

Will the Malawians who Worked in the South African Mines ever Receive their Long Time Unclaimed Employment Benefits? A Look into Possibilities

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“A Draft Paper”

Abstract

This paper, using desk review and document analysis method involving extensive review of the existing literature including newspapers' reports, intends to examine and outline the procedure and processes behind attempts to settle unclaimed employment benefits to Malawian ex-mine workers by the South African Chamber of Mines. The paper also explores and discusses possibilities with respect to settlement of such unclaimed benefits. In respect of stated objectives, the paper poses a question of whether the Malawians who worked in the South African Mines will ever receive their long time unclaimed employment benefits. Thereafter, the paper addresses the question and contends that with a proper arrangement put in place to manage the unclaimed employment benefits, the arrangement that is free from political influence as well as capable to clear setbacks amongst key stakeholders including beneficiaries themselves, it is possible for the long overdue unclaimed employment benefits to be paid to all deserving Malawian ex-mine workers.

Keywords: Malawian ex-mine workers, unclaimed employment benefits, South African Chamber of Mines, TEBA.

Introduction

In Malawi, there are currently over 9,000 returned Malawian migrants, now the ex-mine workers, who worked in different South African mining companies in the years from 1920 to early 1990s. These workers had accumulated their employment terminal benefits that have not been paid yet despite their consistent fight for the same for close to three decades now since the dawn of multiparty era in 1994. This problem draws to the posed question of whether these Malawians will ever receive their long time unclaimed benefits. This paper outlines details surrounding such unclaimed benefits and attempts to show some possibilities by which such benefits would be effectively and quickly made payable.

Background Information

Malawians have been migrating to South Africa (SA) since early 1900s for various reasons, but more especially for adventure and employment. The available literature on Malawi's migrant labour indicates that as early as 1930s there were Malawians on the South African mines working for wage employment (Coleman, 1973; Crush et al., 2005). Over time, the need for a constant supply of labour for capital in South Africa made the owners of capital backed by the South African Government to enter into a number of labour contractual agreements with neighbouring countries including Malawi.

There have been three groups of Malawian labour migrants to South Africa. The first group comprises of the old freelance labour, who had gone to South Africa without any formal arrangements but had their residential status normalized while in South Africa in 1967. A quite significant number of these old freelancers have now aged and are residents in South Africa. For instance, there were over 28,000 Malawian foreign born in SA by 1985 (Crush et al., 2005: 4).

The second group comprises the new freelance labour who, own their own, try their luck with various employers in South Africa and their residential status is usually normalized while in South Africa. Some unfortunate ones, once they get caught, are labeled illegal immigrants and thereafter are returned to Malawi.

This second group of labour (the new freelancers) continues flocking to South Africa until present date in this 21st century. Currently, the districts of Mangochi in the Southern Region, Nkhosha in the central

Region, Mzimba and Nkhatabay in the Northern Region are noted to be those originating most of these new freelancers to South Africa.

The third group comprises of the recruited contractual labour, whose numbers sharply dropped from about 78,000 in 1970 to 17,000 in January, 1985 (Figure 1). The drop started few years prior to the 1974 Francis Town Air Disaster (plane crash) that left many Malawians on board dead.

The bulk of the returned Malawian migrants from South Africa by the year 1995 were miners, who almost all of them belonged to the third group of recruited contractual labour and were employed in the gold mines.

The employment/recruitment of Malawians under this third group was through two different categories/routes. First, they were recruited under the sole facilitation of the Malawi Ministry of labour employment services division without the involvement of TEBA limited. These Malawians were formerly employed on South African mines such as Messina and Rustenburg platinum which were not members of Chamber of Mines whose recruitments were handled or channeled through TEBA limited. This means that TEBA did not supply Malawian workers to these two mining companies and thus TEBA cannot process claim applications for such Malawian ex-mine workers who worked in such mining companies.

In terms of recruitment management/procedure, the Malawian migrant contractual labour, were employed under the facilitation of The Employment Bureau of Africa Limited (Wenela Division).

Wenela Division was a recruiting agency of the Chamber of Mines. The Employment Bureau of Africa Limited (Wenela Division) is popularly known as TEBA. It was previously known as WENELA that stands for Witwatersrand Native Association. TEBA (Wenela Division) has an office in Malawi located in Lilongwe. It was the Division that was working hand in hand with the Malawi Ministry of labour to recruit the Malawian contractual labour to work in the South African mining companies that were members of the Chamber of Mines.

The Division office in Malawi created what is known as TEBA operations in Malawi. In other words, the Ministry was helping in the proper identification of origins and identities of the Malawian migrant workers. These are the Malawian migrant workers who are mostly, or may be validly, pursuing their long time claims for employment benefits (unclaimed benefits). TEBA operations, with respect to its recruitment role, remained functional in Malawi until its closure in 1988. Currently, the office operates just administratively with respect to handling and processing claim applications of the Malawian ex-mine workers.

Reasons for the closure of TEBA Recruitment Operations in Malawi

TEBA recruitment operations in Malawi were closed in 1988. The main reason for closing TEBA was not disclosed by Malawi Government to the officers in the Ministry of labour and Man power Development. However, the TEBA Manager (Malawi office), stated that there was a random sample testing of HIV on mine workers in South Africa. The results of the tests indicated that a majority of Malawian mine workers were HIV positive. Thus the South African authorities, discriminatorily, ordered compulsory testing of all Malawian mine workers only and deported all those found HIV positive.

It is also reported that the South African authorities requested the Malawi Government that all Malawian recruits should be tested for HIV before transporting them to South Africa for work in the mines. The Malawi government at that time sent a negative response communication to South African Government and the closure in the form of a presidential directive followed thereafter.

