

SASPEN brief

Southern African Social Protection Experts Network

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Extending Social Security to Migrants in Southern Africa

A Roadmap For Action¹

Effective social security systems provide income security, prevent and reduce poverty and inequality, and promote social inclusion and dignity. Social security enhances productivity and employability and supports sustainable economic development, contributing to decent living conditions for all and making extension of social security coverage for migrants vital to workers, the economy and society.

Extending social protection for migrants in Southern Africa is a big stakes issue for economic progress, social well being and good governance. Most migration originating in SADC member countries goes to other community member countries. Based on global figures, it is estimated that a large majority of working age migrants are economically active in destination countries. Migrant workers now comprise important proportions of labour markets in several SADC member countries.

Labour and skills mobility in the region will likely increase in coming years as elsewhere worldwide. Within 15 years, the majority of world's countries and populations will be facing work force decline.² Five SADC member countries – Botswana, Mauritius, Namibia, Seychelles

and South Africa – are now at zero population growth fertility rates³, meaning in coming years their native work forces will shrink as the number of young workforce entrants no longer compensates for those workers going into retirement.

Although migrant workers fully contribute to the economies of destination and origin countries, they are not taken account of in national social security schemes in many countries. Migrants often lose entitlement to social security benefits in their country of origin due to absence. They generally face restrictive conditions or non-access to social security in the country of employment. Although a number of countries recognize equality of treatment between national and non-national workers in social security legislation, some countries discriminate against migrant workers through national legislation that excludes specific categories of migrants or disallow portability. Even when they can contribute to social security in host countries, their contributions and benefits often cannot be transferred to origin countries.



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In 2014, SASPEN and Friedrich-Ebert-Stiftung Zambia hosted a high level **international expert conference on Social Protection for Migrants** in Johannesburg, South Africa, Oct 28-29.

All Conference Proceedings including this brief are available at:
<http://www.saspens.org/home/conferences/migration>

¹ This SASPEN policy brief draws on a Framework Guidance Document (FGD) on Social Security for Migrant Workers in Eurasia prepared by this author for the International Social Security Association (ISSA) in 2012.

² For a corporate view on the phenomena, see Ernst & Young online report: "Six global trends shaping the business world: Demographic shifts transform the global workforce" at <http://www.ey.com/GL/en/Issues/Business-environment/Six-global-trends-shaping-the-business-world---Demographic-shifts-transform-the-global-workforce>

³ According to figures for 2014 in the on-line CIA World Factbook, Country Comparison: Total Fertility Rate(s) at <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2127rank.html>. 2.1 to 2.2 children per woman is considered the 'replacement rate' of zero population growth, below which population will decline.



Seven fundamental principles of social security provide guideposts for legislative and policy action to extend social security to migrant workers. *These seven principles are established in international law and proven by practice in countries worldwide over more than 70 years.* They are universality; equality; accessibility; portability; comprehensiveness; credibility; and sustainability.

- *Universality* means that everyone as a member of society has a right to social security.
- *Equality of treatment* means that migrant workers are entitled to the same rights, obligations and treatment as nationals regarding social security coverage.
- *Accessibility* means that social security enrolment, coverage, and disbursement of benefits are made aware to, open for, and obtainable by migrant workers as well as other vulnerable groups.
- *Portability* is the ability to obtain, preserve, maintain and transfer vested social security rights or rights in the process of being vested, independent of nationality and country of residence.
- *Comprehensiveness* is the aspirational principle of obtaining coverage to meet the risks of health, unemployment, old age, survivorship, sickness, injury, disability and maternity and family care.
- *Credibility* means good governance and the effective and efficient management of social security systems.
- *Sustainability* means assuring the long-term social, political and financial sustainability of social security.

Challenges for extending social security to migrants

Extending social security to migrant workers in Southern Africa requires a deliberate and strategic process to overcome restrictive conditions based on territoriality and nationality. Challenges and impediments to extending social security to migrants in Southern Africa are similar to those elsewhere:

- absence of legislation on labour migration;
- absence or inefficiency of governing and regulatory mechanisms;
- tax evasion;
- absence of social security provisions for migrant workers⁴;
- absence of social protection for those in informal activity, including migrants;
- lack of incentives to incorporate foreigners in social security;
- lack of administrative mechanisms to extend coverage and portability;
- inadequate data and lack of information exchange among countries;
- lack of a regional framework for social security cooperation.

