



International  
Labour  
Organization



IOM  
UN MIGRATION



Funded by the  
European Union



UNHCR  
The UN Refugee Agency



UNODC  
United Nations Office on Drugs and Crime



**THE SOUTHERN  
AFRICAN**

MIGRATION MANAGEMENT  
PROJECT



**South Africa Dialogue on Labour and  
Mixed Migration Governance  
4-6 October 2022**

**Birchwood Hotel OR Tambo,  
Johannesburg**

*Draft Activity Report*

## 1. SADC-level Background

Progress has been made in fostering improved labour migration governance, notably at the SADC level with the adoption in 2014 of **SADC's Labour Migration Policy Framework**. The SADC Labour Migration Policy Framework provides an important sub-regional framework and mechanism for cooperation between SADC Member States in the development of national labour migration policies and the management of labour migration. The Framework called on all Member States to have a National Labour Migration Policy in place by 2020 while concrete actions were captured in the SADC Labour Migration Action Plan (2016-2019).

The Ministers of Employment of the Southern African Development Community (SADC) adopted a new **SADC Labour Migration Action Plan (LMAP) for the period 2020-2025** during their March 2020 meeting. The LMAP 2020-2025 has three inter-related strategic objectives as follows:

- i) Strategic Objective 1: To strengthen labour migration policies and regulatory systems for better labour migration governance including the following outputs:
  - Ratification and implementation of key global, continental and regional migration instruments promoted, including the SADC Protocol on Employment and Labour, 2014, and the SADC Protocol on Facilitation of Movement of Persons, 2005.
  - National policy frameworks that address labour migration, including in combination with other thematic areas, adopted and implemented in all SADC Member States.
  - Bilateral cooperation on labour migration strengthened.
  - Institutional mechanisms (including the Secretariat) strengthened.
- ii) Strategic Objective 2: To protect migrant workers' rights and improve advocacy and awareness of their contribution to development and regional integration comprising the following targeted outputs:
  - Core labour standards and those relating to labour migration ratified and implemented, through responsive legislation and practice
  - Fair and ethical recruitment initiatives implemented.
  - Labour migration knowledge products, including statistical reports and research papers, produced and disseminated.
- iii) Strategic Objective 3: To enhance participation of migrant workers in socio-economic development processes in both receiving and sending countries that encompasses the following outputs:
  - Mechanisms for remittance transfers improved.
  - Social protection for migrant workers is enhanced.
  - SADC Qualifications Framework promoted.

The Labour Migration Action Plan (2020-2025) re-emphasizes the call for all Member States to develop comprehensive national labour migration policies and while no specific timeline is attached, it is assumed that it has to be done within the framework of the LMAP and 2025 would be the target year. Indeed, the most recent LMAP calls

to 1.2.1 “Undertake a scoping study of existing labour migration policies and laws within SADC Member States to assess their compatibility with regional efforts on migration governance”; and “1.2.3. “Develop rights based, gender sensitive national labour migration policies / instruments in at least 10 Member States.

To date, only four Member States (Lesotho, Namibia, Seychelles and Zimbabwe) have comprehensive national labour migration policies, whereas another four Member States are at various stages of development: Botswana, Eswatini, Malawi, and South Africa. At the same time, five additional SADC Member States (Comoros, the DRC, Madagascar, Mozambique and Zambia) recently expressed their interest to develop a labour migration policy.

The **SADC Employment and Labour Policy Framework (2020-2030)** was adopted in April, 2021. It was developed to guide Member States on key priorities for addressing decent work deficits. Labour Migration is one of its five Key intervention areas and is reflected in Strategic objective 5: To enhance labour migration governance for safe, orderly and regular labour migration. Strategic objective 5 seeks to improve labour migration governance for safe, orderly and regular migration, through a whole of government/whole of society approach to effectively leverage labour mobility as a development enabler.

The SADC Employment and Labour Policy Framework (2020-2030) recalls that the expedited removal of obstacles to the free movement of goods and services, and of people in general, will be a key milestone in the process of regional integration in SADC and that the SADC Labour Migration Action Plan (2020-2025) has been adopted to enhance the contribution of labour migration to regional cooperation and integration in the region. To achieve its objectives, it prioritises the following:

1. Promoting and monitoring the ratification and domestication of key global and regional migration instruments, including core ILO conventions, through responsive legislation and practice;
2. Developing national policy frameworks that address labour migration, taking into consideration the need to leverage migration as a development enabler and thus requiring a whole of government/societal approach to achieve and maximize the gains from well managed gender-responsive labour mobility;
3. Strengthening bilateral and multilateral cooperation on labour migration to leverage the development potential of labour migrants throughout the mobility continuum, while preventing and mitigating exploitative migrant labour practices, including through fair and ethical recruitment initiatives;
4. Producing and disseminating labour migration knowledge products, utilising digital technologies, to enhance broad understanding of labour migration’s role in development, including aspects of social cohesion and integration/reintegration; and,

5. Implementing the SADC Guidelines on Portability of Social Security Benefits, including enhancing mechanisms for remittance transfers in cooperation with finance sector, together with other state and non-state actors.

## **2. South Africa's draft Labour Migration Policy**

In 2016, the then Department of Labour in South Africa formalised its Road Map for the development of a National Labour Migration Policy (NLMP), and this process resulted in the release of a draft NLMP for public comments in February 2022. The NLMP aims to equip South Africa with a technically sound policy instrument, which will strengthen the country's approach to labour migration, and contribute to the socio-economic agenda. The NLMP would also help turnaround time and streamline work visa processes; assist in revisiting and clarification of 60/40 ratio (for business visas); implementation of the skills transfer plan; improve collaboration domestically and externally. In developing the draft policy, South Africa focused on the African Union and SADC protocols; various international agreements such as Convention 97 and Convention 143, the Sustainable Development Goals, the Constitution and Employment Services Act (to be amended in line with the NLMP).

## **3. Objectives of the Dialogue**

The objectives of this Tripartite Dialogue on Labour and Mixed Migration Governance are to:

- Explain the SAMM project activities and how they relate to South Africa's ongoing work as well as challenges and opportunities on labour and mixed migration governance;
- Take stock and learn about ongoing progress in the formulation of South Africa's draft labour migration policy and discuss its implementation plan;
- Identify together a 2022-2023 Roadmap on labour and mixed migration priorities that the SAMM project could support; and lastly,
- Identify national focal points responsible for each of the thematic areas covered by the SAMM project in order to facilitate follow-up.

## **4. Description of Participants**

Participants should have knowledge on migration issues prevailing in the country in order to contribute effectively to the discussions.

Participants will be tripartite in nature ((Ministry of Employment and Labour representatives and at least 5 representatives (each) of the most representative groups of Workers' and Employers' organisations)). The Dialogue will also include two representatives from the National Statistical Office as well as one representative of the following labour market institutions:

- a) Labour Inspection Service;
- b) Labour Market Observatory;
- c) Social Security Institute;
- d) Public Employment Service;
- e) Vocational Training Institute;
- f) Occupational Safety and Health Service;
- g) Working Conditions Service;
- h) Skills Recognition/Recognition of prior learning Agencies;
- i) Anti-discrimination and Labour Market Integration Agencies;
- j) Freedom of Association and Collective Bargaining Bodies.

In addition, at least one representative from each of the other Ministries working on migration and refugee issues (DHA, DFA, DHET) will be also invited to be part of the Dialogue. For those countries that count with an Inter-Ministerial Committee on Migration, this will mean a representative from each of the members of the Committee.