However, according to the TEBA Manager (Malawi office), no Malawian mine worker was forced to leave South Africa before completing his/her employment contract. Records in the Ministry of labour indicate / show that the last group of mine workers returned to Malawi in 1990. This therefore indicates that every mine worker was allowed to complete his/her contract smoothly, except for those who died or became injured in mine accidents.

Having stated as above, therefore, what were the actual reasons for closing TEBA? There were apparently two known reasons/causes for the closure of TEBA recruitment operations. One is based on the Malawi

government authorities (as a presidential directive) and the second one is based on changed recruitment policies of the South African capitalist/mine owners.

In terms of the Malawi government authorities, the then head of State, Dr Hastings Kamuzu Banda, directed officials in the Ministry of labour not to:

1. involve themselves in facilitating the movement of any Malawian to South Africa for employment.
2. encourage any Malawian to go to South Africa for employment and that if any Malawian wanted to go to South Africa for employment, he or she should do so without the Ministry of labour to be involved.
3. encourage Malawians to think of going for work outside the country but rather to encourage them to work within the country, Malawi.

The presidential directive was implemented resulting into the eventual stoppage of TEBA recruitment operations in Malawi.

In terms of the second cause, it was, however, known that even before the above presidential directive, there were policies by the owners of capital backed by the South African Government to reduce demand for migrant labour from outside South Africa. Their policies were influenced by a number of reasons. For example, it was the struggle against apartheid by blacks and the rise in prices of gold generated widespread strikes on the mines in which even migrant labour was involved. The result was more mechanization of the mine operations and granting of independence to the homelands (the Bantustans) inside South Africa in order to create labour reserves and make blacks become migrant labour within their own country.

These policies worked because by the time Wenela/TEBA was being closed in Malawi, only experienced Malawians were wanted on the mines in South Africa. New recruits (novices) were being rejected for employment on the mines in South Africa. This also means that probably due to the strikes and rise in the price of gold the owners of capital in South Africa were forced to improve the working conditions in the mines so much so that the reluctant South Africans were now willing to work on the mines when other industries were experiencing recession. The experienced Malawian ex-mine workers were therefore required just for training the South Africans on career mine work.

Claim timing for the unclaimed employment benefits by Ex-mine workers

While it is normal in all labour complaints for the aggrieved to complain immediately after being aggrieved, this is not the case with the Ex-mine workers. As stated earlier on, the last group came back in 1990 but there was no immediate claim lodged by anyone on arrival in Malawi. This is not surprising because each and every recruit was attested in Malawi before signing a service agreement to work in South African mines. During the attestation, everybody was required to thumb-print his/her service agreement to show acceptance of the conditions. This may probably explain why the Ex-mine workers kept quiet from 1990 up to the second half of 1993 when the claims for employment benefits were first lodged by the Ex-mine workers in Nsanje.

The repressive political situation at the time of return may also explain for the silence. The Ex-mine workers became free to express themselves during 1993 mainly because of the new political dispensation in Malawi which has allowed for the freedom of expression and the freedom from arbitrary arrests.

Furthermore, many Ex-mine workers did not know what and how to claim and from whom which is the case for some of them even now. This is why some people (including some Ex-mine workers themselves) are asking as to when the Malawi Government through the Ministry of labour will pay these Ex-mine workers their unclaimed employment benefits. It must be stated here that it is not correct to say that the Malawi Government, Ministry of labour will give the ex-mine workers any benefits because these Ex-mine workers were neither employees of Malawi Government, Ministry of labour nor were they employees of TEBA. The Ex-mine workers were employees of individual mines in South Africa that were members of the Chamber of mines. The unclaimed employment benefits for the Malawian Ex-mine workers and those from other countries in the SADC region are supposed to, and will, be paid by the

South African mining companies themselves, as former employers, through their South African Chamber of Mines.

In other words, the unclaimed employment benefits for the ex-mine workers, if any, will have to come from the mining companies where the ex-mine workers concerned had worked; and the TEBA office in Lilongwe or the Alexander Forbes financial services limited (Chamber of mines' appointed administrator) are the ones to handle the payment process and not the Ministry of labour. For the information of every Malawian particularly those concerned, TEBA office in Lilongwe has been throughout administratively determining the eligibility of those who completed the necessary claim application forms submitted from district labour offices across the country and those who qualify for the benefits are being, or will be, contacted by TEBA through the same labour offices.

For instance, in 1996, 5 people (Ex-mine workers) were first identified in Nsanje district, 8 people in Zomba and 57 people in Thyolo district for payment of their benefits. In this case it is clear that unclaimed employment benefits for the Malawian Ex-mine workers are available and will be paid to all deserving Ex-mine workers.

Types of unclaimed benefits to be paid and their qualifying criteria

Malawians should know that there are four different types of unclaimed benefits that are available for payment by the South African Chamber of Mines to all the qualifying ex-mine workers from different countries in the SADC region including Malawi. These four types of benefits are as follows:

1. *Death benefits.* Death benefits refer to money for those workers who died in either of the three circumstances:

- Worker died while in service with an aggregate service of at least 10 years (120 months) and left his/her survived dependants.
- Worker died within 1 year (12 months) after leaving service having worked for an aggregate service of at least 10 years (120 months) and left his/her survived dependants.
- Worker died after leaving service, having worked for an aggregate service of 15 years (180 months) being in service by 1st January 1981 and left his/her survived dependants.

The death benefits money has been payable in Malawi, from time to time, to certified dependants of the deceased mine workers through TEBA office in Lilongwe. A list of beneficiaries for death benefits should be still available at the district labour offices for the concerned claimants in their respective country districts. Those with any grievances on behalf of deceased mine workers may bring them to the attention of any labour office nearest to them for appropriate action by government.

2. *Compensation for permanent injury or suffered illness/disease.* Compensation benefits refer to money for those workers who suffered injury or contracted diseases and such workers are defined in either of the two circumstances:

- Worker suffered permanent incapacitation while in service with an aggregate service of at least 10 years (120 months).
- Worker suffered permanent incapacitation within 1 year (12 months) after leaving service having worked for an aggregate service of at least 10 years (120 months).

