



## Consultative and Training Workshop Employment Injury Protection in Southern and Eastern Africa Harare, Rainbow Towers Hotel, Oct 20-22, 2014

### Background

The provision of protection in the case of accidents or injuries and diseases originated at work<sup>1</sup> aims at meeting the needs of workers who are incapacitated by workplace injury or occupational disease, by way of appropriate and relevant medical care, and income replacement in case of disablement which may be assessed as temporary or permanent, partial or total, contingent benefits payable to their survivors (widow/er) on later death. In addition many, and an increasingly number of national schemes of employment injury provision in the world have a set of wider aims, in terms of returning workers to productive activity in a timely manner and of encouraging and maintaining optimum levels of health and safety in the workplace. These objectives can be achieved effectively only if there is a high level of integration of policies, not only between the various branches of social security schemes, but also with those relating to labour markets.

Many low-income countries continue to rely on the principle of employer's liability for organizing employment injury protection. While it is possible for such systems to meet the needs in reasonable measure, it is vital that there should be insurance underpin; yet many countries have weak systems of regulation and supervision of insurance. The problem that an individual employer's business may be undermined by the liability to pay multiple compensation claims in the event of a severe accident can be mitigated through insurance bought on the commercial markets, and some countries mandate that employers must maintain such insurance at an appropriate level. However, even where a scheme based on employers' liability is fully underwritten by (commercial) insurance, the outcomes, especially for those injured, may be greatly sub-optimal. Furthermore, where informality of employment prevails, there can be little confidence that these needs are insured for workers in any way. The simple need to process an insurance claim and obtain relevant information together with rigorous medical



Dangerous tasks are common in the construction workplace  
[Source: Wikipedia]

<sup>1</sup> The statutory provision was originally denominated "workmen's compensation", a name which later evolved to "workers' compensation", and eventually to "employment injury" protection. Different denominations persist in Southern and Eastern Africa.

assessments can mean that an accident victim may experience serious delays in obtaining treatment and benefits. In addition, an employer may exercise caution in advancing a claim if there is the likelihood of other legal implications. Many countries have found it advantageous to replace employer liability systems by schemes of social insurance, which in effect extend the no-fault principle to share the costs across society (or at least that part represented in the formal labour market) as a whole, through schemes of *social insurance*.

In Southern and Eastern Africa, four countries, namely Botswana, Lesotho, Malawi and Swaziland, still have employer liability schemes. Malawi and Swaziland require employers to purchase insurance; Malawi imposes no requirement as to how the employer meets the legal obligation to provide compensation; and Botswana allows employers to do so either by purchasing insurance or placing a deposit with the government. The conversion of several of these schemes to social insurance has been under discussion over the last two decades. On the contrary countries like Zambia, Namibia, South Africa, and Zimbabwe have now well established national social insurance based systems of employment injury.

### **Objectives and scope of the consultative and training workshop**

The workshop will focus on the following objectives:

- To fill the knowledge Gap on the situation of employment injury/compensation in the southern African region
- To assist policy makers in the process of reform in particular Botswana, Swaziland, Lesotho, Malawi, Ethiopia.
- To share information on the various approaches to employment injury protection including prevention and compensation frameworks applied by various countries within southern African region
- To promote learning from regional experience;
- To encourage cooperation within the southern African region in the structuring and delivery of employment injury benefits taking into account the constant labour migration
- To come up with recommendations for the reform and future development of employment injury schemes in Southern Africa.

### **Structure and contents**

- Overview of state of legislation and practice of workmen compensation in selected countries in southern and eastern africa
- Political economy of the design and implementation of existing employment injury funds (relation with private insurance industry at the onset of the funds, negotiations, place of social dialogue,...).
- Compensation of mine workers and migration, with a focus on the experience of these workers after returning home
- Continuum of care and support in the community, in particular medical care provision after compensation/ rehabilitation support.
- Rehabilitation /labour reintegration frameworks
- Links with non-contributory disability provision (particularly in South Africa and Namibia)
- Study tour



**Consultative and Training Workshop  
Employment Injury Protection  
in Southern and Eastern Africa  
Harare, Rainbow Towers Hotel, Oct 20-22, 2014**

**Monday, 20 October 2014**

**COMMITTEE ROOM 4A, 1ST FLOOR – HARARE INTERNATIONAL CONFERENCE CENTRE (HICC) ADJACENT TO RAINBOW TOWERS HOTEL,  
1 Pennefather Avenue, Samora Machel West, Harare. Telephone: 263-4-772633/9.**

8:00 – 8:30      Arrival and Registration

**Opening**

8:30 – 9:00

**Welcome Remarks**

Friedrich Ebert Stiftung

**Ms Brigitte Juchems**

Resident Director Zimbabwe

International Labour Organisation

**Dr Hopolang Phororo**

ILO Director Harare

Ministry of Public Service, Labour and  
Social Welfare

**Mr N. Masoka**

Permanent Secretary

**Employment Injury Protection in Eastern and Southern Africa**

9:00 – 10:00

**International trends on employment injury protection and scope of study in Southern and Eastern Africa**

**Mr Luis Frota**

ILO Pretoria

10:00 – 10:30

**Tea Break**

10:30 – 11:30

**Overview of State of Legislation and Practice of Workmen's Compensation in selected Countries in Southern and Eastern Africa**