## 5. Brief Description of the Sessions and Summary of Main Discussion Points, Conclusions and Recommendations

### Dialogue on Labour Migration Governance

*Moderator 1st day: Mr. Morotoba, DDG,  
Department of Employment and Labour of South Africa*

#### Opening Session

##### **Opening Remarks- Mr. Joni Musabayana, Director Decent Work Team for Eastern and Southern Africa, ILO**

Upon welcoming everyone to the Dialogue, Mr. Musabayana noted that the SAMM project is guided by, and contributing to the realisation of SDG Target 8.8 “Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment”. The project also significantly contributes to SDG Target 10.7: Facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies.

He noted that in this ambitious project, four UN agencies were working together to improve migration management, which is considered as one of the most pressing issues of our day. The International Labour Organization was leading and coordinating the project and was very pleased to be working closely together with other UN partners - IOM, UNHCR and UNODC- with our funding partner, the European Commission; and covering work in the 16 SADC member States.

He recalled that Labour migration is a cornerstone of the economic development of the African continent, and a key feature of movements in Africa and particularly of the Southern African Development Community region. Furthermore, he reminded that SADC’s Member States have made strides in the promotion of safe, orderly and regular labour migration by adopting the 2020-2025 SADC Labour Migration Action Plan. He concluded by hoping that the Country level Dialogue on Labour and Mixed Migration Governance would contribute to policy responses that ensured that labour and mixed migration governance in South Africa was safe, orderly and regular for women and men migrants, and that its potential to enable tripartite constituents to achieve fair and effective migration governance is maximised.

##### **Messages of support- Mr. Ashraf El Nour, Regional Director for Southern Africa, IOM**

Mr. Ashraf El Nour, reaffirmed the support of IOM to South African Government through IOMs Regional Strategy, to respond to current migration challenges and newly emerging issues. He noted that there were three major issues that have emerged and will need the attention of the government, these were: (i) well managed migration leads to better regional integration and national development for both countries of origin and destination. Migration leads to the development of a single labour market for the region; (ii) there has been an increase in the level of mixed migration with in the region and also the number of forced displacement; and, (iii) migration with the region in highly interregional (representing more 70% of total migration within the region and migration to South Africa accounting for about 45%).

It is within such a context that the promotion of well managed migration becomes key to ensure that it contributes to the achievement of the Sustainable Development Agenda, and to better support Member States, migrant populations, and communities through collaborative approaches including whole-of-government and whole-of-society approaches. Thus, through a number of priority areas covering migration governance, mobility and national and regional dialogues.

### **Messages of support- Mr. Raul De Luzenberger, Deputy Ambassador and Head of Delegation of the European Union in South Africa, EU**

Mr. Raul De Luzenberger, mentioned that the EU was a staunch supporter of multilateralism and a loyal partner to the United Nations, hence ready to support the promotion of safe, orderly and regular migration. He went on to mentioned that it was important to have this type of dialogues before a crisis and put the right policies in place before it is too late. Such dialogues were important in that they fostered an open and frank multi-stakeholder dialogue on migration policy issues.

He noted that the EU's migration policy was human rights based. This was primarily translated in its commitment in favor of persons in need of international protection and internally displaced persons, as well as in addressing the root causes of forced displacement. Beyond this, the EU was committed to assist and protect all migrants, with a focus on the most vulnerable. This is and remains a key part of the EU's migration policy.

Mr. Raul De Luzenberger, underscored the need for regional policy approaches and coordination for the harmonisation of labour and migration policies, including on policy issues such as recognition of professional qualifications, social security coverage and portability of benefits. And this is precisely what the European Union promotes through the implementation of the SAMM Project.

### **Key Note Address - Ms. Boitumelo Moloi, Deputy Minister of Employment and Labour, South Africa**

Ms. Boitumelo Moloi, highlighted that migration cannot be stopped but need to be regulated to ensure that it did benefit both the countries of origin and destination. She noted that the South African government supported safe, orderly and regular migration in line with the international instruments. In terms of the national labour legislation, it was noted that the labour laws in the country were non-discriminatory and covered all workers including migrant workers. She also mentioned the need to address the violation of rights of migrant workers by employers; and the need to address unemployment challenges in the country as well as regulate the employment of migrants in the country. Due to this the Department is now carrying out inspections and arresting employers employing vulnerable undocumented migrant workers, and violating the laws of the country and violating the rights of these workers.

The Deputy Minister noted that the South African government was in support of regional initiatives from SADC that promote the free movement of persons and has being implementing the decisions made by the Ministers to develop national labour migration policies. She recalled the process of the formulation of the draft National Labour Migration Policy, which started in: (a) 2015 with a high level seminar on labour migration; (b) 2016- establishment of a taskforce to develop an inclusive roadmap on the development of the national labour migration policy; (c) 2017- development process of the of the national labour



migration policy; (d) 2022 (October/November), submission of the draft policy to NEDLAC, then Cabinet and then Parliament for adoption.

She noted that in 2020 the President established an Inter-Ministerial Committee on international migration, which is led by 12 ministers, and co-chaired by the Minister of Labour and Employment, and the Minister of Home Affairs. The Committee was established to address challenges with labour migration and promote safe, orderly and regular migration. She went on to wish the Dialogue fruitful deliberations and officially opened the Dialogue.

## Presentations and Discussions

### ***The SADC Employment and Labour Policy Framework (Strategic Objective no. 5) and The SADC Labour Migration Policy Framework and Action Plan- Mr. Theo Sparreboom, Labour Migration Specialist ILO***

Mr. Sparreboom, introduced the broad objective of the SADC Labour Migration Action Plan (2020-2025) which is to enhance the contribution of labour migration to regional cooperation and integration in SADC. He also mentioned that the SADC Technical Committee on Labour Migration is operationalized and meets at least once a year to drive its implementation. He recalled that to date, four Member States (Lesotho, Namibia, Seychelles and Zimbabwe) have comprehensive national labour migration policies, whereas other three Member States are at various stages of development: Eswatini, Malawi, and South Africa.

At the same time, seven additional SADC Member States (three French-speaking: Comoros, the Democratic Republic of Congo, Madagascar); one Portuguese-speaking: Mozambique; and three English-speaking (Botswana, Tanzania and Zambia) recently expressed their interest to develop either a labour migration policy or strategy. Mr. Theo Sparreboom mentioned that the SADC Employment and Labour Policy Framework (2020-2030) was adopted in April 2021 to guide Member States on key priorities for addressing decent work deficits. Labour Migration is one of its five Key intervention areas and is reflected in Strategic objective 5 *“To enhance labour migration governance for safe, orderly and regular labour migration through a whole of government approach to effectively leverage labour mobility as a development enabler”*.

### **KPA1: International Labour Standards on the Protection of Migrant Workers (C. 97, C. 143, C. 181, C. 189)-**

#### **Ms. Amanda Mejia Canadas, International Labour Standards Specialist ILO**

Ms. Amanda Mejia Cañadas, noted that international Labour standards are an atypical body of standards with a pioneering supervisory system. She noted that the ILS, provide: (a) “Rules of the game” through international tripartite dialogue; (b) Application is supervised by means of: Periodic reports and Proceedings upon request; and, (c) Supervision entails two types of assessments: Technical, and Tripartite.

She went on to present the two specific standards on the protection of migrant workers: the Migration for Employment Convention (Revised), 1949 (No. 97) and the

Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143). She also recollected three other ILO Conventions that are of particular relevance to labour migration issues: the Private Employment Agencies Convention, 1997 (No. 181); the Domestic Workers Convention, 2011 (No. 189); and the Violence and Harassment Convention, 2019 (No. 190).