Similarly, the compensation benefits money, like the death benefits money, has also been payable in Malawi, from time to time, to qualified ex-mine workers through TEBA office in Lilongwe. A list of beneficiaries for compensation benefits should be available at the district labour offices for the concerned claimants in their respective country districts. Those with any grievances on behalf of deceased mine workers may bring them to the attention of any labour office nearest to them for appropriate action by government.

3. *Refund of workers' contributions to social security schemes.* All the ex-mine workers who were members of the Mines 1970 Provident Fund are eligible for cash benefits. Provident Fund contributions are refundable immediately the Ex-mine worker is able to produce his /her provident fund membership number. For instance, the claimants were/are required to apply for refunds to the Lilongwe TEBA office by supplying the following documentation:
 - A formal application (now the Alexander Forbes application form) for cash refund;
 - His/her mines 1970 Provident Fund BR number. The supplied BR number facilitates the tracing of the individual's records in the database very quickly.
 - The date ex-mine worker left the industry; and
 - Full details including the name (first and surname), ID number, Industry number and company name (including actual name of employer).

4. *Long service award.* According to the rules of the Chamber of Mines only those employees who were employed through TEBA will be eligible for long service award if they meet the following requirements:
 - Those who attained 55 years of age while in service and whose aggregate service amounts to at least 10 years (120 months).
 - Those who attained 55 years of age within 12 months after leaving service and whose aggregate service amounts to at least 10 years (120 months).
 - Those who attained the age of 55 years and who were in service after 1st January 1981 with aggregate service amounting to at least 15 years (180 months). In other words, it meant that all those who had completed 180 months aggregate service but were less than 55 years old, they were to wait until attaining 55 years before submitting their claims for long service awards.

However, the majority of ex-mine workers in Malawi do not qualify for the long service award according to the above conditions. In addition, the failure to qualify is also because long service award was not part of their service agreement. It must be noted, in this regard, that the long service award scheme was a non-contributory scheme (SACM Rules). And that Malawian employees did not themselves make contributions of any amount and nor did their employers make such contributions on their behalf. This implies that there is no fund (money) or pool of monies which can be drawn on to fund/pay ex-gratia payments (long service award). Further, this implies that there is totally no basis on which benefits can be paid under the long service award scheme, other than in accordance with the prescribed rules.

Funds from which the unclaimed benefits for Ex-mine workers shall be payable

The name of the established Funds is the "Mines 1970 Unclaimed benefits Preservation Pension and Provident Funds". It was formerly known as the Mines 1970 Pension and Provident Funds. The Funds' authorities published a procedure to be followed in claiming the unclaimed benefits from the Funds by the Ex-mine workers, the Funds' claimants.

The Funds' claimants are the Ex-mine workers called the former members and/or the beneficiaries, that is, the rightful/certified dependants of the deceased members (deceased Ex-mine workers).

According to the Funds' Principal Officer, Mr A.H. Smith, there is an easy step procedure to claim the unclaimed benefits. The procedure requires:

1. Completion of the Funds' provided formal application form – the Alexander Forbes form – with required documents attached;
2. Submission of the completed form with supporting documents to the Funds' Administrator in South Africa under the care/attention of Alexander Forbes.

The completion of the claim application form does not, however, automatically guarantee one to be eligible for any benefits payment. Once the claim form is received, the Funds ask TEBA to provide and

confirm one's employment records after which the Funds' database will be searched to confirm one's membership and whether or not any benefits are payable. This is known as matching process.

The Funds' authorities are committed to trace, identify and pay all unclaimed benefits to the qualifying former members of the Funds. This tracing and/or identifying process leads into computation of beneficiary's payable amounts. The Funds' authorities have engaged some agents to help in tracing the qualifying claimants. These are:

1. Khangela Benefit tracing services;
2. Umzuzi tracing services;
3. Tal Mkhondo tracing services;
4. Tracker tracing services and
5. TEBA Limited.

The latter has an office in Lilongwe – Malawi (TEBA-Lilongwe office) and thus is the tracing agent for all the Malawian claimants. It works hand in hand with the Malawi Ministry of labour and also with leaders of the TEBA Association in Malawi.

To facilitate quick payments and ensure transparency in the payment process, the Funds' authorities, in 2015, appointed Alexander Forbes Financial Services (PTY) Ltd as their Funds' Administrator responsible to administer payments of all the unclaimed benefits to claimants. Thus the claim form is described or known as the Alexander Forbes form. The appointed Funds' Administrator will be paying the qualified claimants their unclaimed benefits through their bank accounts.

Motivation for Malawian Ex-miners to continue fighting for their unclaimed employment benefits

The South African Government through her Chamber of mines confirmed huge sums of money in Rands as payments in form of terminal benefits to about 62 000 Ex-miners from different countries in the SADC region who had worked in South Africa. The Chamber authorities have also prescribed some modalities, requirements and process steps to be followed by each Ex-miner in order to access his/her benefits.

In 2016, the Malawi government through Ministry of labour held some meetings with owners of the South African Mines (authority of the Chamber of Mines) to discuss modalities on how to effect the payments to eligible beneficiaries. Included in these meetings was Mr John Dick, the current president of TEBA Association in Malawi. The outcome/climax of these meetings was the September 2016 workshop organized/called in Lilongwe by the then Minister of labour, Henery Mussa. The workshop drew participants who included all district labour officers in the country; at least two Ex-miner representatives from each of the 28 country districts; leaders of the TEBA association led by their association president, John Dick; the Malawi labour attaché (representative), Mr George Chilonga, from the Malawi Embassy in South Africa and all technical senior officials from the Ministry of labour headquarters. The workshop meeting was opened by the Minister who also participated fully throughout the workshop deliberations.