Specific Tasks to extend coverage

The complex nature of the challenges requires several stages that are mutually reinforcing and progressively built. Realizing access and full portability of contributory social security benefits requires explicit legal provisions while international cooperation depends on a degree of compatibility among respective national legislations. An agreed framework of common rules and mechanisms for cooperation among countries in SADC on social security has not yet been formally proposed, yet it would be a key guidepost to encourage extension of coverage and harmonization of approaches.

Experience elsewhere shows need to address crucial immediate tasks, including: getting national systems to work efficiently; simplifying procedures to accommodate stationary as well as short-term migrants; and allowing migrants access to existing mechanisms for coverage. Social security agencies need to assess their existing coverage and identify actual compatibilities and contrasts

between national systems. Political will needs to be mobilized to obtain inter-country agreements and to extend unilateral measures.

In addition, more precise data needs to be obtained and applied on migrant employment and economic activity – data essential for determining social security contributions and coverage. Social security agencies need to interface labour market data on migrants with their administration of social security. They would also need to encourage obtaining data on the often unrecognized migrant worker populations such as those in informal economic activity, the large numbers in seasonal agricultural labour, and those in irregular status situations.

⁴ The latter refers to absence of pension and health coverage for migrant workers and their families, non-calculated employment periods, and non-transferability of pensions and benefits. See report of ISSA- IAPSF Working Group on Migrant Workers in Eurasia, Nov 30-Dec 1 2011.

A Roadmap Strategy and Plan

The following *roadmap* comprises a *strategic agenda* for action to extend social security to migrant workers. It is derived from successful experiences in different regions around the world. International standards on social security provide the basis for credible, sustainable and effective implementation. Most of these

suggested measures can be – and have been – initiated and implemented “unilaterally” within countries. While many of these measures do not require new international agreements, international dialogue and cooperation, particularly within the region, is essential to enable portability of entitlements and benefits.

The roadmap shows five main action areas deriving from these principles. This strategic agenda urges a cooperative process incorporating key national stakeholders accompanied by the concerned international structures, namely the International Social Security Association (ISSA) and the ILO.

1. Social Security Country Profiles

A first step is “Extending Social Security Country Profiles,” summarizing law provisions, existing practices, relevant structures, and mechanisms addressing or able to address social security of migrants. This would complement statistical and qualitative data on migrants in the country and nationals abroad.

2. Implementation of national ,unilateral’ measures

The second strategic stage is formulating and implementing measures and practices that incorporate migrant workers. Expert inputs and experience of social security administrators highlight an array of measures that can be implemented unilaterally and often rapidly within each country. These include:

- Establishment by the country of employment of equality of treatment between national and non-nationals regarding social security coverage and medical care as well as payment of benefits abroad.
- In the absence of formal portability arrangements, reimbursement of social security contributions to the migrant when he/she leaves the country.
- The country of origin provides social security coverage through a national scheme for citizens abroad when

they are not covered in places of employment.

- Requiring recruitment agencies to include social security provisions.
- Establishing special social security options or voluntary social insurance for migrant workers based on voluntary contributions.
- Providing options for voluntary retroactive payment of contributions in to social security or pension schemes for periods abroad.

A key element is formulation and implementation of measures and practices that incorporate migrant workers particularly in countries of employment.

3. Adoption of international standards on migrant workers and social security

The third step is incorporating relevant international standards in national law and practice. The ILO Conventions on Social Security and the core international instruments on migrant workers (5) ensure a viable legal foundation for realization of social security. Domestication of the principles in ILO Conventions 102 (6) and 157, along with C-118 is essential. Basic rights need to be defined in national law to set the foundation for “social security for all.”)

4. Identification of existing compatibilities and contrasts among national systems

The fourth stage on this strategic agenda – and the prerequisite for any discussion of regional cooperation – is mapping the existing compatibilities, convergences and divergences regarding migrants among the national social security systems across SADC.