**Mr. Thembinkosi Mkalipi, Department of Employment and Labour**

Mr Thembinkosi Mkalipi, noted that currently South Africa has a range of legislative instruments, human rights, immigration and labour legislation, which regulate the flow of migrant workers into the country, protect workers' fundamental and labour rights and determine the scope of their access to state services in health, education, housing, etc. South African labour legislation by and large aligns to international labour standards and meets the country's international obligations.

He noted that South Africa has ratified all ILO fundamental conventions, as well as some of the technical conventions which are indirectly relevant to migrant workers, such as: Convention 189 on Domestic Workers. South Africa was however noted that it has not yet ratified the two ILO instruments: Convention 097-Migration for Employment Convention (Revised), 1949 (No.97) and Convention 143-Migrant Workers (Supplementary Provisions) Convention, 1975 (No.143), nor had it ratified another important technical instruments in relation with migrant workers Convention 181- (Private Employment Agencies Convention, 1997 (No.181).

Mr Mkalipi, highlighted that while South Africa had not ratified all of the key international conventions relating to migrant workers, the Country's national legislation, including the constitutional framework, was based on the principle of equality of treatment. The South African Constitution contains important provisions regarding the role and importance of international law. Furthermore, when interpreting fundamental rights contained in the Bill of Rights, tribunals and forums have to consider international law-which, according to the Constitutional Court, includes both binding and non-binding international law (Section 39(1)(b)).

**KPA2. Draft National Labour Migration Policy of South Africa-**

**Prof. Marius Olivier, consultant ILO and Department of Employment and Labour-**

Professor Olivier, presented South Africa's draft Labour Migration Policy and a summary and analysis of the 600 comments and recommendations received during the period March to July 2022 when the draft policy was released for public comments. He mentioned that some of the key comments included: the need for evidence-based data to ensure the monitoring and evaluation of the National Labour Migration Policy. He mentioned that the policy is aligned to global, AU and SADC-level policy frameworks. He noted that the NLMP followed a rights-based approach to the protection of all workers employed in South Africa and the protection of South African workers abroad as defined in South Africa's international obligations, regional and SADC commitments, as well as obligations under its Constitution and national labour legislation which is guided by the principle of equality of treatment, in addition to other legal and policy frameworks.

It was noted that the NLMP aimed to address current policy gaps identified in the Labour Migration Assessment (LMA) and throughout the policy development process. It does so in four interrelated Key Areas of Intervention (KAI): KAI 1. Labour migration governance and management; KAI 2. Data for evidence-based policy monitoring and evaluation; KAI 3. Labour migration to South Africa; and, KAI 4. Labour migration from South Africa

In terms of the section on Labour migration to South Africa, he mentioned the need to ensure skills transfers between migrant and national workers, but also to attract and retain requisite skills. Some comments referred to the need to improve the Critical Skills Lists and to improve the criteria to better define the quota regime as well as the need to ensure the social protection of migrant workers. He concluded by mentioning that the draft labour migration policy is being revised.

**Comments by Employers' Representatives Ms. Beverley Jack, Employers' representative**

Ms. Beverley Jack, noted that the draft NLMP is the first comprehensive national policy being proposed on labour migration in South Africa. This is welcomed. However, a significant policy of this nature (and the first of its kind in South Africa) should not be considered for implementation where there is a lack of credible labour market data. In addition, before any finalisation/ implementation of a policy of this nature, there must be certainty (across national, provincial and local government and regulatory authorities) that it can be enforced.

The limited data available provides a very weak signal of skills demands in the country (e.g. Skills Shortage Lists), and the proposal to consider introduction of quotas should be suspended until such time as there can be evidence-based decision-making, which includes effective monitoring of skills availability in the country for highly, semi and low-skilled workers. The scope for negative consequences for South Africa if the NLMP (in its current form) is implemented are far too great. Business is fully committed to ongoing deliberations to develop a fit for purpose policy.

**Comments by Workers' Representatives- Ms. Zingiswa Losi, President of COSATU**

Ms. Zingiswa Losi, mentioned that the regularization of undocumented migrants should be made possible in South Africa on a case by case basis. She noted that it was important not to criminalize irregular migration. She stated that regularization should take place in a transparent manner without criminalizing migrant workers in an irregular situation and their employers willing to regularize their situation. This should be done in line with the Global Compact on Safe, Orderly and Regular Migration.

The President of COSATU mentioned that COSATU formulated a Labour Migration Policy/Position that states that xenophobia in all its forms must be condemned. She also called for the creation of a migration information system. COSATU called for a quota system that is well regulated and mentioned that the draft NLMP should allow for the transfer of skills needed in South Africa's economy. In addition, she suggested that South Africa should lead by example in ensuring fair and ethical recruitment processes and promote the protection of the rights of migrant workers especially, women migrant workers.

**Comments by Community - Ms. Conti Magdeline Matlakala**

Ms. Conti Magdeline Matlakala representing the Community constituency raised the issue of the large concentration of migrant workers in the informal economy and the need to find a solution to their formalization. She specifically referred to trade cross-border migrant workers. She added mention of the need to improve the inspection of workers' conditions of employment. She also recalled that the imposition of quotas has to be informed by comprehensive statistical evidence with regard to each work sector in the informal economy."

### Discussions

The discussion on the presentation focused on, the need:

- a. for specific policies for cross boarder traders;
- b. to include trade union and the communities in the development and establishment of BLMA;
- c. developing a database on labour migration;
- d. establishment of an evidence-based quota system; and,
- e. implementation of the GCM in addressing irregular migration.

*Moderator 2nd day: Ms. Beverley Jack, Employers' representative*

#### **KPA4. Bilateral Labour Migration Agreements (BLMAs)**

**Mr. Jason Theede, Senior Specialist Labour Mobility & Social Inclusion, IOM**

Mr. Theede's presentation provided an overview of cooperation frameworks in facilitating regular labour mobility pathways, with specific emphasis on BLMAs and MOUs that are most relevant to the RSA context. Their benefits and challenges were discussed along with the elements to be contained in BLMA. Finally, examples of tools, assessments and guidelines from the IOM and ILO were shared. The challenges faced in the implementation of the BLMAs included: (i) Lack of effective data collection, analysis, reporting and exchange systems; (ii) Lack of inter-institutional coordination mechanisms and inter-state/cross border cooperation; (iii) Non-portability of social protection and social security for migrant workers; (iv) Need to increase capacity to develop and implement contextually relevant labour migration policies and programmes; (v) Employment relations and conditions of work are not in line with regional and international standards; and (vi) Unmanageable increase in SADC intra-regional migration and movement by RECs towards free movement regimes.

In conclusion, Mr. Theede noted that:

- International cooperation is very important for comprehensive and effective labour migration management
- In the absence of a global regime for international labour migration, BLMAs are an important mechanism for inter-State cooperation in protecting migrant workers, matching labour demand and supply, managing irregular migration, and regulating recruitment
- There are strengths and limitations inherent in all mechanisms, including BLMAs, so you must adapt them to suit your local context based on what's useful
- The BLMA/MOU should not be burdensome; but, it is essential that the proper protections and rights of the workers are included, along with an agreement to implement action within all phases of the migration process, inclusive of reintegration.

**Mr. Sipho Ndebele, Department of Employment and Labour**

Mr Ndebele noted that labour migration agreements in South Africa date back to the 1960s and were introduced to meet the labour needs of the South African mining and agricultural sectors. He informed the dialogue that pre-democracy, RSA signed Labour Bilateral Agreements with Botswana 1973, Lesotho 1973, Malawi 1967, Mozambique 1964 and Swaziland 1975.