It was during the meeting workshop when it was revealed that approximately 52, 000 Rands (equivalent to Mk2, 912, 000 at the exchange rate of R1 = Mk56.00 as at September 2016) was/is estimated to be the minimum monetary benefit before tax to each Ex-miner out of the 62,000 beneficiaries from the SADC countries and that 260,000 Rands (equivalent to Mk14, 560, 000) would be the maximum with the majority receiving around 100,000 Rands (Mk5, 600,000).

Further, it was reported in the Nation Newspaper of 8th September 2016 that R18 million (about Mk1 billion) would be total benefits for the Malawian Ex-miners alone who had been estimated to be over 9,500 (Table 1) as matched names of Ex-miners in the data base of the Chamber of Mines. All this is what gives Malawian Ex-miners hope to continue fighting for their benefits as they know for sure that their benefits money which is known to be quite substantial amount as already established and approved by the South African Government could not be lost in vain.

It was also hinted that some SADC countries whose Ex-miners have already fulfilled their requirements have started receiving their unclaimed monetary benefits.

Implications of unsettled TEBA employment benefits to Ex-mine workers and their Families in Malawi

Apart from their untold psychological effects caused as a result of waiting so long for their expected benefits in “vain” for more than two decades now since 1995, these Ex-mine workers incur some costs from time to time which will never be recovered. The following are some of the cost implications experienced:

1. *Travel costs.* Ex-mine workers are usually asked by their association leaders to contribute towards travel costs by their leaders who go to South Africa on the association arrangements to follow-up/pursue the progress of their benefits.
2. *Identity production costs.* They pay for the production of their personal identity cards.
3. *Own travel costs.* They meet their own travel costs to and from district labour offices as well as to their own designated places /meetings called by their leaders.
4. *Bank accounts' opening costs.* They pay for costs towards opening of bank accounts with commercial banks in Malawi as required by the administrator, Alexander Forbes.
5. *Lost money.* They sometimes lose money through being defrauded by some unscrupulous thieves/individuals posing themselves as elected/appointed leaders who would help them get paid their long outstanding benefits.
6. *Documents maintenance costs.* They pay costs towards the maintenance of their required employment ID cards/documents through photocopying charges among others.

Such cost implications extend to children and/or relatives of the dead Ex-mine workers or of those that are advanced in ages to the extent that they are unable to follow-up such claims on their own. Worse still, it is evident that the South African Chamber of Mines will only pay those qualified/eligible beneficiaries after one passes their constituted screening process. This implies that some of these Malawian Ex-mine workers will not get paid their alleged benefits on basis of being unqualified/ineligible but they will have already lost so much through the above explained cost implications. Worse still some of the Ex-mine workers who would be declared qualified would have already spent for the same fight more than what they will earn during the payments of such unclaimed benefits.

For example, amount payable to Mwamadi Alon before tax (Table 2) was verified/calculated to be R330 Rands which is equivalent to Mk18,480.00 at exchange rate of R1 = Mk56.00 as at October, 2020. This amount may be extremely less than the total expenses that might have been incurred by Mwamadi Alon or his relatives in their course of pursuing such compensation over years.

Considering all these cost implications, it would be justified therefore if such a claim process was not politically pursued (politicized) but rather left to be managed by the government employed technocrats in the Ministry of labour without any political interference from the first point of claim through to the last point of receiving benefits by beneficiaries. This is the only possible way these unclaimed benefits would meaningfully help the Malawian Ex- mine workers. This recommendation is thus submitted as food for thought by both, the Association leaders and/or Ex-mine workers themselves and the Malawi Government authorities. It is not yet too late to consider and adopt such a recommendation.

Challenges Facing TEBA Claim process in Malawi

1. The Politics regarding the Unsettled TEBA Employment benefits in Malawi

Politicians have always used the outstanding issue of unsettled TEBA employment benefits as part of their campaign missions to win the voters' support from the electorate. Such politicians' behaviour is most evident during run up to any general elections in Malawi. The politicization of the TEBA unclaimed benefits started way back in 1994.

Prior to the 1994 first multiparty general elections, the UDF, then as an opposition party pledged to pay ex-mine workers, their outstanding benefits/dues once voted into power. The UDF party led by Dr. Bakili Muluzi became the ruling party after winning the 1994 general elections and failed thereafter to fulfill the pledge of paying the ex-mine workers their dues until its “exit” from government in 2005.

The disgruntled ex-mine workers first sought an audience with the then Minister of labour – Richard Sembereka in February 1995 who plainly told them that their money had been misappropriated by the previous MCP government and that UDF government had no any responsibility to pay them. Feeling cheated, the Ex-mine workers staged a national wide strike (mass protest against government) in July 1996 (see appendix 1). The strike was settled by the Ministry of labour officials with a settlement agreement for government to pay the ex-mine workers their dues. To this effect, all ex-mine workers were asked to fill forms to be considered for payments.

Later in the year, the Ministry advised/told ex-mine workers that only few of them were to be paid their dues and not everyone (the unqualified ones). Two delegates from the association (the chairperson, Mr M.S. Matola and A.N. Chifwiri, General Secretary) along with the labour commissioner, Mr Manda and his deputy, Mr Chazama went to meet authorities of South African Chamber of Mines for clarification on the qualification criteria as well as on position of the unclaimed benefits. The delegates returned back and reported that all the qualified ex-mine workers would receive their payments by January 1997. However, no any payment was effected by early 1997.

In June 1997, the ex-mine workers' leaders sought an audience with the State President, Dr. Bakili Muluzi who assured them to be paid their dues within two months. Thereafter, the president through the Minister of labour told the ex-mine workers that they would not be paid their dues because the president had failed to find such money for them and that the Government was not responsible to pay such dues. This response seems to imply that ex-mine workers had been told that the payment was to come from the President's personal money.