Key elements are **recognition of portability and maintenance of rights acquired and in course of acquisition**. Social security administrators have essential roles in determining applicability of existing legislation and international agreements, including conventions and bi- or multilateral agreements that provide means and mechanisms for ensuring portability in fact. Administrators should also identify mechanisms to account for periods of employment/contributions by migrant workers in their country.

5. Devising mechanisms for regional Social Security cooperation within SADC

A fifth step, the highway on this *roadmap*, is exploration of mechanisms of cooperation to facilitate national systems working together on social security in the SADC regional situation. Successful approaches elsewhere in the European – Union, in South America’s MERCOSUR –

5 The three main ,migration governance’ conventions are ILO C- 97 on migration for employment, ILO C-143 on migrant workers and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

6 The landmark ILO Convention 102 identified nine hallmark areas of social security: 1) Medical Care benefit, 2) Sick-ness benefit, 3) Unemployment benefit, 4) Old-Age benefit, 5) Employment Injury benefits, 6) Maternity benefit, 7) Family benefit, 8) Invalidity benefit, and 9) Survivors’ benefit. It also set minimum standards regarding: personal coverage, level of benefits, qualifying period, duration of benefits etc.

demonstrate that obtaining social security portability requires a systematized framework and operational regime of cooperation. This comprises *techniques aimed at guaranteeing social security entitlements of migrating persons and their dependents by making national systems work together in transnational situations.*

Building cooperation in Southern Africa is best advanced by regular dialogue among social security administrations, building on comparative review of social security frameworks, identification of existing compatibilities, and resolving differences.

In Conclusion

This *roadmap* indicates a viable way forward; it is intended as a useful guide for action domestically as well as in concert across SADC member countries. Progressively extending social security to migrant workers in Southern Africa is not only feasible; it is imperative to ensure welfare and social cohesion across the region. However, it will only be achieved with political will to implement necessary legislative steps, administrative mechanisms and practical measures.

SASPEN in cooperation with the ILO and ISSA are well placed to take initiatives to facilitate the necessary review and dialogue, ensuring that social protection for all migrants in Southern Africa is a viable aspiration. The ultimate beneficiaries will be constituents, the SADC member countries, and ultimately Southern Africa's place in the world.

About SASPEN

The Southern African Social Protection Experts Network, SASPEN, is a not-for-profit loose alliance of stakeholders, scholars and consultants who engage with social protection in the SADC region. It promotes the fostering, expansion and improvement of social protection in SADC countries and engages in dissemination and sensitisation by providing platforms for exchange regarding social protection programmes, frameworks, research and consultancies and by creating network structures to link participants with each other and to relevant institutions. Activities of the network may include country workshops, international conferences, seminars, publications, joint research, dissemination of information.

The network aims to provide a basis for (i) sharing of experience and information based on research and in-depth knowledge of social protection issues, (ii) constructive debate, discourse, discussion and reflection among experts and with stakeholders and role-players, and (iii) rendering a range of services to support the promotion, development and implementation of social protection in SADC countries, with reference also to strengthening social protection floor initiatives – on a commissioned, requested or self-initiated basis.

The exchange and interaction within the network is guided by the principles of independence of individual participants, collaboration in network activities,

professionalism and objectivity. The network is not membership-based. There are two modes of possible involvement by individuals and institutions in the network, affiliation and registration. Both modes require participants to create a user account in the web-based network platform www.saspen.org/network. By so doing, participants become affiliates and are subscribed to the network's emailing list. Those who furthermore express willingness for active participation in network activities by filling out an expert profile qualify for the status of registered network participant. Registered participants make themselves visible to other registered network participants and in turn receive access to their profiles. They may thus also be visible to third party institutions in search of expertise or services.

Participation in the network is free and carries no responsibilities or financial rewards or entitlements. No contractual arrangements involving network participants (or facilitated through platforms provided by the network) will include the network but will be subject to individual parties who may link and/or engage through the network.

Affiliate yourself to the network online

www.saspen.org/network



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