It was noted that Post-democracy, the migrant labour system began to disintegrate as a result of massive job losses and temporary schemes in the mines. The existing BLA became obsolete and circular migration schemes emerged (short term contracts). The existing BLMAs were no longer politically and economically relevant for RSA. South African Labour laws have evolved over time, therefore, these instruments are no longer aligned with the current legislation and policies. Thus, South Africa envisaged moving from binding legal instruments to country specific non-binding agreements covering a broad range of issues.

He noted South Africa was faced with three main challenges that continue to plague the nation poverty, unemployment, and inequality, hence its bilateral agreements had to respond to national priorities and policies and had to be demand driven with reference to scarce skills. It was highlighted that Post 1994, RSA signed MoUs with the following countries:

- Lesotho 2013- This MoU covers Public Employment Services, Social Security, Compensation Fund, Mediation and Arbitration, Inspection and Enforcement Services, and Labour Migrations;
- Mozambique - This MoU covers the labour market and focuses mainly on the following areas dialogue on the employment of Mozambican nationals on South African Farms Exchange of information regarding CF and UIF PES Labour Inspections and Social Dialogue;
- Namibia 2014 - The key focus was on areas such as Dispute resolution mechanisms and institutions, Social dialogue, Productivity promotion Labour inspections and investigations, Labour law reform, Minimum wage setting and its implementation and Monitoring, Unemployment insurance fund benefits in the case of interstate movement;
- Zambia 2016 - This MoU covers labour relations, social dialogue, labour market, occupational health and safety, HIV and AIDS and wellness in the workplace, and International Cooperation; and,
- Zimbabwe 2017 - The MoU focuses on Social Dialogue, Occupational Health and Safety, Labour Law reform, and Social Security.

#### *Discussions*

- Access to UIF by migrant workers- it was noted that the UIF system was now integrated into the Department of Home Affairs system, hence migrant workers need to only to visit the Department of Labour and employment to access their UIF benefits.
- Establishment of BLMA for countries where SA migrants are going – it was noted that the Draft NLMP also had a Pillar on Migration from South Africa, hence also spoke to the need to protect South Africans that had migrated for work in other countries\ . It was also noted that the government would engage with the other States to establish BLMA to protect the rights of migrant workers in those countries.
- Review and establishment of new MoUs- it was noted that there was limited political will by other countries to engage in the processes of developing new MoU, cases in point Eswatini and Namibia.

#### **KPA4: Social protection for migrant workers and the implementation of the SADC Guidelines on Portability of social security benefits**

**Mr. Andrew Allieu, Social Security Specialist, ILO**

Mr Allieu started with sharing results of an anonymous SLIDO perception survey on social security rights and coverage of migrant workers – to highlight the core barriers migrants face in accessing social security. An overview of migration trends and patterns in Africa, focusing on subregional patterns, showed South Africa as a major receiving country but also a significant number of South Africans leaving abroad across SADC countries – underscoring



the need for social protection for migrant workers. The normative and policy framework for extension of social protection to migrants and their families and existing bilateral and multilateral social security agreements involving African countries, and on-going and planned studies on the functioning of these agreements was highlighted.

The SADC Guidelines on Portability of Social Security - the sub-regional framework for social protection for migrant workers, adopted by SADC Ministers in March 2020 was presented, underscoring that South Africa was one of five countries that volunteered to pilot the Guidelines. The presentation on the Guidelines included the negotiation process, objectives, scope of application and core principles and elements. The presentation concluded with an overview of support the SAMM project is providing countries (including South Africa) on implementation of the Guidelines. The key areas of support include unpacking the Guidelines, identifying country priorities and developing related Action Plans, regional and country level dialogues, awareness and communications and capacity building.

**Mr. Teboho Maruping, Department of Employment and Labour**

Mr Maruping informed the Dialogue that the UIF provides social security to its contributors in line with Section 27 (1) (c) of the National Constitution which states that “*everyone has the right to have access to social security...*” He noted that amendment of the UIF Act (2001), saw the inclusion of previously excluded workers, and this included, foreign nationals/ workers who contribute to the Fund.

The UI benefits do not discriminate on the basis of country of origin. Contributing foreign nationals including contributing irregular migrants are eligible for the benefits enjoyed by locals, this included access to:

- *Unemployment benefits:* Includes Foreign Nationals- Paid to contributors to compensate for loss of income when a contract service has been terminated by the employer.
- *In-service benefits:* Maternity, illness, adoption -Paid to contributors including foreign nationals during maternity, illness or undergoing an adoption of a child
- *Death benefits:* Dependent benefit- Are paid to eligible dependents of a contributor including foreign national contributor who is deceased

The following challenges were noted:

- i. Credibility of identification;
- ii. Challenges with authentication of provided identification. Integration of identification systems or intercountry collaboration required to enable authentication;
- iii. Conflict between the right to have access to social security versus compliance with immigration laws;
- iv. Dealing with Dependents benefits is complicated as claimants’ credential are difficult to authenticate; and,
- v. Employers not complying with laws or conditions relating to the employment of foreign nationals not bothered by the exclusion of foreign nationals from social insurance.

Discussions

- Access to benefits by surviving beneficiaries – it was noted that the government had put in place a form that who enable contributing workers to advise on who will be able

to access the benefits upon the death of the contributing member. The challenge existed in the activation of the payment of the benefits as it still required the employer to inform the Department on the death of the worker.

- The absence of an inter-operable database- it was noted that the establishment of a central database was mission critical, as this would allow the smoother implement of the social security scheme and enable easier access to the benefits by the beneficiaries.

## **Results of OECD-ILO project on Economic contribution of migrant workers to development-**

### **Mr. Theo Sparreboom, ILO**

Mr Sparreboom's presentation focused on the economic contribution of migrant workers. The presentation highlighted the results of a study undertaken by ILO and OECD in ten low- and middle income countries, which included four African countries (Côte d'Ivoire, Ghana, Rwanda and South Africa). The study covered (a) the economic contribution of migrant worker in terms of GDP per capita; (b) the labour market effects of migration (employment, unemployment); and (c) the fiscal effects of migrant work, in other words the effects of migration on public finance. The presentation demonstrated the generally favourable effects of migrant work in South Africa, in particular in terms of job creating effects of groups of migrant workers and the overall positive fiscal effects.

The presentation highlighted the need for more and better data and analysis to inform discussions of migration particularly in the media, and in accordance with the recommended actions in the context of the SADC LMAP and the GCM. In South Africa, it was highlighted that the latest population census and QLFS data could be used to update (and possibly extent) the ILO/OECD study on the economic contribution of migrant work. Much of the ensuing discussion also centred on the need for improved data and analysis of migrant work in the South African context.

**Advocate Mr. Maemo Machete, Responsible Migration Legislation, Policy and Research; Office of the Deputy Director, Directorate General Immigration Service**

Advocate Machete highlighted that in the use of the GCM it is important to look at the document in its totality and ensure that the principles set in the document are met. He went on to note that one of the key issues of the GCM is the need for a 360 degrees' view, meaning the need to take care of your citizens in the migration cycle. Thus, a country has to document its citizen. South African has (in 2017) adopted a White Paper on International Migration, which recognizes the importance of migration in national development and regional/continental integration.

It was highlighted that the White Paper acknowledges that the issue of migration should be looked at from a Whole-Government and Whole-Society Approach and not in isolation or left to one department or organization. He noted that from 2010 up-to-date the RSA was overwhelmed by economic migrants, this saw the country developing a regularization programmes and this became known as special dispensations, (Zimbabwe, Lesotho and Angola). This led to the regularization of 197,000 Zimbabweans, 94,000 Basotho nationals, and 1,700 Angola citizens. He noted

that migration should not be forced (by any situation) but should be by choice, thus, nations need to address inequality, poverty and unemployment.