Further, in 1997, the UDF Secretary general, Mr Sam Mpasu told ex-mine workers the president had no money for them and the Government would just assist to pay them on humanitarian grounds as it (the Government) was not responsible. Discontented with the similar Government responses, (government's behaviour and decision), ex-mine workers staged the second strike in 1998 after which government press statement was released to the effect of indicating that the government had no money to pay them because it had used all its money to purchase relief maize. Was this relief maize purchased using TEBA unclaimed benefits money or else it was the Government's budgeted money for such purchase but had been earmarked to be saved for paying the ex-mine workers? It is clear from this that Politician were not transparent enough in terms of their information to the ex-mine workers.

The politicians' behaviour regarding the handling of unclaimed benefits continues to be the case to date in Malawi. For instance, prior to the 2019 general election, the UTM presidential candidate told the electorate during some of his organized meetings in Mangochi and other parts of the country that he would ensure that the long time unpaid TEBA Ex-mine workers get paid their employment benefits once voted into power. The same campaign message was articulated/repeated by the same UTM President as Tonse alliance running mate during their campaign meetings prior to the 2020 Fresh Presidential elections.

The UTM president, who is now the country Vice President, told Malawians that the money for Ex-mine workers was already paid by the South African Government to Malawi government. He added that it was the Malawi government leadership of that time (led by Professor Arthur Peter Mutharika) that was failing or rather delaying to pay the benefits, a thing he emphatically stated that Tonse Alliance led government once voted into power would prioritise/effect the payments of such benefits to all deserving Malawians.

It is well known that any campaign message promising payments to the Malawian TEBA Ex-mine workers who are anxiously waiting to receive their long overdue employment benefits carries weight and is likely to cultivate/yield massive voting support both directly from the claimants themselves who are over 9,500 and indirectly from their voting age children and relatives. This is because these people have suffered for quite a long period of time while waiting for their payments/benefits which unfortunately do not materialize. This knowledge is what politicians know about these people and hence their strategic inclusion of such campaign messages. Ironically, some of such politicians are well experienced with the government machinery through their positions they hold as cabinet ministers to the extent that they are, they would be, fully aware that the Malawi government has not yet received any payments from South African government on behalf of the TEBA claimants.

Next, the TEBA claimants through their association leaders seem to have a tendency to actively mobilize themselves to fight for their benefits during times prior to general elections. They file petitions to the sitting government leadership threatening to hold national wide protests should they not get paid their benefits. Their intention/aim is to portray the message to government so that the government perceive that it would lose their voting support if not assisted (appendixed complaint letter refers) and thus opt to make positive response to them/their claims. The petitions are also aimed at making government to help them considering that it would lose their voting support. While their action may well serve their intended purpose/outcome from the government, it is also utilized by the opposition politicians eager to take over the government to frame their campaign messages with promises to pay the claimants their benefits once voted into power.

While every sitting Malawi government leadership would want to facilitate the process to the end and ensure that all ex-mine workers are paid their unclaimed benefits, the truth of the matter is that Malawi Government has no money for that purpose and that the South African Government through the authorities of Chamber of Mines has not yet paid the Malawi Government money for such purpose nor has it started paying the ex-mine workers through their opened bank accounts.

The then TEBA Limited general manager in South Africa, Roger Rowett, after summarizing all the prescribed rules that qualify ex-mine workers to receive long service awards and Mines 1970 provident fund contributions from South African Chamber of Mines, concluded that:

“To my knowledge, there was no lump sum payment [by end of 1996] to the Malawian Ministry of Labour during 1989, or since.”

Finally, what can be deduced from the reprinted complaint letter (appendixed complaint letter) of the Ex-mine workers to the Malawi Government about the politicization of the unclaimed TEBA benefits?

While most of the allegations in that letter may not be true and substantiated, the behaviours of actors/correspondents involved may have several implications/interpretations some of which may be true while others may not be true. For instance, it is clear from the letter that the whole government had no concrete strategy/position on how to handle/address the problem in question. The changing tunes by politicians/political leaders indicate that politicians tend to employ/use false message, to some extent, in order to win the electorate support during campaign periods prior general elections. It can also be seen/deduced that Malawians (the ex-mine workers) seem to be taken for granted by politicians with respect to issue of unclaimed TEBA benefits. The fact that it is also clear from the politicians’ u-turn messages after elections (failure to pay or to facilitate the payments of unclaimed benefits to ex-mine workers) shows that TEBA benefits were not paid, and have never been paid yet, to the Malawi government as may be articulated by politicians during campaign periods. This implies that the unclaimed benefits (already confirmed available) by the South African government can be processed/effectively facilitated once proper government machanisms/efforts and commitments have been put in place. This calls for urgent arrangement to manage such unclaimed benefits, the arrangement that is free from political influence.

2. Lack of knowledge on procedure and processes to claim benefits amongst stakeholders

A lot of information is said and shared concerning TEBA issues amongst government officials, Ex-mine workers and politicians in the country. The shared information can be correct or incorrect, that is, unsubstantiated information (see appendixed complaint letter) depending on the source. It is the incorrect information that constitutes as a challenge as it misleads people and thus contributes further by bringing in confusions regarding the problem of unpaid employment benefits.

The challenge of lack of knowledge on procedure and processes to claim benefits mainly borders on the following three aspects or setbacks:

1. Misunderstandings regarding eligibility for various unclaimed benefits.
2. Possible misinformation / false promises by politicians (political leadership).

3. Lack of claim knowledge amongst ex-mine workers themselves (i.e. on who to claim, how to claim, from whom to claim / who to pay the claim; and for some of those who were paid something, do not know whether their payments finished or not).

