMO
47	Mr Moises Sandoane UAMUSSE	AMIMO
48	Mr Ernesto QUIVE	AMIMO
49	Mr Eduardo Naftal CHIMELA	Ministry of Labour Mozambique
50	Mr Celso Claudio Joaquim TOMAS	Ministry of Labour Mozambique
51	Ms Anastacia Samuel ZITA	Ministry of Labour Mozambique
52	Ms Carolina SHIELDS	Southern Africa Trust
53	Ms Chantelle KOTZE	Mining Weekly
54	Mr Adam LETSHELE	National Union of Mine workers
55	Ms Lihle KHOZA	Mineworkers provident fund
56	Mr Madula MANANYE	Principal Officer Sentinel retirement Fund
57	MS Portia koko Ndhlovu	consultant
58	Mr Kaajal RAMJATHAN-KEOGH	Lawyers for Human Rights
59	Dr Beason BEREMAURO	Post Doctoral research Fellow
60	Mr Cosmo MAPITSA	Researcher

		WITS/ACMS
61	Ms Thandiwe MSIBI	Tshikululu Social Investments
62	Dr. Luvuyo DZINGWA	Rand Mutual Assurance
63	Mr Maranga NGULUWE	North West University
64	Mr Bitso BITSO	University of Pretoria
65	Dr Zaheera Jinnah	WITS University -African Centre for Migration & Society
66	Mr Mkuseli MBOMVU	Mineworkers Provident Fund
67	Mr Mansie ANDREW	VSO
68	Ms Carla VISSER	Management Science for Health
69	Mr Thabo GUMBI	TEBA Limited
70	Mr. Chris GOETHERT	US Embassy
71	Mrs Corlia BUITENDAG	Financial Services Board
72	Ms Takalani LUKHAIMANE	Financial Services Board
73	Mr Daniel CHIWANDAMIRA	DPC& Associates
74	Ms Moises Timoteo CUMABEN	Jornal Zambeze
75	Mrs Nomsa MNGUNI	TEBA LTD
76	Mr Reginald Chokola LENGOLO	Department of Labour- Compensation Fund
77	Ms Emila SIEINGWA	SADC Lawyers Association
78	Mr David KHUMALO	Department of Labour
79	Mr Bhekinkosi MOYO	Southern Africa Trust
80	Ms Ange CHITATE	Southern Africa Trust
81	Ms Lydia MOYO	Southern Africa Trust
82	Ms Moagisi SIBANDA	Southern Africa Trust
83	Ms Christabel PHIRI	Southern Africa Trust