### ***Discussions***

The discussions noted the importance of labour migration data, as this enable planning and decision making. It was also noted that data would make it more feasible to undertake assessment of the impact of labour migration on economic development and integration,

### **KPA5: Fair and ethical recruitment of migrant workers and the Monitoring of Private Employment Agencies -**

**Mr. Jason Theede, IOM +**

The presentation indicated that forced labour is on the rise globally, inclusive of Africa and within SADC region. Common risks during recruitment and employment along with the recognition of the complex process of global supply chains and the risks to business if such practices are found within their supply chains. Finally, mention was made to the international legal framework and initiatives on recruitment along with IOM and ILO initiatives to work with partners to promote fair and ethical recruitment.

It was noted that in terms of strategies to regulate/monitor private employment agencies, policy makers and administrators have to make many important decisions in the regulation and supervision of recruitment:

- Who are allowed to recruit and in what area or region?;
- What is the limit to fees collected from workers, if any?;
- What are their responsibilities toward the recruits?;
- What practices must they avoid and penalties must they pay if they are found violating the rules?;
- How should they advertise job vacancies?

It was also highlighted that the IOM, had developed IRIS, a social compliance scheme that is designed to promote ethical international labour recruitment. IRIS works in three ways to identify and support ethical international labour recruiters. IRIS is a due diligence tool for businesses, governments and workers. The goal of IRIS is to transform the international recruitment industry by:

- ✓ Promoting the Employer Pays Principle;
- ✓ Promoting greater transparency within international recruitment; and,
- ✓ Promoting the rights of migrant workers.

**Mr. Martin Ratshivhanda Director PES Department of Labour and Employment (DEL)**

Mr. Ratshivhanda noted that the objective of the Department is to create a well-regulated labour market to avoid unfair, abusive and exploitative tendencies. He highlighted that private employment agencies should employ their services for free, including a registration and certification process. Furthermore, the Acts that enable fair recruitment: Since 1981, the Guidance and Placement Act, replaced by the Skills Development Activity, then replaced by the Employment Services Act 2014.

He noted that the Department affirms that there needs to be monitoring of the regulations of private recruitment agencies, as there were still unscrupulous recruitment agencies which the Department is tackling. There is still no mechanism for employment agencies who assist South Africans to work in other countries.

**Ms. Beverly Jacks and Nathalie Singer, Confederation of Associations in the Private Employment Sector (CAPES)**

Established in 2002, when the need for a unified voice for the South African staffing industry became apparent, the Confederation of Associations in the Private Employment Sector (CAPES) serves as the lobbying organization for the four primary staffing associations. The objectives of CAPES are to: (a) Lobbying & Advocacy; (b) Capacity building; (c) Professionalisation; (d) Compliance & Best practice; (e) Thought Leadership; and (f) Profiling the Industry.

It was highlighted that CAPES supports the mechanisms on fair recruitment standards, such as IRIS and the GCM. CAPES was committed to the professionalization of the private employment agency industry in South Africa. All members are required to operate in strict accordance with legislation and to ensure the highest levels of professional conduct, ethics and best practice.

### **Discussions**

- What are steps of regulating independent contracts, to avoid disadvantaging workers who are desperate for work, especially with regards to contracts vs independent contractors.
  - The Act makes provision for this, but private contractors have to abide by it.
- The legislation in South Africa has the South Africa market in mind, but nothing for South Africans working abroad. Timeframe for when this will be considered?
  - DEL policy provision refers to migration INTO South Africa which calls for the Ministry to regulate this aspect.
  - There are still un-registered agencies working on Temporary Employment, leading to destitution in foreign countries.
  - There is a need to work through formal channels to avoid this.
- When did Capes introduce reference to migrant workers? What triggered this?
  - Works with ILO and IOM to ensure best practice.
  - Works in a global market who works with countries who expand into South Africa.
  - There needs to be robust mechanisms to create a Labour Market Information System.

### **KPA6: Skills Recognition of Migrant workers and the role of South Africa's Qualification Authority (SAQA) -**

**Ms. Alice Vozza, Skills Specialist, ILO**

it was highlighted that the link between labour migration and skill development, could be explored in the following manner; (i) the lack of employment opportunities in countries of origin, would see skilled people moving to other countries; (ii) there was underutilization of migrants' skills in countries of destination; and, (iii) there may exist be weak skills system and policies which does not allow for the recognition and utilisation of the skills in the country held or provided by migrant workers.

It was noted that there was need for policies, initiatives and frameworks that look at Skills Anticipation, Skills Recognition, Skills Partnership, and, Skills Development within the country and this was key in the nation moving progressively towards achieving decent work. The process of skills development should be tripartite and should have all the social partners fully and effectively participating in the process. The recognition of prior learning was also key in ensuring decent work for migrant workers.

It was highlighted that the key priorities for capacity building under the SADC Study on Skills Recognition were:

- ✓ Data gathering and analysis;
- ✓ High-level coordination with regard to skills development and migration systems;
- ✓ Qualification recognition for the purpose of employment systems for migrants with high levels of qualifications and skills need to be streamlined; and,
- ✓ There is a need for an understanding of how best to recognize the qualifications and skills of migrants with lower levels of skills e.g. need to provide job seeker support to migrants, RPL mechanisms, among others.

**Dr. Magasela, Executive Director of Clermont Analytics**

Dr. Magasela noted that competencies, skills and qualifications have to be recognised. A national qualifications framework of a country established through legislation, adopted and applied, acts as the foundation and basis for the recognition of qualifications of citizens and IM. South Africa was a leader in NQF development and systems for recognition of qualifications of foreign nationals including IM.

He noted that the RSA had MRQ agreements with, inter alia, Russia, China, Brazil, India, Malaysia, Palestine, Cuba, and France and each of these MRQ agreements is underpinned by principles of trust, credibility and simplification of processes and systems. Engineering Council of South Africa was a statutory body is a signatory to 3 agreements on MRQ -Washington Accord, Sydney Accord and Dublin Accord—globally, countries have banded together to ease the recognition of standards and qualifications.

*Moderator 3rd day (morning): Ms. Conti Magdeline Matlakala, Community constituency's representative*

### **KPA7: Labour Migration Statistics**

**Mr. Jesse Mertens, Labour Migration Statistics Expert, ILO**

The ILO provides guidance on labour migration statistics as part of its broader Labour Statistics agenda. The Guidelines concerning statistics of international labour migration was endorsed by the International Conference of Labour Statisticians (ICLS) in 2018, and set forth the objectives, scope, definition, and measurement in order to promote international comparability of statistics on international labour migration. It focuses on identifying those foreign workers (or work seekers) with some form of labour market attachment in the country of measurement, regardless of presence in the country. Data on international migrant workers is primarily collected through Labour Force Surveys (LFS), which is also the main source behind indicators of the labour market.

ILO provides technical support on the use and implementation of core survey questionnaires as well as special modules, such as on skills mismatch or labour migration. The SAMM project promotes the harmonization of labour migration statistics at national and regional levels in Southern Africa and the Indian Ocean through technical capacity building to integrate a labour migration module in national surveys and censuses as well as collating harmonized data at the regional level through the SADC Labour Market Observatory (LMO), starting with a specific set of minimum labour migration indicators. In South Africa, SAMM is also supporting a pilot study of the SDG indicator 10.7.1, in order to collect data on recruitment costs to migrant workers as a share of their income earned abroad.