3. Missing of Required Documentary evidence for Identification when claiming benefits coupled with High Rejection rate

The identification and payment of TEBA unclaimed employment benefits, according to the Funds' authorities and Administrators requires production by every ex-mine worker or his/her beneficiary, of a number of documents which include the following:

1. Certified copy of identity document (such as passport, ID number) with correct names (especially surnames and first names) as used while at work.
2. Membership certificate ("cruescope"), benefit statement (bonus / blue book) or letter from employer as proof of membership.
3. Copy of record of service that preferably shows name of last mine of employment and date when one left employment.
4. Member's proof of age, proof of age of spouse, and proof of ages of dependent children.
5. Member's marriage certificate,
6. Member's death certificate,
7. Nomination of beneficiary form, and
8. Proof of other dependants such as affidavits etc.

In respect of Ex-mine workers claiming for the long service awards and refund of the 1970 provident fund contributions, full details of each mine worker should be supplied and should include the following: Surname, First names, ID number, Company number, Name of last mine of employment and Date one left employment.

Regrettably, most of the Malawian ex-mine workers have unfortunately lost some of such documents through fire, loss, theft, destruction by termites or water etc. This is because document management / organization is a challenge for most Malawian individuals especially those not working including some of the ex-miners themselves. This means that a quite significant number of ex-mine workers will not be paid because they completely lost all their valuable identification documents which cannot be traced unless the Funds' authorities, through negotiations, change or waive some of the documentary requirements.

Meantime, because of the strict requirement on the production of such documentary evidence, there is purported high rejection rate, that is, most of the document/applications are rejected by SACM.

This setback of missing documentary evidence coupled with high rejection rate needs to be seriously decided upon by relevant authorities, especially those responsible for payments of the unclaimed benefits.

Related to high rejection rate, a number of Malawian ex-mine workers were rejected to be paid long service award on condition that it was not mandatory or part of the employment scheme. For instance, Malawian ex-mine workers had applied/requested the South African Chamber of Mines authorities through TEBA Lilongwe office to waive/disregard standing rules in paying them benefits by way of the long service award scheme citing, as a waiver reason, that TEBA was abruptly closed in 1988 without their knowledge (i.e. the closing of TEBA was not their own making). They argued that it was such an abrupt closure that made it impossible for these Malawian ex-mine workers to qualify for long service awards.

The SACM, however, rejected their request. In a response letter dated 19th January 1996, the Chamber acting through their Industrial Relations Services adviser, Mr FS Barker, argued that:

"in the circumstances [of how the Chamber rules prescribe long service award conditions] there [was] no basis on which benefits can be paid under the long service award scheme, other than in accordance with the rules as they stand."

This suggests the position or stand on some of the benefits such as long service award from that side which can be payable through further renegotiations.

4. Absence of Reliable official database in Malawi.

Development and proper maintenance of database of any issue is key to effective management of any issue related challenges. From ever since, there has been no proper consolidated data managed by the Malawi government inform of database regarding the Malawian ex-mine workers residing in different parts of the country apart from the scanty data of such people available in some district labour offices. Effort has been made by the government to encourage leaders of Ex-miners' associations to collect, organize and manage comprehensive data of their bonafide members, but the process/attempt proves ineffective. As a result, the absence of reliable official database continues to be one of the challenges affecting the attempt to pursue the settlement of TEBA unclaimed employment benefits.

Possible Solutions to Address the Outstanding issue of Unclaimed benefits by Malawian Ex-mine workers

1. Need to cultivate political commitment/will of the two governments of Malawi and South Africa.

Coordinated political commitments of the governments of Malawi and South Africa would be instrumental for quick settlement of the long overdue employment benefits to be payable by the South African Mines Companies (the SA Government) to the Malawian Ex-mine workers. There are some demonstrated positive developments which need to be further enhanced until final settlement of the claims.

The laying down of the claim procedure by the Funds' authority in South Africa indicates the commitment on part of the South African Chamber of Mines to pay out all unclaimed benefits to the rightful claimants. Further, the fact that the Chamber's decisions are supported by the South African government further implies the commitment by the Government of South Africa to settle the unclaimed benefits to claimants from foreign countries.

As part of commitments by the two governments, there could also be a possibility for the establishment of independent offices both in Malawi and South Africa to coordinate for the processing of benefits.

All payments will be through the Reserve Bank of SA into the claimants' bank accounts held by their native commercial local banks in which case, benefits will be taxed by SA government before remittance to claimants. In this regard, the benefits are valuable sources of hard foreign currency for Malawi, whereas SA government will benefit from taxes from the benefits. Individually, the benefits will help to improve living standards of claimants and their families. These are some of the likely positive factors to smoothen discussion on cultivation of political commitments from the two governments.

2. Learning / Study visits /tours

As hinted, during the 2016 meeting, that some SADC countries whose ex-miners have already fulfilled their requirements have started receiving their unclaimed monetary benefits. Malawi can arrange to check/identify such countries and make some learning visits (study tours) to explore/learn how they managed to coordinate on this issue with the SA government or Chamber of Mines authorities. Through such study tours, Malawi should be able to learn some possible effective strategies to manage the problem of unclaimed employment benefits.

Furthermore, with her counterparts¹ also having similar problem of unpaid employment benefits by the SA government, Malawi should be able to lobby for support to seek for SADC intervention in the matter in the event where the South African government may be found to be unsupportive to ensure that the process of settling unclaimed employment benefits to former foreign South African ex-miners in some SADC countries.

3. *Need for generation and maintenance of robust/reliable database*

There is need for generation and maintenance of robust/reliable database for all eligible claimants that should be officially managed by the Malawi government – Ministry of Labour to address the challenge of all such problems associated with missing IDs. In this respect, it can be good if it can be discussed and agreed that the Malawi government should serve/act as a witness of all those eligible Malawian ex-mine workers who may be without or with lost ID documents.