**Prof Letlhokwa George Mpedi**

**Dr MAT Nyenti**

Centre for International Comparative Labour and Social Security Law, CIGLASS; University of Johannesburg

11:30 – 12:30

Discussion

12:30 – 14:00

**Lunch**

## Learning from Design and Implementation of Existing Employment Injury Funds

14:00 – 14:20	<b>Case of Namibia</b>	<b>Mr David Keendjele</b> GM Operations, Social Security Commission Namibia
14:20 – 14:40	<b>Case of Zimbabwe</b>	<b>Dr Henry Chikova</b> Director Benefits, Schemes Planning and Research, National Social Security Authority Zimbabwe
14:40 – 15:00	Discussion	
15:30 – 16:00	<b>Tea Break</b>	

## Prevention-Rehabilitation-Disability Support Continuum

16:00 – 16:20	<b>Compensation of Mine Workers and Migration, portability of benefits and the experience after returning home</b>	<b>Prof Letlhokwa George Mpedi</b> <b>Dr MAT Nyenti</b> Centre for International Comparative Labour and Social Security Law, CICLASS; University of Johannesburg
16:20 – 16:40	<b>The South African Disability Grant</b>	<b>Ms Jacqueline Moodley</b> Centre for Social Development Africa CSDA, University of Johannesburg
16:40 – 17:00	Discussion	

18:30 – 21:00 **Reception: Jacaranda Room 3, Mezanine 1 Floor, Rainbow Towers Hotel**

## Tuesday, 21 October 2014

### Prevention-Rehabilitation-Disability Support Continuum (continued)

8:30 – 8:50	<b>Continuum of Care and Support in the Community (medical care provision after compensation/rehabilitation support)</b>	<b>Mr Bitso Paul Bitso</b> University of Pretoria
8:50 – 9:10	<b>Rehabilitation and Accompanying of Mine Workers in their Home Countries</b>	<b>Ms Nobesuthu Motsepe</b> TEBA South Africa
9:10 – 9:20	<b>OHS Prevention – EI compensation links</b>	<b>Mr Franklin Muchiri</b> ILO Pretoria
9:20 – 10:00	Discussion	

## Study Tour to the National Social Security Authority Zimbabwe

10:00	<b>Bus Departure from Main Entrance</b>	
10:30 – 12:30	<b>Tour of the NSSA Head Office Film Presentation on the Rehabilitation Centre Bulawayo</b>	<b>Dr Henry Chikova</b> Director Benefits, Schemes Planning and Research, National Social Security Authority Zimbabwe
12:30	<b>Bus Departure from the NSSA</b>	
	<b>Lunch at Hotel</b>	
12:30 – 14:00		
14:00 – 15:30	<b>Field Visit Debriefing and Lessons for the Study on EI in Southern and Eastern Africa</b>	<b>Facilitator: Mr Luis Frota</b> ILO Pretoria
15:30 – 16:00	<b>Coffee Break</b>	
16:00 – 17:00	<b>Closing Discussion and Way Forward</b>	<b>Facilitator: Mr Luis Frota</b> ILO Pretoria
18:00	<b>Departure of all speakers and participants except those from Malawi</b>	

**Wednesday, 22 October 2014**

### Post-Workshop Consultations Malawi Social Partners and Zimbabwe NSSA

9:00 – 12:30	<b>Post-Workshop Consultations</b>
12:30 – 14:00	<b>Lunch</b>
14:00 – 17:00	<b>Consultations continued</b> <b>Change of Venue to NSSA</b>

**17:00 End of Programme.**

**Malawi – Zimbabwe Consultations continue at NSSA on Oct 23**

## **Annex**

### **List ILO's standards regarding employment injury**

Employment Injury protection is the subject of Part VI (Articles 31 to 38) of Convention 102 on Social Security Minimum Standards. Recommendation 202 on National Floors of Social Protection addresses this contingency in a less specific way, but paragraph 5 states that “ ... social protection floors should [guarantee] ... basic income security, at least at a nationally defined minimum level, for persons in active age who are unable to earn sufficient income, in particular in cases of sickness, unemployment, maternity and *disability* ....” C121 - Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) provides the most up to date standards regarding benefits and delivery of employment injury protection. The adequate coverage of specific contingency of industrial injury (including the suffering of an occupational disease) relies, essentially in fact, on the acceptance amongst the parties concerned of a specific set of principles, namely those of (a) “*no fault*” (a worker who is injured should qualify for benefits without any necessity to prove “*fault*” on behalf of the employer), (b) *collective sharing of liability*, and (c) *neutral governance* (at some specified level of administration of the scheme, meaning that the right to benefit can be established outside the contractual relationship between a worker and her/his employer).