**Mr. Diego Iturralde, Chief Director, Demography, Stats SA + Itani Ntsieni, Migration Statistics Directorate, SA**

Ms. Ntsieni noted that for the coordination of labour migration data analysis for NLMP monitoring and evaluation, the Migration Forum for South Africa was launched during a National Migration and Urbanisation Conference in 2021. The Forum was coordinated by Statistics South Africa in collaboration with the National Population Unit within the Department of Social Development and supported by SA Cabinet as a structure that looks into data and research related to migration dynamics and its governance. The Forum was open to government entities, academia, NGOs as well as international organisations that produces and or make use of migration data. She informed the Dialogue that the draft NLMP has been presented at the Forum.

She went on to highlight that labour migration data scattered across a range of departments and agencies, among others Statistics SA, South African Qualifications Authority (SAQA), several government departments and research institutions). There was no Labour Market Information System yet operating in South Africa to which labour migration data, planning and strategies can be linked. Ms. Ntsieni noted that there currently was no institution or organisation undertaking to collect and analyse existing labour migration data on a regular basis: Introduction of an Emigration module in Censuses and Household surveys.



In terms of challenges of measuring migration (flow) events, three issues were raised and these were: (i) Represents a rare event that is not easily identified; (ii) No agreement (implementation) of universal definition; and, (iii) Most data sources not designed to study migration. She went on to highlight the importance of migration flow data:

- ✓ Population estimation and forecasting -Relevance of international migration is increasing;
- ✓ Resource for policy making and research- a. Policy development and assessment, and b. Understanding who comes, who leaves, and why;
- ✓ Reference for data validation- Can be linked to labour, family reunification, return, remittances, etc; and,
- ✓ Platform for sharing information, harmonising definitions and removing inconsistencies -Key element for any population-based data system.

**Ms. Desiree Manamela, Director of Labour Statistics, Stats SA**

It was highlighted that the Migrant work module was included in QLFS Q3 2012 and Q3 2017. The main purpose to identify if the main reason for moving was related to work. The questions were posed to all household members aged 15 years and older, and were set to distinction between foreign born and South African born. The survey only covered inter-provincial and international movements. From the survey the following were the key indicators: (a) Estimated number of foreign-born individuals; (b) Labour market status; (c) Key labour rates -SA vs Foreign born; (d) Status in employment; (e) Industry; (f) Occupation; (g) Sector; and (h) Reasons for moving, among others. The findings of the survey noted that the distribution of the population age 15 -64 years by place of birth, 2017, was as follows: RSA Born 35,4 million (94.7%) and Foreign born 2,0 million (5,3%).

Ms. Manamela noted that under discussion, was a pilot a module on Recruitment costs -SDG 10.7.1, and a Cognitive testing would be undertaken. The main objective of the test was to validate operationally a national adaptation of the SDG 10.7.1 module targeted to foreign-born persons who moved to South Africa in the last (up to) 5 years for employment purposes. The Pilot testing would possibly be in the second quarter of 2023, undertaken by Stats SA with support from the ILO.

### ***Discussions***

The discussions on labour migration statistics covered the following issues:

- ✓ The need for evidence-based indicators on labour migration, hence the need to have more regular data on labour migration being regulated.
- ✓ What is the method in place to bring together the fragmented data in the different departments, will the Stats-Hub be able to do this?
- ✓ Has there being a study on the link of high employment rates vs migration in the country? How can we use the data to establish the link?

- ✓ There are high levels of decent work deficit within the work done by migrant workers.

## **SAMM Media campaigns on labour migration: Rights and Responsibilities in South Africa**

### **Ms. Makungu Baloyi, ILO SAMM Communications Specialist**

The SAMM Project had launched a media campaign to address issues of: (i) Negative perception of labour migration/ migrant workers, including seeing migrant workers as stealing jobs, taking social security benefits away from national workers, etc; (ii) Existing discrimination practices in countries of destination (Xenophobia, racism); (iii) Lack of evidenced-based labour migration data to mitigate negative perceptions and contribute towards policy development and implementation; (iv) Lack of understanding that labour migration is part of the development agenda including its causes and effects.

Ms. Baloyi, noted that the media is crucial in delivering verified information, informed opinions as well as balanced and inclusive narratives. By encouraging professional and ethical media reporting. The campaign was set to address the lack of evidenced-based labour migration data to mitigate negative perceptions and contribute towards policy development and implementation and promote understanding that labour migration is part of the development agenda including its causes and effects. Through the campaign, the SAMM Project would raise awareness on rights and responsibilities of both sending and receiving countries.

### **Mr. Teboho Thejane, Chief Director, Department of Employment & Labour (GCIS)**

Mr. Thejane noted that media was an important and integral part of any programme that will be implemented by the Government or an organisation. He noted that it was imperative to ensure that the media persons were involved from the planning stage to ensure that they understood the concepts and would package the message the right way as it was intended to reach the audience. He informed the Dialogue that there were already dissemination of information on the Dialogue via social media, media statements and both radio and tv programmes.

### ***Discussions***

- It was highlighted that there was need to train the media on how to report of labour and mixed migration. The SAMM Project was in the process of developing a toolkit for the media on labour and mixed migration.
- It was also noted that there was need for Government and any other development agency to control the narrative through telling the story rather than waiting on the media. Thus develop the story, package it well and deliver it.

## **Opening - Dialogue on Mixed Migration Governance**

### **Key Note Address - Advocate Mr. Maemo Machete, Responsible Migration Legislation, Policy and Research; Office of the Deputy Director, Directorate General Immigration Service**

Adv. Machete highlighted that the following elements were key to international protection for South Africa: (i) National sovereignty and security; (ii) Access to rights set out in the Bill of Rights; (iii) Building a prosperous and united nation; and, (iv) is an important and active member of the global family.

He went on to note that as one of the biggest economy in the Southern African Region, South Africa is attracting high mixed migration flows. Asylum seekers and economic migrants come from almost all the regions of the world, including asylum seekers from countries that are politically stable. South Africa's current asylum system challenges is that it is being abused by economic migrants resulting in high demands, compromising the country's ability to provide timeous protection to genuine asylum and refugees.

Advocate Machete, concluded by highlighting the following challenges:

- ✓ Abuse of the asylum system by economic migrants compromising timely protection to genuine asylum seekers and refugees,
- ✓ Abandoned applications and inadequate enforcement; and,
- ✓ Appeal backlog.

### **Labour exploitation of victims of human trafficking and smuggled migrants**

**Mr. Banele Kunene + Ms. Jeptum Bargarioria, UNODC**

The presentation noted that Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs."

In terms of trends in South Africa it was noted that:

- ✓ South Africa has been ranked on the Tier 2 Watchlist for the second year in a row according to the 2022 Trafficking in Persons Report of the United States Department of State, having fallen off Tier 2 in 2021.

- ✓ The 2019 Global Slavery Index estimates that approximately 155 000 people live in modern slavery in South Africa
- ✓ Human traffickers exploit domestic and foreign victims in South Africa, and traffickers exploit victims from South Africa abroad.
- ✓ Traffickers recruit both foreign and South African victims through fake job advertisements on social media and classified advertisement forums, which proliferated during the pandemic, including advertisements for, hospitality, mining, and domestic work.

He noted that the Prevention and Combating of Trafficking in Persons Act, 2013 (Act No.7 of 2013) domesticates the Palermo Protocol. The Act makes provision for:

- a. the offence of trafficking in persons and other offences associated with trafficking in persons;
- b. penalties that may be imposed in respect of the offences;
- c. measures to protect and assist victims of trafficking in persons;
- d. the coordinated implementation, application and administration of the Act; and,
- e. prevention and combating the trafficking in persons within or across the borders of the Republic.