Conclusion

This paper set to examine and outline procedure and processes behind attempts to settle unclaimed employment benefits to Malawian ex-mine workers by the South African Chamber of Mines as well as to explore and discuss possibilities with respect to settlement of such unclaimed benefits.

The paper has clearly outlined the background information leading to early developments of Malawian labour migration to South Africa; discussed reasons for the closure of TEBA recruitment operations in Malawi; presented types of unclaimed benefits to be paid and their qualifying criteria; discussed motivation for Malawian Ex-miners to continue fighting for their unclaimed employment benefits; implications of unsettled TEBA employment benefits to Ex-mine workers and their families in Malawi; challenges facing TEBA claim process in Malawi; and possible solutions to address the outstanding issue of unclaimed benefits by Malawian Ex-mine workers.

The paper has contended that with a proper arrangement put in place to manage the unclaimed employment benefits, the arrangement that is free from political influence as well as capable to clear setbacks amongst key stakeholders including beneficiaries themselves, it is possible for the long overdue unclaimed employment benefits to be paid to all deserving Malawian ex-mine workers.

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¹ The South African mining industry recruited migrants from almost every other country in the [SADC] region. After independence, most governments reassessed the question of labour migration to other countries. Some, such as Tanzania, Malawi and Zambia tried to prevent it. Tanzania and Zambia withdrew their workers from the South African mines after independence. Malawi withdrew all its workers in 1972. A renegotiated agreement in the late 1970s saw about 20% returnees to the mines. Employment remained at this level until 1987, when the Malawian government withdrew the workers after a dispute with the apartheid government over HIV testing. In the 1980s, the supplier States [countries] formed the Southern African Labour Commission in an effort to form a common policy on labour migration to South Africa. The SALC was unsuccessful in its efforts to develop a policy of phased withdrawal, primarily because countries such as Lesotho and Mozambique were unable to dispense with contract labour migration.

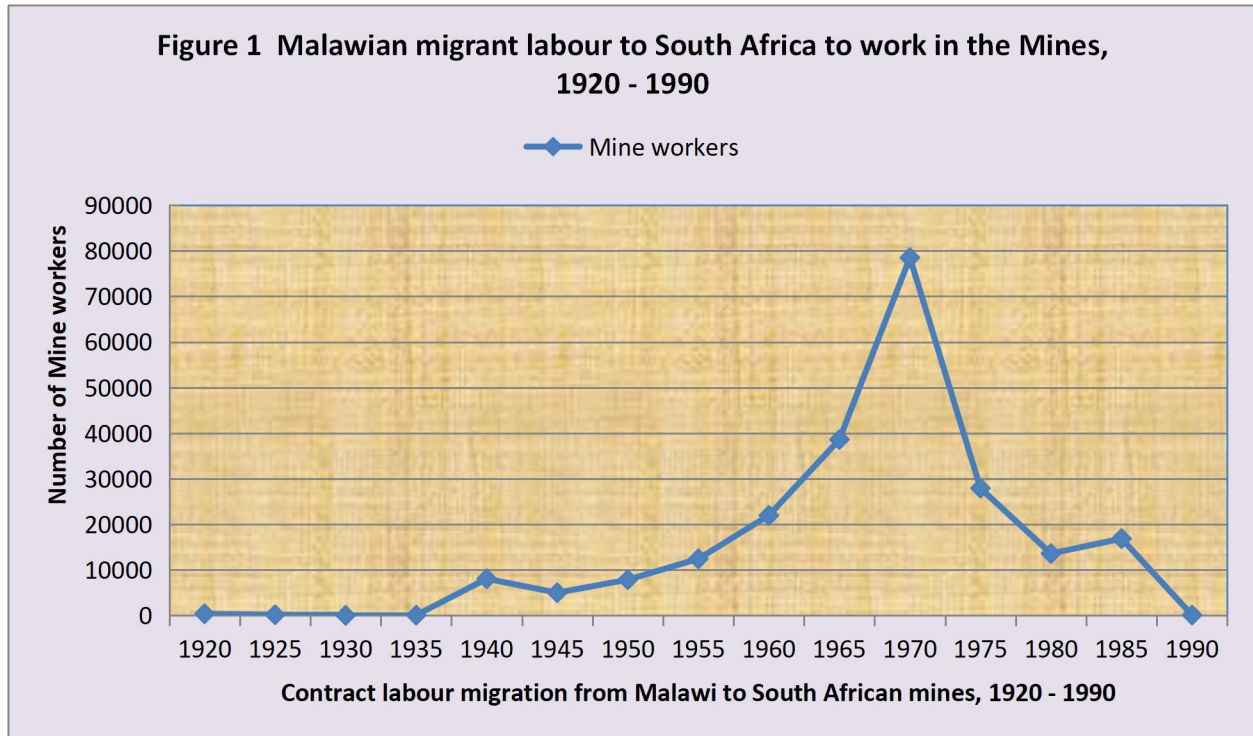
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Appendix 1: Line Graph showing trend of Malawian Migrant workers to South Africa, 1920 -1990.



Source: Author’s own computation using reported data from Crush et al. (2005) “Migration in Southern Africa” Available from: www.gcim.org

Appendix 2: Table 1 showing Possible number of claimants, matched names and traced beneficiaries.

District	No of Claimants in Malawi	Matched names in RSA (Octob. 2020)	Identified/Traced names in Malawi	Names with known/verified payment amounts
Chitipa	28	2		
Karonga	38	8		
Rumphi	25	4		
Mzuzu	58			
Mzimba	80	23		
Nkhatabay	82	6		2
Likoma	0			
Nkhotakota	135	9		
Salima	223	7/ 11		1
Kasungu	138	10		
Mchinji	101	7		
Dedza	128	36		2
Ntcheu	2676	52		
Balaka	2	9		

Dowa	654	7		1
Ntchisi	823	8		
Lilongwe	325	44		
Mangochi	76			
Phalombe	392			
Chiradzulu	24	30		
Mulanje	200	50	3	6
Thyolo	520	52		6
Blantyre	02	36		2
Mwanza	285	6		
Neno	11			
Chikhwawa	484	2		4
Nsanje	293	6		
Zomba	435	40		1
Machinga	369	7		
Total	9410 / 8607	472		

Appendix 3: Table 2 showing Names of Ex-mine workers with calculated payment amounts before tax.