Mr. Kunene concluded his presentation by noting the following role of labour inspectors:

- ✓ While the most important function of labour inspectors is to ensure compliance with national labour law, labour inspectors can play a crucial preventative, advisory and enforcement role in the fight against human trafficking;
- ✓ In carrying out their functions, labour inspectors are likely to come across situations of trafficking/forced labour at workplaces or situations that indicate a risk of exploitation;
- ✓ Given their responsibilities, labour inspectors are well placed to engage in anti-trafficking action, including prevention, identification of trafficked persons, as well as investigation of suspected cases of trafficking;
- ✓ Labour inspectors usually have the power to enter freely at any time of the day or night any workplace liable to inspection without prior notice; and,
- ✓ They can carry out inquiries freely and in particular speak to workers alone, examine documents and take samples. Labour inspectors have the power to issue orders with a view to remedying gaps, and to decide whether it is appropriate to give warning and advice, or to institute or recommend proceedings or make referrals to the police as required by the sections 18 and 19 of PACOTIP.

### *Discussion*

A whole government approach to dealing with trafficking was proposed and the need to build awareness among inspectors on issues of trafficking was noted, so as to ensure that victims of trafficking are not criminalised.

## **Assistance to vulnerable migrants in South Africa: best practices, international standards, challenges, opportunities, obligations, return and repatriation-**

### **Ms Princelle Dassapa, Regional Migration Research Coordinator, IOM**

Ms. Dassapa, highlighted that the mixed nature of these movements, consisted of different groups of migrants with differing motivations to travel and different protection needs, makes it necessary to put in place migration policies, legislation and referral mechanisms that respond to individual needs. She noted that individuals of different categories traveling in mixed migration flows shared the same journey and therefore face the same dangers and hardship on the way. Thus, she noted that the journey was usually harsh and dangerous, may create new vulnerabilities, including physical injuries or emotional trauma.

She noted that in RSA, human rights were guaranteed irrespective of an individual's immigration status a person's status as an irregular migrant, or non-citizen does not exclude him or her from the protection of human rights law. Non-citizens, like citizens, were entitled to rights that are absolute and rights whose denial would never be justifiable. These include, for example, the right to life, prohibition against torture and cruel, inhuman, and degrading treatment or punishment, the right to due process of law, and the freedom of thought, conscience and religion.

Ms. Dassapa noted that vulnerable individuals in mixed migration flows included: refugees and asylum seekers; rejected asylum seekers; victims of trafficking (including 'presumed' trafficked persons and 'potential' trafficked persons); stateless persons; unaccompanied and separated children (UASC); stranded migrants; and, other vulnerable migrants

### **Mr. Anthony Makwiramiti, Branch: Comprehensive Social Security Branch, Department of Social Development**

Mr. Makwiramiti noted that Section 27 of the Constitution (Republic of South Africa) noted that "Everyone has the right to have access to c. social security, including, if they are unable to support themselves and their dependants, appropriate social assistance." He noted that the social assistance system can be described as categorical and means-tested. To be eligible the person must be:

- A South African citizen, permanent resident or a refugee;
- Residing in the Republic;
- Meet the requirements of the means test;
- Must furnish identity document, marriage certificate and birth certificate of child/children. Alternate documentation acceptable;
- Proof of income/assets or a signed affidavit;
- The Regulations to the Social Assistance Act, 2004 as amended considers the annual income of the applicant. If married, joint income is considered.

The RSA Government provided services to unaccompanied and separated migrant children, thus:

- ✓ The child protection measures were provided for in the Children's Act, Act 38 of 2005, its regulations, as well as the applicable forms apply when dealing with Unaccompanied and Separated migrant children while they are in South Africa.
- ✓ This Act provides for the protection of children and enables statutory intervention by the Children's Court if appropriate.
- ✓ Subject to assessment, Unaccompanied and Separated migrant children must be considered in need of care and protection, measures of Chapter 9 are applied.
- ✓ Whether children came to South Africa by themselves or got separated from their family here in SA is not important when it comes to Child Protection.
- ✓ A child who is vulnerable in anyway, a child who was failed by their parents/ family or even country of origin must still be protected.
- ✓ Unaccompanied and separated migrant children outside of their country of origin are very vulnerable whilst they find themselves in South Africa as a host country.
- ✓ These children should always be seen as children first and should be offered the same care and protection measures available to South African children.
- ✓ It is the responsibility of the South African government to ensure that South African children in distress outside of the country are returned safely.

The South African Government, through the Department of Social Development, rendered international social services to families and individuals in and outside the borders of South Africa. The main goal of the service is to enhance the social functioning of these individuals or families by facilitating contacts and other services to family members/individuals both in and outside the country. The Department committed itself to provide professional services in conformity with set ISS standards and subject to the law applicable in South Africa, on inter-country cases. These cases are referred by other countries as well as from the Republic of South Africa when in need of intervention in a foreign country. It was also agreed that the Department would recruit/employ qualified staff in the field of social welfare in order to meet the objects of the agreement. International social services (ISS) are rendered to clients in need of inter country social services to and from South Africa focusing on unaccompanied and separate migrant minors. The South African ISS unit works with other International Social Service offices worldwide through the network of ISS Branches and Affiliated Bureaus and Correspondents.

### **Concretising the UNHCR Mandate: Protecting and Assisting its Persons of Concern-**

#### **Mr. Matloleng Matlou UNHCR**

Mr. Matlou noted that the main responsibilities of the Office of the United Nations High Commissioner for Refugees (UNHCR) was to provide international protection to and seek durable solutions for the issue of, refugees' persons outside their nations because of fear of persecution for their race, religion, social group, nationality and political opinion.



He noted that the GRF Pledges by South Africa and Non-State Actors In Southern Africa 2019 were to:

- ✓ Promote Civil Registration and related documentation to ensure that nationals and refugees are properly documented; aid similar endeavour in SADC to curb statelessness
- ✓ Refugees qualify for IDs, Refugee ID Smart cards and Travel Documents per the Refugee Act at offices that are located closer to where refugees reside from April 2020, and the roll out is envisaged to be complete by 2024
- ✓ Under the RSD Backlog Project produce quality and timely appeal decisions on refugee status by asylum seekers
- ✓ Ease integration of refugees and asylum seekers via strengthened social cohesion, by 2021; train municipal staff to work with diverse populations; establish “one stop shops” that will facilitate information provision and social services in languages of migrants, refugees, and asylum seekers, by 2021; and
- ✓ Expand jointly with international financial institutions socioeconomic opportunities for all youth

In concluding he noted that there was need for:

- ✓ Continuous capacity building required;
- ✓ Advocating on behalf of asylum seekers and refugees should continue and be more effective, especially with dwindling resources;
- ✓ Awareness campaigns on the rights and obligations of asylum seekers and refugees is pertinent;
- ✓ Unprecedented numbers of forcibly displaced persons;
- ✓ Globalisation means no country is isolated;
- ✓ Concretise Global Compact on Refugees and do not forget root causes; and,
- ✓ Adopting whole of government and society approaches is vital.

**Ms. Sara Faust, UNHCR**

Ms. Faust noted that children “on the move” include those children moving for a variety of reasons, voluntarily or involuntarily, within or between countries, with or without their parents or other primary caregivers, and whose movement might place them at risk (or at an increased risk) of economic or sexual exploitation, abuse, neglect and violence. She highlighted that it was estimated that there are 642,000 migrants, asylum-seeking and refugee children in South Africa, making it the country with the largest child migrant population on the continent.