District	Name of beneficiary	Amount before tax in (Exchange rate of R1 = Mk56 as at Nov. 2020)	
		SA Rands	M Kwacha
Nkhatabay	James Chirwa	2,000	
	Gospel Nthali	2,300	
Salima	Alifeyo Labson	1,700	
Dedza	Mwamadi Alon	330	18,480
	Fredson Majawa	3,600	
Dowa	Abinele Amoni	17,800	
Mulanje	Bisweck Nankulunga	12,000	
	Willie Kalima	27,000	
	Yalamani Fidesi	2,200	
	Piyo Gawanika	4,500	
	Alfred January	5,700	
	William Khave	8,500	
Thyolo	Haiman Everson	4,500	
	James Daniel	520	
	Henry Chingwalu	1,300	
	Daiton Mussa	7,300	
	Lyson Thomas	2,500	
	Henderson Macheso	2,000	
Blantyre	Charles Chibowa	4,400	
	J. Sitore	1,300	
Chikhwawa	Steven Mulandiza	32,000	
	Fanuel Damiano	28,000	
	Marko Chataika	3,300	
	Enock Zulu	4,000	
Zomba	Thomas Gama	30,000	
Total			

Appendix 4: Complaint letter to Malawi Government from the concerned Malawian Ex-Mine workers, 1998. (Reprinted with its original content without alterations)

Malawi Ex-South African Mine Workers,
P.O. Box 138,
Mangochi.

Tel: 01584200.
11th February, 1998

The Minister of Labour and Manpower Development,
Private Bag 344,
Capital City,
Lilongwe 3.

Copy : The Secretary to the President and Cabinet
All Churches
Muslim Association of Malawi
All Embassies
Public Affairs Committee
National Democratic Institute
Law Society of Malawi
The Inspector General of Police

Dear Sir,

RE: FINAL CLAIM OF OUR DUES

We Ex-miners in Malawi hereby write this letter to your Ministry as a final claim of our dues. It is vivid in every Malawian's mind that our plight was highly politicized by the current ruling (UDF) party to speed up the democratic process of this country to such an extent that your party (UDF) made a pledge to pay our dues should the government change.

From 25th May, 1994 to 10th February, 1995, we gave the government a grace period to settle. On 11th February 1995, we had an audience with then minister of labour, Hon. Richard Sembereka who plainly told us that our money was misappropriated by the previous (MCP) government and that your (UDF) government had no responsibility over it. Feeling cheated, we decided to go on a mass action and your ministry intervened on 1st July, 1996 promising that we would receive our dues as soon as possible from the government.

Following this pledge from the government, we were made to fill forms for effect of payments. Two weeks later, your ministry advised us that very few of us would qualify for payment of the dues. In pursuit of clarification, on 14th November 1996 two delegates from our union were sent to South African Chamber of Mines for more information on who would qualify. On 29th November 1996 at trade test premises when the two delegates had returned from South Africa, Labour Commissioners, Mr Manda and Mr Chazama assured all of us that qualified that we would receive our money from December 1996 to January 1997. On 9th December, 1996 it transpired during the parliament sitting in Zomba that our hard earned money was used by the top government officials and cabinet ministers in both official and private businesses. The then Minister of information, Hon. Brown Mpinganjira, made a confession on how he spent our money while on diplomatic and private visits abroad.

After a lot of huddles on 25th June 1997 we had an audience with the president who personally pledged to pay our dues within two months. In August we approached yourself for a feedback from the president and you told us that the president would not pay our dues in the absence of the minister of finance. On 14th November 1997 we called on you at Zomba works training centre where you told us that the president had not yet found the money and you challenged us that wherever we could go we would not get our money. When we demanded to see the president who had announced at a public rally to the entire nation at Makanjira in Mangochi that our dues were now ready and would be disbursed soon, you were quick to say that the president was unwell. Realising that your office was not helpful we booked an audience with the state president through the secretary General of your party, Hon. Sam Mpasu, who on 12th December 1997 told us that the president had not yet found the money and his government was not responsible and would only assist us on humanitarian grounds. This statement resulted into peaceful demonstrations in Zomba where three members were arrested and tortured by the police.

Surprisingly, after the Zomba incident, Yourself Mr Minister Sir, on 12th January 1998 made a press statement that the government had no money to pay for our dues because the money was used to purchase relief maize. Mr Minister, this is not government money we are asking for. We did not work for the government. We were not civil servants. We worked for South African Chamber of Mines and they paid our dues which the government has stolen. It is in this understanding that the beneficiaries in Nkhotakota on 2nd February 1998 staged a peaceful demonstration to demand your explanation on this issue where the police shot and wounded five innocent citizens peacefully asking for your explanation on their dues. What we fail to understand is that you claim to have used our money for the purchase of relief maize and yet we as the beneficiaries of that money are starving.

Everybody can see that indeed the government has changed and it instituted the compensation tribunal which was to look into all the misfortunes the people went through and compensated them accordingly. Indeed some have been compensated including the head of state himself. Why can't the same government pay us the money we worked for and the very government used the money without our consent? We demand with utmost urgency Mr Minister Sir, to give us our money within 21 days from the date of this letter or we will resort into other means to claim our dues.

Yours sincerely,

M.S. Matola
Chairman

A.N. Chifwiri
General Secretary

J.K.Y. Phiri
Organising Secretary