She noted that for South Africa the deliverables:

- ✓ Working through/with Government and civil society (funded partners);
- ✓ Access to basic services (including in emergencies such as KZN floods, violence against foreigners;
- ✓ Better protection of CoTM in Alternative Care audit on Alternative Care institutions across South Africa;
- ✓ Case management (BIP) systems for children on the move;

- ✓ Support the National Steering Committee on Separated and Unaccompanied Children, and the Department of Social Development's response to children on the move by establishing an inter-departmental protocol for the care and treatment of CoTM;
- ✓ Support to the Department of Basic Education and the Department of Health to address procedural and documentary barriers for CoTM to access education, health and other basic services;
- ✓ Inter departmental Protocols for CoTM with the Centre for Child Law;
- ✓ Roundtable Dialogues with Academics, CSO, Migrant Communities, and Government' representatives on specific policy areas related to CoTM; and,
- ✓ GBV referral pathways that include CoTM in multisector responses and Risk mitigation.

### *Discussion*

It was noted that the RSA had no reservations on the employment of refugees, hence they were allowed to work in the country and participate in the labour market. This meant that the burden to take care of the welfare of refugees can be lessened in the country.

### *Closing and conclusions of the Labour and Mixed Migration Governance Dialogues*

Mr. Morotoba, DDG, Department of Employment and Labour of South Africa

Mr. Morotoba thanked everyone for participating in the Dialogue. He went on to thank the EU and the UN Agencies for organising the Dialogue. He noted that this process should be a commencement of other activities around building awareness on labour and mixed migration, with other stakeholders. He went on to thank business, labour and communities for their participation in the meeting. After which he closed the Dialogue.

### **Annex 1: Dialogue Pictures**



## Annex 2: Participants List

No	Name and Surname	Ministry/Organisation	Male/Female
1	Mr. Boitumelo Moloi	Deputy Minister of Labour	M
2	Mr. Raul DE LUZENBERGER	EU Deputy Head of Delegation	M
3	Dr Joni Musabayana	ILO Director	M
4	Dr Wiseman Magasela	Clermont Analytics	M
5	Prof. Marius Olivier	Institute for Social Law and Policy (ISLP)	M
6	Mr Diego Iturralde	Stats SA	M
7	Ms Desiree Manamela	Stats SA	F
8	Ms Esther Tloane	Department of Employment & Labour	F
9	Mr Sam Morotoba	Department of Employment & Labour	M
10	Ms Mantombi Bobani	Department of Employment & Labour	F
11	Ms Linda Nongena- Sigidle	Department of Employment & Labour	F
12	Mr Ernest Masemola	Department of Employment & Labour	M
13	Mr Nobuko Ngaki	Department of Employment & Labour	M
14	Ms Lufuno Tinyani	Department of Employment & Labour	F
15	Mr Tebogo Mnisi	Department of Employment & Labour	M
16	Mr Sipho Ndebele	Department of Employment & Labour	M
17	Mr Vusi Mazibuko	Department of Employment & Labour	M
18	Mr Kgomotso Mogotloane	Department of Employment & Labour	M
19	Ms Thembinkosi Mkalipi	Department of Employment & Labour	F
20	Ms Nonhlanhla Ngwenya	Department of Employment & Labour	F
21	Mr Tebogo Maruping	Department of Employment & Labour	M
22	Mr Linda Nongena	Department of Employment & Labour	M
23	Mr Slindile Nkiwane	Department of Employment & Labour	M
24	Ms Nobukho Ngaki	Department of Employment & Labour	F
25	Ms Zanele Maseko	Department of Employment & Labour	F
26	Mr Ernest Masemola	Department of Employment & Labour	M
27	Mr Welile Dlwengu	Department of Employment & Labour	M
28	Mr Mpfariseni Netshisaulu	Department of Employment & Labour	M
29	Ms Sarah Lepogo	Department of Employment & Labour	F
30	Ms Nokulunga Zazaza	Department of Employment & Labour	F
31	Ms Edith Saasa	Department of Employment & Labour	F
32	Mr Kgomotso Letoaba	Department of Employment & Labour	M
33	Mr Teboho Thejane	Department of Employment & Labour	M
34	Mr Shadrack Mashalaba	Department of Employment & Labour	M
35	Ms Nomfundo Douw-Jack	Department of Employment & Labour	F
36	Ms Nombeko Mahlangu	Department of Employment & Labour	F
37	Ms Tendani Ramulongo	Department of Employment & Labour	F
38	Mr Vusi Mazibuko	Department of Employment & Labour	M
39	Mr Kgomotso Mogotloane	Department of Employment & Labour	M
40	Ms Zanele Dlamini	Department of Employment & Labour	F
41	Mr Abraham Mutedi	Department of Employment & Labour	M
42	Ms Zolile Albanie	Department of Employment & Labour	F
43	Ms Sagren Govender	Department of Employment & Labour	F
44	Ms Lulu Madhlophe	Department of Employment & Labour	F

45	Ms Sonia Hornsby	Department of Employment & Labour	F
46	Mr Martin Ratshivhanda	Department of Employment & Labour	M
47	Ms Nomsa Gumbi	Department of Higher Education and Training	F
48	Mr Khuluvhe. Mamphokhu	Department of Higher Education and Training	M
49	Ms Nolwazi Gasa	Department of Higher Education and Training	F
50	Mr Anthony Makwiramiti	Department of Social Development	M
51	Mr. Thabiso Modise	Department of Social Development	M
52	Mr Sicel'mpilo Shange-Buthane	DIRCO	M
53	Mr Adam Salmon	Parliament	M
54	Ms Sanelisiwe Jantjies	Business Unity South Africa (BUSA)	F
55	Ms Beverly Jack	The Confederation of Associations in the Private Employment Sector (CAPES)	F
56	Ms Natalie Singer	The Confederation of Associations in the Private Employment Sector (CAPES)	F
57	Ms Jahni de Villers	Business Unity South Africa (BUSA)	F
58	Mr Thabo Mahlangu	Congress of South African Trade Unions (COSATU)	M
59	Ms Gertrude Mtsweni	Congress of South African Trade Unions (COSATU)	F
60	Ms Zingiswa Losi	Congress of South African Trade Unions (COSATU)	F
61	Mr Conti Matlakala	National Economic Development and Labour Council (Nedlac)	M
62	Ms Aisha Lorgat	Chris Hani Institute	F
63	Ms Margaret Monyani	Institute for Security Studies [ISS]	F
64	Mrs Ellen Boriwondo	Scalabrini	F
65	Mr Corey Johnson	Scalabrini	M
66	Mr Anthony Kaziboni	University of Johannesburg	M
67	Mr Andreas H Schott	Education for Employability (E4E) programme	M
68	Mr Paul G West	Education for Employability (E4E) programme	M
69	Mr Roy du Pre	Education for Employability (E4E) programme	M
70	Ms Gloria Moreno Fontes	ILO	F
71	Mr Theodoor Sparreboom	ILO	M
72	Ms Makungu Baloyi	ILO	F
73	Ms Nombasa Twantwa	ILO	F
74	Ms Sheila Ngoveni	ILO	F
75	Mr Andres Alleiu	ILO	M
76	Mr David Dorkenno	ILO	M

77	Ms Amanda Mejita Canadas	ILO	F
78	Ms Anele Sibobi	ILO	F
79	Mr Matlotleng Matlou	UNHCR	M
80	Ms Sara Faust	UNHCR	F
81	Ms Tshiamo Mariti	UNHCR	F
82	Mr Moses Mulauzi	UNHCR	M
83	Mr Guy-Rufin Guernas	UNHCR	M
84	Ms Ursula Nathalie Dzietham	UNHCR	F
85	Mr Tunde Omoyeni	IOM	M
86	Mr Jason Theede	IOM	M
87	Ms Princelle Dassapa	IOM	F
88	Ms Jeptum Bargoria	UNODC	F
89	Mr Banale Kunene	UNODC	M
90	Mr Patrick Nalere	ARLAC	M
91	Mr Nyasha Muchichwa	ARLAC	M